

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

ENROLLED

Com. Sub. for
SENATE BILL NO. 5

(By Mr. Williams)

PASSED February 14 1974

In Effect 90 days from Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 2-22-74

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 5

(MR. WILLIAMS, *original sponsor*)

[Passed February 14, 1974; in effect ninety days from passage.]

AN ACT to repeal section two, article nineteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section seventeen, article twelve of said chapter, relating to the sale or lease of a waterworks system or other public utility owned by a municipality, election procedures in connection therewith, and the disposition of proceeds therefrom.

Be it enacted by the Legislature of West Virginia:

That section two, article nineteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section seventeen, article twelve of said chapter be amended and reenacted, to read as follows:

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

**PART V. SALE OR LEASE OF MUNICIPAL
PUBLIC UTILITY.**

§8-12-17. Sale or lease of municipal public utility.

- 1 In any case where a municipality shall own a gas system,
- 2 an electric system, a waterworks or other public utility,

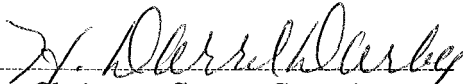
3 and the governing body thereof shall deem it for the best
4 interest of such municipality that such utility be sold or
5 leased, the governing body shall, by ordinance legally
6 adopted, submit to the qualified voters of such municipi-
7 pality, at any regular municipal election or at any special
8 municipal election called for that purpose, the question of
9 making or effecting such sale or lease. In such case the
10 governing body shall, in the ordinance submitting such
11 question to a vote, set forth in full the terms of such pro-
12 posed sale or lease, the name of the proposed purchaser or
13 lessee and the date of such election, and a notice contain-
14 ing this information shall be published as a Class II-0
15 legal advertisement in compliance with the provisions of
16 article three, chapter fifty-nine of this code, and the pub-
17 lication area for such publication shall be such municipal-
18 ity. Such election shall be held in all respects in compli-
19 ance with the provisions of chapter three of this code,
20 so far as the same are applicable and not inconsistent
21 herewith, and the provisions of article five of this chapter.
22 If a majority of the legal votes cast at such election upon
23 such question be in favor of the proposed sale or lease of
24 such utility, the governing body, upon the ascertainment
25 of the result of such election, shall have full power and
26 authority to proceed to execute or effect such sale or
27 lease in accordance with the terms and conditions pre-
28 scribed in the ordinance as aforesaid, and shall have power
29 to do any and all things necessary or incident thereto:
30 *Provided*, That if at any time after such election and be-
31 fore the execution of the authority under the ordinance,
32 any person should present to the governing body an offer
33 to buy such public utility at a price which exceeds by at
34 least five percent the sale price which shall have been so
35 voted upon and authorized or to lease the same upon terms
36 which the governing body, in its discretion, shall consider
37 more advantageous to the municipality than the terms of
38 the lease which shall have ^{been} authorized by vote as aforesaid,
39 the governing body shall have the power to accept such
40 subsequent offer, and to make such sale or such lease to the
41 person making the offer, without resubmitting the ques-
42 tion to a vote; but, if a sale shall have been authorized by
43 vote as aforesaid, and such subsequent proposition be for

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44 a lease, or, if a lease shall have been so authorized, and
45 the subsequent proposition shall be for a sale, the gov-
46 erning body shall have no power to accept the same with-
47 out submitting the question thereof to a vote of the
48 people as first above provided. Before any such second or
49 subsequent proposition shall be submitted to a vote, after
50 a sale or lease shall have been authorized at an election
51 held hereunder, the person making such proposition shall
52 furnish bond, with security to be approved by the gov-
53 erning body, in a penalty of not less than twenty-five
54 percent of such proposed bid, conditioned to carry such
55 proposition into execution, if the same shall be approved
56 at the election to be called thereon. In any case where
57 any such public utility shall be sold or leased by the
58 governing body as hereinabove provided, no part of the
59 moneys derived from such sale or lease shall be applied
60 to the payment of current expenses of the municipality,
61 but the proceeds of such sale or lease shall be applied in
62 payment and discharge of any bonded indebtedness crea-
63 ted in respect to such public utility, and in case there be
64 no bonded indebtedness, the governing body, in its dis-
65 cretion, shall have the power and authority to expend
66 all such moneys when received for the purchase or con-
67 struction of fire-fighting equipment and buildings for
68 housing such equipment, a municipal building or city
69 hall, and the necessary land upon which to locate the
70 same, or for the construction of paved streets, avenues,
71 roads, alleys, ways, sidewalks, sewers and other like per-
72 manent improvements, and for no other purposes. In case
73 there be a surplus after the payment of such bonded
74 indebtedness, the surplus shall be used as aforesaid.

75 The requirements of this section shall not apply to the
76 sale or lease of any part of the properties of any such
77 public utility determined by the governing body to be
78 unnecessary for the efficient rendering of the service of
79 such utility.

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

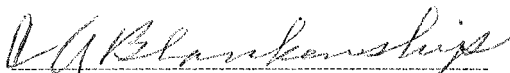

Chairman Senate Committee

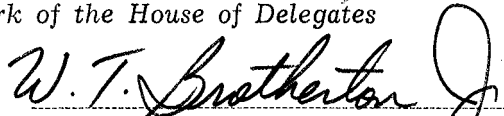

Chairman House Committee

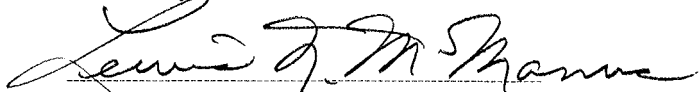
Originated in the Senate.

In effect ninety days from passage.



Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 22nd
day of February, 1974.


Governor

PRESENTED TO THE
GOVERNOR

Date 2/18/74
Time 4:35 p.m.