Committee Substitute

for

House Bill 2941

BY DELEGATES GEARHEART, STORCH, HAMRICK, CRISS,
HANSHAW, WESTFALL, PAYNTER, COOPER, MOORE,
AMBLER AND WHITE

[Passed April 6, 2017; in effect ninety days from passage.]
WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

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BY DELEGATES GEARHEART, STORCH, HAMRICK, CRISS,

HANSHAW, WESTFALL, PAYNTER, COOPER, MOORE,

AMBLER AND WHITE

[Passed April 6, 2017; in effect ninety days from passage.]
AN ACT to amend and reenact §17-2A-7 and §17-2A-8 of the Code of West Virginia, 1931, as amended, all relating to the Division of Highways utilization of the Attorney General for legal services; requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services; and providing for exceptions.

Be it enacted by the Legislature of West Virginia:

That §17-2A-7 and §17-2A-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-7. Legal assistance.

(a) Except as provided in subsection (b) of this section, the commissioner shall utilize the Attorney General for all legal assistance and services as provided by law.

(b) The commissioner may:

(1) Employ a competent legal staff adequate for the ordinary legal services required by him or her and shall provide therefor such quarters, equipment, facilities, services and stenographic and other personnel as may be necessary: Provided, That for purposes of this subdivision, "ordinary legal services" does not include the retention or hiring of outside legal counsel; and

(2) Employ such additional legal counsel as he or she deems necessary upon a reasonable fee basis to perform legal services in acquiring, by right of eminent domain or otherwise, property, or an estate, right or interest therein.


In addition to all other duties, powers and responsibilities given and assigned to the commissioner in this chapter, the commissioner may:

(1) Exercise general supervision over the state road program and the construction, reconstruction, repair and maintenance of state roads and highways;
(2) Determine the various methods of road construction best adapted to the various sections and areas of the state and establish standards for the construction and maintenance of roads and highways in the various sections and areas of the state;

(3) Conduct investigations and experiments, hold hearings and public meetings and attend and participate in meetings and conferences within and without the state for purposes of acquiring information, making findings and determining courses of action and procedure relative to advancement and improvement of the state road and highway system;

(4) Enter private lands to make inspections and surveys for road and highway purposes;

(5) Acquire, in name of the department, by lease, grant, right of eminent domain or other lawful means all lands and interests and rights in lands necessary and required for roads, rights-of-way, cuts, fills, drains, storage for equipment and materials and road construction and maintenance in general;

(6) Procure photostatic copies of any or all public records on file at the State Capitol of Virginia which may be considered necessary or proper in ascertaining the location and legal status of public road rights-of-way located or established in what is now the State of West Virginia, which when certified by the commissioner, may be admitted in evidence, in lieu of the original, in any of the courts of this state;

(7) Plan for and hold annually a school of good roads, of not less than three or more than six days' duration, for instruction of his or her employees, which is held in conjunction with West Virginia University and may be held at the university or at any other suitable place in the state;

(8) Negotiate and enter in reciprocal contracts and agreements with proper authorities of other states and of the United States relating to and regulating the use of roads and highways with reference to weights and types of vehicles, registration of vehicles and licensing of operators, military and emergency movements of personnel and supplies and all other matters of interstate or national interest;
(9) Classify and reclassify, locate and relocate, expressway, trunkline, feeder and state local service roads and designate by number the routes within the state road system;

(10) Create, extend or establish, upon petition of any interested party or parties or on the commissioner's own initiative, any new road or highway found necessary and proper;

(11) Exercise jurisdiction, control, supervision and authority over local roads, outside the state road system, to the extent determined by him or her to be expedient and practicable;

(12) Discontinue, vacate and close any road or highway, or any part of any road or highway, the continuance and maintenance of which are found unnecessary and improper, upon petition and hearing or upon investigation initiated by the commissioner;

(13) Close any state road while under construction or repair and provide a temporary road during the time of the construction or repair;

(14) Adjust damages occasioned by construction, reconstruction or repair of any state road or the establishment of any temporary road;

(15) Establish and maintain a uniform system of road signs and markers;

(16) Fix standard widths for road rights-of-way, bridges and approaches to bridges and fix and determine grades and elevations therefor;

(17) Test and standardize materials used in road construction and maintenance, either by governmental testing and standardization activities or through contract by private agencies;

(18) Allocate the cost of retaining walls and drainage projects, for the protection of a state road or its right-of-way, to the cost of construction, reconstruction, improvement or maintenance;

(19) Acquire, establish, construct, maintain and operate, in the name of the department, roadside recreational areas along and adjacent to state roads and highways;

(20) Exercise general supervision over the construction and maintenance of airports and landing fields under the jurisdiction of the West Virginia State Aeronautics Commission, of which the commissioner is a member, and make a study and general plan of a statewide system of airports and landing fields;
(21) Provide traffic engineering services to municipalities of the state upon request of the governing body of any municipality and upon terms that are agreeably arranged;

(22) Institute complaints before the Public Service Commission or any other appropriate governmental agency relating to freight rates, car service and movement of road materials and equipment;

(23) Invoke any appropriate legal or equitable remedies, subject to section seven of this article, to enforce his or her orders, to compel compliance with requirements of law and to protect and preserve the state road and highway system or any part of the system;

(24) Make and promulgate rules for the government and conduct of personnel, for the orderly and efficient administration and supervision of the state road program and for the effective and expeditious performance and discharge of the duties and responsibilities placed upon him or her by law;

(25) Delegate powers and duties to his or her appointees and employees who shall act by and under his or her direction and be responsible to him or her for their acts;

(26) Designate and define any construction and maintenance districts within the state road system that is found expedient and practicable;

(27) Contract for the construction, improvement and maintenance of the roads;

(28) Comply with provisions of present and future federal aid statutes and regulations, including execution of contracts or agreements with and cooperation in programs of the United States government and any proper department, bureau or agency of the United States government relating to plans, surveys, construction, reconstruction, improvement and maintenance of state roads and highways;

(29) Prepare budget estimates and requests;

(30) Establish a system of accounting covering and including all fiscal and financial matters of the department;
(31) Establish and advance a right-of-way Acquisition Revolving Fund, a Materials Revolving Fund and an Equipment Revolving Fund;

(32) Enter into contracts and agreements with and cooperate in programs of counties, municipalities and other governmental agencies and subdivisions of the state relating to plans, surveys, construction, reconstruction, improvement, maintenance and supervision of highways, roads, streets and other travel ways when and to the extent determined by the department to be expedient and practical;

(33) Report, as provided by law, to the Governor and the Legislature;

(34) Purchase materials, supplies and equipment required for the state road program and system;

(35) Dispose of all obsolete and unusable and surplus supplies and materials which cannot be used advantageously and beneficially by the department in the state road program by transfer of the supplies and materials to other governmental agencies and institutions by exchange, trade or sale of the supplies and materials;

(36) Investigate road conditions, official conduct of department personnel and fiscal and financial affairs of the department and hold hearings and make findings thereon or on any other matters within the jurisdiction of the department;

(37) Establish road policies and administrative practices;

(38) Fix and revise from time to time tolls for transit over highway projects constructed by the Division of Highways after May 1, 1999, that have been authorized by the provisions of section five-b, article seventeen-a of this chapter;

(39) Take actions necessary to alleviate any conditions as the Governor may declare to constitute an emergency, whether or not the emergency condition affects areas normally under the jurisdiction of the Division of Highways; and

(40) Provide family restrooms at all rest areas along interstate highways in this state, all to be constructed in accordance with federal law.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 26th day of April, 2017.

Governor