



Contractors Association of West Virginia LEGISLATIVE BULLETIN

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LB 2017-10

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#FTDR Finally Passes!

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GARVEE Bonds Increase

House and Senate Pass Budget

Highway Contractor Service Tax Did Not Advance

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#FTDR (FIX THE DAMN ROADS) FINALLY PASSES!!

The West Virginia Legislature finished its special session Friday, June 16 at midnight. After a 60-day legislative session and a 43-day special session, legislators passed a series of funding measures that, collectively, could generate up to \$2.8 billion for highway and bridge construction and maintenance over the next seven to ten years. The bills culminate years of work by the CAWV, West Virginians for Better Transportation and many, many others to adequately fund West Virginia's roads and bridges maintenance and construction program.

Supporters of highway funding received a major boost this year when Governor Jim Justice made a \$2.8 billion highway funding program part of his economic development plan. S.B. 1006, as passed by the House, provides about \$135 million this year – and will grow next year – that the WV Division of Highways plans to put to projects immediately.

The Governor's \$1.6 billion road bond amendment, S.J.R. 6, the "Roads to Prosperity Bond Amendment," was approved by the legislature during the regular session and it will be on the ballot sometime within the next three months. Legislators also supported increasing the West Virginia Division of Highways' GARVEE bonding authority from \$200 million to \$500 million.

The outstanding piece of the governor's highway plan was S.B. 1003 which completed action about 11:30 p.m. Friday. This bill continues and increases tolls on the West Virginia Turnpike which would support about \$500 million in bonds that can be used on new projects throughout the state. Without the new legislation, tolls would have ceased in 2019 and maintenance of the 88-mile four-lane highway would have reverted to the WVDOH.

Below are the key components of the highway funding measures. All these measures add up to \$2.5 to \$2.8 billion for highway work on West Virginia's roads and bridges. Each will be discussed separately below, along with their Roll Call votes in the House and Senate (linked and attached). CAWV members will want to thank their senators and delegates who voted for the various funding bills.

- An increase in the sales tax on vehicles from five percent to six percent.
- A reset of the floor price used to calculate the wholesale tax on gasoline that will raise the gas tax by three to four cents a gallon.
- An increase in DMV fees, most notably the annual vehicle registration fee which will rise from the current \$28 to \$50.
- A continuation of the transfer of consumer sales tax collections on highway construction materials to the State Road Fund.

Collectively, these measures will raise about \$135 million in additional dollars every year for road work.

The additional funding can also be used to pay the debt service on the \$1.6 billion “Roads to Prosperity” bond amendment *if* voters approve it. No date has been set yet for that vote.

Senate Bill 1003, which was approved by both chambers and sent to the Governor, continues tolls on the West Virginia Turnpike past the 2019 date when the current bonds are paid off. The Governor wants higher tolls, but also a provision allowing motorists to pay a nominal one-time fee annually for unlimited turnpike use. The money raised from the tolls will support new borrowing to upgrade the turnpike and pay for other road projects.

Earlier during the regular session, lawmakers agreed to raise the amount the highway department can borrow against future federal highway funds from the current \$200 million to \$500 million. This is not new money, but it does allow the WVDOH to move more quickly on road projects that are ready now.

S.B. 1006 – HIGHWAY FUNDING BILL -- \$135 MILLION ANNUALLY

The bill passed the Senate early in the Special Session by a vote of 26 to 6. This bill passed Friday, June 16 by a vote of 59 to 32. The bill generates about \$135 million annually that will be used for a pay-as-you-go program for secondary roads and bridges, and to provide debt service should voters approve the \$1.6 billion “Roads to Prosperity” bond amendment which will be on the ballot within 90 days (see below for more detailed info). Not included in S.B. 1006 but generates highway funding, the governor’s original budget eliminated the consumer sales tax on highway construction materials to the State Road Fund. This would have been an \$11.5 million loss to the SRF. S.B. 1006 eliminates the 1.5 cents per gallon retail gas tax increase, about \$15 million. The budget will continue to make the CST transfer from the State General Fund to

the State Road Fund. S.B. 1006 has three funding components:

1/ Increases DMV fees, the first time in many years. Vehicle registration fee will go from \$28 to \$50 annually. Various other DMV fees, which most motorists will not, pay will go up \$5. Many of these fees haven't changed since the 1970s. **This will generate about \$45 million annually.**

2/ Increases the consumer sales tax on vehicles to make it equal to the current state consumer sales tax – 6%. This hasn't been changed in decades. **This will generate about \$40 annually.**

3/ Resets the floor on the wholesale gas tax to where it was three years ago. The new floor for calculating the wholesale tax is \$3.04, up from the current \$2.34 floor. The wholesale gas tax has dropped 3.5 cents per gallon since 2015 when the price of gasoline starting going down. This drop has cost the State Road Fund about \$50 million from three years ago. **This will generate about \$45 annually.**

Click the links or see attached pdf to view the Roll Call votes in the Senate and House on passage of S.B. 1006 - [Senate Roll #22](#) and [House Roll #662](#). There is a second key vote in the House of Delegates on Friday. An amendment was offered by Del. Marty Gearheart (R-Mercer) to strip the 3.5 cents wholesale gas tax from S. B. 1006 and replace it with an amendment to tie the increase to the \$1.6 billion bond amendment. The 3.5 cents gas tax would be implemented provided voters ratified the bond amendment later this year. The CAWV objected to the amendment on the grounds the revenue from the gas tax is needed immediately to address the WVDOH's maintenance program and that money would be lost if the bond issue failed. Also, voters did not need to vote themselves a tax increase, but rather, should be a function of legislators.

The amendment was defeated by a vote of 42-47. A number of delegates who voted for the amendment voted against final passage of the bill. [House Roll #660](#) – Gearheart Amendment #2 – is included with this legislative bulletin. A surprise amendment was offered on Third Reading by Delegate Linda Longstreth (D-Marion) to reduce the increase in the registration fee from \$50 to \$40 which did pass on a 49 to 40 vote. This would have reduced the \$135 million road funding program by \$15 million. The Senate restored the fee back to \$50 and the House accepted the Senate version Friday night.

S.B. 1003 – WV TURNPIKE BILL CONTINUES TOLLS AND WILL ALLOW FOR ADDITIONAL BONDS – NEW DOLLARS FOR WV TURNPIKE UPGRADES AND \$400 MILLION TO \$600 MILLION IN BONDING AUTHORITY

S.B. 1003 passed the Senate by a vote of 26 to 5 and the House

passed the bill 64-24 around 11:30 p.m. Friday, June 16. This bill was introduced by the Governor based on a recommendation by the Governor's Blue Ribbon Commission on Highways. The purpose of this bill is to grant authority to the Parkways Authority to issue revenue bonds and refunding bonds for the purpose of financing parkway projects within the state constructed or improved by the Department of Transportation or the authority or refunding bonds issued in connection with any parkway project, to clarify notice and public meeting requirements and procedures for fixing or increasing tolls or fees, to study and implement, if feasible, a single fee program, and to authorize electronic toll collection as a method of collecting and enforcing any tolls that may be charged for transit over any parkway project.

Tolls would have come off the West Virginia Turnpike in 2019 when the current bonds were retired. The turnpike, consisting of 88 miles of four lane highway, would then be the responsibility of the WVDOH. Currently, about 76 percent of the \$90 million annual revenue to the turnpike is by out of state drivers and commercial drivers. Officials estimate the 116 Turnpike bridges will reach their 40-year design life in 2020. This, coupled with estimated upkeep of about \$50 million annually to the turnpike, could not be borne by the WVDOH.

S.B. 1003 continues the tolls on the West Virginia Turnpike. There is an expectation tolls will increase. This increase can be used to issue new bonds for upgrade to the turnpike and projects in and around the highway. Based on toll revenue and the bond market, there could be \$400 million to \$600 million available in new bonding authority that can be used for new projects. The bill also allows for an annual fee West Virginia residents can pay and drive unlimited on the turnpike. The fee will be determined before any toll increases are implemented.

Continuing tolls to provide additional bonding authority was a recommendation of the Governor's Blue Ribbon Commission on Highways.

Click the links or see attached pdf to view the Roll Call votes in the Senate and House on passage of S.B. 1003 - [Senate Roll #28](#) and [House Roll #678](#).

S.J.R. 6 – “ROADS TO PROSPERITY” BOND AMENDMENT -- \$1.6 BILLION

This bill was passed during the regular session. Voters will decide this fall to issue \$1.6 billion in general obligation bonds for highway and bridge projects. Voters defeated the 1981 and 1985 road bond amendments. Voters approved the 1996 \$550 million road bond amendment. The governor will place S.J.R. 6 on the ballot within the next 90 days. If ratified by voters, it will take about 90 days to sell bonds and begin construction work.

The governor and legislators have, through S.B. 1006, provided debt service on the bonds so voters will not be required to provide any additional taxes. Voters will just need to give the state the authority to issue the bonds by voting yes on the bond amendment.

GARVEE BONDS INCREASE -- \$500 MILLION

During the regular session, legislators voted to increase the WVDOH's bonding authority on Grant Anticipation Notes (GARVEE) bonds from \$200 million to \$500 million. This will not be new money. All it does is allow the WVDOH to borrow against future Federal Highway dollars to advance projects more quickly. The money drawn down today will have to be paid back, but it does allow the WVDOH to accelerate projects.

ROAD BILLS DISCUSSED ON WV METRONEWS

On WV MetroNews *Talkline* June 20, Hoppy Kercheval discussed the road bills passed during the special session. To listen, [click here](#). CAWV Executive Director Mike Clowser is at the beginning. Transportation Secretary Tom Smith is on at the 1:00 mark.

HOUSE AND SENATE PASS BUDGET; CONSTRUCTION 6.35 PERCENT TAX REMOVED

On Friday night the West Virginia Legislature finally approved revenue measures and a state budget for FY 2017-18. The Legislature approved a state budget of \$4.225 billion, which matches estimated revenue projections for the coming year. The revenue bills do not increase the Consumer Sales Tax, nor do they reduce Personal Income Tax rates. The budget bill makes no cuts to the Medicaid program, but reduces higher education funding by \$16 million (2.6 percent cut to higher education overall, with 4.6 percent cuts to WVU and Marshall). The budget bill contains no teachers' pay raise and no funding for Governor Justice's Save Our State (SOS) program.

The budget was approved by the State Senate on a 19-8 vote, and by the House of Delegates on a 64-25 vote. The bill now goes to Governor Justice for his approval or veto. These measures must be approved before the end of the current fiscal year on June 30th in order to avoid a shutdown of state government. The Governor has called a 9:15 press conference this morning to make a budget announcement.

The proposal to implement a 6.35 percent consumer sales tax on construction services, estimated to raise \$92 million this year and to grow to over \$100 million annually over the next few years, was part of a \$286 million revenue plan that increased the state's consumer sales tax to 6.35 percent from 6 percent and removed the sales tax exemption for telecommunications, digital goods,

electronic data processing, health and fitness services, and primary opinion research. The construction tax was originally a House proposal that added a tax on the first \$40,000 of the construction project. The Senate amended the bill to apply only to the labor portion of the contract and not materials since CST has already been paid on materials. During the special session, the \$40,000 cap was removed and the tax applied to the full amount of the project.

The CAWV met with Governor Justice's administration to get details on how the tax would be applied and administered, and to determine whether public projects such as schools, water and sewer facilities and highways would be subject to the added tax. Questions were raised on what impact this proposal would have on attracting new economic development projects to West Virginia since only two states have a tax on construction services. The CAWV also asked if the tax would apply to the employee's hourly wage or the total fringe package, if the tax would be pyramiding since sub and sub-subcontractors would be required to pay on their labor portion, and how out-of-state contractors would be audited to guarantee their bids included the 6.35 percent tax on labor. Legislators questioned the added cost to home building and renovation projects. The CAWV also objected to the section which implemented the new construction tax retroactive to June 1, 2017, thus not giving contractors time to factor the tax into their bids.

With the uncertainties of how the tax would be applied and collected, the cost to construction projects, and the governor revising his budget revenues, House and Senate members agreed to table the construction tax proposal. The Governor's office agreed to remove the tax from his revenue bill.

HIGHWAY CONTRACTOR SERVICE TAX DID NOT ADVANCE

One of Governor Justice's highway proposals was to have the increased highway construction program fund a drug treatment program to alleviate West Virginia's growing opioid crisis. His original plan was for every successful bidder on a highway project to pay 5 percent of the contract price into the new drug treatment program. After meetings with CAWV leaders, the bill was modified to exclude projects under \$500,000 and to allow the successful bidder to spread the payments over the life of the project instead of an upfront, lump sum payment. Since the premise of the plan is to have the road bond program assist in the drug treatment program, there is now a three-year limit on the 5 percent requirement so the highway program won't be incurring this cost in perpetuity. S.B. 1016 did not make it out of the Senate Finance Committee. Transportation Secretary Tom Smith, speaking Tuesday on WV MetroNews "Talkine," said this is a bill the governor was hoping to get passed.

LAST CAWV LEGISLATIVE BULLETIN THIS YEAR?

It is hoped this will be the last CAWV Legislative Bulletin this year. Barring anything unforeseen, there will be no more construction issues to come before the West Virginia Legislature until next year's session which begins January 10, 2018. "The CAWV legislative activities have been in full gear since January 8," said CAWV President C.R. Neighborgall, The Neighborgall Construction Company. "Most every issue in the past 43-day special session affected our membership, from highway funding to the budget to the 6.35 percent construction tax on all construction projects.

"I am proud of CAWV members who made a concerted effort to meet and talk with their senators and delegates on issues that affected our industry and membership," said President Neighborgall. "This association was successful in just about every issue we pursued through the regular, and now special, session. Working together, our membership can accomplish many things. A \$2.8 billion highway funding plan is unprecedented in West Virginia. This year we will turn our attention to issues we must promote next year, such as investing in schools, water and sewer and other infrastructure to grow jobs and economic development in West Virginia.

"CAWV members should be proud of their accomplishments," the president said. There are many "thank you's" that will need to be made and those will be done once Governor Justice signs the highway bills into law. However, without the work of CAWV members, through your work with Governor Justice, legislators and donations over the years to West Virginians for Better Transportation, passage of this bill would not have occurred."



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ARTBA American Road &
Transportation Builders
Association

83rd Legislature - First Extraordinary Session 2017

SB 1003

WV Parkways Authority

RCS# 678

6/16/2017

11:27 PM

PASSAGE

YEAS: 64 NAYS: 24 NOT VOTING: 12 PAIRED: 10 PASSED

YEAS: 64

Anderson	Ferro	Lovejoy	Shott
Atkinson	Fleischauer	Lynch	Sponaugle
Baldwin	Fluharty	Marcum	Statler
Bates	Foster, G.	Miller, R.	Sypolt
Brewer	Hamilton	Moye	Thompson
Byrd	Hanshaw	Nelson	Wagner
Canestraro	Hartman	Pethel	Walters
Capito	Hicks	Pushkin	White
Caputo	Higginbotham	Pyles	Williams
Cooper	Hollen	Queen	Zatezalo
Cowles	Hornbuckle	Robinson	Speaker Armstead
Criss	Isner	Rodighiero	
Dean	Kelly	Rohrbach	
Diserio	Lewis	Romine, C.	
Eldridge	Longstreth	Rowan	
Evans, E.	Love	Rowe	

NAYS: 24

Barrett	Gearheart	McGeehan	Wilson
Blair	Hamrick	Overington	
Espinosa	Harshbarger	Sobonya	
Fast	Hill	Storch	
Folk	Howell	Upson	
Frich	Kessinger	Ward	

NOT VOTING: 12

Ambler	Ellington	Householder	Romine, R.
Arvon	Evans, A.	O'Neal	Summers
Deem	Foster, N.	Phillips	Westfall

PAIRED: 10

Boggs (YEA)	Iaquinta (YEA)	Lane (YEA)
Moore (NAY)	Paynter (NAY)	Butler (NAY)
Miley (YEA)	Miller, C. (YEA)	
Martin (NAY)	Maynard (NAY)	

West Virginia Senate

Roll Call

SB 1003

Relating generally to WV Parkways Authority

Yea: 26

Nay: 5

Absent: 3

Excused: 0

N AZINGER	N KARNES	A RUCKER
Y BEACH	Y MANN	N SMITH
Y BLAIR	A MARONEY	Y STOLLINGS
Y BOLEY	N MAYNARD	Y SWOPE
Y BOSO	Y MILLER	N SYPOLT
Y CLEMENTS	A MULLINS	Y TAKUBO
Y CLINE	Y OJEDA	Y TRUMP
Y FACEMIRE	Y PALUMBO	Y UNGER
Y FERNS	Y PLYMALE	Y WELD
Y GAUNCH	Y PREZIOSO	Y WOELFEL
Y HALL	Y ROMANO	Y MR PRESIDENT
Y JEFFRIES		

3rd Reading

Effective From Passage

83rd Legislature - First Extraordinary Session 2017

SB 1006

Increasing funding for State Road
Fund.RCS# 660
6/16/2017
1:42 PM

HFA GEARHEART 6-14 #2

YEAS: 42 NAYS: 47 NOT VOTING: 11 REJECTED

YEAS: 42

Arvon	Gearheart	Lovejoy	Shott
Barrett	Hamrick	Marcum	Sobonya
Blair	Hanshaw	Martin	Sponaugle
Capito	Harshbarger	Maynard	Storch
Cooper	Higginbotham	McGeehan	Thompson
Dean	Hill	Moore	Upson
Espinosa	Hollen	Moye	Walters
Fast	Howell	O'Neal	Ward
Folk	Kelly	Overington	Wilson
Foster, G.	Kessinger	Paynter	
Frich	Lewis	Rohrbach	

NAYS: 47

Anderson	Diserio	Longstreth	Romine, C.
Atkinson	Eldridge	Love	Rowan
Baldwin	Evans, E.	Lynch	Rowe
Bates	Ferro	Miley	Statler
Boggs	Fleischauer	Miller, R.	Sypolt
Brewer	Fluharty	Nelson	Wagner
Byrd	Hamilton	Pethtel	Westfall
Canestraro	Hartman	Pushkin	White
Caputo	Hicks	Pyles	Williams
Cowles	Hornbuckle	Queen	Zatezalo
Criss	Isner	Robinson	Speaker Armstead
Deem	Lane	Rodighiero	

NOT VOTING: 11

Ambler	Evans, A.	Iaquinta	Romine, R.
Butler	Foster, N.	Miller, C.	Summers
Ellington	Householder	Phillips	

83rd Legislature - First Extraordinary Session 2017

SB 1006

Increasing funding for State Road
Fund.RCS# 662
6/16/2017
2:16 PM

PASSAGE

YEAS: 59 NAYS: 32 NOT VOTING: 9 PAIRED: 4 PASSED

YEAS: 59

Anderson	Evans, E.	Love	Shott
Atkinson	Ferro	Lovejoy	Statler
Baldwin	Fleischauer	Marcum	Storch
Bates	Fluharty	Maynard	Sypolt
Boggs	Hamilton	Miley	Thompson
Brewer	Hanshaw	Miller, R.	Wagner
Byrd	Hartman	Nelson	Walters
Canestraro	Hicks	Pethel	Westfall
Capito	Hollen	Pushkin	White
Caputo	Hornbuckle	Pyles	Williams
Cowles	Isner	Queen	Zatezalo
Dean	Kelly	Rohrbach	Speaker Armstead
Deem	Lane	Romine, C.	
Diserio	Lewis	Rowan	
Eldridge	Longstreth	Rowe	

NAYS: 32

Arvon	Frich	Lynch	Rodighiero
Barrett	Gearheart	Martin	Sobonya
Blair	Hamrick	McGeehan	Sponaugle
Cooper	Harshbarger	Moore	Upson
Espinosa	Higginbotham	Moye	Ward
Fast	Hill	O'Neal	Wilson
Folk	Howell	Overington	
Foster, G.	Kessinger	Robinson	

NOT VOTING: 9

Ambler	Foster, N.	Phillips
Ellington	Householder	Romine, R.
Evans, A.	Miller, C.	Summers

PAIRED: 4

Criss (YEA)	Iaquinta (YEA)
Butler (NAY)	Paynter (NAY)

West Virginia Senate

Roll Call

SB 1006

Increasing funding for State Road Fund

Yea: 26

Nay: 6

Absent: 2

Excused: 0

N AZINGER	N KARNES	N RUCKER
Y BEACH	Y MANN	Y SMITH
Y BLAIR	A MARONEY	Y STOLLINGS
N BOLEY	N MAYNARD	Y SWOPE
Y BOSO	Y MILLER	Y SYPOLT
Y CLEMENTS	A MULLINS	Y TAKUBO
Y CLINE	Y OJEDA	Y TRUMP
Y FACEMIRE	Y PALUMBO	Y UNGER
Y FERNS	Y PLYMALE	Y WELD
Y GAUNCH	Y PREZIOSO	N WOELFEL
Y HALL	Y ROMANO	Y MR PRESIDENT
Y JEFFRIES		

3rd Reading

Effective From Passage