



Legislative bulletin

Contractors Association of West Virginia

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Introduced this week are a few bills dealing with bonding for roads and other infrastructure projects, along with legislative rule bills. Every regulation or policy developed by agencies that affect the public must go before the Legislative Rule-Making Review Committee. Members of the committee must determine whether a state agency has exceeded the scope of its statutory authority, whether the proposed rule conforms to legislative intent and whether it conflicts with state code or another rule. The committee also looks to see if the proposed rule is necessary, reasonable or could be made less complex.

Any individual or group affected by a rule has an opportunity for comment before the Rule-Review Committee. Legislators can accept an agency's proposal or modify it. The CAWV often comments on rules that are submitted. Some of the rules introduced this week that affect construction include: Air quality standards for new stationary sources, air quality permits for construction, WVDEP's National Pollutant Discharge Elimination System (NPDES), state fire code and state building code. Many times the CAWV is agreement with an agency's proposed rule and sometimes the association seeks an amendment. Very seldom does the CAWV completely oppose a proposed rule. A list of rules offered this week are below.

DOT SECRETARY APPEARS BEFORE SENATE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

WVDOT Secretary Paul Mattox this week made a presentation to the Senate Transportation and Infrastructure Committee. He outlined proposed legislation that Gov. Manchin is expected to introduce soon that would expand the powers of the state Parkways Authority to operate additional toll roads in the state. The secretary told Transportation Committee members he's hopeful the legislation will allow the authority to sell bonds to complete the final 14.6 mile section of the U.S. 35 upgrade. "It is our hope that we will have legislation that will allow us to look at U.S. 35 and complete it as a toll road," he said. Mattox said U.S. 35 is one of only two other highway projects in the state that are projected to produce enough traffic to justify operating them as toll roads. The other is U.S. 522 in Morgan County in the Eastern Panhandle. As CAWV members know, the DOH recently received Request for Qualifications (RFQ) from firms seeking to finance and build the remaining section of U.S. 35. The project is on hold while it's determined whether it can be administered through the WV Public Port Authority instead of the WV Division of Highways. Attached to this week's Legislative Bulletin is an article from the Beckley Register Herald titled, "Manchin asks for expansion of Parkways for future tolls" which contains additional information about the proposal.

The Secretary told committee members that the DOH revenues remain stagnant and that additional funding will be necessary to maintain the current 36-year paving cycle as well as to continue to build new highway projects. He said the administration is considering raising license and registration fees that haven't been increased since the 1970s. "In 1996 the DOH spent \$116.7 million paving 1,371 miles of secondary roads. Due to increases in construction materials, the DOH spent \$160 million last year to pave 613 miles," he noted. It is not clear whether Gov. Manchin will introduce a bill to raise registration fees or whether the DOH will have to find sponsors for the bill.

SENATOR UNGER TO INTRODUCE HIGHWAY FINANCING LEGISLATION

Sen. John Unger, D-Berkeley, chairman of the Senate Transportation and Infrastructure Committee, is sponsoring legislation to provide funding options for highway and transportation projects.

The Community Empowerment Transportation Act (CETA) would allow county commissions to impose user fees to construct and maintain roads, so long as voters approve it. It also allows counties to issue revenue and general obligation bonds for transportation projects. Sen. Unger has pushed the proposal for a number of years to provide additional funding for highway projects. The bill is the result of a nearly year-long debate of how to provide additional revenue for highway and bridge construction projects. “We are seeing a decline in a traditional highway user fees, particularly gas taxes,” Chairman Unger has often commented. “We must start looking at broadening the state’s ability to generate funds from non-conventional sources. This bill gives the tools, but doesn’t mandate, to local communities to help fund projects in their areas.” The bill was passed out of the Select Committee on Infrastructure in the January interim meetings. It is expected to be introduced soon.

Another bill was passed out of the Infrastructure committee which would establish the West Virginia Transportation Finance Commission to provide loans and other financial assistance to government units for transportation infrastructure. The commission is patterned after the WV Infrastructure Council in that it can provide loans to governmental entities at low interest rates. The entities would pay back their loan, making additional money available for projects. This bill is expected to be introduced soon as well.

S.B. 237 COULD PROVIDE MONEY FOR CAPITAL PROJECTS

[S.B. 237](#), introduced by Sen. Brooks McCabe, D-Kanawha, authorizes county commissions, municipalities and boards of education that receive lottery revenues to issue bonds secured by such lottery revenues to construct public projects. This will allow county commissions, municipalities and boards of education to construct more public projects which creates jobs and stimulates the economy. The bill is patterned after the bill that gave the School Building Authority the ability to use its annual lottery proceeds to pay debt service on bonds. Almost every county and municipality gets some amount of lottery proceeds, but in such small amounts that they can’t fund capital improvement projects. By allowing the annual allocation to be used for bonding, public agencies could sell bonds to construct a major project. The bill has been referred to the Senate Finance Committee.

SENATOR BOWMAN TO RETIRE

Sen. Ed Bowman, D-Hancock, announced Thursday on Hoppy Kercheval’s MetroNews Talkline that he will not seek reelection. The 16-year veteran, who is chairman of the Senate Government Organization Committee, said he wants to spend more time with his family. Sen. Bowman has been a good supporter of infrastructure investment and has always given the CAWV a fair hearing on issues coming before his committee. Various names have already surfaced to run for the vacated seat.

WEST VIRGINIA LEGISLATURE BILL INFORMATION

House and Senate bills can be accessed from the CAWV’s Legislative home page at www.cawv.org/legislative.html. Members can view status updates on bills of interest to the construction industry and see what legislation is introduced that affects the construction industry. A summary of each day’s activities will be uploaded each afternoon.

Below is a list of bills that have been introduced this week that have an impact on the construction industry or some CAWV members. Anyone needing further information can contact Mike Clowser at (304) 342-1166 or email mclowser@cawv.org.

HOUSE BILLS

- [HB 4045](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-DEP, air quality, standards of performance for new stationary sources-To Judiciary
- [HB 4046](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-DEP, air quality, permits for construction and major modifications-To Judiciary
- [HB 4047](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-DEP, air quality, control of air pollution from hazardous waste treatment-To Judiciary
- [HB 4050](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-DEP, air quality, ambient air quality standards-To Judiciary
- [HB 4056](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-Motor Vehicles, WV Division of, collection of tax on the sale of a vehicle-To Finance then Judiciary
- [HB 4091](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-DEP, water resources, national pollutant discharge elimination system (NPDES)-To Judiciary
- [HB 4098](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-Fire Commission, state fire code-To Judiciary
- [HB 4104](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-Highways, use of state road rights of way and adjacent areas-To Roads and Transportation then Judiciary
- [HB 4105](#) Del. Brown, Poling, D., Miley, Talbott, Overington and Sobonya-Highways, transportation of hazardous wastes upon the roads and highways-To Roads and Transportation then Judiciary
- [HB 4127](#) Del. Brown, Poling, D., Miley and Talbott-Fire Commission, state building code-To Judiciary
- [HB 4154](#) Del. Guthrie, Klempa, Ennis, Ferro and Martin-Relating to bicycle and pedestrian ways being given full consideration in the planning and development of state roads (FN)-To Roads and Transportation then Finance
- [HB 4162](#) Del. Guthrie, Hartman, Craig and Campbell-Providing a tax credit for obtaining certain certifications by the United States Green Building Council Leadership (FN)-To Energy, Industry and Labor, Economic Development and Small Business then Finance

SENATE BILLS

- [SB 235](#) Sen. Browning and McCabe-Relating to Creative Communities Development Pilot Program (FN)-To Economic Development then Finance
- [SB 237](#) Sen. McCabe -Authorizing issuance of revenue bonds for public projects-To Finance
- [SB 283](#) Sen. Minard, Snyder, Prezioso, Unger, Boley and K. Facemyer-Authorizing Fire Commission promulgate legislative rule relating to State Fire Code-To Government Organization then Judiciary

[SB 284](#)

Sen. Minard, Snyder, Prezioso, Unger, Boley and K. Facemyer-Authorizing Fire Commission promulgate legislative rule relating to State Building Code-To Government Organization then Judiciary

[SB 291](#)

Sen. Minard, Snyder, Prezioso, Unger, Boley and K. Facemyer-Authorizing Commissioner of Highways promulgate legislative rule relating to use of the state road rights-of-way and adjacent areas-To Transportation and Infrastructure then Judiciary



Manchin asks for expansion of Parkways for future tolls

January 21, 2010

Higher construction costs, less revenue forcing administration to consider more pay highways

By Mannix Porterfield
Register-Herald Reporter

CHARLESTON — Other regions of West Virginia some day might get a taste of what commuting has meant for more than half a century to southern motorists — paying a toll to get where you're headed and back.

Gov. Joe Manchin is asking the Legislature to expand the West Virginia Parkways Authority and revive its bonding capacity with an eye toward installing tolls on roads that are both feasible and accommodate mostly out-of-staters.

For those reasons, policy director Jim Pitrolo says, this likely would eliminate the possibility of tolls on the King Coal Highway and Coalfields Expressway.

As once-reliable revenue streams dwindle to a trickle and construction costs keep rising, the administration is looking at other means to find money to build and maintain roads.

"There's a lot of discussion about many different things," Pitrolo told The Register-Herald in a Thursday interview.

"There's no reason to re-invent the wheel. We have the authority. We have the staff. We just want to give them back the bonding authority that they had at one time."

In the uproar over a short-lived toll increase imposed a few years ago on the West Virginia Turnpike — one that was erased by a circuit judge in a lawsuit by trucking firms — the Legislature decided to forbid any new bonds by the road's board without its approval.

Ultimately, after a series of public hearings in the four counties touching the turnpike — Fayette, Raleigh, Kanawha and Mercer — the authority last summer imposed the first lasting fare increase since 1981.

The bill being prepared by the Manchin administration would eliminate the terms "economic development and tourism" and leave the board simply as "West Virginia Parkways Authority."

Two new members would be added as the board eventually could be overseeing additional toll roads.

"We're asking for statewide bonding authority, which they had until the Legislature limited the

bonding ability,” Pitrolo said.

“Each project would have to stand on its own.”

Pitrolo emphasized the governor isn’t looking at either King Coal and Coalfields Expressway.

The response from the Parkways Authority about broadening its scope has been favorable, Pitrolo said.

“I think they’re willing to take this on,” he said.

Pitrolo suggested that if the expanded authority is approved, it would in no way detract from the operation of the turnpike.

“Not at all,” he said. “The turnpike will remain exactly the way it is.”

One change for the authority could be its ability to contract with the Division of Highways for maintenance of other toll roads, including snow and ice removal.

Manchin’s press secretary, Matt Turner, said a key element in the measure would be that any new tolls couldn’t be implemented unless a road’s majority users live out of state.

“We don’t want to put an undue burden on West Virginians traveling to and from their homes,” Turner said.

“And the projects would have to be feasible.”

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