

**H. B. 2343**

(By Delegates Manypenny, Marshall, Fleischauer  
and Martin)

[Introduced January 12, 2011; referred to the  
Committee on Roads and Transportation then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §17-2A-8 of the Code of West Virginia,  
1931, as amended, relating to the powers and duties of the  
West Virginia Commissioner of Highways; and authorizing the  
commissioner to use recycled materials in construction or  
maintenance of roads and highways.

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

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

**ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

**§17-2A-8. Powers, duties and responsibilities of commissioner.**

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, and shall require the use of recycled

1 material, such as old pavement, concrete and used tires in the  
2 construction, reconstruction, repair and maintenance of state roads  
3 and highways when those materials are available;

4 (2) Determine the various methods of road construction best  
5 adapted to the various sections and areas of the state and  
6 establish standards for the construction and maintenance of roads  
7 and highways in the various sections and areas of the state;

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

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

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

21 (6) Procure photostatic copies of any or all public records on  
22 file at the State Capitol of Virginia which may be considered  
23 necessary or proper in ascertaining the location and legal status  
24 of public road rights-of-way located or established in what is now

1 the State of West Virginia, which when certified by the  
2 commissioner, may be admitted in evidence, in lieu of the original,  
3 in any of the courts of this state;

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

9 (8) Negotiate and enter in reciprocal contracts and agreements  
10 with proper authorities of other states and of the United States  
11 relating to and regulating the use of roads and highways with  
12 reference to weights and types of vehicles, registration of  
13 vehicles and licensing of operators, military and emergency  
14 movements of personnel and supplies and all other matters of  
15 interstate or national interest;

16 (9) Classify and reclassify, locate and relocate, expressway,  
17 trunkline, feeder and state local service roads and designate by  
18 number the routes within the state road system;

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

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

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

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

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

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

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

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

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

23          (19) Acquire, establish, construct, maintain and operate, in  
24 the name of the department, roadside recreational areas along and

1 adjacent to state roads and highways;

2       (20) Exercise general supervision over the construction and  
3 maintenance of airports and landing fields under the jurisdiction  
4 of the West Virginia State Aeronautics Commission, of which the  
5 commissioner is a member, and make a study and general plan of a  
6 statewide system of airports and landing fields;

7       (21) Provide traffic engineering services to municipalities of  
8 the state upon request of the governing body of any municipality  
9 and upon terms that are agreeably arranged;

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

13       (23) Invoke any appropriate legal or equitable remedies to  
14 enforce his or her orders, to compel compliance with requirements  
15 of law and to protect and preserve the state road and highway  
16 system or any part of the system;

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

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

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

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

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

13          (29) Prepare budget estimates and requests;

14          (30) Establish a system of accounting covering and including  
15 all fiscal and financial matters of the department;

16          (31) Establish and advance a right-of-way acquisition  
17 revolving fund, a materials revolving fund and an equipment  
18 revolving fund;

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

1 practical;

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

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

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

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

16 (37) Establish road policies and administrative practices;

17 (38) Fix and revise from time to time tolls for transit over  
18 highway projects constructed by the Division of Highways after May  
19 1, 1999, that have been authorized by the provisions of section  
20 five-b, article seventeen-a of this chapter;

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

1           (40) Provide family restrooms at all rest areas along  
2 interstate highways in this state, all to be constructed in  
3 accordance with federal law.

NOTE: The purpose of this bill is to require the West Virginia Commissioner of Highways to use recycled materials in construction or maintenance of roads and highways.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.