

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4775

By Delegates Gearheart, Linville, Householder,
Ellington, Smith, Kump, Hornby, Toney, Cooper and
Brooks

[Introduced January 16, 2024; Referred
to the Committee on Technology and Infrastructure
then Finance]

1 A BILL to amend and reenact §17-16A-10, §17-16A-21, and §17-16A-25 of the Code of West
 2 Virginia, 1931, as amended, all relating to eliminating the authority of the West Virginia
 3 Parkways Authority to issue further parkway revenue, parkway revenue refunding, or
 4 special obligation bonds after July 1, 2024; and providing that subsequent to that date, no
 5 new bonds may be issued.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16A. WEST VIRGINIA PARKWAYS AUTHORITY.
§17-16A-10. Parkway revenue bonds, generally.

1 (a) The Parkways Authority is authorized to provide by resolution for the issuance of
 2 parkway revenue bonds of the state for the purpose of paying all or any part of the cost of one or
 3 more parkway projects. The principal of and the interest on bonds shall be payable solely from the
 4 funds provided for payment, except that:

5 (1) None of the proceeds of the issuance of parkway revenue bonds under this section
 6 shall be used to pay all or any part of the cost of any economic development project or tourism
 7 project;

8 (2) Nothing in this section shall be construed as prohibiting the Parkways Authority from
 9 issuing additional parkway revenue bonds to the extent permitted by applicable federal law for the
 10 purpose of constructing, maintaining and operating any highway constructed, in whole or in part,
 11 with money obtained from the Appalachian Regional Commission; and

12 (3) The authorization to issue bonds under this section is in addition to the authorization
 13 and power to issue bonds under any other section of this code.

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

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

23 (d) The bonds shall be executed by manual or facsimile signature by the chair of the
24 Parkways Authority, and the official seal of the Parkways Authority shall be affixed to or printed on
25 each bond, and attested, manually or by facsimile signature, by the Secretary and Treasurer of the
26 Parkways Authority. Any coupons attached to any bond shall bear the manual or facsimile
27 signature of the chair of the Parkways Authority.

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

34 (f) All bonds issued under the provisions of this article shall have all the qualities and
35 incidents of negotiable instruments under the negotiable instruments law of the state. The bonds
36 may be issued in coupon or in registered form, or both, as the Parkways Authority may determine,
37 and provision may be made for the registration of any coupon bonds as to principal alone and also
38 as to both principal and interest, and for the recorders into coupon bonds of any bonds registered
39 as to both principal and interest.

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

42 (h) The proceeds of the bonds of each issue shall be used solely for the payment of the
43 cost of the parkway project or parkway projects and by the Division of Highways for any
44 acquisition, construction, reconstruction, maintenance, improvement or repair of public highways

45 and bridges as provided for in this article for which the bonds were issued, and shall be disbursed
46 in a manner consistent with the resolution authorizing the issuance of the bonds or in the trust
47 agreement securing the bonds.

48 (i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be
49 less than the cost, then additional bonds may in like manner be issued to provide the amount of the
50 deficit. Unless otherwise provided in the resolution authorizing the issuance of the bonds or in the
51 trust agreement securing the bonds, the additional bonds shall be deemed to be of the same issue
52 and shall be entitled to payment from the same fund without preference or priority of the bonds first
53 issued.

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

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

62 (l) All or any portion of the proceeds of any parkway revenue bonds issued pursuant to this
63 section may be credited to the special revenue account within the State Road Fund created in
64 section eleven of this article. Moneys in such fund shall be used by the Division of Highways for
65 any acquisition, construction, reconstruction, maintenance, improvement or repair of public
66 highways and bridges in this state.

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

71 (n) On July 1, 2024, the powers granted in this section to the Authority shall terminate.
72 After that date, no additional bonds may be issued on any parkways project, or on any expansion
73 or material alteration to any existing parkways project.

§17-16A-21. Parkway revenue refunding bonds, generally.

1 The Parkways Authority is hereby authorized to provide by resolution for the issuance of
2 parkway revenue refunding bonds of the state for the purpose of refunding any bonds then
3 outstanding which shall have been issued or may be issued under the provisions of this article in
4 connection with the construction of any parkway project, including the payment of any redemption
5 premium thereon and any interest accrued or to accrue to the date of redemption of such bonds;
6 and, if deemed advisable by the Parkways Authority, for the additional purpose of constructing
7 improvements, extensions or enlargements of the project or projects in connection with which the
8 bonds to be refunded shall have been issued: *Provided*, That this section shall not be construed as
9 authorizing the issuance of parkway revenue refunding bonds for the purpose of refunding any
10 bonds then outstanding which shall have been issued under the provisions of this article, or any
11 predecessor thereof, in connection with the construction of the West Virginia Turnpike, which
12 revenue refunding bonds may be issued only as authorized under section twenty-two of this
13 article. The issuance of such bonds, the maturities and other details thereof, the rights of the
14 holders thereof and the rights, duties and obligations of the Parkways Authority in respect of the
15 same shall be governed by the provisions of this article insofar as the same may be applicable. No
16 issuance of a refunding bond may extend the maturity date of such bond being refunded and may
17 not exceed the outstanding principal of such bond being refunded. Any refunding bond shall be
18 structured to provide for approximately level annual debt service savings each fiscal year through
19 the final maturity or structured to approximate the level of debt service that would have been paid
20 prior to the refunding, with a preponderance of the savings being deferred toward eliminating or
21 reducing the most distant maturities. For purposes of this section, the outstanding principal is to be
22 determined as of the date on which the revenue bond is refinanced. On July 1, 2024, the powers

23 granted in this section to the Authority shall terminate. After that date, no additional bonds may be
24 issued on any parkways project, or on any expansion or material alteration to any existing
25 parkways project.

§17-16A-25. Additional powers of parkways authority; issuance of special obligation bonds.

1 (a) In addition to all powers granted by the foregoing sections of this article, the parkways
2 authority in connection with a proceeding prosecuted to completion under Title 11, United States
3 Code, Secs. 401-403, as permitted by subdivision (17), section six of this article is hereby
4 authorized to provide by resolution for the issuance of special obligation bonds of the state for the
5 purpose of exchanging such special obligation bonds for all bonds then outstanding which shall
6 have been issued under the provisions of this article. Special obligation bonds issued under the
7 provisions of this section shall not be deemed to constitute a debt of the state or of any political
8 subdivision thereof or a pledge of the faith and credit of the state or of any such political
9 subdivision, but such bonds shall be payable solely from the funds herein provided therefor from
10 pledged property and income therefrom as provided in subdivision (1) of this subsection. All such
11 special obligation bonds shall contain on the face thereof a statement in accordance with the
12 preceding sentence. The issuance of such bonds, the maturities and other details thereof, the
13 rights of the holders thereof, and the rights, duties and obligations of the parkways authority in
14 respect of the same shall be governed by the provisions of this article insofar as the same may be
15 applicable with the following express exceptions:

16 (1) The principal of and the interest on such special obligation bonds shall not be payable
17 from tolls, rents, fees, charges or revenues of any parkway project but shall be payable solely from
18 such other property purchased and pledged as security therefor as the parkways authority shall
19 determine together with the income derived therefrom which other property may include direct
20 obligations of, or obligations the principal of and the interest on which are guaranteed by, the
21 United States government or participation certificates or other obligations issued by or by authority

22 of the United States government; and

23 (2) Following the issuance of such special obligation bonds there shall be no obligation to
24 fix, revise, charge and collect tolls for the use of any parkway project and any parkway project shall
25 be transferred to the state department of highways and shall thereafter be maintained by the state
26 department of highways free of tolls. At such time as the special obligation bonds are issued, then
27 section eighteen of this article shall be of no further force and effect.

28 (b) Financial, legal, engineering and feasibility consultants may be employed to perform
29 such services as the parkways authority shall deem necessary or desirable in connection with the
30 Title 11 proceedings mentioned above and the issuance and exchange of the special obligation
31 bonds.

32 (c) The entire powers herein granted by this section to the parkways authority may be
33 exercised by the state department of highways in which event the special obligation bonds herein
34 authorized shall be executed by manual or facsimile signature by the Governor and by the
35 commissioner of the department of highways, and the official seal of the department of highways
36 shall be affixed to or printed on each bond, and any coupons attached to such bonds shall bear the
37 manual or facsimile signature of the commissioner of the state department of highways. In the
38 event that the state department of highways shall elect to exercise the powers granted by this
39 section, it shall file a statement to that effect in the office of the chairman of the parkways authority
40 and in the office of the Secretary of State, and upon the issuance of the special obligation bonds
41 herein provided for, the state department of highways shall succeed immediately to the principal
42 functions of the parkways authority and the parkways authority shall then be abolished.

43 (d) The state department of highways is hereby empowered to acquire by purchase the
44 parkways authority and all its rights-of-way, equipment, facilities and any and all other rights or
45 interest the parkways authority has or had in any project, from any funds available to it, and to pay
46 any expenses incident to such acquisition under the provisions of this article: *Provided*, That the
47 contribution of the state department of highways in making such acquisition shall not exceed the

48 sum of \$20 million from all sources of public moneys of the State of West Virginia, excluding any
49 funds reimbursed or reimbursable or otherwise provided or to be provided by the federal
50 government. No funds derived from the sale of the \$350 million bond issue authorized by the roads
51 development amendment shall be included in the acquisition of the West Virginia Turnpike.

52 (e) On July 1, 2024, the powers granted in this section to the Authority shall terminate.
53 After that date, no additional bonds may be issued on any parkways project, or on any expansion
54 or material alteration to any existing parkways project.

NOTE: The purpose of this bill is to eliminate the authority of the West Virginia Parkways Authority to issue further parkway revenue, parkway revenue refunding, or special obligation bonds after July 1, 2024. The bill also provides that subsequent to that date, no new bonds may be issued.

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