

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Second Extraordinary, 2003

ENROLLED

SENATE BILL NO. 2009

(By Senator Tomblin, Mr. President, and Sprouse,
By Request of the Executive)

PASSED June 14, 2003

In Effect from **Passage**

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Senate Bill No. 2009

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
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[Passed June 14, 2003; in effect from passage.]

AN ACT to amend and reenact section thirteen, article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to continuing the funding of the Hatfield-McCoy regional recreation authority projects by the West Virginia parkways, economic development and tourism authority.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY.

§17-16A-13. Tolls, rents, fees, charges and revenues; competi- tive bidding on contracts.

1 (a)(1) The parkways authority is hereby authorized to
2 fix, revise, charge and collect tolls for the use of each

3 parkway project and the different parts or sections thereof
4 and to fix, revise, charge and collect rents, fees, charges
5 and other revenues, of whatever kind or character, for the
6 use of each economic development project or tourism
7 project, or any part or section thereof, and to contract with
8 any person, partnership, association or corporation
9 desiring the use of any part thereof, including the right-of-
10 way adjoining the paved portion, for placing thereon
11 telephone, telegraph, electric light, power or other utility
12 lines, gas stations, garages, stores, hotels, restaurants and
13 advertising signs, or for any other purpose except for
14 tracks for railroad or railway use, and to fix the terms,
15 conditions, rents and rates of charges for such use. Such
16 tolls, rents, fees and charges shall be so fixed and adjusted
17 in respect of the aggregate of tolls, or in respect of the
18 aggregate rents, fees and charges, from the project or
19 projects in connection with which the bonds of any issue
20 shall have been issued as to provide a fund sufficient with
21 other revenues, if any, to pay: (A) The cost of maintaining,
22 repairing and operating such project or projects; and (B)
23 the principal of and the interest on such bonds as the same
24 shall become due and payable and to create reserves for
25 such purposes. Such tolls, rents, fees and other charges
26 shall not be subject to supervision or regulation by any
27 other commission, board, bureau, department or agency of
28 the state. The tolls, rents, fees, charges and all other
29 revenues derived from the project or projects in connection
30 with which the bonds of any issue shall have been issued,
31 except such part thereof as may be necessary to pay the
32 cost of maintenance, repair and operation and to provide
33 such reserves therefor as may be provided in the resolution
34 authorizing the issuance of such bonds or in the trust
35 agreement securing the same, shall be set aside at regular
36 intervals as may be provided in the resolution or the trust
37 agreement in a sinking fund which is hereby pledged to,
38 and charged with, the payment of: (i) The interest upon the
39 bonds as such interest shall fall due; (ii) the principal of
40 the bonds as the same shall fall due; (iii) the necessary

41 charges of paying agents for paying principal and interest;
42 and (iv) the redemption price or the purchase price of
43 bonds retired by call or purchase as therein provided. The
44 use and disposition of moneys to the credit of such sinking
45 fund shall be subject to the provisions of the resolution
46 authorizing the issuance of the bonds or of the trust
47 agreement. Except as may otherwise be provided in the
48 resolution or the trust agreement, such sinking fund shall
49 be a fund for all bonds without distinction or priority of
50 one over another. The moneys in the sinking fund, less
51 such reserve as may be provided in the resolution or trust
52 agreement, if not used within a reasonable time for the
53 purchase of bonds for cancellation as above provided, shall
54 be applied to the redemption of bonds at the redemption
55 price then applicable.

56 (2)(A) In fiscal year one thousand nine hundred ninety-
57 eight, after the parkways authority has met or provided for
58 the satisfaction of each requirement imposed by the
59 provisions of subdivision (1) of this subsection, the park-
60 ways authority shall pay two hundred fifty thousand
61 dollars to the Hatfield-McCoy regional recreation author-
62 ity from any remaining balance of revenues received from
63 economic development projects and tourism projects.

64 (B) Upon the effective date of this act, the parkways
65 authority shall seek authorization from the federal high-
66 way administration, the state department of transporta-
67 tion and the trustee under any trust indenture or agree-
68 ment existing as the result of the issuance of any revenue
69 bonds under the provisions of this article to issue addi-
70 tional revenue bonds in a total amount not to exceed six
71 million dollars for the purpose of funding projects of the
72 Hatfield-McCoy regional recreation authority. Upon the
73 agreement of all of such entities that the parkways author-
74 ity be authorized to do so, as certified to the parkways
75 authority, the governor and the joint committee on govern-
76 ment and finance, the parkways authority is authorized to
77 issue additional revenue bonds in a total amount not to

78 exceed six million dollars. The proceeds of the revenue
79 bonds shall be used to fund projects of the Hatfield-McCoy
80 regional recreation authority. Each issuance of such
81 revenue bonds and the application of the proceeds thereof
82 shall be subject to each condition, restriction or other
83 provision of this article applicable to the issuance of
84 parkway revenue bonds. In the event the agreement is not
85 certified as required by this subsection, and until the same
86 is certified, the parkways authority shall pay two hundred
87 fifty thousand dollars to the Hatfield-McCoy regional
88 recreation authority in the fiscal year ending the thirtieth
89 day of June, two thousand, and in each fiscal year thereaf-
90 ter, for a total of nine consecutive years, for the purpose of
91 funding projects of the Hatfield-McCoy regional recre-
92 ation authority. These amounts shall be paid in quarterly
93 installments from remaining balances in each fiscal year
94 of revenues received from economic development projects
95 and tourism projects as determined in the manner pro-
96 vided in paragraph (A) of this subdivision.

97 (b) The parkways authority shall cause, as soon as it is
98 legally able to do so, all contracts to which it is a party and
99 which relate to the operation, maintenance or use of any
100 restaurant, motel or other lodging facility, truck and
101 automobile service facility, food vending facility or any
102 other service facility located along the West Virginia
103 turnpike, to be renewed on a competitive bid basis. All
104 contracts relating to any facility or services entered into
105 by the parkways authority with a private party with
106 respect to any project constructed after the effective date
107 of this legislation shall be let on a competitive bid basis
108 only. If the parkways authority receives a proposal for the
109 development of a project, such proposal shall be made
110 available to the public in a convenient location in the
111 county wherein the proposed facility may be located. The
112 parkways authority shall publish a notice of the proposal
113 by a Class I legal advertisement in accordance with the
114 provisions of article three, chapter fifty-nine of this code.
115 The publication area shall be the county in which the

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79 bonds shall be used to fund projects of the Hatfield-McCoy
80 regional recreation authority. Each issuance of such
81 revenue bonds and the application of the proceeds thereof
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111 county wherein the proposed facility may be located. The
112 parkways authority shall publish a notice of the proposal
113 by a Class I legal advertisement in accordance with the
114 provisions of article three, chapter fifty-nine of this code.
115 The publication area shall be the county in which the

116 proposed facility would be located. Any citizen may
117 communicate by writing to the parkways authority his or
118 her opposition to or approval to such proposal within a
119 period of time not less than forty-five days from the
120 publication of the notice. No contract for the development
121 of a project may be entered into by the parkways authority
122 until a public hearing is held in the vicinity of the location
123 of the proposed project with at least twenty days' notice of
124 such hearing by a Class I publication pursuant to section
125 two of said article. The parkways authority shall make
126 written findings of fact prior to rendering a decision on
127 any proposed project. All studies, records, documents and
128 other materials which are considered by the parkways
129 authority in making such findings shall be made available
130 for public inspection at the time of the publication of the
131 notice of public hearing and at a convenient location in the
132 county where the proposed project may be located. The
133 parkways authority shall promulgate rules in accordance
134 with chapter twenty-nine-a of this code for the conduct of
135 any hearing required by this section. Persons attending
136 any such hearing shall be afforded a reasonable opportu-
137 nity to speak and be heard on the proposed project.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within approved this the 24

Day of June, 2003.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 6/19/63

Time 4:45pm