

Senate Bill No. 628

(By Senators Unger, Yost and Stollings)

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[Introduced February 17, 2014; referred to the Select Committee
on Children and Poverty; and then to the Committee on Health and
Human Resources.]

A BILL to repeal §17-4A-1, §17-4A-2 and §17-4A-3 of the Code of
West Virginia, 1931, as amended; and to amend said code by
adding thereto a new article, designated §16-46-1, §16-46-2,
§16-46-3, §16-46-4, §16-46-5, §16-46-6 and §16-46-7, all
relating to creating the Healthy Children and Healthy
Communities Act; providing a short title; defining "complete
streets"; requiring consideration by the Division of Highways
and local governments of the implementation of
pedestrian-friendly policies for all streets in order to
encourage and allow utilization for a healthy active
lifestyle; requiring consultation by the Division of Highways
with the Bureau for Public Health to determine options for
healthy community activities; providing for model policies;
creating exceptions; creating the Healthy Communities Advisory

1 Board; providing for reimbursement of mileage expenses of
 2 board members; requiring annual reports; and requiring county
 3 school boards, the Bureau for Public Health and the Division
 4 of Highways to investigate possibilities for collaborative
 5 agreements for use of all available public facilities in
 6 communities for creation of healthy lifestyle opportunities
 7 and submit a report to the Joint Committee on Children and
 8 Families outlining how every public facility may be utilized
 9 by respective communities.

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

11 That §17-4A-1, §17-4A-2 and §17-4A-3 of the Code of West
 12 Virginia, 1931, as amended, be repealed; and that said code be
 13 amended by adding thereto a new article, designated §16-46-1,
 14 §16-46-2, §16-46-3, §16-46-4, §16-46-5, §16-46-6 and §16-46-7, all
 15 to read as follows:

16 **ARTICLE 46. HEALTHY CHILDREN AND HEALTHY COMMUNITIES ACT.**

17 **§16-46-1. Short title.**

18 This article may be cited at the "Healthy Children and Healthy
 19 Communities Act."

20 **§16-46-2. Legislative findings and purpose.**

21 (a) The Legislature finds that West Virginia's roads have long
 22 served to connect communities, and enable the movement of people
 23 and goods throughout the state. They allow children to get to

1 school and adults to get to work. They help allow for the
2 excavation and movement of resources such as coal, natural gas, and
3 timber, which have served as the backbone of America's growth and
4 prosperity. Currently, however, many roads in the state are
5 designed with only use by motor vehicles in mind. Roads, especially
6 those in the state's cities and towns, should be designed for
7 everyone--whether young or old, on foot or on bicycle, in a car or
8 in a bus. Roads designed for all users promote safety, health and
9 cost-savings for children and families throughout the state.

10 (b) The Legislature further finds that:

11 (1) Childhood obesity is an epidemic in West Virginia and the
12 United States. According to a report from the Trust for America's
13 Health and the Robert Wood Johnson Foundation, if the obesity rates
14 continue to grow at current rates over the next two decades, the
15 health and economic cost to our state and the nation will be
16 staggering;

17 (2) West Virginia was ranked the number two state nationally
18 in adult physical inactivity in a 2013 report by the Trust for
19 America's Health and the Robert Wood Johnson Foundation;

20 (3) Research shows that physically active children are more
21 likely to thrive academically and socially. There is evidence that
22 active adults are more productive and have less absenteeism than
23 their unfit counterparts.

24 **§16-46-3. Defining Complete Streets.**

1 "Complete streets" means the planning, scoping, design,
2 implementation, operation and maintenance of roads in order to
3 reasonably address the safety and accessibility needs of users of
4 all ages and abilities. Complete streets considers the needs of
5 motorists, pedestrians, users of public transportation, bicyclists
6 and commercial and emergency vehicles moving along and across
7 roads, intersections, and crossings in a manner that is sensitive
8 to the location and recognizes that the needs vary in urban,
9 suburban and rural settings.

10 **§16-46-4. Healthy communities.**

11 (a) Vehicular, public transportation, bicycle and pedestrian
12 modes of transportation are integral to the transportation system
13 of this state. In class I and class II municipalities, the Division
14 of Highways shall review all transportation improvements with
15 regard to whether each is an opportunity to improve safety, access
16 and mobility for all travelers.

17 (b) In class III and class IV municipalities, and
18 unincorporated areas, the Division of Highways shall consider all
19 transportation improvements provided in subsection-a of this
20 section with regard to whether each offers an opportunity to
21 improve safety, access and mobility for travelers.

22 (c) In class I and class II municipalities, all transportation
23 projects receiving federal or state funds shall aim to improve
24 safety, access and mobility for users of all ages and abilities,

1 defined to include pedestrians, bicyclists, motorists, movers of
2 commercial goods, persons with disabilities, older adults and
3 children, and public transportation vehicles and their passengers.

4 (d) All transportation projects in class III and class IV
5 municipalities and unincorporated areas receiving federal or state
6 funds shall maximize safety, access and mobility for users of all
7 ages and abilities, defined to include pedestrians, bicyclists,
8 motorists, movers of commercial goods, persons with disabilities,
9 older adults and children and public transportation vehicles and
10 their passengers.

11 (e) In class I and class II municipalities, accommodations for
12 all users shall be considered in the planning, design,
13 construction, reconstruction, rehabilitation, maintenance and
14 operations of any state, county or local transportation facilities
15 receiving funds from the Division of Highways. The Division of
16 Highways is encouraged to create a safe, comprehensive, integrated
17 and connected network of roadways to better accommodate all users
18 in a manner that is suitable to rural, suburban or urban locations,
19 whichever is appropriate.

20 (f) In class III and class IV municipalities, and in
21 unincorporated areas, the Division of Highways is encouraged to
22 consider accommodations for all users when planning, designing,
23 constructing, reconstructing, rehabilitating, maintaining and
24 operating any state, county or local transportation facilities

1 receiving funds from the Division of Highways.

2 (g) The Division of Highways is encouraged to use the latest
3 and best design standards as they apply to bicycle, pedestrian,
4 transit and highway facilities, which may include, but are not
5 limited to, the latest editions of:

6 (1) A Policy on Geometric Design of Highways and Streets, from
7 the American Association of State Highway and Transportation
8 Officials;

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

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

14 (4) Guide for the Planning, Design and Operation of Pedestrian
15 Facilities, from the American Association of State Highway and
16 Transportation Officials;

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

19 (6) Other relevant federal, state or local guidance as
20 appropriate.

21 (h) The Division of Highways shall provide assistance to and
22 coordinate with regional and local agencies in developing and
23 implementing complementary complete streets policies. In the
24 development of projects within class I and class II municipalities,

1 the Division of Highways and municipality shall share expertise in
2 multimodal transportation planning. In the development of projects
3 within class III and class IV municipalities, the Division of
4 Highways and municipality may share expertise in multimodal
5 transportation planning where it is appropriate.

6 (I) The Division of Highways is encouraged to modify its
7 procedures, documents, training systems and performance measures in
8 a timely manner to ensure the needs of all users of the
9 transportation system are included in all phases of the projects.
10 The Division of Highways is encouraged to create an implementation
11 plan, including a schedule and a regional and local government and
12 public outreach plan, in consultation with the advisory board as
13 outlined in section five of this article.

14 **§16-46-5. Exceptions.**

15 (a) Accommodation of all users of a transportation facility
16 need not be considered in the planning, designing, construction,
17 reconstruction, rehabilitation, maintenance or operations of any
18 state, county or local transportation facilities receiving funds
19 from the Division of Highways if the commissioner determines that:

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

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

24 (3) There is a demonstrated absence of future need as

1 determined by factors such as current and future land use, current
2 and projected user volumes, population density and crash data;

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

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

7 (b) The commissioner is encouraged to consult local and
8 regional plans and leaders, as appropriate, in assessing
9 exceptions.

10 (c) Documentation of any granted exceptions may be made
11 publicly available and shared with the advisory board as
12 established in section three of this article.

13 **§16-46-6. Healthy Communities Advisory Board.**

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

16 (1) Provide and facilitate communication, education and advice
17 between the Division of Highways, counties, municipalities,
18 interest groups and the public;

19 (2) Make recommendations to the Division of Highways, counties
20 and municipalities for restructuring procedures, updating design
21 guidance, providing educational opportunities to employees and
22 creating new measures to track the success of multimodal planning
23 and design; and

24 (3) Submit to the Joint Committee on Government and Finance,

1 through the Division of Highways, an annual report as outlined
2 herein.

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

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

6 (2) The Secretary of the Department of Transportation or his
7 or her designee;

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

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

12 (A) One member who is a licensed engineer with expertise in
13 transportation or civil engineering;

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

15 (C) One member representing a state Association of Counties;

16 (D) One member representing state association of
17 municipalities;

18 (E) One member representing a major regional or local public
19 transportation agency;

20 (F) One member representing a national association of retired
21 persons;

22 (G) One member representing an organization interested in the
23 promotion of bicycling;

24 (H) One member representing an organization interested in the

1 promotion of walking and health;

2 (I) One member representing an organization representing
3 persons with disabilities;

4 (J) One member representing an automobile and/or trucking
5 organization; and

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

9 (c) The Commissioner of Highways shall serve as the first
10 chair of the board. The board shall meet at least twice a year and
11 at the call of the chair or a majority of the members. The members
12 of the board shall annually elect one of its members to serve as
13 chair after the first year.

14 (d) The initial terms of appointment for members appointed by
15 the Governor shall be as follows: Three members appointed to a term
16 of one year, three members appointed to a term of two years, three
17 members appointed to a term of three years and four members
18 appointed to a term of four years. Thereafter each member shall be
19 appointed for four years. A member shall serve until his or her
20 successor is appointed. In the case of a vacancy the appointee
21 shall serve the remainder of the unexpired term. Members of the
22 board may succeed themselves and shall serve without compensation.
23 The members appointed by the Governor are entitled to be reimbursed
24 in a manner consistent with the guidelines of the Travel Management

1 Office of the Department of Administration for actual and necessary
2 mileage expenses incurred while attending official meetings of the
3 board.

4 (e) On December 1, 2014, and on December 1 every year
5 thereafter, the board shall submit an annual report to the
6 Governor, the Commissioner of Highways and the Joint Committee on
7 Government and Finance on the status of implementation of section
8 three of this article.

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

10 (A) A summary of actions taken by the Division of Highways in
11 the preceding year to improve the safety, access and mobility of
12 roadways pursuant to section three of this article;

13 (B) Modifications made to or recommended for protocols,
14 guidance, standards or other requirements to facilitate complete
15 streets implementation;

16 (C) Status of the development of multimodal performance
17 indicators;

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

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

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

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

3 **§16-46-7. Using schools as community centers.**

4 (a) Not later than January 1, 2015, all county school boards,
5 the Bureau for Public Health and the Division of Highways shall
6 investigate possibilities for collaborative agreements for use of
7 all available public facilities in communities for creation of
8 healthy lifestyle opportunities and shall submit a report to the
9 Joint Committee on Children and Families outlining how every public
10 facility may be utilized by respective communities. These entities
11 shall examine how each school in the school board's district,
12 public library and other such public buildings, parks, play areas
13 and other recreational areas may be better utilized by students and
14 the community for physical activities.

15 (b) The report shall address the following:

16 (1) The costs associated with opening buildings and other
17 areas outside of school hours;

18 (2) The practicability of opening the schools and other public
19 facilities to additional community uses;

20 (3) The anticipated liabilities and insurance costs associated
21 with opening schools and other public facilities to additional
22 community use; and

23 (4) Options for mitigating anticipated costs.

24 (c) Following the submission of the reports, county school

1 boards and local governmental entities may, without legislative or
2 executive action, take actions based on the information in the
3 reports to open any schools and other public facilities for
4 additional community uses that engage both adults and children in
5 physical activity.

NOTE: The purpose of this bill is to create the Healthy Children and Healthy Communities Act. The bill repeals the complete streets statute and includes those concepts in the new article, while requiring that the Division of Highways employ complete streets practices in West Virginia's municipalities, while allowing for, but not requiring, its use in the state's smaller municipalities and unincorporated areas. The bill also requires the Bureau for Public Health and the Division of Highways to investigate possibilities for collaborative agreements for use of all available public facilities in communities for creation of healthy lifestyle opportunities and submit a report to the Joint Committee on Children and Families outlining how every public facility may be utilized by respective communities.

The language in this bill is new; therefore, strike-throughs and underscoring have been omitted.