

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2703

By Delegates Funkhouser, Ridenour, and Hornby

[Introduced February 20, 2025; referred to the
Committee on Energy and Public Works then
Finance]

1 A BILL to amend and reenact §17-3-6a of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding a new article designated §17-31-1, §17-31-2, §17-31-3, §17-
3 31-4, and §17-31-5; relating to the Division of Highways; requiring the state road
4 commissioner to set aside 20 percent of the state road fund to be used to reimburse
5 counties for funds they have expended by way of local revenue sources assessed for the
6 construction, reconstruction, and maintenance of feeder and state local roads; prescribing
7 the manner in which said funds are to be distributed; providing annual meetings open to
8 the public; requiring the Commissioner of Highways to develop a formula for allocating
9 road funds among districts for the benefit of the counties; making legislative findings;
10 requiring the commissioner to solicit and consider public comments; requiring the
11 commissioner to include certain factors in the formula; and requiring the commissioner to
12 submit the formula to the Legislature for approval as a legislative rule.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. STATE ROAD FUND.

§17-3-6a. Allotment of funds for feeder and state local service roads.

1 (a) On or before January 1, of each year the state road commissioner shall ascertain and
2 determine the total amount of available funds for expenditure in the whole state for the
3 construction, reconstruction and maintenance of feeder and state local service roads during such
4 annual period. Of the amount so ascertained, the commissioner:

5 (1) Shall set aside 20 percent to be distributed to counties, upon application, for any funds
6 said counties incurred and expended in the previous year by way of local revenue sources
7 assessed for the purpose of constructing, reconstructing, repairing, or maintaining any public road
8 systems or rights-of-way within said counties as provided for by §7-20-1, et seq. The distributions
9 shall be made as follows:

10 (A) Counties seeking reimbursement under this section shall submit an application to the
11 commissioner, in a form to be determined by the commissioner, by March 1 of the year

12 immediately following the year for which reimbursement is sought;

13 (B) If the commissioner determines that the sum total of funds requested by counties is
14 equal to or less than the amount the commissioner set aside as required by this section, then the
15 commissioner shall distribute said funds to the requesting counties on a matching basis, and any
16 remaining funds shall be returned to the State Road Fund to be distributed in accordance with
17 subsection (b);

18 (C) If the commissioner determines that the sum total of funds requested by counties
19 exceeds the amount the commissioner set aside as required by this section, then the
20 commissioner shall distribute said funds to the requesting counties on a pro rata basis.

21 (2) may ~~May~~ set aside as a reserve fund not to exceed ~~twenty~~ 20 percent thereof, to be
22 used and expended by ~~him~~ the commissioner in his or her discretion in such manner as will best
23 serve the interests of the state and the convenience of its inhabitants.

24 ~~(b) The remaining eighty percent, or, if such reserve fund is not set aside~~ Following the
25 distributions required by subsection (a)(1) and permitted by subsection (a)(2), if any, then all the
26 remaining funds shall be appropriated in the following order and preference:

27 (1) Maintenance funds. -- To be allocated to the various counties on the basis of the
28 mileage of various types or road surfaces:

29 (a) Paved surfaces of all types, such as, brick, cement, concrete, bituminous, etc.

30 (b) Traffic-bound surfaces, such as, slag, crushed stone, gravel, chert, red dog, shale, etc.

31 (c) Unimproved earth roads; by applying certain weights or percentages, based on past
32 experience, to the various types of road surfaces.

33 (2) Construction and reconstruction. -- To be allocated to the various counties on the basis
34 of the ratio of the unimproved mileage of feeder and state local service roads in the county to the
35 total unimproved mileage of feeder and state local service roads in the state.

36 (c) For the purposes of this section, the words "unimproved mileage" are defined and shall
37 be construed to mean roads which are not passable for all-weather travel by motor vehicle.

(d) All moneys received from the federal government for road construction or reconstruction shall be expended as provided, or as may hereafter be provided by act of Congress.

(e) Each district of the Division of Highways shall conduct an annual meeting that is open to the public to discuss proposals and shall allow interested persons to appear and present oral or written statements at the meeting.

ARTICLE 31. ALLOCATION OF FUNDS.

17-31-1. Findings.

The Legislature finds that:

(1) According to an independent audit report submitted to the Joint Committee on Government and Finance on January 10, 2016, the West Virginia Division of Highways currently has no formula in place to allocate and distribute road funds among districts and counties. The audit report recommended that in order to more effectively distribute funds, the division should create a framework to allocate and distribute road funds to each of the districts and county organizations; that a baseline maintenance capital plan should be reexamined and revised periodically; and that metrics for the allocation process should be transparent.

(2) A transparent process to develop an official formula for allocating road funds among districts in the state is crucial to ensure that funds are distributed in an effective and efficient manner, based on the needs of the counties within the districts.

§17-31-2. Definitions.

For the purposes of this article:

"Commissioner" means the West Virginia Commissioner of Highways.

"District" means one of the ten road maintenance districts established by the West Virginia Division of Highways.

"Heavy truck" means an on-road vehicle with a gross vehicle weight rating of 50,000 pounds or more.

7 "Road funds" means federal or state funds appropriated or otherwise available to the West
8 Virginia Division of Highways for the purpose of:

9 (1) New construction;

10 (2) Maintenance; or

11 (3) New capacity improvements.

§17-31-3. Formula for allocation of funds.

1 (a) Prior to the beginning of the regular legislative session in 2026, the commissioner must
2 develop and propose a formula for the effective and efficient allocation of state and federal road
3 funds among the districts and counties in this state, to be promulgated as a legislative rule.

4 (b) The commissioner must include the following factors in the formula developed pursuant
5 to this section:

6 (1) The population served in each county according to the most recent United States
7 Census;

8 (2) The amount of population growth in each county according to the most recent United
9 States Census projection;

10 (3) The number of total lane miles in a county;

11 (4) The approximate number of vehicle miles travelled within a county;

12 (5) The approximate number of heavy truck miles travelled within a county; and

13 (6) The number of bridges in a county and their condition.

14 (c) Before developing the formula required by this section, the commissioner must review
15 and consider all public comments submitted to the commissioner pursuant to §17-30-4 of this
16 code.

§17-31-4. Public comment period.

1 (a) On or before October 1, 2026, the commissioner must develop and implement a
2 mechanism to proactively seek public comments and recommendations regarding the division's
3 current allocation of road funds.

4 (b) In developing and implementing a mechanism to seek public comments, the
5 commissioner must, at a minimum:

6 (1) Use multimedia resources to publicize the public comment period;

7 (2) Allow a period of six weeks for members of the public to submit comments to the
8 commissioner through written and electronic forms of communication; and

9 (3) Make all public comments received by the commissioner available for the public to view
10 on the department's website.

11 (c) The commissioner must issue targeted communications to the following entities to
12 encourage representatives of those entities to participate in the public comment period required by
13 this subsection:

14 (1) Division of Highways district offices;

15 (2) County commissions; and

16 (3) Metropolitan planning organizations.

§17-31-5. Legislative rule.

1 (a) During the regular legislative session of 2026, the commissioner must submit the
2 formula developed pursuant to this section to the Legislature for approval as a legislative rule, in
3 accordance with the requirements of §29A-3-1 et seq. of this code.

4 (b) The legislative rule promulgated pursuant to this article must allow districts to exercise
5 discretion over how to distribute funds among counties within the district over a period of five
6 years: Provided, That at the end of the five year period, all counties within the district must have
7 received the funds apportioned to them by the formula developed pursuant to this article.

8 (c) The proposed legislative rule shall provide that no district receive less funding than had
9 been received in highest of the previous five fiscal years unless the overall state budget for the
10 Division of Highways has been reduced.

NOTE: The purpose of this bill is to incentivize counties to utilize local revenue sources for

the purpose of construction, reconstruction, and maintaining roads and rights-of-way within said counties by requiring the state road commissioner to set aside 20 percent of the state road fund for the purpose of reimbursing said counties on a matching basis and to require the Commissioner of Highways to develop a formula for allocating road funds among districts, for the benefit of the counties; to make legislative findings; to require the commissioner to solicit and consider public comments; to require the commissioner to consider certain factors when developing the formula; and to require the commissioner to submit the formula to the Legislature for approval as a legislative rule.

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