ENROLLED

SENATE BILL NO. 2

(By Mr. Barnett and Mr. Porter)

PASSED February 24, 1967

In Effect from Passage

# 2

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-8-67
AN ACT to amend and reenact section seventeen, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the acquisition of real and personal property for state road purposes, and providing that the acquisition of any and all such property shall be a cost of highway construction.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 2A. STATE ROAD COMMISSIONER.

§17-2A-17. Acquisition of property for state road purposes; "state road purposes" defined.

In addition to all other powers given and assigned to the commissioner in this chapter, the commissioner may acquire, either temporarily or permanently, in the name of the state road commission all real or personal property, public or private, or any interests or rights therein, including any easement, riparian right, or right of access, deemed by the commissioner to be necessary for present or presently foreseeable future state road purposes by gift, lease, grant, bequest, devise, agreement, purchase, exchange, right of eminent domain, or other lawful means. Such real property may be acquired in fee simple or in any lesser estate or interest therein, except in the case of a public road the right of way only shall be acquired. Acquisition of such personal property shall be subject to the provisions of sections thirteen and fifteen of this article. The acquisition of any and all such real and personal property is hereby declared to be a cost of highway construction. Nothing in this section shall be deemed
to restrict or relinquish any right the state or any agency thereof now or hereafter possesses or may exercise by virtue of the police power or other lawful authority.

As used in this article, "state road purposes" shall include provision for, but shall not be limited to, the following:

(a) Constructing, establishing, laying out, widening, enlarging, extending, straightening, reconstructing, relocating, grading, altering, improving, and maintaining state roads;

(b) Rights of way for state roads, including those needed for such roads within municipalities, such rights of way to be as wide as deemed necessary by the commissioner;

(c) Adequate drainage of state roads;

(d) Controlled-access facilities, as defined in section thirty-nine, article four of this chapter, including existing and vested rights of access, air, view and light, whether privately or publicly owned, and local service roads to controlled-access facilities;
(e) Broadcasting stations, weighing stations, shops, equipment sheds, office buildings, storage buildings and yards, snow fences, road maintenance or construction sites;

(f) Road-building material storage sites, quarry sites, gravel pits, sites for the acquisition or manufacture of road building materials including borrow pits, stock pile sites, waste-material sites and access roads to any such sites or places;

(g) The culture and support of trees which benefit any state road by aiding in the maintenance and preservation of the road;

(h) Landscape and roadside development, and maintenance thereof, within any state road right of way, and the acquisition and maintenance of lands and interests in lands for the restoration, preservation and enhancement of places of scenic beauty, and other objects of attraction or scenic value adjacent to or near any state road, and the acquisition, development and maintenance of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary for the
accommodation of the traveling public, within, adjacent
to or near the right of way of any road within the state
road system.

(i) Development and maintenance of parking places,
auto camps, camp sites, roadside parks, historic roadside
markers and sites, forest or timbered areas or other places
of attraction and scenic value which are adjacent to or
near any state road and which in the judgment of the com-
missioner are necessary for the convenience of the public
and will contribute to the general welfare and pleasure of
the motoring public or road users;

(j) Maintenance of an unobstructed view of any por-
tion of any state road in order to provide for the safety of
the traveling public;

(k) Erection and maintenance of markers, warning
signs and traffic signals;

(l) Construction and maintenance on state roads of
sidewalks and highways illumination;

(m) Elimination or prevention of hazardous or undesir-
able points of entry to state roads from adjacent property;

(n) Acquisition of property, or any interest or right
therein, for the purpose of exchanging it for other prop-
erty, or any interest or right therein, which the commis-
sion is authorized to acquire by the other provisions of
this section: Provided, That such substitute property,
or any interest or right therein, may be acquired by the
commissioner by condemnation only if the following con-
ditions are satisfied: (1) Money compensation would be
substantially inadequate for the property, or interest or
right therein, which the commissioner is authorized to
acquire by the other provisions of this section, and (2)
the commission has entered into a written agreement to
exchange the substitute property, or the right or interest
therein, for the property, or right or interest therein,
which is needed for state road purposes, regardless of
whether the person who has agreed to accept the ex-
change has the right to condemn the substitute property,
or the right or interest therein;

(o) Acquisition of real property, not needed as such
for a state road, for the purpose of moving and relocating
thereon a building or other structure or appurtenance
which is situated on a lot or tract of land all or a portion
of which is needed for a state road and which, after relocation, will be suitable for the purpose for which it was used prior to its being relocated: Provided, however, That such additional real property may be acquired by the commissioner by condemnation only if the following conditions are satisfied: (1) The building or other structure or appurtenance is of substantial value, (2) the real property on which it is to be relocated is not substantially improved and is adjacent to or near the location from which it is to be removed, (3) the owner of the real property needed for the state road has entered into a written agreement with the commission to accept in exchange the additional property with the relocated building or structure or appurtenance thereon, (4) substantial savings in expenditure of state road funds will result from condemning the additional property and relocating the building or structure or appurtenance rather than condemning the lot or tract, or the portion thereof, on which the building or other structure or appurtenance may be located, and (5) the real property with the relocated building or structure or appurtenance thereon will be relatively equal in value to the real property needed for the state road.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompkins
Chairman Senate Committee

Clayton C. Durham
Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. Howard Cole
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard T. Carman
President of the Senate

H. Robert White
Speaker House of Delegates

The within approved this the ____________ day of March, 1967.

Nuest C. Smith
Governor
PRESENTED TO THE GOVERNOR

Date: 3-4-67

Time: 11:10 Am