

SB 427

FILED

2010 APR -2 PM 4:10

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-NINTH LEGISLATURE**  
**REGULAR SESSION, 2010**

WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 427**

(BY SENATORS TOMBLIN (MR. PRESIDENT)  
AND CARUTH, BY REQUEST OF THE EXECUTIVE)

[Passed March 13, 2010; to take effect July 1, 2010.]

2010 APR -2 PM 4: 10

OFFICE OF THE CLERK  
WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 427**

(BY SENATORS TOMBLIN (MR. PRESIDENT) AND CARUTH,  
BY REQUEST OF THE EXECUTIVE)

[Passed March 13, 2010; to take effect July 1, 2010.]

AN ACT to amend and reenact §17-16A-3, §17-16A-5, §17-16A-6, §17-16A-10, §17-16A-11, §17-16A-13a, §17-16A-19, §17-16A-26 and §17-16A-29 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17-16A-30, all relating to the West Virginia Parkways, Economic Development and Tourism Authority; renaming the West Virginia Parkways, Economic Development and Tourism Authority; reorganizing the membership of the authority; redefining terms; authorizing issuance of revenue bonds for parkway projects; prohibiting the authority from constructing new tourism projects or new economic development projects; clarifying and adding certain powers of the authority relating to parkway projects, tourism projects and economic development projects; clarifying certain powers of

the Department of Transportation with respect to parkway projects; clarifying the power of the authority to reimburse the Department of Transportation for costs associated with parkway projects; clarifying certain powers of the authority with respect to real and personal property; clarifying the powers of the authority to fix and revise tolls for transit over certain parkway projects; requiring notice and public hearings prior to fixing initial rates or tolls on parkway projects; requiring an annual legislative audit of the Parkways Authority; requiring the Parkways Authority to provide certain information; requiring a discount program for purchasers of EZ Pass transponders prior to fixing initial rates or tolls on parkway projects; requiring the Parkways Authority to hold informational sessions concerning the discount program for purchasers of EZ Pass transponders; requiring EZ Pass transponders to be available without the payment of a security deposit; requiring refunds of paid security deposits through credits on statements; requiring county commission where a parkway project is located approve a parkways project by resolution; requiring Governor to establish a local committee; and providing duties of the local committee.

*Be it enacted by the Legislature of West Virginia:*

That §17-16A-3, §17-16A-5, §17-16A-6, §17-16A-10, §17-16A-11, §17-16A-13a, §17-16A-19, §17-16A-26 and §17-16A-29 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §17-16A-30, all to read as follows:

**ARTICLE 16A. WEST VIRGINIA PARKWAYS AUTHORITY.**

**§17-16A-3. West Virginia Parkways Authority.**

1 (a) The West Virginia Parkways, Economic Development  
2 and Tourism Authority is continued as an agency of the  
3 state, and commencing July 1, 2010, it shall be known as  
4 the West Virginia Parkways Authority. Any reference to

5 the West Virginia Parkways, Economic Development and  
6 Tourism Authority within this code shall mean the West  
7 Virginia Parkways Authority.

8 (b) To be effective on July 1, 2010, the Governor shall  
9 appoint, by and with the advice and consent of the Senate:

10 (1) A public member representing the first congressional  
11 district for a term of five years; and

12 (2) A public member representing the first congressional  
13 district for a term of four years.

14 (c) The public member representing the third congressio-  
15 nal district whose term expires in 2010 may be reap-  
16 pointed for a term of five years. The public member  
17 representing the second congressional district whose term  
18 expires in 2011 may be reappointed for a term of five  
19 years.

20 (d) To be effective on July 1, 2014, the Governor shall  
21 appoint, by and with the advice and consent of the Senate,  
22 a public member representing the second congressional  
23 district for a term of five years to replace the public  
24 member representing the third congressional district  
25 whose term expires in 2014.

26 (e) To be effective on July 1, 2015, the Governor shall  
27 appoint, by and with the advice and consent of the Senate,  
28 an at-large public member for a term of five years to  
29 replace one of the public members representing the third  
30 congressional district whose terms expire in 2015.

31 (f) Commencing July 1, 2015, the Authority shall consist  
32 of the following nine members:

33 (1) The Governor or a designee;

34 (2) The Secretary of the Department of Transportation  
35 or a designee;

36 (3) Two public members representing the first congres-  
37 sional district;

38 (4) Two public members representing the second con-  
39 gressional district;

40 (5) Two public members representing the third congres-  
41 sional district; and

42 (6) One at-large public member.

43 (g) After the initial appointment term, the term for the  
44 public members shall be five years. All public members'  
45 appointments shall be made by the Governor, by and with  
46 the advice and consent of the Senate.

47 (h) A public member may not serve more than two  
48 consecutive full five year terms. A public member may  
49 continue to serve until a successor has been appointed and  
50 has qualified.

51 (i) Each public member shall be a resident of this state  
52 during the appointment term and shall have been a  
53 qualified elector for a period of at least one year next  
54 preceding the appointment.

55 (j) A vacancy on the Authority shall be filled by appoint-  
56 ment by the Governor for the unexpired term of the public  
57 member whose office is vacant and the appointment shall  
58 be made within sixty days of the vacancy.

59 (k) The Governor may remove any public member from  
60 the Authority for neglect of duty, incompetency or official  
61 misconduct.

62 (l) A public member immediately and automatically  
63 forfeits membership to the Authority if he or she is  
64 convicted of a felony under the laws of any jurisdiction, or  
65 becomes a nonresident of this state.

66 (m) The Governor or designee shall serve as chair of the  
67 Authority. The Authority shall annually elect one of the

68 public members as vice chair, and shall also elect a  
69 secretary and treasurer who need not be members of the  
70 Authority.

71 (n) The Governor shall appoint an Executive Director of  
72 the Authority, by and with the advice and consent of the  
73 Senate. The Executive Director serves at the will and  
74 pleasure of the Governor. The Executive Director is  
75 responsible for managing and administering the daily  
76 functions of the Authority and performing all other  
77 functions necessary to the effective operation of the  
78 Authority. The compensation of the Executive Director is  
79 annually set by the Governor.

80 (o) The public members of the Authority are not entitled  
81 to compensation for their services, but shall be reimbursed  
82 for all reasonable and necessary expenses actually in-  
83 curred in the performance of their duties in a manner  
84 consistent with guidelines of the Travel Management  
85 Office of the Department of Administration.

86 (p) Five members of the Authority constitutes a quorum  
87 and the vote of a majority of members present shall be  
88 necessary for any action taken by the Authority. No  
89 vacancy in the membership of the Authority shall impair  
90 the right of a quorum to exercise all the rights and per-  
91 form all the duties of the Authority.

92 (q) The Authority shall meet at least monthly. The chair  
93 or any five members of the Authority may call a special  
94 meeting: *Provided*, That notice shall be given to all  
95 members of the Authority not less than ten days prior to  
96 any special meeting.

97 (r) Prior to commencing his or her duties as a member of  
98 the Authority, each public member shall take and sub-  
99 scribe to the oath required by section five, article IV of the  
100 Constitution of this state.

101 (s) Before the issuance of any revenue bonds or revenue  
102 refunding bonds under the provisions of this article, each  
103 public member of the Authority shall execute a surety  
104 bond in the penal sum of twenty-five thousand dollars.  
105 The secretary and treasurer of the Authority shall execute  
106 a surety bond in the penal sum of fifty thousand dollars.  
107 Each surety bond shall be conditioned upon the faithful  
108 performance of the duties of his or her office, shall be  
109 executed by a surety company authorized to transact  
110 business in West Virginia as a surety, shall be approved by  
111 the Governor and filed in the Office of the Secretary of  
112 State.

113 (t) All expenses incurred in carrying out the provisions  
114 of this article shall be paid solely from funds provided  
115 under this article and no liability or obligation shall be  
116 incurred by the Authority beyond the extent to which  
117 moneys shall have been provided under this article.

**§17-16A-5. Definitions.**

1 As used in this article, the following words and terms  
2 shall have the following meanings, unless the context shall  
3 indicate another or different meaning or intent:

4 (a) "Cost" means the cost of construction, reconstruc-  
5 tion, maintenance, improvement, repair and operation of  
6 the project, the cost of the acquisition of all land, rights-  
7 of-way, property, rights, easements and interests acquired  
8 by the Parkways Authority for such construction, recon-  
9 struction, maintenance, improvement and repair, the cost  
10 of all machinery, equipment, material and labor which are  
11 deemed essential thereto, the cost of improvements, the  
12 cost of financing charges, interest prior to and during  
13 construction and for one year after completion of con-  
14 struction, the cost of traffic estimates and of engineering,  
15 consultant, accounting, architects', trustees' and legal fees  
16 and expenses, plans, specifications, surveys, estimates of

17 cost and of revenues, other costs and expenses necessary or  
18 incident to determining the feasibility or practicability of  
19 constructing any such project, administrative expenses  
20 and such other costs and expenses as may be necessary or  
21 incident to the construction of the project, the financing of  
22 such construction and the placing of the project in opera-  
23 tion or to the operation of the project. Any obligation or  
24 expense hereafter incurred by the Department of Trans-  
25 portation with the approval of the Parkways Authority,  
26 regardless of whether the approval was authorized before  
27 or after the obligation or expense was incurred, for traffic  
28 surveys, borings, preparation of plans and specifications,  
29 and other engineering and consulting services in connec-  
30 tion with the construction of a parkway project shall be  
31 regarded as a part of the cost of such project and may be  
32 reimbursed to the state out of the proceeds of parkway  
33 revenue bonds or revenue refunding bonds hereinafter  
34 authorized.

35 (b) "Department of Transportation" means the West  
36 Virginia Department of Transportation and each of its  
37 respective divisions and subordinate agencies, including,  
38 without limitation, the Division of Highways.

39 (c) "Economic development project" means any land or  
40 water site, structure, facility or equipment which the  
41 Parkways Authority may acquire, create, develop, con-  
42 struct, reconstruct, improve or repair under the provisions  
43 of this article to promote the agricultural, economic or  
44 industrial development of the state, together with all  
45 property rights, easements and interests which may be  
46 acquired by the Parkways Authority for the development,  
47 construction or operation of such project.

48 (d) "Expressway" means any road serving major intra-  
49 state and interstate travel, including federal interstate  
50 routes.



51 (e) “Feeder roads” means any road serving community to  
52 community travel or collects and feeds traffic to an  
53 expressway or turnpike.

54 (f) “Local service road” means any local arterialized and  
55 spur roads which provide land access and socioeconomic  
56 benefits to abutting properties.

57 (g) “Owner” means all individuals, co-partnerships,  
58 associations or corporations having any title or interest in  
59 any property, rights, easements and interests authorized to  
60 be acquired by this article.

61 (h) “Park and forest roads” means any road serving  
62 travel within state parks, state forests and public hunting  
63 and fishing areas.

64 (i) “Parkways Authority” or “Authority” means the West  
65 Virginia Parkways Authority, or if the Parkways Author-  
66 ity is abolished, the board, body, commission or authority  
67 succeeding to the principal functions thereof or to whom  
68 the powers given by this article to the Parkways Authority  
69 shall be given by law.

70 (j) “Parkway project” means any expressway, turnpike,  
71 bridge, tunnel, trunkline, feeder road, state local service  
72 road or park and forest road, or any portion or portions of  
73 any expressway, turnpike, trunkline, feeder road, state  
74 local service road or park and forest road, whether contig-  
75 uous or noncontiguous to the West Virginia Turnpike or to  
76 any such portion or portions, which the Parkways Author-  
77 ity may acquire, construct, reconstruct, maintain, operate,  
78 improve or repair under the provisions of this article,  
79 which shall include for all purposes of this article, any  
80 acquisition, construction, reconstruction, maintenance,  
81 operation, improvement or repair that the authority may  
82 undertake by agreement with the Department of Trans-  
83 portation, or any expressway, turnpike or other road  
84 constructed by the West Virginia Turnpike Commission

85 pursuant to the authority granted to it under the laws of  
86 this state prior to June 1, 1989, and shall embrace all  
87 bridges, tunnels, overpasses, underpasses, interchanges,  
88 entrance plazas, approaches, toll houses, service stations  
89 and administration, storage and other buildings, which the  
90 Parkways Authority may deem necessary for the operation  
91 of the parkway project, or which is used in the operation  
92 of a parkway project constructed prior to June 1, 1989,  
93 together with all property, rights, easements and interests  
94 which may be acquired by the Parkways Authority for the  
95 construction or the operation of the parkway project or  
96 which were acquired in connection with or are used in the  
97 operation of a parkway project constructed prior to June  
98 1, 1989.

99 (k) "Project" or "projects" means a parkway project,  
100 economic development project or tourism project, or any  
101 combination thereof.

102 (l) "Transportation secretary" means the Secretary of  
103 the State Department of Transportation.

104 (m) "Tourism project" means:

105 (1) Any park or tourist facility and attraction which the  
106 Parkways Authority may create, develop, construct,  
107 reconstruct, improve, maintain or repair under the provi-  
108 sions of this article, and shall include all roads, inter-  
109 changes, entrance plazas, approaches, service stations,  
110 administration, storage and any other buildings or service  
111 stations, structures which the Parkways Authority may  
112 deem necessary for the operation of the tourism project,  
113 together with all property rights, easements and interests  
114 which may be acquired by the Parkways Authority for the  
115 construction or operation of the tourism project; and

116 (2) The construction, reconstruction, improvement,  
117 maintenance and repair of any park or tourist facility and  
118 attraction owned by the state as of June 1, 1989.

119 (n) "Tourist facility and attraction" mean cabins, lodges,  
120 recreational facilities, restaurants, and other revenue  
121 producing facilities, any land or water site, and any  
122 information center, visitors' center or rest stop which the  
123 Parkways Authority determines may improve, enhance or  
124 contribute to the development of the tourism industry in  
125 the state.

126 (o) "Trunkline" means any road serving major city to  
127 city travel.

128 (p) "Turnpike" means the West Virginia Turnpike or any  
129 other toll road in the state.

130 (q) "West Virginia Turnpike Commission" means the  
131 State Turnpike Commission existing as of June 1, 1989.

132 (r) "West Virginia Turnpike" means the turnpike from  
133 Charleston to a point approximately one mile south of the  
134 intersection of Interstate 77 and U.S. Route 460 near  
135 Princeton in Mercer County, West Virginia, which road is  
136 presently a part of the federal interstate highway system.

**§17-16A-6. Parkways Authority's powers.**

1 (a) The Parkways Authority is hereby authorized and  
2 empowered:

3 (1) To adopt bylaws for the regulation of its affairs and  
4 the conduct of its business;

5 (2) To adopt an official seal and alter the same at  
6 pleasure;

7 (3) To maintain an office at such place or places within  
8 the state as it may designate;

9 (4) To sue and be sued in its own name, plead and be  
10 impleaded. Any and all actions against the Parkways  
11 Authority shall be brought only in the county in which the  
12 principal office of the Parkways Authority is located;

13 (5) To construct, reconstruct, improve, maintain, repair  
14 and operate projects, at such locations within the state as  
15 may be determined by the Parkways Authority subject to  
16 the provisions of section thirty of this article: *Provided*,  
17 That after July 1, 2010, the Parkways Authority is prohib-  
18 ited from constructing new tourism projects or new  
19 economic development projects, but this prohibition shall  
20 not prevent the Authority from entering into lease agree-  
21 ments, development agreements or other agreements with  
22 private businesses or companies allowing and providing  
23 for such private businesses or companies to acquire,  
24 develop, construct and operate motels, lodging facilities or  
25 other businesses and business facilities on land owned by  
26 the Authority and located adjacent to the Tamarack  
27 project and facilities at Exit 45 of the West Virginia  
28 Turnpike;

29 (6) To issue parkway revenue bonds of the State of West  
30 Virginia, payable solely from revenues, for the purpose of  
31 paying all or any part of the cost of any one or more  
32 parkway projects, which costs may include, with respect  
33 to the West Virginia Turnpike, such funds as are necessary  
34 to repay to the State of West Virginia all or any part of the  
35 state funds used to upgrade the West Virginia Turnpike to  
36 federal interstate standards;

37 (7) To issue parkway revenue refunding bonds of the  
38 State of West Virginia, payable solely from revenues, for  
39 any one or more of the following purposes:

40 (A) Refunding any bonds which shall have been issued  
41 under the provisions of this article or any predecessor  
42 thereof; and

43 (B) Repaying to the state all or any part of the state  
44 funds used to upgrade the West Virginia Turnpike to  
45 federal interstate standards;

46 (8) To fix and revise, from time to time, tolls for transit  
47 over each parkway project constructed or improved by it,

48 by the Department of Transportation, or by the West  
49 Virginia Turnpike Commission;

50 (9) To fix and revise, rents, fees or other charges, of  
51 whatever kind or character, for the use of each tourism  
52 project or economic development project constructed by it  
53 or for the use of any building, structure or facility con-  
54 structed by it in connection with a parkway project;

55 (10) To acquire, hold, lease and dispose of real and  
56 personal property in the exercise of its powers and the  
57 performance of its duties under this article;

58 (11) To acquire in the name of the state by purchase or  
59 otherwise, on such terms and conditions and in such  
60 manner as it may deem proper, or by the exercise of the  
61 right of condemnation in the manner hereinafter provided,  
62 such public or private lands, including public parks,  
63 playgrounds or reservations, or parts thereof or rights  
64 therein, rights-of-way, property, rights, easements and  
65 interests, as it may deem necessary for carrying out the  
66 provisions of this article. No compensation shall be paid  
67 for public lands, playgrounds, parks, parkways or reserva-  
68 tions so taken, and all public property damaged in carry-  
69 ing out the powers granted by this article shall be restored  
70 or repaired and placed in its original condition as nearly  
71 as practicable;

72 (12) To designate the locations, and establish, limit and  
73 control such points of ingress to and egress from each  
74 project as may be necessary or desirable in the judgment  
75 of the Parkways Authority to ensure the proper operation  
76 and maintenance of such project, and to prohibit entrance  
77 to such project from any point or points not so designated;

78 (13) To make and enter into all contracts and agreements  
79 necessary or incidental to the performance of its duties  
80 and the execution of its powers under this article, and to  
81 employ consulting engineers, attorneys, accountants,

82 architects, construction and financial experts, trustees,  
83 superintendents, managers and such other employees and  
84 agents as may be necessary in its judgment, and to fix  
85 their compensation. All such expenses shall be payable  
86 solely from the proceeds of parkway revenue bonds or  
87 parkway revenue refunding bonds issued under the  
88 provisions of this article, tolls or from revenues;

89 (14) To make and enter into all contracts, agreements or  
90 other arrangements with any agency, department, division,  
91 board, bureau, commission, authority or other governmen-  
92 tal unit of the state to operate, maintain, or repair any  
93 project;

94 (15) To receive and accept from any federal agency  
95 grants for or in aid of the construction of any project, and  
96 to receive and accept aid or contributions from any source  
97 of either money, property, labor or other things of value,  
98 to be held, used and applied only for the purposes for  
99 which such grants and contributions may be made;

100 (16) To investigate and, if feasible, develop and imple-  
101 ment a "single fee" program which would produce on an  
102 annual basis a sum of money equal to the total toll revenue  
103 received from all West Virginia drivers on West Virginia  
104 toll roads during the Authority's preceding fiscal year,  
105 divided into at least three classes based upon usage, size  
106 and number of axles. Said sum, plus an amount necessary  
107 to cover the expected costs of such program, shall be  
108 produced by adding to either the annual cost of vehicle  
109 registration or of vehicle inspection a single fee equal to  
110 the proportionate share of that vehicle owner of the total  
111 toll revenue needed to be produced from all vehicles  
112 within that class. A vehicle for which such fee has been  
113 paid shall be entitled to traverse all toll roads within the  
114 state without stopping to pay individual tolls during the  
115 effective period of said registration or said inspection:  
116 *Provided, however,* That if the single fee proposed to be

117 charged under said program exceeds the standard round  
118 trip toll for that vehicle over the entire length of the West  
119 Virginia Turnpike, the Authority shall not implement such  
120 program without the prior approval of both Houses of the  
121 Legislature: *Provided, further*, That any such program  
122 shall also include comparable provisions which would  
123 allow vehicles registered in other states to traverse West  
124 Virginia toll roads in like fashion to West Virginia vehicles  
125 as set forth in this section upon the payment of a single fee  
126 for each and every vehicle registered in such state, in  
127 accordance with the same classification system adopted  
128 for West Virginia vehicles.

129 (17) To do all acts and things necessary or convenient to  
130 carry out the powers expressly granted in this article; and

131 (18) To file the necessary petition or petitions pursuant  
132 to Title 11, United States Code, Sec. 401 (being section 81  
133 of the Act of Congress entitled "An act to establish a  
134 uniform system of bankruptcy throughout the United  
135 States", approved July 1, 1898, as amended) and to  
136 prosecute to completion all proceedings permitted by Title  
137 11, United States Code, Secs. 401-403 (being sections 81  
138 to 83, inclusive, of said Act of Congress). The State of  
139 West Virginia hereby consents to the application of said  
140 Title 11, United States Code, Secs. 401-403, to the Park-  
141 ways Authority.

142 (b) Nothing in this article shall be construed to prohibit  
143 the issuance of parkway revenue refunding bonds in a  
144 common plan of financing with the issuance of parkway  
145 revenue bonds.

**§17-16A-10. Parkway revenue bonds generally.**

1 (a) The Parkways Authority is authorized to provide by  
2 resolution for the issuance of parkway revenue bonds of  
3 the state for the purpose of paying all or any part of the  
4 cost of one or more parkway projects: *Provided*, That this

5 section shall not be construed as authorizing the issuance  
6 of parkway revenue bonds for the purpose of paying the  
7 cost of the West Virginia Turnpike, which parkway  
8 revenue bonds may be issued only as authorized under  
9 section eleven of this article. The principal of and the  
10 interest on bonds shall be payable solely from the funds  
11 provided for payment.

12 (b) The bonds of each issue shall be dated, shall bear  
13 interest at a rate as may be determined by the Parkways  
14 Authority in its sole discretion, shall mature at a time not  
15 exceeding forty years from their date or of issue as may be  
16 determined by the Parkways Authority, and may be made  
17 redeemable before maturity, at the option of the Parkways  
18 Authority at a price and under the terms and conditions as  
19 may be fixed by the Parkways Authority prior to the  
20 issuance of the bonds.

21 (c) The Parkways Authority shall determine the form of  
22 the bonds, including any interest coupons to be attached  
23 thereto, and shall fix the denomination of the bonds and  
24 the place of payment of principal and interest, which may  
25 be at any bank or trust company within or without the  
26 state.

27 (d) The bonds shall be executed by manual or facsimile  
28 signature by the chair of the Parkways Authority, and the  
29 official seal of the Parkways Authority shall be affixed to  
30 or printed on each bond, and attested, manually or by  
31 facsimile signature, by the secretary and treasurer of the  
32 Parkways Authority. Any coupons attached to any bond  
33 shall bear the manual or facsimile signature of the chair of  
34 the Parkways Authority.

35 (e) In case any officer whose signature or a facsimile of  
36 whose signature appears on any bonds or coupons shall  
37 cease to be an officer before the delivery of the bonds, the  
38 signature or facsimile shall nevertheless be valid and  
39 sufficient for all purposes the same as if he had remained



40 in office until delivery. In case the seal of the Parkways  
41 Authority has been changed after a facsimile has been  
42 imprinted on the bonds, then the facsimile seal will  
43 continue to be sufficient for all purposes.

44 (f) All bonds issued under the provisions of this article  
45 shall have all the qualities and incidents of negotiable  
46 instruments under the negotiable instruments law of the  
47 state. The bonds may be issued in coupon or in registered  
48 form, or both, as the Parkways Authority may determine,  
49 and provision may be made for the registration of any  
50 coupon bonds as to principal alone and also as to both  
51 principal and interest, and for the recorders into coupon  
52 bonds of any bonds registered as to both principal and  
53 interest.

54 (g) The Parkways Authority may sell the bonds at a  
55 public or private sale at a price it determines to be in the  
56 best interests of the state.

57 (h) The proceeds of the bonds of each issue shall be used  
58 solely for the payment of the cost of the parkway project  
59 or parkway projects for which the bonds were issued, and  
60 shall be disbursed in a manner consistent with the resolu-  
61 tion authorizing the issuance of the bonds or in the trust  
62 agreement securing the bonds.

63 (i) If the proceeds of the bonds of any issue, by error of  
64 estimates or otherwise, shall be less than the cost, then  
65 additional bonds may in like manner be issued to provide  
66 the amount of the deficit. Unless otherwise provided in  
67 the resolution authorizing the issuance of the bonds or in  
68 the trust agreement securing the bonds, the additional  
69 bonds shall be deemed to be of the same issue and shall be  
70 entitled to payment from the same fund without prefer-  
71 ence or priority of the bonds first issued.

72 (j) If the proceeds of the bonds of any issue exceed the  
73 cost of the parkway project or parkway projects for which

74 the bonds were issued, then the surplus shall be deposited  
75 to the credit of the sinking fund for the bonds.

76 (k) Prior to the preparation of definitive bonds, the  
77 Parkways Authority may, under like restrictions, issue  
78 interim receipts or temporary bonds, with or without  
79 coupons, exchangeable for definitive bonds when the  
80 bonds have been executed and are available for delivery.  
81 The Parkways Authority may also provide for the replace-  
82 ment of any bonds that become mutilated or are destroyed  
83 or lost.

84 (l) Bonds may be issued under the provisions of this  
85 article without obtaining the consent of any department,  
86 division, commission, board, bureau or agency of the state  
87 in accordance with this article: *Provided*, That the Park-  
88 ways Authority shall comply with the provisions of section  
89 twenty-eight, article one, chapter five of this code.

**§17-16A-11. Parkway revenue bonds – West Virginia Turn-  
pike; related projects.**

1 (a) The Parkways Authority is authorized to provide by  
2 resolution, at one time or from time to time, for the  
3 issuance of parkway revenue bonds of the state in an  
4 aggregate outstanding

5 principal amount not to exceed, from time to time, \$200  
6 million for the purpose of paying:

7 (1) All or any part of the cost of the West Virginia  
8 Turnpike, which may include, but not be limited to, an  
9 amount equal to the state funds used to upgrade the West  
10 Virginia Turnpike to federal interstate standards;

11 (2) All or any part of the cost of any one or more park-  
12 way projects that involve improvements to or enhance-  
13 ments of the West Virginia Turnpike, including, without  
14 limitation, lane-widening on the West Virginia Turnpike  
15 and that are or have been recommended by the Parkways

16 Authority's traffic engineers or consulting engineers or by  
17 both of them prior to the issuance of parkway revenue  
18 bonds for the project or projects; and

19 (3) To the extent permitted by federal law, all or any  
20 part of the cost of any related parkway project.

21 (b) For purposes of this section only, a "related parkway  
22 project" means any information center, visitors' center or  
23 rest stop, or any combination thereof, and any expressway,  
24 turnpike, trunkline, feeder road, state local service road or  
25 park and forest road which connects to or intersects with  
26 the West Virginia Turnpike and is located within seventy-  
27 five miles of the turnpike as it existed on June 1, 1989, or  
28 any subsequent expressway, trunkline, feeder road, state  
29 local service road or park and forest road constructed  
30 pursuant to this article: *Provided*, That nothing in this  
31 section shall be construed as prohibiting the Parkways  
32 Authority from issuing parkway revenue bonds pursuant  
33 to section ten of this article for the purpose of paying all  
34 or any part of the cost of any related parkway project:  
35 *Provided, however*, That none of the proceeds of the  
36 issuance of parkway revenue bonds under this section  
37 shall be used to pay all or any part of the cost of any  
38 economic development project, except as provided in  
39 section twenty-three of this article: *Provided further*, That  
40 nothing in this section shall be construed as prohibiting  
41 the Parkways Authority from issuing additional parkway  
42 revenue bonds to the extent permitted by applicable  
43 federal law for the purpose of constructing, maintaining  
44 and operating any highway constructed, in whole or in  
45 part, with money obtained from the Appalachian Regional  
46 Commission as long as the highway connects to the West  
47 Virginia Turnpike as it existed on June 1, 1989: *And*  
48 *provided further*, That, for purposes of this section, in  
49 determining the amount of bonds outstanding, from time  
50 to time, within the meaning of this section: Original par  
51 amount or original stated principal amount at the time of

52 issuance of bonds shall be used to determine the principal  
53 amount of bonds outstanding, except that the amount of  
54 parkway revenue bonds outstanding under this section  
55 may not include any bonds that have been retired through  
56 payment, defeased through the deposit of funds irrevoca-  
57 bly set aside for payment or otherwise refunded so that  
58 they are no longer secured by toll revenues of the West  
59 Virginia Turnpike: *And provided further*, That the authori-  
60 zation to issue bonds under this section is in addition to  
61 the authorization and power to issue bonds under any  
62 other section of this code: *And provided further*, That,  
63 without limitation of the authorized purposes for which  
64 parkway revenue bonds are otherwise permitted to be  
65 issued under this section, and without increasing the  
66 maximum principal par amount of parkway revenue bonds  
67 permitted to be outstanding, from time to time, under this  
68 section, the Authority is specifically authorized by this  
69 section to issue, at one time or from time to time, by  
70 resolution or resolutions under this section, parkway  
71 revenue bonds under this section for the purpose of paying  
72 all or any part of the cost of one or more parkway projects  
73 that:

74 (1) Consist of enhancements or improvements to the  
75 West Virginia Turnpike, including, without limitation,  
76 projects involving lane widening, resurfacing, surface  
77 replacement, bridge replacement, bridge improvements  
78 and enhancements, other bridge work, drainage system  
79 improvements and enhancements, drainage system  
80 replacements, safety improvements and enhancements,  
81 and traffic flow improvements and enhancements; and

82 (2) Have been recommended by the Authority's consult-  
83 ing engineers or traffic engineers, or both, prior to the  
84 issuance of the bonds.

85 (c) Except as otherwise specifically provided in this  
86 section, the issuance of parkway revenue bonds pursuant

87 to this section, the maturities and other details of the  
88 bonds, the rights of the holders of the bonds, and the  
89 rights, duties and obligations of the Parkways Authority  
90 in respect of the bonds shall be governed by the provisions  
91 of this article insofar as the provisions are applicable.

92 (d) Notwithstanding any other provision of this code to  
93 the contrary, the Authority may not issue parkway  
94 revenue bonds under this section for projects on the West  
95 Virginia Turnpike after June 30, 2010: *Provided*, That the  
96 authority may issue revenue refunding bonds pursuant to  
97 sections twenty-one and twenty-two of this article.

**§17-16A-13a. Public notice and hearing requirements.**

1 (a) Notwithstanding any provision of the law to the  
2 contrary, on and after July 1, 2010, the Parkways Author-  
3 ity is authorized after prior public notice and hearing, as  
4 set forth in this section, to:

5 (1) Fix initial rates, tolls or charges along any portion of  
6 a parkway project, or approve any proposal or contract  
7 that would require the Parkways Authority to fix any  
8 initial rates, tolls or charges along any portion of a  
9 parkway project;

10 (2) Increase any rates, tolls or charges along any portion  
11 of the parkway project, or approve any proposal or  
12 contract that would result in or require an increase in any  
13 rates or tolls along any portion of the parkway project;

14 (3) Issue any refunding bond pursuant to sections  
15 twenty-one and twenty-two of this article which would  
16 require the Parkways Authority to increase rates, tolls or  
17 charges;

18 (4) Approve any contract or project which would require  
19 or result in an increase in the rates, tolls or charges along  
20 any portion of the parkway project; or

21 (5) Take any other action which would require or result  
22 in an increase in the rates, tolls or charges along any  
23 portion of the parkway project.

24 (b) The Parkways Authority shall publish notice of any  
25 proposed contract, project or bond which would require  
26 the Parkways Authority to fix any initial toll rates or  
27 charges, result in an increase of any toll rates or charges or  
28 extend any bond repayment obligation, along with the  
29 associated initial rate, rate increase or revised bond  
30 repayment period, by a Class II legal advertisement in  
31 accordance with the provisions of article three, chapter  
32 fifty-nine of this code, published and of general circula-  
33 tion in each county which borders the parkway project or  
34 proposed parkway project affected by the proposed  
35 contract, project or bond.

36 (c) Once notice has been provided in accordance with the  
37 provisions of this section, the Parkways Authority shall  
38 conduct a public hearing in each county which borders the  
39 parkway project or proposed parkway project affected by  
40 the proposed contract, project or bond, and any citizen  
41 may communicate by writing to the Parkways Authority  
42 his or her opposition to or approval of such proposal,  
43 initial rate or toll, rate or toll increase or amended bond  
44 terms. The public notice and written public comment  
45 period shall be conducted not less than forty-five days  
46 from the publication of the notice and the affected public  
47 must be provided with at least twenty days' notice of each  
48 scheduled public hearing.

49 (d) All studies, records, documents and other materials  
50 which were considered by the Parkways Authority before  
51 recommending the approval of any such project or recom-  
52 mending the adoption of any such initial rate or increase  
53 shall be made available for public inspection for a period  
54 of at least twenty days prior to the scheduled hearing at a  
55 convenient location in each county where a public hearing  
56 is held.

57 (e) At the conclusion of all required public hearings, the  
58 Parkways Authority shall render a final decision which  
59 shall include written findings of fact supporting its final  
60 decision on any proposed project which would result in or  
61 require initial rates, a rate increase, or prior to finally  
62 approving any proposed initial rate or toll or rate or toll  
63 increase, and such required findings and conclusions must  
64 reference and give due consideration to the public com-  
65 ments and additional evidence offered during the public  
66 hearings.

67 (f) On and after July 1, 2010, any final action taken by  
68 the Parkways Authority to approve or implement any  
69 proposed initial rate, rate increase, contract or project  
70 which would require or result in a proposed initial rate or  
71 toll or a proposed increase of any rate or tolls along any  
72 portion of the parkway project without first satisfying the  
73 public notice and hearing requirements of this section,  
74 shall be null and void.

**§17-16A-19. Preliminary expenses.**

1 (a) The Secretary of the Department of Transportation  
2 is authorized in his or her discretion to expend out of any  
3 funds available for the purpose, such moneys as may be  
4 necessary for the study of any parkway, economic develop-  
5 ment or tourism project or projects and to use the Depart-  
6 ment of Transportation's engineering and other forces,  
7 including consulting engineers and traffic engineers, for  
8 the purpose of effecting such study and to pay for such  
9 additional engineering and traffic and other expert studies  
10 as he or she may deem expedient.

11 (b) All such expenses incurred by the Department of  
12 Transportation prior to the issuance of parkway revenue  
13 bonds or revenue refunding bonds under the provisions of  
14 this article shall be paid by the Department of Transporta-  
15 tion and charged to the appropriate project or projects,

16 and the Department of Transportation shall keep proper  
17 records and accounts showing each amount so charged.

18 (c) Upon the sale of parkway revenue bonds or revenue  
19 refunding bonds for any project or projects, the funds so  
20 expended by the Department of Transportation in connec-  
21 tion with such project or projects may be reimbursed to  
22 the Department of Transportation from the proceeds of  
23 such bonds.

**§17-16A-26. Annual report; audit.**

1 (a) Annually, the Parkways Authority shall prepare and  
2 provide to each member of the West Virginia Legislature  
3 who so requests, an annual report detailing the financial  
4 condition and operations of the Parkways Authority. The  
5 Parkways Authority shall provide to the Joint Committee  
6 on Government and Finance any financial statements that  
7 are required under any trust agreement to which the  
8 Parkways Authority is a party.

9 (b) Annually, the Parkways Authority shall file with the  
10 Legislative Auditor's office a full and complete accounting  
11 of its activities, including the collection of all revenues,  
12 expenditures, liabilities, assets, bonds and disbursement of  
13 funds. The Legislative Auditor shall conduct an annual  
14 audit of the information provided by the Parkways  
15 Authority and the audit report of the Legislative Auditor  
16 shall be provided to each member of the Legislature  
17 requesting a copy.

**§17-16A-29. Discount program for purchasers of West Virginia  
EZ Pass transponders.**

1 (a) The Parkways Authority is hereby authorized to  
2 create a discount program for purchasers of West Virginia  
3 EZ Pass transponders: *Provided*, That prior to the fixation  
4 of any initial rates, tolls or charges or any increase in any  
5 rates, tolls or charges along any portion of the parkway



6 project, the Parkways Authority shall create a discount  
7 program for purchasers of West Virginia EZ Pass tran-  
8 sponders. Any discount program created pursuant to this  
9 section shall provide discounts for each class of motor  
10 vehicles.

11 (b) The Authority shall provide public notice and hold  
12 public hearings on any proposed discount program as  
13 required in section thirteen-a of this article prior to  
14 implementation of such program.

15 (c) Annually, the Parkways Authority shall hold at least  
16 one public informational session in each of the following  
17 counties: Kanawha, Fayette, Raleigh and Mercer counties.  
18 The Authority is to distribute educational materials and  
19 other information concerning the discount program for  
20 purchasers of West Virginia EZ Pass transponders de-  
21 scribed in this section.

22 (d) Upon the effective date of the amendments to this  
23 section enacted during the regular session of the Legisla-  
24 ture in the year 2010, the Authority shall make available  
25 West Virginia EZ Pass transponders to the public without  
26 the payment of any monetary security deposit. The  
27 Authority shall credit any individual that has paid a  
28 security deposit for a West Virginia EZ Pass transponder  
29 prior to July 1, 2010, on the individual's next billing  
30 statement.

31 (e) For purposes of this section, a "West Virginia EZ Pass  
32 transponder" means a device sold by the Parkways  
33 Authority which allows the purchaser to attach the device  
34 to his or her motor vehicle and travel through a Parkways  
35 toll facility and be billed for such travel by the Authority.

**§17-16A-30. Coordination with county commission in counties  
where a parkway project may be located.**

1 Once a parkway project is identified by the Authority,  
2 the Governor shall appoint, with the advice and consent of

3 the Senate, two persons from each county where the  
4 parkway project is located to serve on a local committee to  
5 provide recommendations and suggestions to the Author-  
6 ity on all matters regarding the local identified project.  
7 The local committee shall also report any of its findings to  
8 the county commission or county commissions of the  
9 counties in which the parkway project is located. Prior to  
10 any final approval of a parkway project, the county  
11 commissions of the counties in which a parkway project is  
12 located shall by resolution approve the parkway project.

Enr. Com. Sub. for Com. Sub. for S. B. No. 427] 26

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.

Takes effect July 1, 2010.

.....  
*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

.....  
*President of the Senate*

.....  
*Speaker House of Delegates*

The within *is approved* this the *2nd*  
Day of *April*, 2010.

.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 01 2010

Time 11:30am