

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1990**



**ENROLLED**

*Committee Substitute for*

**SENATE BILL NO. 276**

(By Senator *Sandette, M. President, By Request*)



**PASSED March 9, 1990**

In Effect *90 days from* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 276**

(BY SENATOR BURDETTE, MR. PRESIDENT, BY REQUEST,  
*original sponsor*)

[Passed March 9, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sales of public land to federal or state entities for less than fair market value.

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

That section four, article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended to read as follows:

**ARTICLE 1A. REAL ESTATE MANAGEMENT AND PROCEDURES.**

**§20-1A-4. Public land corporation to conduct sales of public lands by competitive bidding, modified competitive bidding or direct sale.**

1 (a) Sales, exchanges or transfers of public lands  
2 under this article shall be conducted under competi-  
3 tive bidding procedures. However, where the secre-  
4 tary determines it necessary and proper in order to  
5 assure the following public policies including, but not

6 limited to, a preference to users, lands may be sold by  
7 modified competitive bidding or without competitive  
8 bidding. In recognizing public policies, the secretary  
9 shall give consideration to the following potential  
10 purchasers:

11 (1) The local government entities which are in the  
12 vicinity of the lands; and

13 (2) Adjoining land owners.

14 (b) The policy for selecting the methods of sale is as  
15 follows:

16 (1) Competitive sale is the general procedure for  
17 sales of public lands and shall be used in the following  
18 circumstances:

19 (A) Wherever in the judgment of the secretary the  
20 lands are accessible and usable regardless of adjoining  
21 land ownership; or

22 (B) Wherever the lands are within a developing or  
23 urbanizing area and land values are increasing due to  
24 the location of the land and interest on the competitive  
25 market.

26 (2) Modified competitive sales may be used to permit  
27 the adjoining landowner or local governmental entity  
28 to meet the high bid at the public sale. Lands other-  
29 wise offered under this procedure would normally be  
30 public lands not located near urban expansion areas,  
31 or not located near areas with rapidly increasing land  
32 values, and where existing use of adjacent lands would  
33 be jeopardized by sale under competitive bidding  
34 procedures.

35 (3) Direct sale may be used when the lands offered  
36 for sale are completely surrounded by lands in one  
37 ownership with no public access, or where the lands  
38 are needed by local governments.

39 (4) In no event shall lands be offered for sale by  
40 "modified competitive sales" or "direct sale" unless  
41 and until the corporation makes a written finding of  
42 justification for use of an alternative bidding  
43 procedure.

44 (5) Subject to the bidding procedures set forth  
45 herein, the corporation is authorized, at its discretion,  
46 to sell public lands subject to rights-of-way, restrictive  
47 covenants or easements retained by the corporation,  
48 limiting the use of such lands to purposes consistent  
49 with the use of adjoining or nearby lands owned by  
50 the corporation.

51 (c) When lands have been offered for sale by one  
52 method of sale and the lands remain unsold, then the  
53 lands may be reoffered by another method of sale.

54 (d) Except as provided herein, public lands may not  
55 be sold, exchanged or transferred by the corporation  
56 for less than fair market value. Fair market value  
57 shall be determined by an appraisal made by an  
58 independent person or firm chosen by the public land  
59 corporation. The appraisal shall be performed using  
60 the principles contained in the "Uniform Appraisal  
61 Standards for Federal Land Acquisitions" published  
62 under the auspices of the Interagency Land Acquisi-  
63 tion Conference, United States Government Printing  
64 Office, 1972: *Provided*, That public lands may be sold  
65 exchanged or transferred to any federal agency or to  
66 the state or any of its political subdivisions for less  
67 than fair market value if, upon a specific written  
68 finding of fact, the corporation determines that such a  
69 transfer would be in the best interests of the corpora-  
70 tion and the state.

71 (e) The corporation may reject all bids when such  
72 bids do not represent the corporation's considered  
73 value of the property exclusive of the fair market  
74 value.

75 (f) The corporation shall promulgate rules, in accor-  
76 dance with the provisions of chapter twenty-nine-a of  
77 this code, regarding procedures for conducting public  
78 land sales by competitive bidding, modified competi-  
79 tive bidding and direct sales.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Frederic P. Harris*  
.....  
Chairman Senate Committee

*Bernard V. Kelly*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Russell E. Bell*  
.....  
Clerk of the Senate

*Donald G. Koep*  
.....  
Clerk of the House of Delegates

*Kath Benedict*  
.....  
President of the Senate

*Bob Stahl*  
.....  
Speaker House of Delegates

The within is approved this the *30<sup>th</sup>* .....  
day of *March* ..... 1990.

*Justin Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/90

Time 10:21 am

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1990 MAR 30 AM 11:24

OFFICE OF FISCAL AFFAIRS  
SECRETARY OF STATE