

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 COMMITTEE SUBSTITUTE

5 FOR

6 **Senate Bill No. 158**

7 (SENATORS BEACH AND STOLLINGS, *original sponsors*)

8 \_\_\_\_\_  
9 [Passed April 10, 2013; in effect ninety days from passage.]  
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11  
12 AN ACT to amend the Code of West Virginia, 1931, as amended, by  
13 adding thereto a new article, designated §17-4A-1, §17-4A-2  
14 and §17-4A-3, all relating to creation of the Complete Streets  
15 Act; promoting consideration by the Division of Highways of  
16 complete streets policies for all streets, roads and highways  
17 and other transportation infrastructure facilities under the  
18 jurisdiction of the Division of Highways; providing for model  
19 complete streets policies for use by Division of Highways,  
20 counties and municipalities; providing instances when the  
21 Division of Highways need not consider complete street  
22 policies; creating a Complete Streets Advisory Board;  
23 providing for reimbursement of mileage expenses of board  
24 members; and requiring annual reports.

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

1 That the Code of West Virginia, 1931, as amended, be amended  
2 by adding thereto a new article, designated §17-4A-1, §17-4A-2 and  
3 §17-4A-3, all to read as follows:

4 **ARTICLE 4A. COMPLETE STREETS ACT.**

5 **§17-4A-1. Complete Streets.**

6 (a) Vehicular, public transportation, bicycle and pedestrian  
7 modes are integral to the transportation system of this state. The  
8 Division of Highways may view all transportation improvements as  
9 opportunities to improve safety, access and mobility for all  
10 travelers.

11 (b) All transportation projects receiving federal or state  
12 funds should strive to improve safety, access and mobility for  
13 users of all ages and abilities, defined to include pedestrians,  
14 bicyclists, public transportation vehicles and their passengers,  
15 motorists, movers of commercial goods, persons with disabilities,  
16 older adults and children.

17 (c) Accommodation of all users should be considered in the  
18 planning, design, construction, reconstruction, rehabilitation,  
19 maintenance and operations of any state, county or local  
20 transportation facilities receiving funds from the Division of  
21 Highways. The Division of Highways is encouraged to create a safe,  
22 comprehensive, integrated and connected network to accommodate all  
23 users in a manner that is suitable to the rural, suburban or urban  
24 context.

25 (d) The Division of Highways is encouraged to use the latest  
26 and best design standards as they apply to bicycle, pedestrian,

1 transit and highway facilities, which may include, but are not  
2 limited to, the latest editions of:

3 (1) A Policy on Geometric Design of Highways and Streets, from  
4 the American Association of State Highway and Transportation  
5 Officials;

6 (2) Designing Walkable Urban Thoroughfares: A Context  
7 Sensitive Approach: An ITE Recommended Practice, from the Institute  
8 of Transportation Engineers;

9 (3) Guide for the Development of Bicycle Facilities, from the  
10 American Association of State Highway and Transportation Officials;

11 (4) Guide for the Planning, Design and Operation of Pedestrian  
12 Facilities, from the American Association of State Highway and  
13 Transportation Officials;

14 (5) Public Rights-of-Way Accessibility Guidelines, from the U.  
15 S. Access Board; and

16 (6) Other relevant federal, state or local guidance as  
17 appropriate.

18 (e) The Division of Highways may provide assistance to and  
19 coordinate with regional and local agencies in developing and  
20 implementing complementary complete streets policies. In the  
21 development of projects within municipal boundaries, the Division  
22 of Highways and municipality may share expertise in multimodal  
23 transportation planning.

24 (f) The Division of Highways is encouraged to modify its  
25 procedures, documents, training systems and performance measures in  
26 a timely manner to ensure the needs of all users of the

1 transportation system are included in all phases of the projects.  
2 The Division of Highways is encouraged to create an implementation  
3 plan, including a schedule and a regional and local government and  
4 public outreach plan, in consultation with the advisory board as  
5 outlined in section three of this article.

6 **§17-4A-2. Exceptions.**

7 (a) Accommodation of all users of a transportation facility  
8 need not be considered in the planning, designing, construction,  
9 reconstruction, rehabilitation, maintenance or operations of any  
10 state, county or local transportation facilities receiving funds  
11 from the Division of Highways if the commissioner determines that:

12 (1) Use of a transportation facility by pedestrians,  
13 bicyclists or other users is prohibited by law;

14 (2) The cost of new accommodation would be disproportionate to  
15 the need or probable use;

16 (3) There is a demonstrated absence of future need as  
17 determined by factors such as current and future land use, current  
18 and projected user volumes, population density and crash data;

19 (4) The time-sensitive or expedited nature of the project  
20 would be adversely affected; or

21 (5) The project has already moved beyond the initial planning  
22 stage at the time this article goes into effect.

23 (b) The commissioner is encouraged to consult local and  
24 regional plans and leaders, as appropriate, in assessing  
25 exceptions.

26 (c) Documentation of any granted exceptions may be made

1 publicly available and shared with the advisory board as  
2 established in section three of this article.

3 **§17-4A-3. Complete Streets Advisory Board.**

4 (a) A Complete Streets Advisory Board to the Division of  
5 Highways is established to:

6 (1) Provide and facilitate communication, education and advice  
7 between the Division of Highways, counties, municipalities,  
8 interest groups and the public;

9 (2) Make recommendations to the Division of Highways, counties  
10 and municipalities for restructuring procedures, updating design  
11 guidance, providing educational opportunities to employees and  
12 creating new measures to track the success of multimodal planning  
13 and design; and

14 (3) Submit to the Joint Committee on Government and Finance,  
15 through the Division of Highways, an annual report as outlined  
16 herein.

17 (b) The advisory board shall consist of sixteen members,  
18 designated as follows:

19 (1) The Commissioner of Highways or his or her designee;

20 (2) The Secretary of the Department of Transportation or his  
21 or her designee;

22 (3) The Secretary of the Department of Health and Human  
23 Resources or his or her designee; and

24 (4) Thirteen members that serve at the will and pleasure of  
25 the Governor and appointed by the Governor as follows:

26 (A) One member who is a licensed engineer with expertise in

1 transportation or civil engineering;

2 (B) One member representing the American Planning Association;

3 (C) One member representing a state association of counties;

4 (D) One member representing state association of  
5 municipalities;

6 (E) One member representing a major regional or local public  
7 transportation agency;

8 (F) One member representing a national association of retired  
9 persons;

10 (G) One member representing an organization interested in the  
11 promotion of bicycling;

12 (H) One member representing an organization interested in the  
13 promotion of walking and health;

14 (I) One member representing an organization representing  
15 persons with disabilities;

16 (J) One member representing an automobile and/or trucking  
17 organization; and

18 (K) Three members of the general public interested in  
19 promoting complete streets policies, one representing each  
20 congressional district, as determined by the Governor.

21 (c) The Commissioner of Highways shall serve as the first  
22 chair of the board. The board shall meet at least twice a year and  
23 at the call of the chair or a majority of the members. The members  
24 of the board shall annually elect one of its members to serve as  
25 chair after the first year.

26 (d) The initial terms of appointment for members appointed by

1 the Governor shall be as follows: Three members appointed to a term  
2 of one year, three members appointed to a term of two years, three  
3 members appointed to a term of three years and four members  
4 appointed to a term of four years. Thereafter each member shall be  
5 appointed for four years. A member shall serve until his or her  
6 successor is appointed. In the case of a vacancy the appointee  
7 shall serve the remainder of the unexpired term. Members of the  
8 board may succeed themselves and shall serve without compensation.  
9 The members appointed by the Governor are entitled to be reimbursed  
10 in a manner consistent with the guidelines of the Travel Management  
11 Office of the Department of Administration for actual and necessary  
12 mileage expenses incurred while attending official meetings of the  
13 board.

14 (e) On December 1, 2013, and on December 1 every year  
15 thereafter, the board shall submit an annual report to the  
16 Governor, the Commissioner of Highways and the Joint Committee on  
17 Government and Finance on the status of implementation of section  
18 one of this article.

19 (1) The annual report shall include the following information:

20 (A) A summary of actions taken by the Division of Highways in  
21 the preceding year to improve the safety, access and mobility of  
22 roadways pursuant to section one of this article;

23 (B) Modifications made to or recommended for protocols,  
24 guidance, standards or other requirements to facilitate complete  
25 streets implementation;

26 (C) Status of the development of multimodal performance

1 indicators;

2       (D) Any information obtained on the use made of bicycle,  
3 pedestrian, transit and highway facilities together with the  
4 existing target level of use for these modes, if any;

5       (E) Available crash statistics by mode, age, road type and  
6 location and other relevant factors; and

7       (F) Other related information that may be requested by the  
8 Governor or Legislature.

9       (2) The Division of Highways may assist the board in the  
10 preparation of the board's annual report.