

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Senate Bill 734

BY SENATOR CLEMENTS

[Passed February 27, 2020; in effect 90 days from passage]

1 AN ACT to amend and reenact §17-2A-17 of the Code of West Virginia, 1931, as amended,
2 relating to clarifying the powers and duties of the Division of Highways in acquiring
3 property for state road purposes to include depth as well as width; and updating antiquated
4 language.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-17. Acquisition of property for state road purposes; “state road purposes” defined.

1 In addition to all other powers given and assigned to the commissioner in this chapter, the
2 commissioner may acquire, either temporarily or permanently, in the name of the Division of
3 Highways all real or personal property, public or private, or any interests or rights therein, including
4 any easement, riparian right, or right of access, deemed by the commissioner to be necessary for
5 present or presently foreseeable future state road purposes by gift, lease, grant, bequest, devise,
6 agreement, purchase, exchange, right of eminent domain, or other lawful means. Real property
7 may be acquired in fee simple or in any lesser estate or interest therein, except in the case of a
8 public road, only the right-of-way shall be acquired. Acquisition of such personal property shall be
9 subject to the provisions of §17-2A-13 and §17-2A-15 of this code. The acquisition of all such real
10 and personal property is hereby declared to be a cost of highway construction. Nothing in this
11 section restricts or relinquishes any right the state or any agency thereof now or hereafter
12 possesses or may exercise by virtue of the police power or other lawful authority.

13 As used in this article, “state road purposes” shall include provision for, but shall not be
14 limited to, the following:

15 (a) Constructing, establishing, laying out, widening, enlarging, extending, straightening,
16 reconstructing, relocating, grading, altering, improving, and maintaining state roads;

17 (b) Rights-of-way for state roads, including those needed for such roads within
18 municipalities, such rights-of-way to be to such width and depth as deemed necessary for the
19 project by the commissioner and shall include all material therein;

20 (c) Adequate drainage of state roads;

21 (d) Controlled-access facilities, as defined in §17-4-39 of this code, including existing and
22 vested rights of access, air, view and light, whether privately or publicly owned, and local service
23 roads to controlled-access facilities;

24 (e) Broadcasting stations, weighing stations, shops, equipment sheds, office buildings,
25 storage buildings and yards, snow fences, road maintenance, or construction sites;

26 (f) Road-building material storage sites, quarry sites, gravel pits, sites for the acquisition
27 or manufacture of road-building materials including borrow pits, stockpile sites, waste-material
28 sites and access roads to any such sites or places;

29 (g) The culture and support of trees which benefit any state road by aiding in the
30 maintenance and preservation of the road;

31 (h) Landscape and roadside development, and maintenance thereof, within any state road
32 right-of-way, and the acquisition and maintenance of lands and interests in lands for the
33 restoration, preservation, and enhancement of places of scenic beauty, and other objects of
34 attraction or scenic value adjacent to or near any state road, and the acquisition, development,
35 and maintenance of publicly owned and controlled rest and recreation areas and sanitary and
36 other facilities reasonably necessary for the accommodation of the traveling public, within,
37 adjacent to, or near the right-of-way of any road within the state road system;

38 (i) Development and maintenance of parking places, auto camps, camp sites, roadside
39 parks, historic roadside markers and sites, forest or timbered areas, or other places of attraction
40 and scenic value which are adjacent to or near any state road and which in the judgment of the
41 commissioner are necessary for the convenience of the public and will contribute to the general
42 welfare and pleasure of the motoring public or road users;

43 (j) Maintenance of an unobstructed view of any portion of any state road in order to provide
44 for the safety of the traveling public;

45 (k) Erection and maintenance of markers, warning signs and traffic signals;

46 (l) Construction and maintenance on state roads of sidewalks and highway illumination;

47 (m) Elimination or prevention of hazardous or undesirable points of entry to state roads
48 from adjacent property;

49 (n) Acquisition of property, or any interest or right therein, for the purpose of exchanging
50 it for other property, or any interest or right therein, which the Division of Highways is authorized
51 to acquire by the other provisions of this section: *Provided*, That such substitute property, or any
52 interest or right therein, may be acquired by the commissioner by condemnation only if the
53 following conditions are satisfied: (1) Monetary compensation would be substantially inadequate
54 for the property, or interest or right therein, which the commissioner is authorized to acquire by
55 the other provisions of this section; and (2) the Division of Highways has entered into a written
56 agreement to exchange the substitute property, or the right or interest therein, for the property, or
57 right or interest therein, which is needed for state road purposes, regardless of whether the person
58 who has agreed to accept the exchange has the right to condemn the substitute property, or the
59 right or interest therein; and

60 (o) Acquisition of real property, not needed for a state road, for the purpose of moving and
61 relocating thereon a building or other structure or appurtenance which is situated on a lot or tract
62 of land all or a portion of which is needed for a state road and which, after relocation, will be
63 suitable for the purpose for which it was used prior to its being relocated: *Provided*, That such
64 additional real property may be acquired by the commissioner by condemnation only if the
65 following conditions are satisfied: (1) The building or other structure or appurtenance is of
66 substantial value; (2) the real property on which it is to be relocated is not substantially improved
67 and is adjacent to or near the location from which it is to be removed; (3) the owner of the real
68 property needed for the state road has entered into a written agreement with the Division of
69 Highways to accept in exchange the additional property with the relocated building or structure or
70 appurtenance thereon; (4) substantial savings in expenditure of state road funds will result from
71 condemning the additional property and relocating the building or structure or appurtenance rather

72 than condemning the lot or tract, or the portion thereof, on which the building or other structure or
73 appurtenance may be located; and (5) the real property with the relocated building or structure or
74 appurtenance thereon will be relatively equal in value to the real property needed for the state
75 road.

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

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Day of, 2020.

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Governor