

**H. B. 2207**

(By Delegates Byrd, Trecost, Rowe, Pushkin, Fluharty, Guthrie,  
McCuskey, B. White, Sponaugle, Reynolds and Stansbury)

[Introduced January 22, 2015; referred to the

Committee on Roads and Transportation then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-2E-1, §17-2E-2, §17-2E-3, §17-2E-4, §17-2E-5, §17-2E-6 and §17-2E-7, all relating to the to the guidelines that the West Virginia Commissioner of Highways must follow in establishing the list of priorities for the construction, reconstruction, repair and maintenance of state roads and highways.

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

That of the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §17-2E-1, §17-2E-2, §17-2E-3, §17-2E-4, §17-2E-5, §17-2E-6 and §17-2E-7, all to read as follows:

**ARTICLE 2E. PRIORITIES FOR THE CONSTRUCTION, RECONSTRUCTION, REPAIR  
AND MAINTENANCE OF STATE ROADS AND HIGHWAYS.**

**§17-2E-1. Establishment of a list of priorities; the current roads and highway standards and continuing needs study by the commissioner; cost estimates presented to Legislature.**

1        (a) The Legislature finds it to be important for the economic and social development of the  
2 state that a list of priorities, for the construction, reconstruction, repair and maintenance of state  
3 roads and highways, be undertaken by the state. In particular, the Legislature finds that the  
4 establishment of the list of priorities will promote the well-being and safety of the public.

5        (b) The Commissioner of Highways shall provide to the Legislature and the Governor, on  
6 or before the second Monday of January of each year, a list of priorities for the construction,  
7 reconstruction, repair and maintenance of state roads and highways. In establishing this list of  
8 priorities, the commissioner shall undertake a continuing study of the needs of the various roads and  
9 highways for the purpose of bringing existing roads and highways up to current standards or for the  
10 construction, reconstruction, repair, and maintenance of existing roads and highways where required,  
11 and shall keep the information so developed up-to-date through a continuing annual needs study as  
12 provided in this chapter.

13 **§17-2E-2. Characterization of the plan of state roads and highways for the construction,**  
14 **reconstruction, repair, and maintenance.**

15        (a) The commissioner shall prepare and continually update a plan for the construction,  
16 reconstruction, repair and maintenance of the road and highway systems based upon characterization  
17 of all state-maintained roadways through a condition type summary. All state road systems shall be  
18 categorized as follows:

19        (1) Category one consists of those roads constructed within the past five years and in a  
20 condition that require only routine maintenance activities, including, but not limited to, roadside  
21 vegetation, litter control, sign maintenance, minor repairs to the surface, shoulders and embankment.

22        (2) Category two includes those roadways constructed beyond a five-year period with

1 conditions requiring more than routine maintenance chores.

2 (3) Category three includes those roadways which require light rehabilitation including, but  
3 not limited to, joint replacement or heavy patching by purchase contract, as well as routine and heavy  
4 maintenance by department forces.

5 (4) Category four includes those roadways which require heavy rehabilitation in the form of  
6 overlay or extensive joint replacement by purchase order contract. At a minimum, routine  
7 maintenance shall be performed on these roads.

8 (5) Category five includes those roadways which require reconstruction on the basis of the  
9 annual needs study. At a minimum, sign, roadside vegetation, and emergency maintenance for safety  
10 shall be performed on these roads.

11 (b) The commissioner shall provide to the chairs of the House of Delegates Committee on  
12 Roads and Transportation and the Senate Committee on Transportation and Infrastructure,  
13 semiannually, a status report on the work accomplished and the funds encumbered and/or expended  
14 on the projects as identified in subsection (a) of this section. The commissioner shall notify the  
15 chairs of the House of Delegates Committee on Roads and Transportation and the Senate Committee  
16 on Transportation and Infrastructure, on a current basis, of all contracts, bids to be let, or work to be  
17 done by the department on projects as provided in subsection (a) of this section.

18 **§17-2E-3. Priority reports on current construction projects.**

19 (a) Each year, beginning with the fiscal year commencing in 2016, the Commissioner shall  
20 provide the Legislature and the Governor a program of construction to be commenced in the ensuing  
21 fiscal year, which shall be based upon the anticipated revenues to be appropriated by the Legislature  
22 and listed in an order of priority of projects. The order of priorities shall be based upon the following

1 illustrative, but not exclusive, list of factors which shall be considered:

2 (1) Alignment of existing roads;

3 (2) The width or elevation of the existing roadway and shoulder surfaces;

4 (3) The widths of the rights-of way;

5 (4) The cost of construction;

6 (5) The type and volume of traffic;

7 (6) The condition of the structures and drainage;

8 (7) The accident rate;

9 (8) The geographical distribution of the roadways to be constructed or reconstructed;

10 (9) Population growth in each community and the existing infrastructure to support the  
11 increase in population;

12 (10) Economic development potential; and

13 (11) The safe evacuation of population when necessitated by catastrophic events such as  
14 flooding and chemical leaks.

15 (b) In fixing priorities, the commissioner shall:

16 (1) Consider primarily the condition of the roads, streets, and structures making up the state  
17 road and highway system and the relative urgency of the improvements considering in their order  
18 general needs, traffic volume, accident records, technical difficulties in the preparation of plans and  
19 the procurement of rights-of-way, as well as unforeseeable emergencies such as floods; and

20 (2) Consider and include capacity improvements in geographic areas where population has  
21 grown or traffic volume has increased and capacity improvements are necessary.

22 **§17-2E-4. Priority reports on future construction projects.**

1       The commissioner shall provide to the Legislature and Governor annually an additional list  
2 of projects proposed to be commenced within the ensuing three years which are in various stages of  
3 planning and preparation. This list is subject to change by the commissioner until the Legislature  
4 finally approves each project for construction.

5 **§17-2E-5. Final construction program for current fiscal year; public hearings; reports; review**  
6               **by the Legislature.**

7       Prior to the convening of each regular session of the Legislature, the commissioner shall  
8 provide the priority list to the House of Delegates Committee on Roads and Transportation and the  
9 Senate Committee on Transportation and Infrastructure, which shall hold public hearings in each  
10 district for the purpose of reviewing priorities for the coming fiscal year. A report based on the  
11 testimony received at the hearings shall be sent to the West Virginia Department of  
12 Transportation/Division of Highways and the commissioner. The department and commissioner  
13 shall then create the final construction program for the coming fiscal year for submission to the  
14 Legislature. When this final construction program is communicated to the Legislature for funding  
15 for the coming fiscal year, any project which the Legislature determines is not in the proper order  
16 of priority in accordance with the factors stated in section three of this article may be deleted by the  
17 Legislature. However, the Legislature may not add any projects to this final construction program,  
18 nor may the Legislature make substitutions for projects which have been removed.

19 **§17-2E-6. Apportionment of appropriated fund by the department; construction restricted**  
20               **to priority listing.**

21       No construction project may be undertaken by the West Virginia Department of  
22 Transportation/Division of Highways except those included in the priority listing for that fiscal year

1 regardless of the source of the funds for the project, with the exception of projects involving the use  
2 of matching funds to meet federal requirements in order to receive federal aid funds. Appropriations  
3 for the construction, reconstruction, repair and maintenance of state roads and highways shall be  
4 apportioned by the West Virginia Department of Transportation/Division of Highways to the several  
5 highway classifications based on the proportion that the needs in each classification bears to the total  
6 needs and shall be allocated by the West Virginia Department of Transportation/Division of  
7 Highways to the projects within each classification.

8 **§17-2E-7. Delays in construction; public statement; substitution of another project; allocated**  
9 **funds.**

10 The projects planned for the year for which appropriations have been made shall be  
11 commenced in that year. If a project cannot be commenced within the year for which it is planned,  
12 the commissioner shall file with the project records a public statement as to the factors causing the  
13 delay, and the next priority project meeting all necessary needed requirements for the same highway  
14 classification shall be substituted therefor. When the delaying factors have been overcome, the  
15 delayed project shall be placed in the highest priority for the next ensuing fiscal year. Funds  
16 allocated for each construction project shall remain so allocated until the project is completed.

NOTE: The purpose of this bill is to set guidelines that the West Virginia Commissioner of Highways must follow in establishing the list of priorities for the construction, reconstruction, repair and maintenance of state roads and highways.

This article is new; therefore, it has been completely underscored.