

1 **H. B. 3163**

2
3 (By Delegates White, Reynolds, Canterbury, Walters, Phillips, L.
4 Storch, Gearheart, Perdue, Anderson)
5

6 (Originating in the Committee on Finance)

7
8 [March 29, 2013]
9

10 A BILL to amend and reenact §17-16A-4, §17-16A-10 and §17-16A-18 of
11 the Code of West Virginia, 1931, as amended, all relating to
12 requiring all debt obligations of the West Virginia parkways
13 authority to be satisfied by February 1, 2020; eliminating
14 tolls on the West Virginia Turnpike after debt obligations are
15 satisfied; directing the Governor to issue a proclamation that
16 all obligations are satisfied and transfer of assets;
17 providing that certain materials, equipment, assets and
18 employees of the parkways authority be transferred to the
19 Division of Highways; providing for employees of the parkways
20 authority whose positions are eliminated as result of the
21 transfer; requiring certain moneys be used for operation and
22 maintenance of West Virginia Turnpike; providing that all
23 obligations and responsibilities of the parkways authority for
24 the West Virginia Turnpike cease on January 1, 2035;
25 prohibiting new bonds from being issued; providing an
26 exception; and requiring the Division of Highways to accept
27 ownership of the West Virginia Turnpike when the bonds secured

1 by toll revenues have been paid

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

3 That §17-16A-4, §17-16A-10 and §17-16A-18 of the code of West
4 Virginia, 1931, as amended, be amended and reenacted to read as
5 follows:

6 **ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND**
7 **TOURISM AUTHORITY.**

8 **§17-16A-4. Transfer of powers, duties, functions, assets and**
9 **liabilities of turnpike commission to Parkways**
10 **Authority.**

11 (a) The duties, powers and functions of the West Virginia
12 turnpike commission are hereby transferred to the Parkways
13 Authority.

14 (b) All obligations, indebtedness and other liabilities of,
15 and all rights, assets and other property owned by or used in the
16 administration of, the West Virginia Turnpike Commission as of June
17 1, 1989, and all personnel of said Turnpike Commission as of said
18 date are hereby assumed by and transferred to the Parkways
19 Authority, which is hereby constituted the successor in interest to
20 said commission in all respects.

21 (c) All books, papers, maps, charts, plans, literature and
22 other records in the possession of the West Virginia Turnpike
23 Commission as of June 1, 1989, shall be delivered or turned over to
24 the Parkways Authority.

25 (d) The unexpended balance of appropriations or other funds

1 available for use of the West Virginia Turnpike Commission as of
2 June 1, 1989, is hereby transferred to the Parkways Authority for
3 the use of the Parkways Authority.

4 (e) On or before February 1, 2020, all debt obligations held
5 by the Parkways Authority shall be satisfied.

6 (f) Upon the full satisfaction of the bond debt of the
7 Parkways Authority and the completion and affirmative finding of a
8 highway condition assessment measuring compliance with quality
9 standards promulgated by the Division of Highways, the Governor
10 shall issue a proclamation finding that the bond debt of the
11 authority is fully satisfied and that the West Virginia Turnpike
12 has been maintained at or above Division of Highways standards and
13 directing the immediate conveyance of the West Virginia Turnpike,
14 buildings and land dedicated exclusively to its maintenance,
15 current and future use, except for the travel plaza buildings,
16 roads and parking facilities and lease properties, all records,
17 maps, charts, schedules and plans relating to the West Virginia
18 Turnpike and all maintenance material and equipment assets not
19 specifically dedicated to the maintenance of travel plazas to the
20 Division of Highways.

21 (g) Upon the issuance of the proclamation provided in
22 subsection (f):

23 (1) All obligations, indebtedness and other liabilities
24 pertaining exclusively to the West Virginia Turnpike and other
25 assets expressly described under subsection (f) of this section,
26 as of the date of the proclamation, are hereby assumed by and

1 transferred to the Division of Highways.

2 (2) The Parkways Authority shall first liquidate all publicly
3 traded securities in its holdings and convey all of its monetary
4 assets in excess of \$5 million to the Division of Highways to be
5 deposited in the "Turnpike Transition Fund."

6 (3) All the Parkways Authority employees dedicated to highway
7 maintenance and upkeep shall be transferred to employment by the
8 West Virginia Division of Highways.

9 (4) All employees of the Parkways Authority dedicated to toll
10 collection and toll collection operations shall remain employees of
11 the Parkways Authority until the cessation of tolling as provided
12 by section eighteen of this article.

13 (5) The Commissioner of the Division of Highways and Director
14 of the Division of Personnel shall jointly provide for the
15 evaluation of the skills, education, experience and qualifications
16 of all full-time, permanent employees of the Parkways Authority
17 dedicated to toll collection and toll collection operations prior
18 to the cessation of tolling, as provided by section eighteen of
19 this article. Any full-time, permanent employee that may be laid
20 off by the Authority or Division of Highways at the time of or
21 within six months following the date of the cessation of tolling as
22 provided by section eighteen of this article is entitled to be
23 placed on an appropriate reemployment list maintained by the
24 Division of Personnel and to be allowed a preference on that list.
25 The Division of Personnel shall maintain such an employee on the
26 reemployment list indefinitely, or until the employee has declined

1 three offers of employment at a paygrade substantially similar to
2 that of his or her position at the time of the Governor's
3 proclamation, or until he or she is reemployed by the executive
4 branch of state government, whichever occurs earlier.
5 Notwithstanding any provision of this code to the contrary, the
6 Parkways Authority shall, to the greatest extent practical, fill
7 vacant toll collection and toll collection operations positions
8 with temporary employees until the cessation of tolling on the West
9 Virginia Turnpike.

10 (h) There is hereby established a special fund in the State
11 Treasury known as the "Parkways Authority Future Trust Fund." The
12 fund shall be administered by the Auditor and shall consist of
13 twenty-five percent of all toll revenue received by the West
14 Virginia Turnpike from the date of satisfaction of all bonded
15 indebtedness until the date of the Governor's proclamation as
16 provided in subsection (f), at which time the Auditor shall
17 disburse the entire balance to the Parkways Authority to provide
18 for future operations. Balances in the fund shall not be expended
19 and at the end of any fiscal year shall not expire, but shall be
20 retained for the Parkways Authority until the Governor's
21 proclamation is made.

22 (i) There is hereby established a special fund in the State
23 Treasury known as the "Turnpike Transition Fund." The fund shall
24 be administered by the Commissioner of the Division of Highways and
25 shall consist of monetary assets of the Parkways Authority to be
26 received under subsection (g) of this section. The Parkways

1 Authority shall also deposit fifty percent of all toll revenue
2 received for the West Virginia Turnpike from the date of
3 satisfaction of all bonded indebtedness until the date that tolling
4 ceases in accordance with section eighteen of this article. The
5 fund also consists of revenues provided for in subsection (j) and
6 any other funds appropriated by the Legislature to assist the
7 transition to the Division of Highways and the State Road Fund, and
8 the interest or other earnings on the moneys in the fund. The
9 Commissioner of the Division of Highways shall administer the fund
10 to provide for the costs of all West Virginia Turnpike operations
11 and maintenance within the Division of Highways. Balances in the
12 fund at the end of any fiscal year shall not expire, but shall be
13 expended for those purposes in ensuing fiscal years pursuant to
14 appropriation by the Legislature. Upon the depletion of funds in
15 the account, the subject roadways shall be supported by the State
16 Road Fund and any other funds available to the Division of Highways
17 for general maintenance and support.

18 (j) The Parkways Authority shall transfer all remaining assets
19 relating to the West Virginia Turnpike, including travel plazas and
20 lease properties, to the Division of Highways on January 1, 2035.

21 All excess revenue produced by these assets shall be deposited into
22 the Turnpike Transition Fund.

23 (k) All obligations and responsibilities of the Parkways
24 Authority for any part or portion of the West Virginia Turnpike
25 shall cease on January 1, 2035.

26 (l) The Commissioner of the Division of Highways and the

1 Director of the Division of Personnel shall jointly propose for
2 promulgation rules pursuant to article three, chapter twenty-nine-a
3 of this code as may be necessary to provide for the evaluation,
4 transition, termination, and reemployment of Authority and Division
5 of Highways employees during the transition and to otherwise carry
6 out the purposes of this article as they relate to personnel
7 matters.

8 (m) The Commissioner of the Division of Highways shall
9 propose for promulgation rules pursuant to article three, chapter
10 twenty-nine-a of this code as may be necessary to carry out the
11 purposes of this article as they relate to all matters not
12 concerning personnel.

13 **§17-16A-10. Parkway revenue bonds generally.**

14 (a) The Parkways Authority is authorized to provide by
15 resolution for the issuance of parkway revenue bonds of the state
16 for the purpose of paying all or any part of the cost of one or
17 more parkway projects: *Provided*, That this section shall not be
18 construed as authorizing the issuance of parkway revenue bonds for
19 the purpose of paying the cost of the West Virginia Turnpike, which
20 parkway revenue bonds may be issued only as authorized under
21 section eleven of this article: *Provided, however, That no bonds*
22 may be issued following the reenactment of this section in the
23 Legislative Regular Session of 2013, except as provided in
24 subsection (i) or except as existing bond debt may be reissued to
25 produce a financial savings or accelerate repayment: *Provided,*
26 *further, That in no such reissue may the amount of principal be*

1 increased or the final maturity be extended. The principal of and
2 the interest on bonds shall be payable solely from the funds
3 provided for payment.

4 (b) The bonds of each issue shall be dated, shall bear
5 interest at a rate as may be determined by the Parkways Authority
6 in its sole discretion, shall mature at a time not exceeding forty
7 years from their date or of issue as may be determined by the
8 Parkways Authority, and may be made redeemable before maturity, at
9 the option of the Parkways Authority at a price and under the terms
10 and conditions as may be fixed by the Parkways Authority prior to
11 the issuance of the bonds.

12 (c) The Parkways Authority shall determine the form of the
13 bonds, including any interest coupons to be attached thereto, and
14 shall fix the denomination of the bonds and the place of payment of
15 principal and interest, which may be at any bank or trust company
16 within or without the state.

17 (d) The bonds shall be executed by manual or facsimile
18 signature by the chair of the Parkways Authority, and the official
19 seal of the Parkways Authority shall be affixed to or printed on
20 each bond, and attested, manually or by facsimile signature, by the
21 secretary and treasurer of the Parkways Authority. Any coupons
22 attached to any bond shall bear the manual or facsimile signature
23 of the chair of the Parkways Authority.

24 (e) In case any officer whose signature or a facsimile of
25 whose signature appears on any bonds or coupons shall cease to be
26 an officer before the delivery of the bonds, the signature or

1 facsimile shall nevertheless be valid and sufficient for all
2 purposes the same as if he or she had remained in office until
3 delivery. In case the seal of the Parkways Authority has been
4 changed after a facsimile has been imprinted on the bonds, then the
5 facsimile seal will continue to be sufficient for all purposes.

6 (f) All bonds issued under the provisions of this article
7 shall have all the qualities and incidents of negotiable
8 instruments under the negotiable instruments law of the state. The
9 bonds may be issued in coupon or in registered form, or both, as
10 the Parkways Authority may determine, and provision may be made for
11 the registration of any coupon bonds as to principal alone and also
12 as to both principal and interest, and for the recorders into
13 coupon bonds of any bonds registered as to both principal and
14 interest.

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

18 (h) The proceeds of the bonds of each issue shall be used
19 solely for the payment of the cost of the parkway project or
20 parkway projects for which the bonds were issued, and shall be
21 disbursed in a manner consistent with the resolution authorizing
22 the issuance of the bonds or in the trust agreement securing the
23 bonds.

24 (i) If the proceeds of the bonds of any issue, by error of
25 estimates or otherwise, shall be less than the cost, then
26 additional bonds may in like manner be issued to provide the amount

1 of the deficit. Unless otherwise provided in the resolution
2 authorizing the issuance of the bonds or in the trust agreement
3 securing the bonds, the additional bonds shall be deemed to be of
4 the same issue and shall be entitled to payment from the same fund
5 without preference or priority of the bonds first issued. (j) If
6 the proceeds of the bonds of any issue exceed the cost of the
7 parkway project or parkway projects for which the bonds were
8 issued, then the surplus shall be deposited to the credit of the
9 sinking fund for the bonds.

10 (k) Prior to the preparation of definitive bonds, the Parkways
11 Authority may, under like restrictions, issue interim receipts or
12 temporary bonds, with or without coupons, exchangeable for
13 definitive bonds when the bonds have been executed and are
14 available for delivery. The Parkways Authority may also provide
15 for the replacement of any bonds that become mutilated or are
16 destroyed or lost.

17 (l) Bonds may be issued under the provisions of this article
18 without obtaining the consent of any department, division,
19 commission, board, bureau or agency of the state in accordance with
20 this article: *Provided*, That the Parkways Authority shall comply
21 with the provisions of section twenty-eight, article one, chapter
22 five of this code.

23 **§17-16A-18. Cessation of tolls.**

24 (a) Except as provided ~~herein~~ in this section, when all bonds
25 issued under the provisions of this article in connection with any
26 parkway project or projects and the interest ~~thereon shall~~ on those

1 bonds secured by West Virginia Turnpike toll revenues have been
2 paid or a sufficient amount for the payment of ~~all such those~~ bonds
3 and the interest ~~thereon~~ on them to ~~the~~ their maturity ~~thereof~~
4 ~~shall have~~ has been set aside in trust for the benefit of the
5 bondholders, ~~such~~ the project or projects, if then in good
6 condition and repair to the satisfaction of the Commissioner of the
7 State Division of Highways, shall be transferred to the State
8 Division of Highways and shall thereafter be maintained by the
9 State Division of Highways free of tolls.

10 (b) ~~No later than February 1, 1990~~ On July 1 of the calendar
11 year beginning after the date the bond indebtedness is satisfied,
12 as provided in the provisions of section four of this article, the
13 Division of Highways ~~parkways authority~~ shall ~~discontinue, remove~~
14 ~~and not relocate~~ all toll collection facilities on the West
15 Virginia Turnpike as ~~the same~~ it existed on June 1, 1989, ~~except~~
16 ~~for the three main toll barriers and collection facilities and,~~
17 ~~provided solely that the provisions of section eighteen a are~~
18 ~~complied with,~~ including the toll collection facilities at the
19 intersection of U.S. Route 19 (Corridor "L") and ~~said~~ the turnpike:
20 Provided, That the bonds secured by West Virginia Turnpike toll
21 revenues have been paid as scheduled.

22 (c) The highway now known and designated as the West Virginia
23 Turnpike shall continue to be maintained to the standards
24 promulgated by the West Virginia Division of Highways, and shall be
25 conveyed to the Division of Highways, as provided by section four
26 of this article. The Division of Highways shall accept ownership of

1 the highway at that time.