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WEST VIRGINIA LEGISLATURE
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REGULAR SESSION, 2015

WEST VIRGINIA
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 407

(SENATOR PLYMALE, *ORIGINAL SPONSOR*)

[PASSED MARCH 13, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB407

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Senate Bill No. 407

(SENATOR PLYMALE, ORIGINAL SPONSOR)

[Passed March 13, 2015; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-16E-1, §17-16E-2 and §17-16E-3, all relating to implementation of a state safety oversight program pursuant to a mandate per 49 U. S. C. §5329; designating the Division of Public Transit as the State Safety Oversight Agency; specifying powers and duties of the State Safety Oversight Agency; and requiring rulemaking.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated as §17-16E-1, §17-16E-2 and §17-16E-3, all to read as follows:

ARTICLE 16E. STATE SAFETY OVERSIGHT PROGRAM.

§17-16E-1. Purpose.

1 The purpose of this article is to establish authority for a
2 State Safety Oversight Agency to oversee the safety for fixed
3 guideway public transportation systems in West Virginia not
4 regulated by the Federal Railroad Administration and to
5 accomplish compliance with 49 U. S. C. §5329.

§17-16E-2. Designated oversight agency; prohibitions.

1 (a) The Division of Public Transit created by article
2 sixteen-c of this chapter is hereby designated the State Safety
3 Oversight Agency. The Division of Public Transit shall have
4 the powers and duties assigned to the State Safety Oversight
5 Agency.

6 (b) The State Safety Oversight Agency shall be financially
7 and legally independent from any public transportation entity
8 that the agency oversees. Any public transportation agency is
9 prohibited from providing funds to the State Safety Oversight
10 Agency. The agency may not employ any individual who is
11 also responsible for the administration of rail fixed guideway
12 public transportation programs.

§17-16E-3. Powers and duties; rules.

1 (a) The State Safety Oversight Agency has the following
2 powers and duties:

3 (1) Oversee all safety aspects of the rail fixed guideway
4 public transportation system pursuant to 49 U. S. C. §5329,
5 including:

6 (A) The development, implementation and application of
7 the public transportation system safety plan;

8 (B) Inspection, investigations or hearings involving all
9 aspects of the facility and its operations including

10 infrastructure, documentation, including electronic data, and
11 personnel and may conduct or cause to be conducted such
12 inspections, investigations or hearings; and

13 (C) Respond to information obtained through inspection,
14 investigations, hearings, other incidents or occurrences of
15 significance to the State Safety Oversight Agency by the
16 issuance of directives, appropriate suspension of service,
17 withholding of funding or the imposition of civil or criminal
18 penalties.

19 (2) Enforce federal and state laws on rail fixed guideway
20 public transportation safety;

21 (3) Determine, in consultation with the Federal Transit
22 Administration, an appropriate staffing level for the State
23 Safety Oversight Agency that is commensurate with the
24 number, size, and complexity of the rail fixed guideway
25 transit systems in the state;

26 (4) Require that its employees and other designated
27 personnel who are responsible for rail fixed guideway
28 public transportation safety oversight are qualified to
29 perform such functions through appropriate training,
30 including successful completion of the public transportation
31 safety certification training program established under 49 U.
32 S. C. §5329(c);

33 (5) Coordinate all enforcement responsibilities with other
34 governmental authorities as needed;

35 (6) Review, revise, approve, oversee and enforce the
36 public transportation agency safety plan required under 49 U.
37 S. C. §5329(d), including the implementation by the rail fixed
38 guideway public transportation agency of such plan;

39 (7) Investigate and enforce the safety of rail fixed
40 guideway public transportation systems;

41 (8) Audit, at least once every three years, the compliance
42 of the rail fixed guideway public transportation systems in the
43 state with the public transportation agency safety plan
44 required under 49 U. S. C. §5329(d);

45 (9) Provide an annual status report on the safety of the
46 state's rail fixed guideway public transportation systems to
47 the Federal Transit Administration, the Governor, the
48 Legislature and the governing body of the rail fixed guideway
49 public transportation system;

50 (10) Prepare and provide to the Governor and Legislature
51 drafts of proposed legislation that may be necessary for the
52 state to remain compliant with the requirements of 49 U. S.
53 C. §5329.

54 (b) The State Safety Oversight Agency shall propose
55 rules for legislative approval in accordance with the
56 provisions of article three, chapter twenty-nine of this code to
57 accomplish the purpose of this article, including rules
58 concerning the implementation of the duties set forth in
59 subsection (a) of this section and the inspection and
60 enforcement powers that are reasonably necessary to ensure
61 compliance with 49 U. S. C. §5329.

Handwritten signature or initials in black ink, appearing to be "JSE", located to the right of the text in the 56-57 line range.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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

[Signature]
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Clerk of the House of Delegates

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

[Signature]
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Speaker of the House of Delegates

The within *is approved* this the *24th*
March
Day of, 2015.

[Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2015

Time 11:20 am