

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 150

BY SENATOR MAYNARD

[Passed February 22, 2016; in effect from passage.]

1 AN ACT to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as
2 amended, relating generally to the promulgation of administrative rules by the Department
3 of Transportation; authorizing certain of the agencies to promulgate certain legislative
4 rules with various modifications presented to and recommended by the Legislative Rule-
5 Making Review Committee; authorizing the Office of Administrative Hearings to
6 promulgate a legislative rule relating to appeal procedures; authorizing the Division of
7 Highways to promulgate a legislative rule relating to the state transportation infrastructure
8 fund program; and authorizing the Division of Public Transit to promulgate a legislative
9 rule relating to rail-fixed guideway systems state safety oversight.

Be it enacted by the Legislature of West Virginia:

1 That article 8, chapter 64 of the Code of West Virginia, 1931, as amended, be amended
2 and reenacted to read as follows:

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO
PROMULGATE LEGISLATIVE RULES.**

§64-8-1. Office of Administrative Hearings.

1 The legislative rule filed in the State Register on July 31, 2015, authorized under the
2 authority of section four-a, article five-c, chapter seventeen-c of this code, modified by the Office
3 of Administrative Hearings to meet the objections of the Legislative Rule-Making Review
4 Committee and refiled in the State Register on November 5, 2015, relating to the Office of
5 Administrative Hearings (appeal procedures, 105 CSR 1), is authorized with the following
6 amendments:

7 On page 16, subsection 18.1, by striking the last sentence.

8 On page 16, subsection 18.5, by striking the remainder of the paragraph after the words
9 "subsection 3 of this section."

§64-8-2. Division of Highways.

1 The legislative rule filed in the State Register on July 31, 2015, authorized under the
2 authority of section five, article seventeen-b, chapter seventeen of this code, modified by the

3 Division of Highways to meet the objections of the Legislative Rule-Making Review Committee
4 and refiled in the State Register on September 30, 2015, relating to the Division of Highways
5 (state transportation infrastructure fund program, 157 CSR 11), is authorized with the following
6 amendments:

7 On page one, subsection 2.1, following the words “Board’ means the”, by striking out the
8 words “board of directors of the fund” and inserting in lieu thereof the words “State Transportation
9 Infrastructure Fund Advisory Board”;

10 On page three, subsection 3.1, line one, by striking out the words “A Board is hereby
11 created” and inserting in lieu thereof the words “The State Transportation Infrastructure Fund
12 Advisory Board is hereby created”;

13 And,

14 On page three, following subsection 3.3, by striking out all of subsection four and inserting
15 in lieu thereof the following:

“157-11-4. Powers and Duties of the Commissioner.

1 4.1 The Commissioner, in consultation with the Board, shall adopt policies and procedures
2 consistent with W.Va. Code §17-17B-1 *et seq.*, for the administration of the fund’s affairs and the
3 implementation of the fund’s functions, including, but not limited to, the identification and selection
4 of eligible borrowers, eligible costs, and eligible projects as well as the determination of the
5 amount of initial assistance and the manner in which the fund shall be capitalized.

6 4.2 The Commissioner shall have the following powers:

7 4.2.a. Make loans to eligible borrowers to finance the eligible costs of eligible projects and
8 to acquire, hold, and subordinate loan obligations in a manner as the Board determines advisable;

9 4.2.b. Provide eligible borrowers with other financial assistance necessary to defray
10 eligible costs of an eligible project;

11 4.2.c. Enter into contracts, arrangements, and agreements with eligible borrowers and
12 other persons and execute and deliver all financing agreements and other instruments necessary
13 or convenient to the exercise of the powers granted by W.Va. Code §17-17B-1 *et seq.*;

14 4.2.d. Enter into agreements with a government unit, private entity, department, agency,
15 or instrumentality of the United States or of this State or another state for the purpose of planning
16 and providing for the financing of eligible projects;

17 4.2.e. Establish policies and procedures for the making and administering of loans and
18 other financial assistance and fiscal controls and accounting procedures to ensure proper
19 accounting and reporting of the fund, government units, eligible borrowers, and private entities;

20 4.2.f. Collect or authorize the trustee under any trust indenture securing any bonds to
21 collect amounts due under any loan obligations owned by it, including taking the action required
22 to obtain payment of any sums in default;

23 4.2.g. Consent to any modification with respect to the rate of interest, time, and payment
24 of any installment of principal or interest, or any other term of any loan obligations owned by it;

25 4.2.h. Expend funds to obtain accounting, management, legal, financial consulting, and
26 other professional services necessary to the operations of the fund;

27 4.2.i. Expend funds credited to the fund as the Board determines necessary for the costs
28 of administering the operations of the fund;

29 4.2.j. Procure insurance against losses in connection with its property, assets, or activities
30 including insurance against liability for its acts or the acts of its employees or agents or to establish
31 cash reserves to enable it to act as a self-insurer against any and all such losses;

32 4.2.k. Collect fees and charges in connection with its loans or other financial assistance;

33 4.2.l. Apply for, receive and accept from any source, aid, grants, and contributions of
34 money, property, labor, or other things of value to be used to carry out the purposes of the fund;

35 4.2.m. Enter into contracts or agreements for the servicing and processing of financial
36 agreements;

37 4.2.n. Enter into loan obligations and loans that may be secured or unsecured;

38 4.2.o. Accept notes and other forms of obligation to evidence any indebtedness as well as
39 mortgages, liens, pledges, assignments or other security interests to secure such indebtedness;

40 4.2.p. Take all actions that are appropriate to protect security interests, ensure repayment
41 of any indebtedness, and safeguard against losses of the fund, including, but not limited to,
42 initiating foreclosures, default proceedings, and all other forms of redress, whether legal or
43 equitable in nature;

44 4.2.q. Determine future capital needs of the fund. The future capital needs of the fund may
45 be determined each year based on an actuarial valuation that reflects, among other things,
46 anticipated revenues, project revenues, amounts in federal accounts and state accounts, fund
47 costs, loan defaults and related risk exposure to the extent such valuation is consistent with the
48 Actuarial Standards of Practice published by the Actuarial Standards Board.

49 4.2.r. Do all other things necessary or convenient to exercise powers granted or
50 reasonably implied by W.Va. Code §17-17B-1 *et seq.*”

§64-8-3. Division of Public Transit.

1 The legislative rule filed in the State Register on July 31, 2015, authorized under the
2 authority of section three, article sixteen-e, chapter seventeen of this code, modified by the
3 Division of Public Transit to meet the objections of the Legislative Rule-Making Review Committee
4 and refiled in the State Register on September 30, 2015, relating to the Division of Public Transit
5 (rail fixed guideway systems state safety oversight, 225 CSR 1), is authorized with the following
6 amendment:

7 On page 6, subsection 7.4, by striking the words “Todd Dorcas” and the comma.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2016.

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Governor