

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### Senate Bill 440

FISCAL  
NOTE

BY SENATOR MAYNARD

[Introduced February 24, 2021; referred  
to the Committee on Transportation and  
Infrastructure; and then to the Committee on Finance]

1 A BILL to amend and reenact §17-2A-8 of the Code of West Virginia, 1931, as amended, relating  
 2 to requiring the Commissioner of Highways to post online any petition, notice, order,  
 3 decision, or other record related to the abandonment or discontinuance of any state  
 4 highway or road, or any part thereof; and providing that any member of the public shall be  
 5 allowed to participate in or attend a hearing relating to the abandonment or discontinuance  
 6 of any state highway or road by virtual means.

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

**ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

**§17-2A-8. Powers, duties and responsibilities of commissioner.**

1 In addition to all other duties, powers and responsibilities given and assigned to the  
 2 commissioner in this chapter, the commissioner may:

3 (1) Exercise general supervision over the state road program and the construction,  
 4 reconstruction, repair and maintenance of state roads and highways: *Provided*, That the  
 5 commissioner shall implement reasonable design techniques intended to minimize damage that  
 6 may result from recurring floods within the purpose and need of the state road system;

7 (2) Determine the various methods of road construction best adapted to the various  
 8 sections and areas of the state and establish standards for the construction and maintenance of  
 9 roads and highways in the various sections and areas of the state;

10 (3) Conduct investigations and experiments, hold hearings and public meetings and attend  
 11 and participate in meetings and conferences within and without the state for purposes of acquiring  
 12 information, making findings and determining courses of action and procedure relative to  
 13 advancement and improvement of the state road and highway system;

14 (4) Enter private lands to make inspections and surveys for road and highway purposes;

15 (5) Acquire, in name of the department, by lease, grant, right of eminent domain or other  
 16 lawful means all lands and interests and rights in lands necessary and required for roads, rights-  
 17 of-way, cuts, fills, drains, storage for equipment and materials and road construction and

18 maintenance in general;

19 (6) Procure photostatic copies of any or all public records on file at the State Capitol of  
20 Virginia which may be considered necessary or proper in ascertaining the location and legal status  
21 of public road rights-of-way located or established in what is now the State of West Virginia, which  
22 when certified by the commissioner, may be admitted in evidence, in lieu of the original, in any of  
23 the courts of this state;

24 (7) Plan for and hold annually a school of good roads, of not less than three or more than  
25 six days' duration, for instruction of his or her employees, which is held in conjunction with West  
26 Virginia University and may be held at the university or at any other suitable place in the state;

27 (8) Negotiate and enter in reciprocal contracts and agreements with proper authorities of  
28 other states and of the United States relating to and regulating the use of roads and highways  
29 with reference to weights and types of vehicles, registration of vehicles and licensing of operators,  
30 military and emergency movements of personnel and supplies and all other matters of interstate  
31 or national interest;

32 (9) Classify and reclassify, locate and relocate, expressway, trunkline, feeder and state  
33 local service roads and designate by number the routes within the state road system;

34 (10) Create, extend or establish, upon petition of any interested party or parties or on the  
35 commissioner's own initiative, any new road or highway found necessary and proper;

36 (11) Exercise jurisdiction, control, supervision and authority over local roads, outside the  
37 state road system, to the extent determined by him or her to be expedient and practicable;

38 (12) Discontinue, vacate and close any road or highway, or any part of any road or  
39 highway, the continuance and maintenance of which are found unnecessary and improper, upon  
40 petition and hearing or upon investigation initiated by the commissioner: Provided, That any  
41 petition, motion, notice, decision, order and action taken related to the abandonment and  
42 discontinuance of any road or highway, or any part thereof, shall be publicly posted by the  
43 commissioner, Division of Highways and/or the highways program planning and administration

44 division on the state website for the Division of Highways: *Provided, however,* That any member  
45 of the public who wishes to participate in or attend any hearing related to the abandonment and  
46 discontinuance of any road or highway, as provided in section 3 of the Regulations Pertaining to  
47 Particular Functions of the Commissioner of Highways, 157 CSR 1, shall be allowed to participate  
48 in or attend by a virtual platform including, but not limited to, Zoom, Microsoft Teams, or Skype;

49 (13) Close any state road while under construction or repair and provide a temporary road  
50 during the time of the construction or repair;

51 (14) Adjust damages occasioned by construction, reconstruction or repair of any state  
52 road or the establishment of any temporary road;

53 (15) Establish and maintain a uniform system of road signs and markers;

54 (16) Fix standard widths for road rights-of-way, bridges and approaches to bridges and fix  
55 and determine grades and elevations therefor;

56 (17) Test and standardize materials used in road construction and maintenance, either by  
57 governmental testing and standardization activities or through contract by private agencies;

58 (18) Allocate the cost of retaining walls and drainage projects, for the protection of a state  
59 road or its right-of-way, to the cost of construction, reconstruction, improvement or maintenance;

60 (19) Acquire, establish, construct, maintain and operate, in the name of the department,  
61 roadside recreational areas along and adjacent to state roads and highways;

62 (20) Exercise general supervision over the construction and maintenance of airports and  
63 landing fields under the jurisdiction of the West Virginia State Aeronautics Commission, of which  
64 the commissioner is a member, and make a study and general plan of a statewide system of  
65 airports and landing fields;

66 (21) Provide traffic engineering services to municipalities of the state upon request of the  
67 governing body of any municipality and upon terms that are agreeably arranged;

68 (22) Institute complaints before the Public Service Commission or any other appropriate  
69 governmental agency relating to freight rates, car service and movement of road materials and

70 equipment;

71 (23) Invoke any appropriate legal or equitable remedies, subject to section seven of this  
72 article, to enforce his or her orders, to compel compliance with requirements of law and to protect  
73 and preserve the state road and highway system or any part of the system;

74 (24) Make and promulgate rules for the government and conduct of personnel, for the  
75 orderly and efficient administration and supervision of the state road program and for the effective  
76 and expeditious performance and discharge of the duties and responsibilities placed upon him or  
77 her by law;

78 (25) Delegate powers and duties to his or her appointees and employees who shall act by  
79 and under his or her direction and be responsible to him or her for their acts;

80 (26) Designate and define any construction and maintenance districts within the state road  
81 system that is found expedient and practicable;

82 (27) Contract for the construction, improvement and maintenance of the roads;

83 (28) Comply with provisions of present and future federal aid statutes and regulations,  
84 including execution of contracts or agreements with and cooperation in programs of the United  
85 States government and any proper department, bureau or agency of the United States  
86 government relating to plans, surveys, construction, reconstruction, improvement and  
87 maintenance of state roads and highways;

88 (29) Prepare budget estimates and requests;

89 (30) Establish a system of accounting covering and including all fiscal and financial  
90 matters of the department;

91 (31) Establish and advance a right-of-way Acquisition Revolving Fund, a Materials  
92 Revolving Fund and an Equipment Revolving Fund;

93 (32) Enter into contracts and agreements with and cooperate in programs of counties,  
94 municipalities and other governmental agencies and subdivisions of the state relating to plans,  
95 surveys, construction, reconstruction, improvement, maintenance and supervision of highways,

96 roads, streets and other travel ways when and to the extent determined by the department to be  
97 expedient and practical;

98 (33) Report, as provided by law, to the Governor and the Legislature;

99 (34) Purchase materials, supplies and equipment required for the state road program and  
100 system;

101 (35) Dispose of all obsolete and unusable and surplus supplies and materials which  
102 cannot be used advantageously and beneficially by the department in the state road program by  
103 transfer of the supplies and materials to other governmental agencies and institutions by  
104 exchange, trade or sale of the supplies and materials;

105 (36) Investigate road conditions, official conduct of department personnel and fiscal and  
106 financial affairs of the department and hold hearings and make findings thereon or on any other  
107 matters within the jurisdiction of the department;

108 (37) Establish road policies and administrative practices;

109 (38) Fix and revise from time to time tolls for transit over highway projects constructed by  
110 the Division of Highways after May 1, 1999, that have been authorized by the provisions of §17-  
111 17A-5b of this chapter;

112 (39) Take actions necessary to alleviate any conditions as the Governor may declare to  
113 constitute an emergency, whether or not the emergency condition affects areas normally under  
114 the jurisdiction of the Division of Highways; and

115 (40) Provide family restrooms at all rest areas along interstate highways in this state, all  
116 to be constructed in accordance with federal law.

NOTE: The purpose of this bill is to require the Commissioner of Highways to post online at the Division of Highways website any petition, notice, order, decision, or other record related to the abandonment or discontinuance of any state highway or road, or any part thereof; and to allow any member of the public to participate in or attend any hearing related to the abandonment or discontinuance of any state highway or road by virtual means.

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