WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED
Come 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. REISKELL, III
SECRETARY OF STATE
THIS DATE 2-22-74
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two, article nineteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section seventeen, article twelve of said chapter be amended and reenacted, to read as follows: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,
and the governing body thereof shall deem it for the best interest of such municipality that such utility be sold or leased, the governing body shall, by ordinance legally adopted, submit to the qualified voters of such municipality, at any regular municipal election or at any special municipal election called for that purpose, the question of making or effecting such sale or lease. In such case the governing body shall, in the ordinance submitting such question to a vote, set forth in full the terms of such proposed sale or lease, the name of the proposed purchaser or lessee and the date of such election, and a notice containing this information shall be published as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be such municipality. Such election shall be held in all respects in compliance with the provisions of chapter three of this code, so far as the same are applicable and not inconsistent herewith, and the provisions of article five of this chapter.

If a majority of the legal votes cast at such election upon such question be in favor of the proposed sale or lease of such utility, the governing body, upon the ascertainment of the result of such election, shall have full power and authority to proceed to execute or effect such sale or lease in accordance with the terms and conditions prescribed in the ordinance as aforesaid, and shall have power to do any and all things necessary or incident thereto:

Provided, That if at any time after such election and before the execution of the authority under the ordinance, any person should present to the governing body an offer to buy such public utility at a price which exceeds by at least five percent the sale price which shall have been so voted upon and authorized or to lease the same upon terms which the governing body, in its discretion, shall consider more advantageous to the municipality than the terms of the lease which shall have authorized by vote as aforesaid, the governing body shall have the power to accept such subsequent offer, and to make such sale or such lease to the person making the offer, without resubmitting the question to a vote; but, if a sale shall have been authorized by vote as aforesaid, and such subsequent proposition be for
a lease, or, if a lease shall have been so authorized, and
the subsequent proposition shall be for a sale, the gov-
erning body shall have no power to accept the same with-
out submitting the question thereof to a vote of the
people as first above provided. Before any such second or
subsequent proposition shall be submitted to a vote, after
a sale or lease shall have been authorized at an election
held hereunder, the person making such proposition shall
furnish bond, with security to be approved by the gov­
erning body, in a penalty of not less than twenty-five
percent of such proposed bid, conditioned to carry such
proposition into execution, if the same shall be approved
at the election to be called thereon. In any case where
any such public utility shall be sold or leased by the
governing body as hereinabove provided, no part of the
moneys derived from such sale or lease shall be applied
to the payment of current expenses of the municipality,
but the proceeds of such sale or lease shall be applied in
payment and discharge of any bonded indebtedness crea­
ted in respect to such public utility, and in case there be
no bonded indebtedness, the governing body, in its dis­
cretion, shall have the power and authority to expend
all such moneys when received for the purchase or con­
struction of fire-fighting equipment and buildings for
housing such equipment, a municipal building or city
hall, and the necessary land upon which to locate the
same, or for the construction of paved streets, avenues,
roads, alleys, ways, sidewalks, sewers and other like per­
manent improvements, and for no other purposes. In case
there be a surplus after the payment of such bonded
indebtedness, the surplus shall be used as aforesaid.
The requirements of this section shall not apply to the
sale or lease of any part of the properties of any such
public utility determined by the governing body to be
unnecessary for the efficient rendering of the service of
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.