

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 2

(By Mr. Barnett and Mr. Porter)

PASSED Feb. 24, 1967

In Effect from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-8-67

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Senate Bill No. 2

(By MR. BARNETT AND MR. PORTER)

[Passed February 24, 1967; in effect from passage.]

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
2 the commissioner in this chapter, the commissioner may
3 acquire, either temporarily or permanently, in the name
4 of the state road commission all real or personal property,
5 public or private, or any interests or rights therein, in-
6 cluding any easement, riparian right, or right of access,
7 deemed by the commissioner to be necessary for present
8 or presently foreseeable future state road purposes by
9 gift, lease, grant, bequest, devise, agreement, purchase,
10 exchange, right of eminent domain, or other lawful means.
11 Such real property may be acquired in fee simple or in
12 any lesser estate or interest therein, except in the case
13 of a public road the right of way only shall be acquired.
14 Acquisition of such personal property shall be subject
15 to the provisions of sections thirteen and fifteen of this
16 article. The acquisition of any and all such real and
17 personal property is hereby declared to be a cost of high-
18 way construction. Nothing in this section shall be deemed

19 to restrict or relinquish any right the state or any agency
20 thereof now or hereafter possesses or may exercise by
21 virtue of the police power or other lawful authority.

22 As used in this article, "state road purposes" shall in-
23 clude provision for, but shall not be limited to, the fol-
24 lowing:

25 (a) Constructing, establishing, laying out, widening,
26 enlarging, extending, straightening, reconstructing, relo-
27 cating, grading, altering, improving, and maintaining state
28 roads;

29 (b) Rights of way for state roads, including those
30 needed for such roads within municipalities, such rights
31 of way to be as wide as deemed necessary by the commis-
32 sioner;

33 (c) Adequate drainage of state roads;

34 (d) Controlled-access facilities, as defined in section
35 thirty-nine, article four of this chapter, including exist-
36 ing and vested rights of access, air, view and light, wheth-
37 er privately or publicly owned, and local service roads
38 to controlled-access facilities;

39 (e) Broadcasting stations, weighing stations, shops,
40 equipment sheds, office buildings, storage buildings and
41 yards, snow fences, road maintenance or construction
42 sites;

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

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

51 (h) Landscape and roadside development, and main-
52 tenance thereof, within any state road right of way, and
53 the acquisition and maintenance of lands and interests in
54 lands for the restoration, preservation and enhancement of
55 places of scenic beauty, and other objects of attraction or
56 scenic value adjacent to or near any state road, and the
57 acquisition, development and maintenance of publicly
58 owned and controlled rest and recreation areas and sani-
59 tary and other facilities reasonably necessary for the

60 accommodation of the traveling public, within, adjacent
61 to or near the right of way of any road within the state
62 road system.

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

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

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

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

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

80 (n) Acquisition of property, or any interest or right

81 therein, for the purpose of exchanging it for other prop-
82 erty, or any interest or right therein, which the commis-
83 sion is authorized to acquire by the other provisions of
84 this section: *Provided*, That such substitute property,
85 or any interest or right therein, may be acquired by the
86 commissioner by condemnation only if the following con-
87 ditions are satisfied: (1) Money compensation would be
88 substantially inadequate for the property, or interest or
89 right therein, which the commissioner is authorized to
90 acquire by the other provisions of this section, and (2)
91 the commission has entered into a written agreement to
92 exchange the substitute property, or the right or interest
93 therein, for the property, or right or interest therein,
94 which is needed for state road purposes, regardless of
95 whether the person who has agreed to accept the ex-
96 change has the right to condemn the substitute property,
97 or the right or interest therein;

98 (o) Acquisition of real property, not needed as such
99 for a state road, for the purpose of moving and relocating
100 thereon a building or other structure or appurtenance
101 which is situated on a lot or tract of land all or a portion

102 of which is needed for a state road and which, after relo-
103 cation, will be suitable for the purpose for which it was
104 used prior to its being relocated: *Provided, however, That*
105 such additional real property may be acquired by the
106 commissioner by condemnation only if the following con-
107 ditions are satisfied: (1) The building or other structure
108 or appurtenance is of substantial value, (2) the real prop-
109 erty on which it is to be relocated is not substantially im-
110 proved and is adjacent to or near the location from which
111 it is to be removed, (3) the owner of the real property
112 needed for the state road has entered into a written agree-
113 ment with the commission to accept in exchange the
114 additional property with the relocated building or struc-
115 ture or appurtenance thereon, (4) substantial savings in
116 expenditure of state road funds will result from con-
117 demning the additional property and relocating the build-
118 ing or structure or appurtenance rather than condemning
119 the lot or tract, or the portion thereof, on which the build-
120 ing or other structure or appurtenance may be located,
121 and (5) the real property with the relocated building or
122 structure or appurtenance thereon will be relatively equal
123 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 Tompa
Chairman Senate Committee

Clayton M. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard Meyers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Cannon
President of the Senate

H. Laban White
Speaker House of Delegates

The within approved this the 8
day of March, 1967.

Stewart C. Smith
Governor

PRESENTED TO THE
GOVERNOR

Date 3-4-67

Time 11:10 AM