

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2415**

BY DELEGATES HOWELL, UPSON, STATLER, WALTERS,  
MCGEEHAN, SYPOLT, MILLER, WESTFALL, HAMRICK,  
HIGGINBOTHAM AND HARSHBARGER

[Introduced February 13, 2017;

Referred to Roads and Transportation then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §17-3-11; and to amend and reenact §17-3A-2 and §17-3A-4 of said code, all  
 3 relating to construction of industrial access roads with state funds; requiring that access  
 4 roads to unoccupied industrial facilities be initially constructed as a two-lane highway  
 5 meeting certain design standards and authorizing additional lanes to be added to two-lane  
 6 access roads to previously unoccupied industrial facilities only after the traffic volume  
 7 indicates the need for a four-lane highway.

*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 new  
 2 section, designated §17-3-11; and that §17-3A-2 and §17-3A-4 of said code be amended and  
 3 reenacted, all to read as follows:

**ARTICLE 3. STATE ROAD FUND.**

**§17-3-11. Limitation on construction of industrial access roads.**

1 (a) Notwithstanding any other provision of this code, funds for the construction of an  
 2 access road to an unoccupied industrial facility may only be expended to construct a two-lane  
 3 highway which meets the requirements for industrial access roads established in subsection (e)  
 4 section four, article three-a, chapter seventeen of this code.

5 (b) The Division of Highways may expend moneys from the fund to expand a two-lane  
 6 access road, previously constructed to provide access to an unoccupied facility, only after the  
 7 Division of Highways determines that a four-lane access road is required based on a current count  
 8 of the average volume of traffic traveling on the road.

**ARTICLE 3A. INDUSTRIAL ACCESS ROAD FUND.**

**§17-3A-2. Division of highways to determine construction of industrial access roads.**

1 In determining whether or not to construct or improve any industrial access road and in  
 2 determining the nature of the road to be constructed, the Division of Highways shall base its

3 decision on the costs of the industrial access road in relation to the volume and nature of the  
4 traffic to be generated as a result of developing the industrial site within the total industrial area:  
5 Provided, That any access roads to unoccupied facilities must be constructed in compliance with  
6 the requirements of section four, subsection (e) of this article. In making a decision on any  
7 industrial site, the total volume of traffic to be generated shall be considered in regard to the  
8 overall cost of the project. The Division of Highways shall consult and work in cooperation with  
9 the West Virginia Development Office in determining the use of industrial access road funds.

10 Prior to a formal request for the use of moneys from the fund to provide access to new or  
11 expanding industrial sites, the location of the industrial access road shall be submitted for  
12 approval of the Division of Highways. The Division of Highways shall consider the cost of the  
13 industrial access road as it relates to the project's location and as it relates to the possibility of  
14 future extensions of the road to serve other possible industrial sites as well as the future  
15 development of the surrounding area.

16 Prior to the allocation of moneys from the fund for the construction or maintenance of an  
17 industrial access road to an industry proposing to locate or expand in a county or municipality,  
18 the governing body of the county or municipality shall, by resolution, request moneys from the  
19 fund and shall be responsible for the preliminary negotiations with the industries and other  
20 interested parties. The Division of Highways shall be available for consultation with the governing  
21 bodies of the counties or municipalities and other interested parties and may prepare surveys,  
22 plans, engineering studies and cost estimates for the proposed industrial access road.

**§17-3A-4. Restrictions on use of fund.**

1 (a) The fund may not be used for the adjustment of utilities or for the construction of  
2 industrial access roads to schools, hospitals, libraries, armories, shopping centers, apartment  
3 buildings, government installations or similar facilities, whether public or private. The fund may  
4 not be used to construct industrial access roads on private property.

5 (b) Moneys from the fund may not be expended until the governing body of the county or

6 municipality certifies to the Division of Highways that the industrial site is constructed and  
7 operating or is under firm contract to be constructed or operated, or upon the presentation of an  
8 acceptable surety or device in an amount equal to the estimated cost of the access road or that  
9 portion provided by the Division of Highways in accordance with section one of this article.

10 (c) Not more than \$400,000 of unmatched moneys from the fund may be allocated for use  
11 in any one county in any fiscal year. The maximum amount of unmatched moneys which may be  
12 allocated from the fund is ten percent of the fair market value of the designated industrial  
13 establishment. The amount of unmatched funds allocated may be supplemented with additional  
14 matched moneys from the fund, in which case the matched moneys allocated from the fund may  
15 not exceed \$150,000, to be matched equally from sources other than the fund. The amount of  
16 matched moneys which may be allocated from the fund over and above the unmatched funds  
17 may not exceed five percent of the fair market value of the designated industrial site.

18 (d) Funds may only be allocated to those items of construction and engineering which are  
19 essential to providing an adequate facility to serve the anticipated traffic. Funds may not be  
20 allocated for items such as storm sewers, curbs, gutters and extra pavement width unless  
21 necessary to extend or connect an existing access road.

22 (e) Funds for the construction of an access road to an unoccupied facility may only be  
23 expended to construct a two-lane highway which meets the following requirements:

24 (1) The road must meet all Appalachian Highway Development standards and  
25 specifications for a road that may be safely traveled at speeds of up to sixty-five miles per hour;  
26 and

27 (2) The road must be a controlled access at-grade roadway with a single through lane per  
28 direction, with the following design elements:

29 (A) Full width lanes, paved shoulders, and clear zones;

30 (B) A center buffer area;

31 (C) Limited access, with turn lanes for all permitted turns;

- 32           (D) Horizontal and vertical curves with high design speeds;  
33           (E) Passing lanes, speed differential, and truck lanes;  
34           (F) Provisions for easy expansion to freeway or divided roadway; and  
35           (G) Proper interchange design for a two-lane freeway.  
36           (f) The Division of Highways may expend moneys from the fund to expand a two-lane  
37 access road, previously constructed to provide access to an unoccupied facility, only after the  
38 Division of Highways determines that a four-lane access road is required based on a current count  
39 of the average volume of traffic traveling on the road.

NOTE: The purpose of this bill is to require that all industrial access roads to unoccupied industrial facilities be initially constructed as a two-lane highway meeting certain design standards and authorizing additional lanes to be added to two-lane access roads to previously unoccupied industrial facilities only after the traffic volume indicates the need for a four-lane highway.

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