

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2570

By Delegates Gearheart, Crouse, Smith, Clark,
Householder, A. Hall, Storch, Cooper, Butler,
Ellington, and McGeehan

[Introduced January 16, 2023; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §17-16A-13 of the Code of West Virginia, 1931, as amended,
2 relating to requiring certain non-discretionary procedures be strictly complied with by the
3 West Virginia Parkways Authority before tolls, rents, fees or charges may be increased.

Be it enacted by the Legislature of West Virginia:

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

§17-16A-13. Tolls, rents, fees, charges and revenues; competitive bidding on contracts.

1 (a) The Parkways Authority is hereby authorized, subject to the strict and nondiscretionary
2 restrictions and requirements set forth herein, to fix, revise, charge and collect tolls and fees for the
3 use of each parkway project and the different parts or sections thereof and to fix, revise, charge
4 and collect rents, fees, charges and other revenues, of whatever kind or character, for the use of
5 each economic development project or tourism project, or any part or section thereof, and to
6 contract with any person, partnership, association or corporation desiring the use of any part
7 thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, fiber
8 optic or other data transmission lines or devices, electric light, power or other utility lines, gas
9 stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose
10 except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of
11 charges for such use: Provided, That the Parkways Authority may not charge tolls or fees for
12 transit over an existing road without express legislative authorization for the charging of such tolls
13 or fees, ~~Provided, however, That an existing road does not include~~ except for the West Virginia
14 Turnpike, and new lanes or new sections of an existing road, the replacement or construction of
15 any bridge or tunnel, or related facilities on the West Virginia Turnpike: Provided, however, That, in
16 each and every instance of a proposed increase, the West Virginia Turnpike Authority may only
17 propose an increase to such tolls, rents, fees and charges ~~shall to~~ be so fixed ~~and or~~ adjusted in
18 respect of the aggregate of tolls, or in respect of the aggregate rents, fees and charges may only

19 make such proposed increase after holding public hearings, with at least fourteen days prior public
20 notice, in each county transected by the West Virginia Turnpike, at which each person attending
21 shall be afforded a reasonable opportunity to speak and be heard on the proposed increase, and
22 also at which the West Virginia Turnpike Authority must show cause why such proposed increase
23 is necessary to address operational or maintenance needs arising from the project or projects in
24 connection with which the bonds of any issue shall have been issued as to provide a fund sufficient
25 with other revenues, if any: (1) To pay the cost of acquiring, constructing, reconstructing,
26 maintaining, repairing, improving and operating such project or projects and to create reserves
27 therefor; (2) to pay the principal of and the interest on such bonds and related costs and expenses
28 as the same shall become due and payable, and to create reserves for such purposes; and (3) to
29 comply with any covenants under any trust agreement securing any bonds issued by the
30 Parkways Authority, or any predecessor thereof, or to maintain bond credit ratings. Such tolls,
31 rents, fees and other charges shall not be subject to supervision or regulation by any other
32 commission, board, bureau, department or agency of the state, except that all such tolls, rents,
33 fees, charges, or increases thereto, and all other revenue, shall be subject at any time to full and
34 transparent auditing by the Joint Committee on Government and Finance upon the request of the
35 chair of such committee. The tolls, rents, fees, charges and all other revenues derived from the
36 project or projects in connection with which the bonds of any issue shall have been issued, except
37 such part thereof as may be necessary to pay the cost of acquiring, constructing, reconstructing,
38 maintaining, improving, repairing and operating such project or projects and to provide such
39 reserves therefor as may be provided in the resolution authorizing the issuance of such bonds or in
40 the trust agreement securing the same, shall be set aside at regular intervals as may be provided
41 in the resolution or the trust agreement in a sinking fund which is hereby pledged to, and charged
42 with, the payment of: (i) The interest upon the bonds as such interest shall fall due; (ii) the principal
43 of the bonds as the same shall fall due; (iii) the necessary charges of paying agents and trustees
44 for paying principal and interest; and (iv) the redemption price or the purchase price of bonds

45 retired by call or purchase as therein provided. The use and disposition of moneys to the credit of
46 such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the
47 bonds or of the trust agreement and to the full, unrestricted and transparent oversight and auditing
48 at any time by the Joint Committee on Government and Finance upon the request of the chair of
49 such committee. Except as may otherwise be provided in the resolution or the trust agreement,
50 such sinking fund shall be a fund for all bonds without distinction or priority of one over another.
51 The moneys in the sinking fund, less such reserve as may be provided in the resolution or trust
52 agreement, if not used within a reasonable time for the purchase of bonds for cancellation as
53 above provided, shall be applied to the redemption of bonds at the redemption price then
54 applicable.

55 (b) The Parkways Authority shall cause, as soon as it is legally able to do so, all contracts
56 to which it is a party and which relate to the operation, maintenance or use of any restaurant, motel
57 or other lodging facility, truck and automobile service facility, food vending facility or any other
58 service facility located along the West Virginia Turnpike, to be renewed on a competitive bid basis.
59 All contracts relating to any facility or services entered into by the Parkways Authority with a
60 private party with respect to any project constructed after the effective date of this legislation shall
61 be let on a competitive bid basis only. If the Parkways Authority receives a proposal for the
62 development of a project, except for a parkway project, such proposal shall be made available to
63 the public in a convenient location in the county wherein the proposed facility may be located. The
64 Parkways Authority shall publish a notice of the proposal by a Class I legal advertisement in
65 accordance with the provisions of article three, chapter fifty-nine of this code. The publication area
66 shall be the county in which the proposed facility would be located. Any citizen may communicate
67 by writing to the Parkways Authority his or her opposition to or approval to such proposal within a
68 period of time not less than forty-five days from the publication of the notice. No contract for the
69 development of an economic development project or a tourism project may be entered into by the
70 Parkways Authority until a public hearing is held in the vicinity of the location of the proposed

71 economic development project or tourism project with at least twenty days' notice of such hearing
72 by a Class I publication pursuant to section two of said article. The Parkways Authority shall make
73 written findings of fact prior to rendering a decision on any such proposed project. All studies,
74 records, documents and other materials which are considered by the Parkways Authority in
75 making such findings shall be made available for public inspection at the time of the publication of
76 the notice of public hearing and at a convenient location in the county where the proposed
77 economic development project or tourism project may be located. The Parkways Authority shall
78 promulgate rules in accordance with chapter twenty-nine-a of this code for the conduct of any
79 hearing required by this section. Persons attending any such hearing shall be afforded a
80 reasonable opportunity to speak and be heard on the proposed economic development project or
81 tourism project.

NOTE: The purpose of this bill is to require certain non-discretionary procedures be strictly complied with by the West Virginia Parkways Authority before tolls, rents, fees or charges may be increased.

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