WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2877

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)
[By Request of the Executive]

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Passed March 10, 2007

In Effect July 1, 2007
AN ACT to amend and reenact §5B-2-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-2-12 of said code; and to amend and reenact §17C-17B-3 and §17C-17B-4, all relating to the funding of entities ensuring transportation public safety on state highways; eliminating certain funding from the state road fund or reimbursement from the Division of Motor Vehicles; and providing for the funding of a courtesy patrol.

Be it enacted by the Legislature of West Virginia:

That §5B-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §15-2-12 of said code be amended and reenacted; and that §17C-17B-3 and §17C-17B-4 of said code be amended and reenacted, all to read as follows:
CHAPTER 5B. ECONOMIC DEVELOPMENT
ACT OF 1985.

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

§5B-2-12. Tourism promotion fund continued; use of funds.

There is hereby continued in the State Treasury the
special revenue fund known as the “Tourism Promotion
Fund” created under prior enactment of section nine, article
one of this chapter.

(a) The Legislature finds that a courtesy patrol program
providing assistance to motorists on the state’s highways is
one of the most beneficial methods to introduce a tourist
visiting the state of the state’s hospitality and good will. For
that reason, four million seven hundred thousand dollars of
the moneys deposited in the fund each year shall be deposited
in a special revenue account in the State Treasury to be
known as the “Courtesy Patrol fund”. Expenditures from the
fund shall be used solely to fund the courtesy patrol program
providing assistance to motorists on the state’s highways.
Amounts collected in the fund which are found from time to
time to exceed funds needed for the purposes set forth in this
subsection may transferred to other accounts or funds and
redesignated for other purposes by appropriation of the
Legislature.

(b) If there are funds remaining after the distribution
required in subsection (a) of this section, a minimum of five
percent of the moneys deposited remaining in the fund each
year shall be used solely for direct advertising for West
Virginia travel and tourism: Provided, That no less than
twenty percent of these funds be expended with the approval
of the Director of the Division of Natural Resources to
effectively promote and market the state’s parks, state forests,
state recreation areas and wildlife recreational resources.
Direct advertising means advertising which is limited to
television, radio, mailings, newspaper, magazines, and
outdoor billboards, or any combination thereof.
(c) The balance of the moneys deposited in the fund shall be used for direct advertising within the state’s travel regions as defined by the commission. The funds shall be made available to these districts beginning the first day of July, one thousand nine hundred ninety-five, according to legislative rules authorized for promulgation by the Tourism Commission.

(d) All advertising expenditures over twenty-five thousand dollars from the tourism promotion fund require prior approval by recorded vote of the commission. No member of the commission or of any committee created by the commission to evaluate applications for advertising or other grants may participate in the discussion of, or action upon, an application for or an award of any grant in which the member has a direct financial interest.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-12. Mission of the State Police; powers of superintendent, officers and members; patrol of turnpike.

(a) The West Virginia State Police shall have the mission of statewide enforcement of criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state and maintaining the safety of the state's public streets, roads and highways.

(b) The superintendent and each of the officers and members of the division are hereby empowered:

(1) To make arrests anywhere within the state of any persons charged with the violation of any law of this state, or of the United States, and when a witness to the perpetration of any offense or crime, or to the violation of any law of this state, or of the United States, to make arrests without warrant; to arrest and detain any persons suspected of the commission of any felony or misdemeanor whenever a complaint is made
and a warrant is issued thereon for the arrest, and the person
arrested shall be immediately brought before the proper
tribunal for examination and trial in the county where the
offense for which the arrest has been made was committed;

(2) To serve criminal process issued by any court or
magistrate anywhere within this state: Provided, That they
may not serve civil process; and

(3) To cooperate with local authorities in detecting crime
and in apprehending any person or persons engaged in or
suspected of the commission of any crime, misdemeanor or
offense against the law of this state, or of the United States,
or of any ordinance of any municipality in this state; and to
take affidavits in connection with any application to the
Division of Highways, Division of Motor Vehicles and of
West Virginia State Police for any license, permit or
certificate that may be lawfully issued by these divisions of
state government.

(c) Members of the West Virginia State Police are hereby
designated as forest patrolmen and game and fish wardens
throughout the state to do and perform any duties and
exercise any powers of forest patrolmen and game and fish
wardens, and may apprehend and bring before any court or
magistrate having jurisdiction of these matters, anyone
violating any of the provisions of chapters twenty, sixty and
sixty-one of this code. The West Virginia State Police is at
any time subject to the call of the West Virginia Alcohol
Beverage Control Commissioner to aid in apprehending any
person violating any of the provisions of chapter sixty of this
code. They shall serve and execute warrants for the arrest of
any person and warrants for the search of any premises issued
by any properly constituted authority, and shall exercise all
of the powers conferred by law upon a sheriff. They may not
serve any civil process or exercise any of the powers of such
officer in civil matters.

(d) Any member of the West Virginia State Police
knowing or having reason to believe that any person has
violated the law may make complaint in writing before any
court or officer having jurisdiction and procure a warrant for
the offender, execute the warrant and bring the person before
the proper tribunal having jurisdiction. The member shall
make return on all warrants to the tribunals and his or her
official title shall be "member of the West Virginia State
Police". Members of the West Virginia State Police may
execute any summons or process issued by any tribunal
having jurisdiction requiring the attendance of any person as
a witness before the tribunal and make return thereon as
provided by law. Any return by a member of the West
Virginia State Police showing the manner of executing the
warrant or process has the same force and effect as if made
by a sheriff.

(e) Each member of the West Virginia State Police, when
called by the sheriff of any county, or when directed by the
Governor by proclamation, has full power and authority
within the county, or within the territory defined by the
Governor, to direct and command absolutely the assistance of
any sheriff, deputy sheriff, chief of police, policeman, game
and fish warden and peace officer of the state, or of any
county or municipality therein, or of any able-bodied citizen
of the United States, to assist and aid in accomplishing the
purposes expressed in this article. When called, any officer
or person is, during the time his or her assistance is required,
for all purposes a member of the West Virginia State Police
and subject to all the provisions of this article.

(f) The superintendent may also assign members of the
division to perform police duties on any turnpike or toll road,
or any section of any turnpike or toll road, operated by the
West Virginia Parkways, Economic Development and
Tourism Authority: Provided, That the authority shall
reimburse the West Virginia State Police for salaries paid to
the members and shall either pay directly or reimburse the
division for all other expenses of the group of members in
accordance with actual or estimated costs determined by the
superintendent.

(g) The West Virginia State Police may develop
proposals for a comprehensive county or multicounty plan on
the implementation of an enhanced emergency service telephone system and may cause a public meeting on the proposals, all as set forth in section six-a, article six, chapter twenty-four of this code.

(h) By the first day of July, one thousand nine hundred ninety-three, the superintendent shall establish a network to implement reports of the disappearance of children by local law-enforcement agencies to local school division superintendents and the State Registrar of Vital Statistics. The network shall be designed to establish cooperative arrangements between local law-enforcement agencies and local school divisions concerning reports of missing children and notices to law-enforcement agencies of requests for copies of the cumulative records and birth certificates of missing children. The network shall also establish a mechanism for reporting the identities of all missing children to the State Registrar of Vital Statistics.

(i) The superintendent may at his or her discretion and upon the written request of the West Virginia Alcohol Beverage Control Commissioner assist the commissioner in the coordination and enforcement of article sixteen, chapter eleven of this code.

(j) Notwithstanding the provisions of article one-a, chapter twenty of this code, the superintendent of the West Virginia State Police may sell any surplus real property to which the West Virginia State Police or its predecessors retain title, and deposit the net proceeds into a special revenue account to be utilized for the purchase of additional real property and for repairs to or construction of detachment offices or other facilities required by the West Virginia State Police. There is hereby created a special revolving fund in the State Treasury which shall be designated as the "surplus real property proceeds fund." The fund shall consist of all money received from the sale of surplus real property owned by the West Virginia State Police. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature: Provided, That amounts collected which are found from time to time to exceed the
funds needed for the purposes set forth in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.

(k) Notwithstanding any other provision of this code, the agency for surplus property is hereby empowered to transfer funds generated from the sale of vehicles, other equipment and commodities belonging to the West Virginia State Police to a special revenue account within the West Virginia State Police entitled the West Virginia State Police surplus transfer account. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature: Provided, That amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. Any funds transferred to this account may be utilized by the superintendent to defray the cost of normal operating needs of the division.

(l) If the State Police or any other law-enforcement agency in this state receives a report that a person who has Alzheimer's disease and related dementia is missing, the State Police or any other law-enforcement agency shall immediately open an investigation for the purpose of determining the whereabouts of that missing person. Any policy of the State Police or any other law-enforcement agency relating to a waiting period prior to initiation of an investigation of a missing person shall not apply in the case of a person who has Alzheimer's disease or other related dementia of the type referred to in this subsection.

(m) Notwithstanding any provision of this code to the contrary, effective on and after the first day of July, two thousand seven, the expenses and salaries paid to the members of the West Virginia State Police for the monitoring and enforcement duties defined in chapter seventeen-c of this code may not be paid from the state road fund or subject to reimbursement from the Division of Motor Vehicles but shall be subject to appropriation by the Legislature.
CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 17B. TRANSFER OF CERTAIN JURISDICTION AND EMPLOYEES TO PUBLIC SERVICE COMMISSION.

§17C-17B-3. Transfer of certain employees from department of transportation to public service commission.

1 Effective the first day of July, two thousand three, employees of the department of transportation whose primary governmental duties as of the thirtieth day of June, two thousand three, included the administration and enforcement of this code and rules promulgated under this code relating to vehicular weight or the issuance of permits for excess vehicular weight shall be transferred from the department of transportation to the public service commission of West Virginia.

§17C-17B-4. Costs of enforcement to be funded from revenues in General Revenue Fund or from fees collected by Public Service Commission.

(a) On and after the first day of July, two thousand three, the cost of enforcement of this code and rules promulgated under this code, relating to vehicular weight, including inspections of vehicles and loads, training of enforcement officers, administrative proceedings, personal services, employees benefits and all other costs associated with enforcement matters, shall be funded by revenues in the state road fund, established pursuant to the provisions of section one, article three, chapter seventeen of this code: Provided, That effective on and after the first day of July, two thousand seven, all of the costs described in this subsection shall be funded by fees collected from the Public Service Commission or other appropriation by the Legislature: Provided, however, That the foregoing proviso may not be construed to require appropriation by the Legislature.
(b) The secretary of transportation and the treasurer shall take all actions necessary to implement the transfer of funding to effectuate the purposes of this article.

(c) For fiscal years beginning on and after the first day of July, two thousand four, the commission shall include in its budget to the Legislature the costs of implementation and continuing enforcement of this article for payment and appropriation into the Public Service Commission Fund.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect on July 1, 2007

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 2nd day of April, 2007

Governor