

SB 388

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Committee Substitute for
SENATE BILL NO. 388

(By Senator Wayner, et al)



PASSED March 12, 1994
In Effect 90 days from Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 388

(SENATORS WAGNER, BAILEY AND CHAFIN, *original sponsors*)

[Passed March 12, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact sections three and twenty-three, article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to creation of the West Virginia parkways, economic development and tourism authority; increasing the membership of the authority; meetings of the authority; execution of surety bonds by members; payment of the members expenses; and requiring expenditure of eighty percent of rents, fees, charges and other revenues within a seventy-five air mile radius of the turnpike.

Be it enacted by the Legislature of West Virginia:

That sections three and twenty-three, article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

§17-16A-3. Dissolution and termination of West Virginia turnpike commission; West Virginia parkways, economic development and tourism authority generally.

1 On and after the first day of June, one thousand
2 nine hundred eighty-nine, the West Virginia turnpike
3 commission is hereby abolished in all respects, and
4 there is hereby created the "West Virginia Parkways,
5 Economic Development and Tourism Authority", and
6 by that name the parkways authority may sue and be
7 sued and plead and be impleaded. The parkways
8 authority is hereby constituted an agency of the state,
9 and the exercise by the parkways authority of the
10 powers conferred by this article in the construction,
11 reconstruction, improvement, operation and mainte-
12 nance of parkway, economic development and tourism
13 projects shall be considered and held to be an essential
14 governmental function of the state.

15 The West Virginia parkways, economic development
16 and tourism authority shall consist of seven members,
17 including the transportation secretary, who shall serve
18 as chairman of the parkways authority, and six
19 members, including no less than one from each of the
20 counties which have land bordering parkway projects,
21 appointed by the governor, by and with the advice and
22 consent of the Senate. The appointed members shall
23 be residents of the state, and shall have been qualified
24 electors in the state for a period of at least one year
25 next preceding their appointment. Upon the effective
26 date of this legislation, the governor shall forthwith
27 appoint six members of the parkways authority for
28 staggered terms. The terms of the parkways authority
29 members first taking office on or after the effective
30 date of this legislation shall expire as designated by the
31 governor at the time of the nomination, one at the end
32 of the first year, one at the end of the second year, one
33 at the end of the third year, one at the end of the fifth
34 year, one at the end of the sixth year and one at the
35 end of the seventh year, after the first day of June,

36 one thousand nine hundred eighty-nine. As these
37 original appointments expire, each subsequent
38 appointment is for a full eight-year term. Any mem-
39 ber whose term has expired shall serve until his or
40 her successor has been duly appointed and qualified.
41 Any person appointed to fill a vacancy shall serve only
42 for the unexpired term. Any member is eligible for
43 reappointment. Each appointed member of the park-
44 ways authority before entering upon his or her duties
45 shall take an oath as provided by section five, article
46 IV of the constitution of the state of West Virginia.

47 The parkways authority shall elect one of the
48 appointed members as vice chairman and shall also
49 elect a secretary and treasurer who need not be
50 members of the parkways authority. Four members of
51 the parkways authority constitute a quorum and the
52 vote of a majority of members present is necessary for
53 any action taken by the parkways authority. No
54 vacancy in the membership of the parkways authority
55 impairs the right of a quorum to exercise all the rights
56 and perform all the duties of the parkways authority.
57 The parkways authority shall meet at least monthly
58 and either the chairman or any four members shall be
59 empowered to call special meetings for any purpose or
60 purposes: *Provided*, That notice of any meeting shall
61 be given to all members of the parkways authority not
62 less than ten days prior to the special meetings.

63 On or about the first day of July, one thousand nine
64 hundred ninety-four, the governor shall appoint, with
65 the advice and consent of the Senate, four additional
66 members, one each from McDowell county, Monroe
67 county, Summers county and Wyoming county, to
68 serve on the authority, for a total of eleven members.
69 Upon the increase in the number of the members of
70 the authority to eleven, six members constitute a
71 quorum and the vote of a majority of members
72 present shall be necessary to call a meeting or for any
73 other action taken by the parkways authority. Each of
74 the additional members shall serve for a full eight-
75 year term from the date on which he or she is
76 appointed.

77 Before the issuance of any parkway revenue bonds
78 or revenue refunding bonds under the provisions of
79 this article, each appointed member of the parkways
80 authority shall execute a surety bond in the penal sum
81 of twenty-five thousand dollars and the secretary and
82 treasurer shall execute a surety bond in the penal sum
83 of fifty thousand dollars, each surety bond to be
84 conditioned upon the faithful performance of the
85 duties of his or her office, to be executed by a surety
86 company authorized to transact business in the state of
87 West Virginia as surety and to be approved by the
88 governor and filed in the office of the secretary of
89 state.

90 The members of the parkways authority are not
91 entitled to compensation for their services, but each
92 member shall be reimbursed for his or her actual
93 expenses necessarily incurred in the performance of
94 his or her duties. All expenses incurred in carrying
95 out the provisions of this article are payable solely
96 from funds provided under the authority of this article
97 and no liability or obligation shall be incurred by the
98 parkways authority hereunder beyond the extent to
99 which moneys have been provided under the author-
100 ity of this article.

§17-16A-23. Special highway fund; appropriations from fund.

1 (a) There is hereby created a special fund in the
2 state treasury which shall be designated and known as
3 the "West Virginia special highway fund". The special
4 highway fund shall consist of: (i) All funds allocated
5 and disbursed to the state department of highways by
6 the parkways authority, including without limitation
7 the proceeds of any parkway revenue bonds or reve-
8 nue refunding bonds issued by the parkways authority
9 pursuant to section eleven, twenty-one or twenty-two
10 of this article, in repayment of the amount of state
11 funds used to upgrade the West Virginia turnpike to
12 federal interstate standards; (ii) any appropriations,
13 grants, gifts, contributions or other revenues received
14 by the special highway fund from any source; and (iii)
15 all interest earned on moneys held in the fund. When

16 any funds are received by the state department of
17 highways from the parkways authority pursuant to
18 this section, they shall be paid into the state treasury
19 by the commissioner of the department of highways
20 and credited to the special highway fund, and shall be
21 disbursed in the manner set forth in subsections (b)
22 and (c) of this section. The special highway fund shall
23 not be treated by the auditor and treasurer as part of
24 the state road fund or as part of the general revenues
25 of the state.

26 (b) The governor has authority to transfer to the
27 insurance fund created in section eight, article fifteen,
28 chapter thirty-one of this code, on any date or dates
29 after the enactment of this section, up to thirty-five
30 million dollars of the funds received or earned by the
31 special highway fund, which funds may be used and
32 applied by the West Virginia economic development
33 authority in the manner and to the extent set forth in
34 article fifteen, chapter thirty-one of this code. On or
35 before the thirty-first day of December, one thousand
36 nine hundred ninety-four, the economic development
37 authority shall retransfer to the special highway fund
38 the thirty-five million dollars advanced to the insur-
39 ance fund pursuant to this section. All interest earned
40 on the thirty-five million dollars while being held in
41 the insurance fund shall remain in, and be the
42 property of the insurance fund: *Provided*, That on and
43 after the first day of July, one thousand nine hundred
44 ninety-two, the governor has the authority to transfer
45 six million dollars from the insurance fund created in
46 section eight, article fifteen, chapter thirty-one of this
47 code to a special fund hereby created in the state
48 treasury and designated "the West Virginia economic
49 development fund". Expenditures from the fund shall
50 be made only in accordance with appropriations by the
51 Legislature.

52 (c) Upon the transfer of thirty-five million dollars to
53 the insurance fund as provided in subsection (b) of this
54 section, the Legislature shall annually appropriate all
55 or any part of the balance of the funds deposited in the
56 special highway fund for the construction, reconstruc-

57 tion, improvement, maintenance or repair of any
58 parkway project or projects: *Provided*, That all of the
59 funds shall be appropriated to: (i) The upgrading or
60 addition of interchanges; (ii) the construction of
61 expressways or feeder roads; or (iii) the upgrading or
62 construction of information centers, visitors' centers,
63 rest stops, or any combination thereof, and that all
64 such feeder roads, expressways, interchanges, infor-
65 mation centers, visitors' centers or rest stops shall
66 connect to the West Virginia turnpike or be within
67 seventy-five air miles of the West Virginia turnpike as
68 it existed on the effective date of this legislation, or
69 any subsequent expressway, turnpike or feeder road
70 constructed pursuant to this subsection: *Provided*,
71 *however*, That at least eighty percent of that portion
72 of the special highway fund consisting of rents, fees,
73 charges and revenues from parkway projects, not
74 otherwise allocated pursuant to section thirteen of this
75 article, shall be expended within seventy-five air miles
76 of the West Virginia turnpike as it existed on the
77 effective date of this legislation, or of any subsequent
78 expressway, turnpike or feeder road constructed
79 pursuant to this subsection: *Provided further*, That
80 nothing herein shall affect expenditures pursuant to
81 any contract or commitment made prior to the effec-
82 tive date of this legislation. The appropriation of funds
83 pursuant to this subsection shall be expended on more
84 than one project.

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

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within is approved this the 30th day of March, 1994.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/18/94

Time

4:40 pm