WEST VIRGINIA LEGISLATURE
Second Extraordinary, 2003

ENROLLED

SENATE BILL NO. 2009

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

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; competitive bidding on contracts.

1 (a)(i) The parkways authority is hereby authorized to fix, revise, charge and collect tolls for the use of each
parkway project and the different parts or sections thereof
and to fix, revise, charge and collect rents, fees, charges
and other revenues, of whatever kind or character, for the
use of each economic development project or tourism
project, or any part or section thereof, and to contract with
any person, partnership, association or corporation
desiring the use of any part thereof, including the right-of-
way adjoining the paved portion, for placing thereon
telephone, telegraph, electric light, power or other utility
lines, gas stations, garages, stores, hotels, restaurants and
advertising signs, or for any other purpose except for
tracks for railroad or railway use, and to fix the terms,
conditions, rents and rates of charges for such use. Such
tolls, rents, fees and charges shall be so fixed and adjusted
in respect of the aggregate of tolls, or in respect of the
aggregate rents, fees and charges, from the project or
projects in connection with which the bonds of any issue
shall have been issued as to provide a fund sufficient with
other revenues, if any, to pay: (A) The cost of maintaining,
repairing and operating such project or projects; and (B)
the principal of and the interest on such bonds as the same
shall become due and payable and to create reserves for
such purposes. Such tolls, rents, fees and other charges
shall not be subject to supervision or regulation by any
other commission, board, bureau, department or agency of
the state. The tolls, rents, fees, charges and all other
revenues derived from the project or projects in connection
with which the bonds of any issue shall have been issued,
except such part thereof as may be necessary to pay the
cost of maintenance, repair and operation and to provide
such reserves therefor as may be provided in the resolution
authorizing the issuance of such bonds or in the trust
agreement securing the same, shall be set aside at regular
intervals as may be provided in the resolution or the trust
agreement in a sinking fund which is hereby pledged to,
and charged with, the payment of: (i) The interest upon the
bonds as such interest shall fall due; (ii) the principal of
the bonds as the same shall fall due; (iii) the necessary
charges of paying agents for paying principal and interest; and (iv) the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the bonds or of the trust agreement. Except as may otherwise be provided in the resolution or the trust agreement, such sinking fund shall be a fund for all bonds without distinction or priority of one over another. The moneys in the sinking fund, less such reserve as may be provided in the resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

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

(B) Upon the effective date of this act, the parkways authority shall seek authorization from the federal highway administration, the state department of transportation and the trustee under any trust indenture or agreement existing as the result of the issuance of any revenue bonds under the provisions of this article to issue additional revenue bonds in a total amount not to exceed six million dollars for the purpose of funding projects of the Hatfield-McCoy regional recreation authority. Upon the agreement of all of such entities that the parkways authority be authorized to do so, as certified to the parkways authority, the governor and the joint committee on government and finance, the parkways authority is authorized to issue additional revenue bonds in a total amount not to
exceed six million dollars. The proceeds of the revenue
bonds shall be used to fund projects of the Hatfield-McCoy
regional recreation authority. Each issuance of such
revenue bonds and the application of the proceeds thereof
shall be subject to each condition, restriction or other
provision of this article applicable to the issuance of
parkway revenue bonds. In the event the agreement is not
certified as required by this subsection, and until the same
is certified, the parkways authority shall pay two hundred
fifty thousand dollars to the Hatfield-McCoy regional
recreation authority in the fiscal year ending the thirtieth
day of June, two thousand, and in each fiscal year thereaf-
ter, for a total of nine consecutive years, for the purpose of
funding projects of the Hatfield-McCoy regional recre-
ation authority. These amounts shall be paid in quarterly
installments from remaining balances in each fiscal year
of revenues received from economic development projects
and tourism projects as determined in the manner pro-
vided in paragraph (A) of this subdivision.

(b) The parkways authority shall cause, as soon as it is
legally able to do so, all contracts to which it is a party and
which relate to the operation, maintenance or use of any
restaurant, motel or other lodging facility, truck and
automobile service facility, food vending facility or any
other service facility located along the West Virginia
turnpike, to be renewed on a competitive bid basis. All
contracts relating to any facility or services entered into
by the parkways authority with a private party with
respect to any project constructed after the effective date
of this legislation shall be let on a competitive bid basis
only. If the parkways authority receives a proposal for the
development of a project, such proposal shall be made
available to the public in a convenient location in the
county wherein the proposed facility may be located. The
parkways authority shall publish a notice of the proposal
by a Class I legal advertisement in accordance with the
provisions of article three, chapter fifty-nine of this code.
The publication area shall be the county in which the
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available to the public in a convenient location in the
county wherein the proposed facility may be located. The
parkways authority shall publish a notice of the proposal
by a Class I legal advertisement in accordance with the
provisions of article three, chapter fifty-nine of this code.
The publication area shall be the county in which the
proposed facility would be located. Any citizen may communicate by writing to the parkways authority his or her opposition to or approval to such proposal within a period of time not less than forty-five days from the publication of the notice. No contract for the development of a project may be entered into by the parkways authority until a public hearing is held in the vicinity of the location of the proposed project with at least twenty days’ notice of such hearing by a Class I publication pursuant to section two of said article. The parkways authority shall make written findings of fact prior to rendering a decision on any proposed project. All studies, records, documents and other materials which are considered by the parkways authority in making such findings shall be made available for public inspection at the time of the publication of the notice of public hearing and at a convenient location in the county where the proposed project may be located. The parkways authority shall promulgate rules in accordance with chapter twenty-nine-a of this code for the conduct of any hearing required by this section. Persons attending any such hearing shall be afforded a reasonable opportunity to speak and be heard on the proposed project.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 24th Day of June, 2003.

Governor