

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Senate Bill 494

BY SENATORS BEACH AND PLYMALE

[Passed March 10, 2016; in effect 90 days from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §4-14-1, §4-14-2, §4-14-3, §4-14-4 and §4-14-5, all relating to creating the
3 Legislative Oversight Commission on Department of Transportation Accountability; setting
4 forth findings, purpose and intent; defining terms; designating makeup and compensation
5 of commission; authorizing meetings of the commission; stating powers and duties of
6 commission; providing a limited subpoena power to the commission; and requiring certain
7 reports.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a
2 new article, designated §4-14-1, §4-14-2, §4-14-3, §4-14-4 and §4-14-5, all to read as follows:

**ARTICLE 14. LEGISLATIVE OVERSIGHT COMMISSION ON DEPARTMENT OF
TRANSPORTATION ACCOUNTABILITY.**

§4-14-1. Findings, purpose and intent.

1 (a) The Legislature hereby finds and declares that:

2 (1) Investment in infrastructure is crucial to the well-being of West Virginians and West
3 Virginia businesses;

4 (2) The state must spend funds wisely on infrastructure in order to get the best return on
5 investment and must make long-term plans for investment;

6 (3) The federal government is an unpredictable and unreliable partner in providing
7 consistent funding for infrastructure investment;

8 (4) The Legislature directed a Division of Highways performance and efficiency audit in
9 2015; and

10 (5) In order to maintain proper oversight to ensure that sufficient transportation planning
11 is made, funds are spent wisely and efficiently, and the Department of Transportation is
12 functioning appropriately, the Legislative Oversight Commission on Department of Transportation
13 Accountability is hereby created.

14 (b) It is the intent of the Legislature that all actions taken pursuant to the provisions of this
15 article by the Legislature and the Department of Transportation serve the following core set of
16 principles:

17 (1) That all Department of Transportation infrastructure investments be coordinated to
18 maximize efficiencies and minimize cost thereby addressing the needs of the citizens more
19 effectively;

20 (2) That communication be facilitated among the various agencies within the Department
21 of Transportation and between the department and the Legislature;

22 (3) That policy changes, not made by legislative rule, be discussed with the commission
23 for purposes of coordinating those policies with stated goals;

24 (4) That programs or policies implemented in accordance with federal mandates be
25 communicated to the commission;

26 (5) That in developing and implementing programs with private or federal grant moneys,
27 the various agencies communicate their efforts to the commission to ensure and facilitate future
28 state funding; and

29 (6) That any Department of Transportation agencies exempted from rule-making review
30 by federal or state statutes advise the commission of program changes which may affect
31 infrastructure investment in West Virginia.

§4-14-2. Definitions.

1 As used in this article:

2 (1) "Agency" means each agency, authority, board, committee, commission or division of
3 the Department of Transportation;

4 (2) "Commission" means the Legislative Oversight Commission on Transportation
5 Accountability, as created in section three of this article; and

6 (3) "Department" means the Department of Transportation.

**§4-14-3. Creation of a Legislative Oversight Commission on Department of Transportation
Accountability.**

1 (a) There is hereby created a joint commission of the Legislature known as the Legislative
2 Oversight Commission on Department of Transportation Accountability. The commission shall be
3 composed of seven members of the Senate appointed by the President of the Senate and seven
4 members of the House of Delegates appointed by the Speaker of the House of Delegates. No
5 more than four of the seven members appointed by the President of the Senate and the Speaker
6 of the House of Delegates, respectively, may be members of the same political party. In addition,
7 the President of the Senate and Speaker of the House of Delegates shall be *ex officio* nonvoting
8 members of the commission. The co-chairs of the commission shall be the chair of the Senate
9 Transportation and Infrastructure Committee and the chair of the House Roads and
10 Transportation Committee. At least one of the Senate appointees and at least one of the House
11 of Delegates appointees shall be a member of the committee on finance of the Senate and House
12 of Delegates, respectively. The members shall serve until their successors shall have been
13 appointed as heretofore provided.

14 (b) Members of the commission shall receive such compensation and expenses as
15 provided in article two-a, chapter four of this code. Such expenses and all other expenses
16 including those incurred in the employment of legal, technical, investigative, clerical, stenographic,
17 advisory and other personnel shall be paid from an appropriation to be made expressly for the
18 Legislative Oversight Commission on Department of Transportation Accountability: *Provided,*
19 That if no such appropriation be made, such expenses shall be paid from the appropriation under
20 Fund No. 0175 for Joint Expenses created pursuant to the provisions of said chapter: *Provided,*
21 *however,* That no expense of any kind payable under the account for joint expenses shall be
22 incurred unless first approved by the Joint Committee on Government and Finance.

23 (c) The commission shall meet at any time both during sessions of the Legislature and in
24 the interim or as often as may be necessary.

25 (d) The President of the Senate and Speaker of the House of Delegates shall assign such
26 staff as may be deemed necessary to aid the commission in carrying out the provisions of this
27 article.

§4-14-4. Powers and duties of commission.

1 (a) The powers, duties and responsibilities of the commission include the following:

2 (1) Make a continuing investigation, study and review of the practices, policies and
3 procedures of the department;

4 (2) Make a continuing investigation, study and review of all matters related to
5 transportation policy in the state;

6 (3) Review long-term plans by the various agencies of the Department of Transportation
7 and how they impact the citizens of West Virginia;

8 (4) Conduct studies on:

9 (A) The amount of state, federal and other funds expended in infrastructure investment in
10 the state and the plan for future funds;

11 (B) The costs associated with failure to invest in the infrastructure of this state to citizens
12 and businesses;

13 (C) The extent to which the state is maximizing available federal programs and other
14 moneys in providing transportation investment to the citizens of this state;

15 (D) The operation of the Department of Transportation as a whole or its individual
16 agencies; and

17 (E) The roles of the public, private and private nonprofit sectors in collaborating for
18 improved infrastructure investment;

19 (5) Review and study the funding mechanisms for the State Road Fund and review any
20 plans to adjust funding to ensure the necessary investment is made;

21 (6) Review and study the feasibility and financial impact upon the state of the long-term
22 transportation plans in place in the department and its agencies; and

23 (7) Review and study the feasibility and financial impact upon the state of the
24 establishment of alternative long-term transportation plans and alternative funding sources.

25 (b) The commission shall make annual reports to the Legislature regarding the results of
26 all investigations, studies and reviews pursuant to the provisions of section five of this article.

27 (c) *Limited subpoena power.* —

28 (1) For purposes of carrying out its duties, the commission is hereby empowered and
29 authorized to examine witnesses and to subpoena such persons and books, records, documents,
30 papers or any other tangible things as it believes should be examined to make a complete
31 investigation.

32 (2) All witnesses appearing before the commission under subpoena shall testify under
33 oath or affirmation. Any member of the commission may administer oaths or affirmations to such
34 witnesses.

35 (3) To compel the attendance of witnesses at such hearings or the production of any
36 books, records, documents, papers or any other tangible thing, the commission is hereby
37 empowered and authorized to issue subpoenas, signed by one of the co-chairs, in accordance
38 with section five, article one, chapter four of this code. Such subpoenas shall be served by any
39 person authorized by law to serve and execute legal process and service shall be made without
40 charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per
41 diem as is allowed witnesses before any petit jury in this state.

42 (4) If any person subpoenaed to appear at any hearing refuses to appear or to answer
43 inquiries there propounded, or fails or refuses to produce books, records, documents, papers or
44 any other tangible thing within his or her control when the same are demanded, the commission
45 shall report the facts to the circuit court of Kanawha County or any other court of competent
46 jurisdiction and such court may compel obedience to the subpoena as though such subpoena
47 had been issued by such court in the first instance.

§4-14-5. Legislative reports.

1 (a) The department shall report to the commission annually on or before December 31 of
2 each year and provide detailed reports as directed by the commission. The commission shall
3 describe to the department, in writing, the criteria to be addressed in each report. Reports required
4 by this subsection may be provided in a format as directed by the commission.

5 (b) The commission shall submit annual reports to the Legislature, as required by the
6 provisions of section four of this article, which such reports shall describe and evaluate in a
7 concise manner:

8 (1) The major activities of the Department of Transportation and its agencies for the fiscal
9 year immediately past, including important policy decisions reached on initiatives undertaken
10 during that year, especially as such activities, decisions and initiatives relate to infrastructure
11 investment, long-term planning for infrastructure investment, use of federal funds and any public-
12 private partnerships for infrastructure investment.

13 (2) Other information considered by the commission to be important, including
14 recommendations for statutory, fiscal or policy reforms and reasons for such recommendations.

15 (c) The reports may specify in what manner any practice, policy or procedure may or
16 should be modified to satisfy the goal of efficient and effective delivery of infrastructure investment
17 and to improve the quality of roads, bridges and other transportation infrastructure in the state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2016.

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Governor