

Senate Bill No. 311

(By Senators Chafin, M. Hall, Jenkins, Miller, Laird and D. Hall)

[Introduced January 9, 2014; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
Finance.]

A BILL to amend and reenact §17-16A-13 of the Code of West Virginia, 1931, as amended, relating to requiring the West Virginia Parkways, Economic Development and Tourism Authority to transfer a certain portion of the revenues generated from its operation of the highway formerly known as the West Virginia Turnpike to the county commissions where that highway is located.

Be it enacted by the Legislature of West Virginia:

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

1 **bidding on contracts.**

2 (a) (1) The parkways authority is ~~hereby~~ authorized to fix,
3 revise, charge and collect tolls for the use of each parkway
4 project and the different parts or sections thereof and to fix,
5 revise, charge and collect rents, fees, charges and other revenues,
6 of whatever kind or character, for the use of each economic
7 development project or tourism project, or any part or section
8 thereof, and to contract with any person, partnership, association
9 or corporation desiring the use of any part thereof, including the
10 right-of-way adjoining the paved portion, for placing thereon
11 telephone, telegraph, electric light, power or other utility lines,
12 gas stations, garages, stores, hotels, restaurants and advertising
13 signs, or for any other purpose except for tracks for railroad or
14 railway use, and to fix the terms, conditions, rents and rates of
15 charges for ~~such that~~ use. ~~Such~~ The tolls, rents, fees and charges
16 shall be so fixed and adjusted in respect of the aggregate of
17 tolls, or in respect of the aggregate rents, fees and charges, from
18 the project or projects in connection with which the bonds of any
19 issue shall have been issued as to provide a fund sufficient with
20 other revenues, if any, to pay: (A) The cost of maintaining,
21 repairing and operating ~~such the~~ project or projects; and (B) the
22 principal of and the interest on ~~such the~~ bonds as ~~the same shall~~
23 ~~become~~ it becomes due and payable and to create reserves for ~~such~~
24 those purposes. Such tolls, rents, fees and other charges ~~shall not~~

1 ~~be~~ are not subject to supervision or regulation by any other
2 commission, board, bureau, department or agency of the state. The
3 tolls, rents, fees, charges and all other revenues derived from the
4 project or projects in connection with which the bonds of any issue
5 ~~shall~~ have been issued, except ~~such~~ that part thereof ~~as may be~~
6 that is necessary to pay the cost of maintenance, repair and
7 operation and to provide ~~such~~ reserves therefor ~~as may be~~ provided
8 in the resolution authorizing the issuance of ~~such~~ the bonds or in
9 the trust agreement securing the ~~same~~ bonds, shall be set aside at
10 regular intervals as may be provided in the resolution or the trust
11 agreement in a sinking fund which is ~~hereby~~ pledged to, and charged
12 with, the payment of: (I) The interest upon the bonds as ~~such~~ the
13 interest ~~shall fall~~ falls due; (ii) the principal of the bonds as
14 the same shall fall due; (iii) the necessary charges of paying
15 agents for paying principal and interest; and (iv) the redemption
16 price or the purchase price of bonds retired by call or purchase as
17 therein provided. The use and disposition of moneys to the credit
18 of ~~such~~ the sinking fund ~~shall be~~ is subject to the provisions of
19 the resolution authorizing the issuance of the bonds or of the
20 trust agreement. Except as may otherwise be provided in the
21 resolution or the trust agreement, ~~such~~ the sinking fund ~~shall be~~
22 is a fund for all bonds without distinction or priority of one over
23 another. The moneys in the sinking fund, less ~~such~~ the reserve ~~as~~
24 ~~may be~~ provided in the resolution or trust agreement, if not used

1 within a reasonable time for the purchase of bonds for cancellation
2 as above provided, shall be applied to the redemption of bonds at
3 the redemption price then applicable.

4 ~~(2) (A) In fiscal year 1998, after the parkways authority has~~
5 ~~met or provided for the satisfaction of each requirement imposed by~~
6 ~~the provisions of subdivision (1) of this subsection, the parkways~~
7 ~~authority shall pay \$250,000 to the Hatfield-McCoy regional~~
8 ~~recreation authority from any remaining balance of revenues~~
9 ~~received from economic development projects and tourism projects.~~

10 (B) (2) Upon the effective date of this act, the parkways
11 authority shall seek authorization from the federal highway
12 administration, the state Department of Transportation and the
13 trustee under any trust indenture or agreement existing as the
14 result of the issuance of any revenue bonds under the provisions of
15 this article to issue additional revenue bonds in a total amount
16 not to exceed \$6,000,000 for the purpose of funding projects of the
17 Hatfield-McCoy regional recreation authority. Upon the agreement of
18 all of such entities that the parkways authority be authorized to
19 do so, as certified to the parkways authority, the Governor and the
20 Joint Committee on Government and Finance, the parkways authority
21 is authorized to issue additional revenue bonds in a total amount
22 not to exceed \$6,000,000. The proceeds of the revenue bonds shall
23 be used to fund projects of the Hatfield-McCoy regional recreation
24 authority. Each issuance of such revenue bonds and the application

1 of the proceeds thereof shall be subject to each condition,
2 restriction or other provision of this article applicable to the
3 issuance of parkway revenue bonds. ~~In the event the agreement is
4 not certified as required by this subsection, and until the same is
5 certified, the parkways authority shall pay \$250,000 to the
6 Hatfield-McCoy regional recreation authority in the fiscal year
7 ending June 30, 2000, and in each fiscal year thereafter, for a
8 total of nine consecutive years, for the purpose of funding
9 projects of the Hatfield-McCoy regional recreation authority. These
10 amounts shall be paid in quarterly installments from remaining
11 balances in each fiscal year of revenues received from economic
12 development projects and tourism projects as determined in the
13 manner provided in paragraph (A) of this subdivision.~~

14 (3) Beginning on July 1, 2014, and continuing each year after
15 that, the parkways authority shall transfer one half of one per
16 cent of the gross revenues it receives from operating the highway
17 formerly known as the West Virginia Turnpike to the county
18 commissions of those counties where the highway is located. Those
19 counties are Kanawha, Fayette, Raleigh and Mercer.

20 (b) The parkways authority shall cause, as soon as it is
21 legally able to do so, all contracts to which it is a party and
22 which relate to the operation, maintenance or use of any
23 restaurant, motel or other lodging facility, truck and automobile
24 service facility, food vending facility or any other service

1 facility located along the West Virginia turnpike, to be renewed on
2 a competitive bid basis. All contracts relating to any facility or
3 services entered into by the parkways authority with a private
4 party with respect to any project constructed after the effective
5 date of this legislation shall be let on a competitive bid basis
6 only. If the parkways authority receives a proposal for the
7 development of a project, ~~such~~ the proposal shall be made available
8 to the public in a convenient location in the county ~~wherein~~ where
9 the proposed facility may be located. The parkways authority shall
10 publish a notice of the proposal by a Class I legal advertisement
11 in accordance with the provisions of article three, chapter fifty-
12 nine of this code. The publication area ~~shall be~~ is the county in
13 which the proposed facility would be located. Any citizen may
14 communicate by writing to the parkways authority his or her
15 opposition to or approval to ~~such~~ the proposal within a period of
16 time not less than forty-five days from the publication of the
17 notice. No contract for the development of a project may be entered
18 into by the parkways authority until a public hearing is held in
19 the vicinity of the location of the proposed project with at least
20 twenty days' notice of ~~such~~ the hearing by a Class I publication
21 pursuant to section two of ~~said~~ that article. The parkways
22 authority shall make written findings of fact prior to rendering a
23 decision on any proposed project. All studies, records, documents
24 and other materials which are considered by the parkways authority

1 in making ~~such~~ the findings shall be made available for public
2 inspection at the time of the publication of the notice of public
3 hearing and at a convenient location in the county where the
4 proposed project may be located. The parkways authority shall
5 promulgate rules in accordance with chapter twenty-nine-a of this
6 code for the conduct of any hearing required by this section.
7 Persons attending ~~any such~~ a hearing shall be afforded a reasonable
8 opportunity to speak and be heard on the proposed project.

NOTE: The purpose of this bill is to require the West Virginia Parkways, Economic Development and Tourism Authority to transfer one half of one per cent of the gross revenues it receives from operating the highway formerly known as the West Virginia Turnpike to the county commissions where the highway is located. The bill identifies those counties as Kanawha, Fayette, Raleigh and Mercer. The bill also removes obsolete language.

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