

# H. B. 3163

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(BY DELEGATE(S) WHITE, REYNOLDS, CANTERBURY, WALTERS,  
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(Originating in the Committee on Finance)

[March 29, 2013]

A BILL to amend and reenact §17-16A-4, §17-16A-10 and §17-16A-18 of the Code of West Virginia, 1931, as amended, all relating to requiring all debt obligations of the West Virginia parkways authority to be satisfied by February 1, 2020; eliminating tolls on the West Virginia Turnpike after debt obligations are satisfied; directing the Governor to issue a proclamation that all obligations are satisfied and transfer of assets; providing that certain materials, equipment, assets and employees of the parkways authority be transferred to the Division of Highways; providing for employees of the parkways authority whose positions

are eliminated as result of the transfer; requiring certain moneys be used for operation and maintenance of West Virginia Turnpike; providing that all obligations and responsibilities of the parkways authority for the West Virginia Turnpike cease on January 1, 2035; prohibiting new bonds from being issued; providing an exception; and requiring the Division of Highways to accept ownership of the West Virginia Turnpike when the bonds secured by toll revenues have been paid.

*Be it enacted by the Legislature of West Virginia:*

That §17-16A-4, §17-16A-10 and §17-16A-18 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§17-16A-4. Transfer of powers, duties, functions, assets and liabilities of turnpike commission to Parkways Authority.**

1 (a) The duties, powers and functions of the West Virginia  
2 turnpike commission are hereby transferred to the Parkways  
3 Authority.

4 (b) All obligations, indebtedness and other liabilities of, and  
5 all rights, assets and other property owned by or used in the

6 administration of, the West Virginia Turnpike Commission as of  
7 June 1, 1989, and all personnel of said Turnpike Commission as  
8 of said date are hereby assumed by and transferred to the  
9 Parkways Authority, which is hereby constituted the successor  
10 in interest to said commission in all respects.

11 (c) All books, papers, maps, charts, plans, literature and  
12 other records in the possession of the West Virginia Turnpike  
13 Commission as of June 1, 1989, shall be delivered or turned over  
14 to the Parkways Authority.

15 (d) The unexpended balance of appropriations or other funds  
16 available for use of the West Virginia Turnpike Commission as  
17 of June 1, 1989, is hereby transferred to the Parkways Authority  
18 for the use of the Parkways Authority.

19 (e) On or before February 1, 2020, all debt obligations held  
20 by the Parkways Authority shall be satisfied.

21 (f) Upon the full satisfaction of the bond debt of the  
22 Parkways Authority and the completion and affirmative finding  
23 of a highway condition assessment measuring compliance with  
24 quality standards promulgated by the Division of Highways, the  
25 Governor shall issue a proclamation finding that the bond debt

26 of the authority is fully satisfied and that the West Virginia  
27 Turnpike has been maintained at or above Division of Highways  
28 standards and directing the immediate conveyance of the West  
29 Virginia Turnpike, buildings and land dedicated exclusively to  
30 its maintenance, current and future use, except for the travel  
31 plaza buildings, roads and parking facilities and lease properties,  
32 all records, maps, charts, schedules and plans relating to the  
33 West Virginia Turnpike and all maintenance material and  
34 equipment assets not specifically dedicated to the maintenance  
35 of travel plazas to the Division of Highways.

36 (g) Upon the issuance of the proclamation provided in  
37 subsection (f):

38 (1) All obligations, indebtedness and other liabilities  
39 pertaining exclusively to the West Virginia Turnpike and other  
40 assets expressly described under subsection (f) of this section, as  
41 of the date of the proclamation, are hereby assumed by and  
42 transferred to the Division of Highways.

43 (2) The Parkways Authority shall first liquidate all publicly  
44 traded securities in its holdings and convey all of its monetary  
45 assets in excess of \$5 million to the Division of Highways to be  
46 deposited in the "Turnpike Transition Fund."

47       (3) All the Parkways Authority employees dedicated to  
48 highway maintenance and upkeep shall be transferred to  
49 employment by the West Virginia Division of Highways.

50       (4) All employees of the Parkways Authority dedicated to  
51 toll collection and toll collection operations shall remain  
52 employees of the Parkways Authority until the cessation of  
53 tolling as provided by section eighteen of this article.

54       (5) The Commissioner of the Division of Highways and  
55 Director of the Division of Personnel shall jointly provide for the  
56 evaluation of the skills, education, experience and qualifications  
57 of all full-time, permanent employees of the Parkways Authority  
58 dedicated to toll collection and toll collection operations prior to  
59 the cessation of tolling, as provided by section eighteen of this  
60 article. Any full-time, permanent employee that may be laid off  
61 by the Authority or Division of Highways at the time of or  
62 within six months following the date of the cessation of tolling  
63 as provided by section eighteen of this article is entitled to be  
64 placed on an appropriate reemployment list maintained by the  
65 Division of Personnel and to be allowed a preference on that list.  
66 The Division of Personnel shall maintain such an employee on

67 the reemployment list indefinitely, or until the employee has  
68 declined three offers of employment at a paygrade substantially  
69 similar to that of his or her position at the time of the Governor's  
70 proclamation, or until he or she is reemployed by the executive  
71 branch of state government, whichever occurs earlier.  
72 Notwithstanding any provision of this code to the contrary, the  
73 Parkways Authority shall, to the greatest extent practical, fill  
74 vacant toll collection and toll collection operations positions  
75 with temporary employees until the cessation of tolling on the  
76 West Virginia Turnpike.

77 (h) There is hereby established a special fund in the State  
78 Treasury known as the "Parkways Authority Future Trust Fund."  
79 The fund shall be administered by the Auditor and shall consist  
80 of twenty-five percent of all toll revenue received by the West  
81 Virginia Turnpike from the date of satisfaction of all bonded  
82 indebtedness until the date of the Governor's proclamation as  
83 provided in subsection (f), at which time the Auditor shall  
84 disburse the entire balance to the Parkways Authority to provide  
85 for future operations. Balances in the fund shall not be expended  
86 and at the end of any fiscal year shall not expire, but shall be

87 retained for the Parkways Authority until the Governor's  
88 proclamation is made.

89 (i) There is hereby established a special fund in the State  
90 Treasury known as the "Turnpike Transition Fund." The fund  
91 shall be administered by the Commissioner of the Division of  
92 Highways and shall consist of monetary assets of the Parkways  
93 Authority to be received under subsection (g) of this section. The  
94 Parkways Authority shall also deposit fifty percent of all toll  
95 revenue received for the West Virginia Turnpike from the date  
96 of satisfaction of all bonded indebtedness until the date that  
97 tolling ceases in accordance with section eighteen of this article.  
98 The fund also consists of revenues provided for in subsection (j)  
99 and any other funds appropriated by the Legislature to assist the  
100 transition to the Division of Highways and the State Road Fund,  
101 and the interest or other earnings on the moneys in the fund. The  
102 Commissioner of the Division of Highways shall administer the  
103 fund to provide for the costs of all West Virginia Turnpike  
104 operations and maintenance within the Division of Highways.  
105 Balances in the fund at the end of any fiscal year shall not  
106 expire, but shall be expended for those purposes in ensuing fiscal

107 years pursuant to appropriation by the Legislature. Upon the  
108 depletion of funds in the account, the subject roadways shall be  
109 supported by the State Road Fund and any other funds available  
110 to the Division of Highways for general maintenance and  
111 support.

112 (j) The Parkways Authority shall transfer all remaining  
113 assets relating to the West Virginia Turnpike, including travel  
114 plazas and lease properties, to the Division of Highways on  
115 January 1, 2035. All excess revenue produced by these assets  
116 shall be deposited into the Turnpike Transition Fund.

117 (k) All obligations and responsibilities of the Parkways  
118 Authority for any part or portion of the West Virginia Turnpike  
119 shall cease on January 1, 2035.

120 (l) The Commissioner of the Division of Highways and the  
121 Director of the Division of Personnel shall jointly propose for  
122 promulgation rules pursuant to article three, chapter  
123 twenty-nine-a of this code as may be necessary to provide for the  
124 evaluation, transition, termination, and reemployment of  
125 Authority and Division of Highways employees during the  
126 transition and to otherwise carry out the purposes of this article  
127 as they relate to personnel matters.



128        (m) The Commissioner of the Division of Highways shall  
129        propose for promulgation rules pursuant to article three, chapter  
130        twenty-nine-a of this code as may be necessary to carry out the  
131        purposes of this article as they relate to all matters not  
132        concerning personnel.

**§17-16A-10. Parkway revenue bonds generally.**

1        (a) The Parkways Authority is authorized to provide by  
2        resolution for the issuance of parkway revenue bonds of the state  
3        for the purpose of paying all or any part of the cost of one or  
4        more parkway projects: *Provided*, That this section shall not be  
5        construed as authorizing the issuance of parkway revenue bonds  
6        for the purpose of paying the cost of the West Virginia Turnpike,  
7        which parkway revenue bonds may be issued only as authorized  
8        under section eleven of this article: *Provided, however, That no*  
9        bonds may be issued following the reenactment of this section in  
10        the Legislative Regular Session of 2013, except as provided in  
11        subsection (i) or except as existing bond debt may be reissued to  
12        produce a financial savings or accelerate repayment: *Provided,*  
13        *further, That in no such reissue may the amount of principal be*  
14        increased or the final maturity be extended. The principal of and

15 the interest on bonds shall be payable solely from the funds  
16 provided for payment.

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

25 (c) The Parkways Authority shall determine the form of the  
26 bonds, including any interest coupons to be attached thereto, and  
27 shall fix the denomination of the bonds and the place of payment  
28 of principal and interest, which may be at any bank or trust  
29 company within or without the state.

30 (d) The bonds shall be executed by manual or facsimile  
31 signature by the chair of the Parkways Authority, and the official  
32 seal of the Parkways Authority shall be affixed to or printed on  
33 each bond, and attested, manually or by facsimile signature, by  
34 the secretary and treasurer of the Parkways Authority. Any

35 coupons attached to any bond shall bear the manual or facsimile  
36 signature of the chair of the Parkways Authority.

37 (e) In case any officer whose signature or a facsimile of  
38 whose signature appears on any bonds or coupons shall cease to  
39 be an officer before the delivery of the bonds, the signature or  
40 facsimile shall nevertheless be valid and sufficient for all  
41 purposes the same as if he or she had remained in office until  
42 delivery. In case the seal of the Parkways Authority has been  
43 changed after a facsimile has been imprinted on the bonds, then  
44 the facsimile seal will continue to be sufficient for all purposes.

45 (f) All bonds issued under the provisions of this article shall  
46 have all the qualities and incidents of negotiable instruments  
47 under the negotiable instruments law of the state. The bonds may  
48 be issued in coupon or in registered form, or both, as the  
49 Parkways Authority may determine, and provision may be made  
50 for the registration of any coupon bonds as to principal alone and  
51 also as to both principal and interest, and for the recorders into  
52 coupon bonds of any bonds registered as to both principal and  
53 interest.

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

57 (h) The proceeds of the bonds of each issue shall be used  
58 solely for the payment of the cost of the parkway project or  
59 parkway projects for which the bonds were issued, and shall be  
60 disbursed in a manner consistent with the resolution authorizing  
61 the issuance of the bonds or in the trust agreement securing the  
62 bonds.

63 (i) If the proceeds of the bonds of any issue, by error of  
64 estimates or otherwise, shall be less than the cost, then additional  
65 bonds may in like manner be issued to provide the amount of the  
66 deficit. Unless otherwise provided in the resolution authorizing  
67 the issuance of the bonds or in the trust agreement securing the  
68 bonds, the additional bonds shall be deemed to be of the same  
69 issue and shall be entitled to payment from the same fund  
70 without preference or priority of the bonds first issued.

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

75 (k) Prior to the preparation of definitive bonds, the Parkways  
76 Authority may, under like restrictions, issue interim receipts or  
77 temporary bonds, with or without coupons, exchangeable for  
78 definitive bonds when the bonds have been executed and are  
79 available for delivery. The Parkways Authority may also provide  
80 for the replacement of any bonds that become mutilated or are  
81 destroyed or lost.

82 (l) Bonds may be issued under the provisions of this article  
83 without obtaining the consent of any department, division,  
84 commission, board, bureau or agency of the state in accordance  
85 with this article: *Provided*, That the Parkways Authority shall  
86 comply with the provisions of section twenty-eight, article one,  
87 chapter five of this code.

**§17-16A-18. Cessation of tolls.**

1 (a) Except as provided ~~herein in this section~~, when all bonds  
2 issued under the provisions of this article in connection with any  
3 parkway project or projects and the interest ~~thereon shall on~~  
4 those bonds secured by West Virginia Turnpike toll revenues  
5 have been paid or a sufficient amount for the payment of ~~all such~~  
6 those bonds and the interest thereon on them to the their maturity

7 ~~thereof shall have~~ has been set aside in trust for the benefit of the  
8 bondholders, ~~such~~ the project or projects, if then in good  
9 condition and repair to the satisfaction of the Commissioner of  
10 the State Division of Highways, shall be transferred to the State  
11 Division of Highways and shall thereafter be maintained by the  
12 State Division of Highways free of tolls.

13 (b) ~~No later than February 1, 1990~~ On July 1 of the calendar  
14 year beginning after the date the bond indebtedness is satisfied,  
15 as provided in the provisions of section four of this article, the  
16 Division of Highways ~~parkways authority~~ shall discontinue;  
17 ~~remove and not relocate~~ all toll collection facilities on the West  
18 Virginia Turnpike as ~~the same~~ it existed on June 1, 1989, ~~except~~  
19 ~~for the three main toll barriers and collection facilities and,~~  
20 ~~provided solely that the provisions of section eighteen-a are~~  
21 ~~complied with,~~ including the toll collection facilities at the  
22 intersection of U.S. Route 19 (Corridor "L") and ~~said~~ the  
23 turnpike: Provided, That the bonds secured by West Virginia  
24 Turnpike toll revenues have been paid as scheduled.

25 (c) The highway now known and designated as the West  
26 Virginia Turnpike shall continue to be maintained to the

27 standards promulgated by the West Virginia Division of  
28 Highways, and shall be conveyed to the Division of Highways,  
29 as provided by section four of this article. The Division of  
30 Highways shall accept ownership of the highway at that time.

