

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 440

BY SENATOR MAYNARD

[Originating in the Committee on Transportation and
Infrastructure; reported on March 17, 2021]

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 the Division of Highways to post online certain records
3 related to the discontinuance, vacating, or closing of any road or highway or part thereof;
4 and requiring the Division of Highways to make virtual participation available to any person
5 interested in participating in or attending any hearing related to such discontinuance,
6 vacating, or closing.

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
11 attend and participate in meetings and conferences within and without the state for purposes of
12 acquiring information, making findings, and determining courses of action and procedure relative
13 to 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 the name of the ~~department~~ division, by lease, grant, right of eminent
16 domain, or other lawful means all lands and interests and rights in lands necessary and required
17 for roads, rights-of-way, cuts, fills, drains, storage for equipment and materials, and road

18 construction and 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. Any petition, motion,
41 notice, decision, and order related to the discontinuance, vacating, or closing of any road or
42 highway or part thereof shall be posted by the commissioner on the division's website available
43 for review by the public. The division shall make virtual participation available to any person

44 interested in participating in or attending any hearing related to such discontinuance, vacating, or
45 closing;

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

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

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

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

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

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

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

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

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

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

68 (23) Invoke any appropriate legal or equitable remedies, subject to §17-2A-7 of this code,
69 to enforce his or her orders, to compel compliance with requirements of law, and to protect and

70 preserve the state road and highway system or any part of the system;

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

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

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

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

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

85 (29) Prepare budget estimates and requests;

86 (30) Establish a system of accounting covering and including all fiscal and financial
87 matters of the ~~department~~ division;

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

90 (32) Enter into contracts and agreements with and cooperate in programs of counties,
91 municipalities, and other governmental agencies and subdivisions of the state relating to plans,
92 surveys, construction, reconstruction, improvement, maintenance, and supervision of highways,
93 roads, streets, and other travel ways when and to the extent determined by the ~~department~~
94 division to be expedient and practical;

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

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

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

102 (36) Investigate road conditions, official conduct of ~~department~~ division personnel, and
103 fiscal and financial affairs of the ~~department~~ division and hold hearings and make findings thereon
104 or on any other matters within the jurisdiction of the ~~department~~ division;

105 (37) Establish road policies and administrative practices;

106 (38) Fix and revise from time to time tolls for transit over highway projects constructed by
107 the Division of Highways after May 1, 1999, that have been authorized by the provisions of §17-
108 17A-5b of this ~~chapter~~ code;

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

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

NOTE: The purpose of this bill is to require the Commissioner of Highways to post online on the Division of Highways' website certain records 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.