

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 407**

**FISCAL  
NOTE**

By Senator Rucker

[Introduced January 15, 2026; referred  
to the Committee on Transportation and  
Infrastructure; and then to the Committee on Finance]

1 A BILL to amend and reenact §17-2C-1, §17-2C-2, and §17-2C-3 of the Code of West Virginia,  
2 1931, as amended; and to repeal §17-2C-4, §17-2C-5, and §17-2C-6, relating to the  
3 Orphan Road and Bridge Improvement Program; providing definitions; setting the process  
4 for upgrading orphaned roads, road maintenance agreements, inspections, and  
5 acceptance by the West Virginia Division of Highways of an upgraded road; and permitting  
6 rulemaking.

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

**ARTICLE 2C. ORPHAN ROAD AND BRIDGE ACQUISITION IMPROVEMENT  
PROGRAM.**

**§17-2C-1. Establishment of an orphan road and bridge acquisition and maintenance  
program in all counties; criteria for designation as an orphan road or bridge**  
**Definitions.**

1 Authority is hereby granted to the West Virginia Division of Highways to establish a  
2 program to acquire and maintain roads and bridges which meet the following three criteria: (1) Are  
3 in existence as of January 1, 1998; (2) are roads or bridges which the public has a right to use; and  
4 (3) are roads or bridges not maintained by any governmental agency. These roads and bridges are  
5 herein designated as orphan roads and bridges.

6 The Legislature hereby finds and declares it to be important for the economic and social  
7 development of the state that a program for the identification, acquisition and maintenance of  
8 orphan roads and bridges be undertaken by the state. In particular, the Legislature finds and  
9 declares that basic maintenance should be performed on orphan roads and bridges to promote the  
10 well-being of the public.

11 For the purposes of this section:

12 "Division" means the West Virginia Department of Transportation, Division of Highways.

13 "Homeowners' association" or "HOA" means a homeowners' association as defined in

14 Section 528 of the Internal Revenue Code of 1986, as amended. The term "homeowners'  
15 association" also includes any unit owners' association organized under §36B-3-101 of this code.

16 "Orphan road" means a road or street that:

17 (1) Is open to public travel;

18 (2) Is not maintained by the Division of Highways, a county, or municipality; and

19 (3) Lacks a responsible private owner or developer obligated to provide maintenance.

20 "Road maintenance agreement" means an agreement made between several interested  
21 parties which covenants that said parties will pay a proportionate share of the cost of repairs and  
22 maintenance of a roadway.

**§17-2C-2. Development of program; acquisition of rights-of-way Authorization to upgrade**  
**orphan roads; road maintenance agreements; inspections; acceptance of road.**

1 The West Virginia Division of Highways shall develop an orphan roads and bridges  
2 identification, acquisition and maintenance program which shall include all counties. At the  
3 discretion of the commissioner of the Division of Highways, existing and temporary employees of  
4 the division shall be assigned to locate and designate each orphan road and bridge in each county.  
5 These employees shall give to the commissioner of highways, in a form proscribed by him or her, a  
6 detailed report on acquisition, status of rights-of-way, and needed maintenance for orphan roads  
7 and bridges in each county or highway district. Specific contents of each report shall be  
8 designated by the commissioner.

9 In order for a road or bridge to qualify for inclusion into the state system, all necessary  
10 rights-of-way shall be either dedicated or donated to the Division of Highways.

11 In the event that all property owners do not agree to dedicate or donate the necessary  
12 rights-of-way, then any individual, group, business or governmental entity can donate to the state  
13 road fund a sum sufficient to cover the expense of acquiring the right-of-way that has not been  
14 dedicated or donated. The commissioner may also use any moneys donated to the state road fund  
15 specifically for the purposes of acquiring a right-of-way which has not been dedicated or donated.

16        (a) Authorization to upgrade orphan roads. A homeowners' association or similar entity  
17    may, at its own expense, upgrade an orphan road for the purpose of qualifying the road for  
18    acceptance into the state road system, provided that:

19        (1) The upgrade is performed pursuant to a road maintenance agreement approved in  
20    advance by the division; and

21        (2) All work complies with engineering, safety, drainage, right-of-way, and construction  
22    standards established by the division.

23        (b) Road Maintenance Agreement required. Prior to commencement of any work, the  
24    homeowners' association shall enter into a road maintenance agreement with the division, which  
25    shall include, at a minimum:

26        (1) Applicable construction and design standards;  
27        (2) Inspection and certification requirements;  
28        (3) Completion timelines;  
29        (4) Proof of legal access and right-of-way sufficient for public maintenance; and  
30        (5) Any bonding, insurance, or financial assurances deemed reasonably necessary by the  
31    Division.

32        (c) Inspection and certification. Upon completion of the upgrade, the division shall inspect  
33    the road. If the division determines that the road meets all applicable standards under the road  
34    maintenance agreement, the division shall issue a written certification of compliance.

35        (d) Acceptance into state maintenance. Upon certification of compliance under subsection  
36    (c) of this section:

37        (1) The division shall accept the road into the state road system; and  
38        (2) The division shall thereafter maintain the road at the level to which it was upgraded,  
39    subject to the same maintenance policies applicable to similarly classified state-maintained roads.

40        (e) No retroactive obligation. Nothing in this section shall be construed to require the  
41    division to assume maintenance responsibility for any road unless and until the road has been

42 upgraded and certified in accordance with this section.

**§17-2C-3. Duties of commissioner with respect to orphan roads and bridges; criteria for inclusion Rulemaking.**

1 After reviewing the reports made to section two of this article, the commissioner will  
2 determine whether a specific road or bridge should be added to the state maintenance system.  
3 The commissioner shall consider the following criteria in reaching his or her determination: (1) The  
4 availability of resources for maintaining the road or bridge; (2) the number of persons served by  
5 the road or bridge; (3) the current and anticipated use of the road or bridge; (4) the condition of the  
6 road or bridge; (5) the availability and suitability of alternate routes; (6) the suitability for  
7 maintenance equipment to access and maintain the road or bridge; (7) the existing design and  
8 layout of the road or bridge; and (8) the number of roads and bridges accepted into the  
9 maintenance system.

10 The division may propose rules for legislative approval in accordance with the provisions of  
11 §29A-3-1 et seq. of this code to implement this article.

**§17-2C-4. Workforce of welfare recipients and citizens' conservation corps participants; division of highways required to furnish maintenance materials.**

1 [Repealed.]

**§17-2C-5. Upgrading of roads and bridges in maintenance system.**

1 [Repealed.]

**§17-2C-6. Termination of orphan roads and bridges program; report to the Legislature.**

1 [Repealed.]

NOTE: The purpose of this bill is to allow orphan roads to be upgraded and then the upgraded road is maintained by the Division of Highways.

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