

H. B. 2526

(By Delegate Gearheart, Ambler, Cadle, Arvon, Ellington, Shott, Stansbury, Phillips, L.,
Kessinger, Moore and White, H.)

[Introduced February 2, 2015; referred to the
Committee on Roads and Transportation then Finance.]

A BILL to amend and reenact §15-2-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-16A-4, §17-16A-10 and §17-16A-18 of said code, all relating to providing for the transfer of ownership, operation and maintenance of certain assets of the West Virginia Parkways Authority to the Division of Highways; requiring all debt obligations of the Parkways Authority to be satisfied by February 1, 2021; eliminating tolls on the West Virginia Turnpike after debt obligations are satisfied; directing the Governor to issue a proclamation that all obligations are satisfied and transfer of assets; providing that certain materials, equipment, assets and employees of the parkways authority be transferred to the Division of Highways; providing for employees of the Parkways Authority whose positions are eliminated as result of the transfer; requiring certain moneys be used for operation and maintenance of, and for the provision of police services by the West Virginia State Police on the West Virginia Turnpike; providing that all obligations and responsibilities

1 of the parkways authority for the West Virginia Turnpike cease on January 1, 2036;
2 prohibiting new bonds from being issued; providing an exception; requiring the Division of
3 Highways to accept ownership of the West Virginia Turnpike when the bonds secured by toll
4 revenues have been paid; creating two funds; and authorizing rule-making.

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

6 That §15-2-12 of the code of West Virginia, 1931, as amended, be amended and reenacted;
7 and that §17-16A-4, §17-16A-10 and §17-16A-18 of said code be amended and reenacted, all to read
8 as follows:

9 **CHAPTER 15. PUBLIC SAFETY.**

10 **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

11 **§15-2-12. Mission of the State Police; powers of superintendent, officers and members; patrol**
12 **of turnpike.**

13 (a) The West Virginia State Police shall have the mission of statewide enforcement of
14 criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from
15 criminal depredation throughout the state and maintaining the safety of the state's public streets,
16 roads and highways.

17 (b) The superintendent and each of the officers and members of the division are hereby
18 empowered:

19 (1) To make arrests anywhere within the state of any persons charged with the violation of
20 any law of this state, or of the United States, and when a witness to the perpetration of any offense
21 or crime, or to the violation of any law of this state, or of the United States, to make arrests without
22 warrant; to arrest and detain any persons suspected of the commission of any felony or misdemeanor

1 whenever a complaint is made and a warrant is issued thereon for the arrest, and the person arrested
2 shall be immediately brought before the proper tribunal for examination and trial in the county where
3 the offense for which the arrest has been made was committed;

4 (2) To serve criminal process issued by any court or magistrate anywhere within this state:
5 *Provided*, That they may not serve civil process; and

6 (3) To cooperate with local authorities in detecting crime and in apprehending any person or
7 persons engaged in or suspected of the commission of any crime, misdemeanor or offense against
8 the law of this state, or of the United States, or of any ordinance of any municipality in this state; and
9 to take affidavits in connection with any application to the Division of Highways, Division of Motor
10 Vehicles and of West Virginia State Police for any license, permit or certificate that may be lawfully
11 issued by these divisions of state government.

12 (c) Members of the West Virginia State Police are hereby designated as forest patrolmen and
13 natural resources police officers throughout the state to do and perform any duties and exercise any
14 powers of forest patrolmen and natural resources police officers, and may apprehend and bring
15 before any court or magistrate having jurisdiction of these matters, anyone violating ~~any of the~~
16 ~~provisions of~~ chapters twenty, sixty and sixty-one of this code. The West Virginia State Police is
17 at any time subject to the call of the West Virginia Alcohol Beverage Control Commissioner to aid
18 in apprehending any person violating ~~any of the provisions of~~ chapter sixty of this code. They shall
19 serve and execute warrants for the arrest of any person and warrants for the search of any premises
20 issued by any properly constituted authority, and shall exercise all of the powers conferred by law
21 upon a sheriff. They may not serve any civil process or exercise any of the powers of an officer in
22 civil matters.

1 (d) Any member of the West Virginia State Police knowing or having reason to believe that
2 any person has violated the law may make complaint in writing before any court or officer having
3 jurisdiction and procure a warrant for the offender, execute the warrant and bring the person before
4 the proper tribunal having jurisdiction. The member shall make return on all warrants to the
5 tribunals and his or her official title shall be "Member of the West Virginia State Police". Members
6 of the West Virginia State Police may execute any summons or process issued by any tribunal having
7 jurisdiction requiring the attendance of any person as a witness before the tribunal and make return
8 thereon as provided by law. Any return by a member of the West Virginia State Police showing the
9 manner of executing the warrant or process has the same force and effect as if made by a sheriff.

10 (e) Each member of the West Virginia State Police, when called by the sheriff of any county,
11 or when directed by the Governor by proclamation, has full power and authority within the county,
12 or within the territory defined by the Governor, to direct and command absolutely the assistance of
13 any sheriff, deputy sheriff, chief of police, policeman, natural resources police officer and peace
14 officer of the state, or of any county or municipality therein, or of any able-bodied citizen of the
15 United States, to assist and aid in accomplishing the purposes expressed in this article. When called,
16 any officer or person is, during the time his or her assistance is required, for all purposes a member
17 of the West Virginia State Police and subject to ~~all the provisions of~~ this article.

18 (f)(1) The superintendent may also assign members of the division to perform police duties
19 on any turnpike or toll road, or any section of any turnpike or toll road, operated by the West Virginia
20 Parkways, Economic Development and Tourism Authority: *Provided*, That the authority shall
21 reimburse the West Virginia State Police for salaries paid to the members and shall either pay
22 directly or reimburse the division for all other expenses of the group of members in accordance with

1 actual or estimated costs determined by the superintendent.

2 (2) The superintendent may also assign members of the division to perform police duties on
3 the highway now known and designated as the West Virginia Turnpike after it is transferred to the
4 Division of Highways pursuant to section four, article sixteen-a, chapter seventeen of this code. The
5 Division of Highways shall either partially or fully reimburse the West Virginia State Police for the
6 cost of providing the police services in accordance with section four, article sixteen-a, chapter
7 seventeen of this code.

8 (g) The West Virginia State Police may develop proposals for a comprehensive county or
9 multicounty plan on the implementation of an enhanced emergency service telephone system and
10 may cause a public meeting on the proposals, all as set forth in section six-a, article six, chapter
11 twenty-four of this code.

12 (h) By July 1, 1993, the superintendent shall establish a network to implement reports of the
13 disappearance of children by local law-enforcement agencies to local school division superintendents
14 and the State Registrar of Vital Statistics. The network shall be designed to establish cooperative
15 arrangements between local law-enforcement agencies and local school divisions concerning reports
16 of missing children and notices to law-enforcement agencies of requests for copies of the cumulative
17 records and birth certificates of missing children. The network shall also establish a mechanism for
18 reporting the identities of all missing children to the State Registrar of Vital Statistics.

19 (i) The superintendent may at his or her discretion and upon the written request of the West
20 Virginia Alcohol Beverage Control Commissioner assist the commissioner in the coordination and
21 enforcement of article sixteen, chapter eleven of this code and chapter sixty of this code.

22 (j) Notwithstanding the provisions of article one-a, chapter twenty of this code, the

1 Superintendent of the West Virginia State Police may sell any surplus real property to which the
2 West Virginia State Police or its predecessors retain title, and deposit the net proceeds into a special
3 revenue account to be utilized for the purchase of additional real property and for repairs to or
4 construction of detachment offices or other facilities required by the West Virginia State Police.
5 There is hereby created a special revolving fund in the State Treasury which shall be designated as
6 the “Surplus Real Property Proceeds Fund”. The fund shall consist of all money received from the
7 sale of surplus real property owned by the West Virginia State Police. Moneys deposited in the fund
8 shall only be available for expenditure upon appropriation by the Legislature: *Provided*, That
9 amounts collected which are found from time to time to exceed the funds needed for the purposes
10 set forth in this subsection may be transferred to other accounts or funds and redesignated for other
11 purposes by appropriation of the Legislature.

12 (k) Notwithstanding any other provision of this code, the agency for surplus property is
13 hereby empowered to transfer funds generated from the sale of vehicles, other equipment and
14 commodities belonging to the West Virginia State Police to a special revenue account within the
15 West Virginia State Police entitled the West Virginia State Police surplus transfer account. Moneys
16 deposited in the fund shall only be available for expenditure upon appropriation by the Legislature:
17 *Provided*, That amounts collected which are found from time to time to exceed the funds needed for
18 the purposes set forth in this subsection may be transferred to other accounts or funds and
19 redesignated for other purposes by appropriation of the Legislature. Any funds transferred to this
20 account may be utilized by the superintendent to defray the cost of normal operating needs of the
21 division.

22 (l) If the State Police or any other law-enforcement agency in this state receives a report that

1 a person who has Alzheimer's disease and related dementia is missing, the State Police or any other
2 law-enforcement agency shall immediately open an investigation for the purpose of determining the
3 whereabouts of that missing person. Any policy of the State Police or any other law-enforcement
4 agency relating to a waiting period prior to initiation of an investigation of a missing person does not
5 apply in the case of a person who has Alzheimer's disease or other related dementia of the type
6 referred to in this subsection.

7 (m) Notwithstanding any provision of this code to the contrary, effective on and after July
8 1, 2007, the expenses and salaries paid to the members of the West Virginia State Police for the
9 monitoring and enforcement duties defined in chapter seventeen-c of this code may not be paid from
10 the State Road Fund or subject to reimbursement from the Division of Motor Vehicles but is subject
11 to appropriation by the Legislature.

12 **CHAPTER 17. ROADS AND HIGHWAYS.**

13 **ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND** 14 **TOURISM AUTHORITY.**

15 **§17-16A-4. Transfer of powers, duties, functions, assets and liabilities of turnpike commission** 16 **to parkways authority.**

17 (a) The duties, powers and functions of the West Virginia turnpike commission are hereby
18 transferred to the parkways authority.

19 (b) All obligations, indebtedness and other liabilities of, and all rights, assets and other
20 property owned by or used in the administration of, the West Virginia turnpike commission as of
21 June 1, 1989, and all personnel of said turnpike commission as of said date are hereby assumed by
22 and transferred to the parkways authority, which is hereby constituted the successor in interest to said

1 commission in all respects.

2 (c) All books, papers, maps, charts, plans, literature and other records in the possession of
3 the West Virginia turnpike commission as of June 1, 1989, shall be delivered or turned over to the
4 parkways authority.

5 (d) The unexpended balance of appropriations or other funds available for use of the West
6 Virginia turnpike commission as of June 1, 1989, is hereby transferred to the parkways authority for
7 the use of the parkways authority.

8 (e) On or before February 1, 2021, all debt obligations held by the Parkways Authority shall
9 be satisfied.

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

20 (g) Upon the issuance of the proclamation provided in subsection (f) of this section:

21 (1) All obligations, indebtedness and other liabilities pertaining exclusively to the West
22 Virginia Turnpike and other assets expressly described under subsection (f) of this section, as of the

1 date of the proclamation, are hereby assumed by and transferred to the Division of Highways.

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

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

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

10 (5) The Commissioner of the Division of Highways and Director of the Division of Personnel
11 shall jointly provide for the evaluation of the skills, education, experience and qualifications of all
12 full-time, permanent employees of the Parkways Authority dedicated to toll collection and toll
13 collection operations prior to the cessation of tolling, as provided by section eighteen of this article.
14 All full-time, permanent employees that may be laid off by the authority or Division of Highways
15 at the time of or within six months following the date of the cessation of tolling as provided by
16 section eighteen of this article shall be entitled to be placed on an appropriate reemployment list
17 maintained by the Division of Personnel and allowed a preference on that list. The Division of
18 Personnel shall maintain those employees on the reemployment list indefinitely, or until an employee
19 has declined three offers of employment at a paygrade substantially similar to that of his or her
20 position at the time of the Governor's proclamation, or until he or she is reemployed by the executive
21 branch of state government, whichever occurs earlier. Notwithstanding any provision of this code
22 to the contrary, the Parkways Authority shall, to the greatest extent practical, fill vacant toll

1 collection and toll collection operations positions with temporary employees until the cessation of
2 tolling on the West Virginia Turnpike.

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

11 (i) There is hereby established a special fund in the State Treasury known as the "Turnpike
12 Transition Fund." The fund shall be administered by the Commissioner of the Division of Highways
13 and shall consist of monetary assets of the Parkways Authority to be received under subsection (g)
14 of this section. The Parkways Authority shall also deposit fifty percent of all toll revenue received
15 for the West Virginia Turnpike from the date of satisfaction of all bonded indebtedness until the date
16 that tolling ceases in accordance with section eighteen of this article. The fund also consists of
17 revenues provided in subsection (j) of this section and any other funds appropriated by the
18 Legislature to assist the transition to the Division of Highways and the State Road Fund, and the
19 interest or other earnings on the moneys in the fund. The Commissioner of the Division of Highways
20 shall administer the fund to: (1) Provide for the costs of all West Virginia Turnpike operations and
21 maintenance within the Division of Highways and; (2) pay directly or reimburse the West Virginia
22 State Police for the costs of police services performed by members of the State Police assigned to

1 the highway now known as the West Virginia Turnpike, including salaries and all other expenses
2 incurred to provide the police services by its members so assigned, not to exceed \$2 million per
3 fiscal year, from the time the bonded indebtedness is paid in full until its transfer to the Division of
4 Highways, and thereafter until January 1, 2036, pursuant to section twelve, article two, chapter fifteen
5 of this code. Balances in the fund at the end of any fiscal year shall not expire, but shall be expended
6 for those purposes in ensuing fiscal years pursuant to appropriation by the Legislature. Upon the
7 depletion of funds in the account, the subject roadways shall be supported by the State Road Fund
8 and any other funds available to the Division of Highways for general maintenance and support.

9 (j) The Parkways Authority shall transfer all remaining assets relating to the West Virginia
10 Turnpike, including travel plazas and lease properties, to the Division of Highways on January 1,
11 2036. All excess revenue produced by these assets shall be deposited into the Turnpike Transition
12 Fund.

13 (k) All obligations and responsibilities of the Parkways Authority for any part or portion of
14 the West Virginia Turnpike shall cease on January 1, 2036.

15 (l) The Commissioner of the Division of Highways and the Director of the Division of
16 Personnel shall jointly propose for legislative approval rules pursuant to article three, chapter
17 twenty-nine-a of this code as may be necessary to provide for the evaluation, transition, termination,
18 and reemployment of Authority and Division of Highways employees during the transition and to
19 otherwise carry out the purposes of this article as they relate to personnel matters.

20 (m) The Commissioner of the Division of Highways shall propose for legislative approval
21 rules pursuant to article three, chapter twenty-nine-a of this code as may be necessary to carry out
22 the purposes of this article as they relate to all matters not concerning personnel.

1 **§17-16A-10. Parkway revenue bonds generally.**

2 (a) The Parkways Authority is authorized to provide by resolution for the issuance of
3 parkway revenue bonds of the state for the purpose of paying all or any part of the cost of one or
4 more parkway projects: *Provided*, That this section shall not be construed as authorizing the
5 issuance of parkway revenue bonds for the purpose of paying the cost of the West Virginia Turnpike,
6 which parkway revenue bonds may be issued only as authorized under section eleven of this article:
7 *Provided, however*, That no bonds may be issued following the reenactment of this section during
8 the 2015 Regular Legislative Session, except as provided in subsection (i) of this section or except
9 as existing bond debt may be reissued to produce a financial savings or accelerate repayment:
10 *Provided further*, That in no such reissue may the amount of principal be increased or the final
11 maturity be extended. The principal of and the interest on bonds shall be payable solely from the
12 funds provided for payment.

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

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

21 (d) The bonds shall be executed by manual or facsimile signature by the chair of the
22 Parkways Authority, and the official seal of the Parkways Authority shall be affixed to or printed on

1 each bond, and attested, manually or by facsimile signature, by the secretary and treasurer of the
2 Parkways Authority. Any coupons attached to any bond shall bear the manual or facsimile signature
3 of the chair of the Parkways Authority.

4 (e) In case any officer whose signature or a facsimile of whose signature appears on any
5 bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or
6 facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had
7 remained in office until delivery. In case the seal of the Parkways Authority has been changed after
8 a facsimile has been imprinted on the bonds, then the facsimile seal will continue to be sufficient for
9 all purposes.

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

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

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

22 (i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less

1 than the cost, then additional bonds may in like manner be issued to provide the amount of the
2 deficit. Unless otherwise provided in the resolution authorizing the issuance of the bonds or in the
3 trust agreement securing the bonds, the additional bonds shall be deemed to be of the same issue and
4 shall be entitled to payment from the same fund without preference or priority of the bonds first
5 issued.

6 (j) If the proceeds of the bonds of any issue exceed the cost of the parkway project or
7 parkway projects for which the bonds were issued, then the surplus shall be deposited to the credit
8 of the sinking fund for the bonds.

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

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

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

19 (a) Except as provided ~~herein~~ in this section, when all bonds issued under ~~the provisions of~~
20 this article in connection with any parkway project or projects and the interest ~~thereon shall~~ on those
21 bonds secured by West Virginia Turnpike toll revenues have been paid or a sufficient amount for the
22 payment of ~~all such~~ those bonds and the interest ~~thereon~~ on them to ~~the~~ their maturity ~~thereof shall~~

1 ~~have~~ has been set aside in trust for the benefit of the bondholders, such project or projects, if then
 2 in good condition and repair to the satisfaction of the Commissioner of the state Division of
 3 Highways, shall be transferred to the state Division of Highways and shall thereafter be maintained
 4 by the state Division of Highways free of tolls.

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

13 (c) The highway now known and designated as the West Virginia Turnpike shall continue
 14 to be maintained to the standards promulgated by the West Virginia Division of Highways, and shall
 15 be conveyed to the Division of Highways, as provided by section four of this article. The Division
 16 of Highways shall accept ownership of the highway at that time.

NOTE: The purpose of this bill is to provide for the transfer of ownership, operation and maintenance of certain assets of the West Virginia parkways authority, including the road now known as the West Virginia to the Division of Highways. The bill requires all debt obligations of the Parkways Authority to be satisfied by February 1, 2021. The bill eliminates tolls on the West Virginia Turnpike after debt obligations are satisfied. The bill directs the Governor to issue a proclamation that all obligations are satisfied and transfer of assets. The bill provides that certain materials, equipment, assets and employees of the parkways authority be transferred to the Division of Highways. The bill provides for employees of the Parkways Authority whose positions are

eliminated as result of the transfer. The bill requires certain moneys be used for operation and maintenance of, and for the provision of police services by the West Virginia State Police on the West Virginia Turnpike. The bill provides that all obligations and responsibilities of the parkways authority for the West Virginia Turnpike cease on January 1, 2036. The bill prohibits new bonds from being issued. The bill provides an exception. The bill requires the Division of Highways to accept ownership of the West Virginia Turnpike when the bonds secured by toll revenues have been paid. The bill creates two funds and authorizes rule-making.

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