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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1976

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ENROLLED

SENATE BILL NO. 174

(By Mr. Bradford Mr. President.....)

—•—
PASSED February 25..... 1976

In Effect ninty days from..... Passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/5/76

ENROLLED

Senate Bill No. 174

(By MR. BROTHERTON, MR. PRESIDENT)

[Passed February 25, 1976; in effect ninety days from passage.]

AN ACT to repeal section eighteen, article twenty-seven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections three, ten, fifteen, twenty and twenty-five of said article; and to amend and reenact section three, article one, and section one, article five, chapter twenty-four-a, all of said code, all relating to urban mass transportation authorities and the removal of urban mass transportation authorities from the jurisdiction of the public service commission.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article twenty-seven, chapter eight be repealed; that sections three, ten, fifteen, twenty and twenty-five of said article be amended and reenacted; and that section three, article one and section one, article five, chapter twenty-four-a, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES AND COUNTIES; INTERGOVERNMENTAL RELATIONS.

ARTICLE 27. INTERGOVERNMENTAL RELATIONS — URBAN MASS TRANSPORTATION SYSTEMS.

**PART I. TITLE; FINDINGS; DEFINITIONS:
CREATION OF AUTHORITIES.**

§8-27-3. Definitions.

- 1 As used in this article, unless a different meaning
- 2 appears from the context:

- 3 (a) "Authority" means any urban mass transporta-
4 tion authority created pursuant to the provisions of this
5 article;
- 6 (b) "Board" means the board of any urban mass trans-
7 portation authority;
- 8 (c) "Contiguous counties" means two or more coun-
9 ties which constitute a compact territorial unit within
10 an unbroken boundary wherein one county touches at
11 least one other county, but does not require that
12 each county touch all of the other counties so com-
13 bining;
- 14 (d) "Facilities and equipment" means all real and
15 personal property of every kind and character owned
16 or held by any urban mass transportation system for
17 the purpose of providing transportation by bus or rail
18 or other conveyance serving the public;
- 19 (e) "Participating government" means any munici-
20 pality or county establishing or participating in an urban
21 mass transportation authority;
- 22 (f) "Project" means any undertaking of an author-
23 ity;
- 24 (g) "Revenues" means the gross receipts derived
25 directly or indirectly from or in connection with the
26 operation by an authority of any urban mass transpor-
27 tation system or systems and shall include, without
28 limitation, all fees, rates, fares, rentals or other income
29 actually received or receivable by or for the account
30 of an authority from the operation of the system, and
31 any other receipts from whatever source derived;
- 32 (h) "Service area of the authority" means and in-
33 cludes an area commensurate with the area served by
34 an existing system or systems acquired or to be acquired
35 by an authority, or if there be no existing system, the
36 area shall extend to and include an area to be defined
37 by the authority;
- 38 (i) "System" means any urban mass transportation
39 system;
- 40 (j) "Trust indenture" means a security instrument
41 entered into by an authority pursuant to which bonds
42 or notes are issued;

43 (k) "Urban area" means any area that includes a
44 municipality or other built-up place which is appro-
45 priate for a system to serve commuters or others in the
46 locality taking into consideration the local patterns and
47 trends of growth;

48 (l) "Urban mass transportation system" means any
49 common carrier of passengers for hire which operates
50 equipment over regular routes within the service area
51 of the authority; and

52 (m) The singular shall include the plural and the
53 plural shall include the singular.

PART III. POWERS AND DUTIES OF AUTHORITIES.

§8-27-10. Powers and duties of authorities generally.

1 Each authority is hereby given the power:

2 (a) To sue and be sued, implead and be impleaded;

3 (b) To have and use a seal and alter the same at
4 pleasure;

5 (c) To make and adopt all rules and regulations and
6 bylaws as may be necessary or desirable to enable it
7 to exercise the powers and perform the duties conferred
8 or imposed upon it by the provisions of this article;

9 (d) To employ, in its discretion, planning, architectural
10 and engineering consultants, attorneys, accountants, con-
11 struction, financial transportation and traffic experts and
12 consultants, superintendents, managers and such other
13 employees and agents as may be necessary in its judg-
14 ment, and to fix their compensation;

15 (e) To acquire by grant, purchase, gift, or devise or
16 lease and to hold, use, sell, lease or otherwise dispose
17 of real and personal property of every kind and nature
18 whatsoever, licenses, franchises, rights and interests
19 necessary for the full exercise of its powers pursuant to
20 the provisions of this article, or which may be con-
21 venient or useful for the carrying out of such powers;

22 (f) To acquire, construct, reconstruct, complete, de-
23 velop, improve, own, equip, maintain and operate any
24 system or systems, or any part thereof, including, with-
25 out limitation, the power to acquire by purchase, lease
26 or gift all or any part of any licenses, franchises, rights,

27 interests, engineering and technical studies, data or re-
28 ports owned or held by any person and determined by
29 its board to be necessary, convenient or useful to the
30 authority in connection with the acquisition, construction,
31 reconstruction, completion, development, improvement,
32 ownership, equipping, maintenance or operation of any
33 system or systems and to reimburse public utilities for
34 relocation of any utility line or facility made necessary
35 by the construction, reconstruction, completion, develop-
36 ment, improvement, equipping, maintenance or operation
37 of any system or systems;

38 (g) To acquire any land, rights or easements deemed
39 necessary or incidental for the purposes of the authority
40 by eminent domain to the same extent and to be exer-
41 cised in the same manner as now or hereafter provided
42 by law for such right of eminent domain by business
43 corporations;

44 (h) To enter into contracts and agreements which are
45 necessary, convenient or useful to carry out the purposes
46 of this article with any person, public corporation, state
47 or any agency or political subdivision thereof and the
48 federal government and any department or agency
49 thereof, including, without limitation, contracts and
50 agreements for the joint use of any property and rights
51 by the authority and any person or authority operating
52 any system, whether within or without the service area
53 of the authority, and contracts and agreements with any
54 person or authority for the maintenance, servicing,
55 storage, operation or use of any system or part thereof,
56 facility or equipment on such basis as shall seem proper
57 to its board;

58 (i) To enter into contracts and agreements for super-
59 intendence and management services with any person,
60 who has executive personnel with experience and skill
61 applicable to the superintendence and management of
62 any system, for the furnishing of its services and the
63 services of experienced and qualified personnel for the
64 superintendence and management of any system or any
65 part thereof, including, without limitation, superintend-
66 ence over personnel, purchases, properties and operations
67 and all matters relating thereto, and any revenue bond

68 trust indenture may require such contract or agreement,
69 but the personnel whose services are to be so furnished
70 under any such contract or agreement shall not include
71 any member of the board, any member of the immediate
72 family of a member of the board or any agents or em-
73 ployees of the authority, and no such contract or agree-
74 ment shall extend beyond a term of ten years or such
75 longer time as there are outstanding any revenue bonds
76 under a trust indenture which requires such contract or
77 agreement;

78 (j) To assume any lien indebtedness of any system
79 or part thereof acquired by it under the provisions of
80 this article;

81 (k) To execute security agreements, contracts, leases,
82 equipment trust certificates and any other forms of con-
83 tracts or agreements, granting or creating a lien, security
84 interest, encumbrance or other security in, on or to
85 facilities and equipment, containing such terms and pro-
86 visions as the board deems necessary;

87 (l) To apply for, receive and use grants, grants-in-
88 aid, donations and contributions from any source or
89 sources, including, but not limited to, the federal gov-
90 ernment and any agency or department thereof, and a
91 state government whose constitution does not prohibit
92 such grants, grants-in-aid, donations and contributions,
93 and any agency or department thereof, and to accept
94 and use bequests, devises, gifts and donations from any
95 person;

96 (m) To lease any system or any part thereof to, or
97 contract for the use of any system or any part thereof
98 by, any person, but a trust indenture may prohibit, limit
99 or restrict the exercise of such power;

100 (n) To acquire for cash or in exchange for its bonds
101 all or any part of any publicly or privately owned system
102 or systems;

103 (o) To make or cause to be made either by itself or in
104 cooperation with other persons or organizations, whether
105 public or private, traffic surveys, population surveys
106 and such other surveys and studies as it shall consider
107 useful in the performance of its duties or the exercise

108 of its powers under the provisions of this article and in
109 connection therewith the authority may contract with
110 any person or organization for such planning services;

111 (p) To enter into contracts and agreements with any
112 public or private system either within or contiguous to
113 its boundaries for the transfer of passengers between it
114 and the system operating in territory contiguous to its
115 boundaries;

116 (q) To fix and establish from time to time, such fees,
117 rates or other charges and routes, time schedules and
118 standards of service as will provide revenues in each
119 year at least sufficient to pay the principal of and interest
120 on all bonds issued by the authority, and reasonable
121 reserves therefor, as the same shall become due, together
122 with the cost of administration, maintenance, repair and
123 operation of such system or systems in each year, together
124 with all other payments required in each such year by
125 the resolution which authorized the issuance of such
126 bonds, or the trust indenture securing the same, includ-
127 ing, without limitation, reasonable reserves or margins
128 for any of such purposes: *Provided*, That prior to the
129 initial implementation of any fees, rates or other charges
130 and any subsequent increase thereof affecting generally
131 the users of the system, every authority shall hold a
132 public hearing in the service area of the system on such
133 proposed fees, rates or other charges or any increase
134 thereof, and each authority shall publish a notice of the
135 time and place of said hearing as a Class II legal adver-
136 tisement in compliance with the provisions of article
137 three, chapter fifty-nine of this code, and the publication
138 area for such publication shall be the service area of the
139 authority. Such notice shall plainly state the fees, rates
140 or other charges or any increase thereof to be imposed,
141 the time when they shall go into effect, and the time
142 and place where such public hearing will be conducted.
143 Said public hearing shall not be less than ten days sub-
144 sequent to the date of the last publication of such notice.
145 At such hearing all objections and suggestions shall be
146 heard, and after the hearing has been held the authority
147 shall take such action as it shall deem proper: *Provided*,
148 *however*, That the foregoing public hearing and notice

149 requirements shall not apply to fees, rates or charges
150 imposed for charter or special services rendered by said
151 authorities;

152 (r) To issue revenue bonds of the authority for any
153 of its purposes or projects and to refund its bonds, all
154 as provided in this article;

155 (s) To encumber or mortgage all or any part of its
156 facilities and equipment;

157 (t) To prepare plans for and assist in the relocation
158 of persons displaced by the authority and to make re-
159 location payments to or with respect to such person for
160 moving expenses and losses of property for which re-
161 imbursement or compensation is not otherwise made,
162 including the making of such payments financed by the
163 federal government; and

164 (u) To do any and all things necessary or convenient
165 to carry out the powers given in this article unless other-
166 wise forbidden by law.

PART VI. DEVELOPMENT OF SYSTEM; FINANCING THEREOF.

§8-27-15. Trust indenture generally.

1 In the discretion of the authority, any bonds issued
2 under the provisions of this article may be secured by
3 a trust indenture by and between such authority and
4 a corporate trustee, which may be any trust company
5 or banking institution having the powers of a trust
6 company within or without the state, or any person
7 in the United States having power to enter into the
8 same, including any federal agency.

9 Any resolution authorizing the issuance of such bonds
10 or any trust indenture securing the same may contain
11 such provisions for protecting and enforcing the rights
12 and remedies of the bondholders and of the trustee as
13 the authority may deem necessary and proper and
14 not in violation of law, including provisions pledging
15 all or any part of the revenues of such authority or
16 encumbering all or any part of the facilities and equip-
17 ment of such authority to secure the payment of the
18 bonds subject to such agreements with bondholders as
19 may then exist; limiting the purpose to which the pro-

20 ceeds of sale of any bonds then or thereafter to
21 be issued may be applied; defining the duties of
22 such authority in relation to the acquisition, construc-
23 tion, improvement, maintenance, repair, operation and
24 insurance of any project or projects in connection with
25 which such bonds shall have been authorized; providing
26 for the custody, safeguarding and application of all
27 moneys; limiting the issuance of additional bonds; pre-
28 scribing a procedure by which the provisions of any
29 trust indenture or contract with bondholders may be
30 amended or modified; requiring such authority to fix
31 and establish such fees, rates or other charges and routes,
32 time schedules and standards of service as will provide
33 revenues in each year at least sufficient to pay the prin-
34 cipal of and interest on all bonds issued by such
35 authority and reasonable reserves therefor as the
36 same shall become due, together with the cost of ad-
37 ministration, maintenance, repair and operation of such
38 system or systems in each year, including, without
39 limitation, reasonable reserves or margins or sinking
40 funds for any of such purposes, defining the acts or
41 omissions to act which shall constitute a default in the
42 duties of such authority to the holders of its bonds and
43 providing the rights and remedies of such holders and
44 of the trustee in the event of default and the manner
45 and terms upon which such default may be declared
46 cured; vesting in a trustee such property rights, pow-
47 ers and duties, in trust, as such authority may deter-
48 mine; and such other additional provisions as such
49 authority may deem necessary or desirable for the
50 security of the holders of bonds issued under the pro-
51 visions of this article, notwithstanding that such other
52 provisions are not expressly enumerated in this section,
53 it being the intention to grant to the authority the
54 power to make any and all covenants or agreements
55 necessary to secure greater marketability of bonds issued
56 under the provisions of this article, as fully and to the
57 same extent as such covenants or agreements could be
58 made by a private corporation rendering similar serv-
59 ices, and to grant to such authorities full and complete
60 power to enter into any contract, covenant or agreement

61 with holders of bonds issued under the provisions of
62 this article not inconsistent with this article or the
63 constitution of this state.

PART VIII. INDEBTEDNESS; EXEMPTION FROM TAXATION.

§8-27-20. Exemption from taxation.

1 It is hereby found, determined and declared that the
2 creation of any authority and the carrying out of its
3 purposes is in all respects for the benefit of the people
4 of this state in general, and of the participating govern-
5 ments in particular, and is a public purpose; and that
6 the authority will be performing an essential govern-
7 mental function in the exercise of the powers conferred
8 upon it by the provisions of this article. Accordingly,
9 each authority and, without limitation, its revenues,
10 properties, operations and activities shall be exempt
11 from the payment of any taxes or fees to the state or
12 any of its political subdivisions or to any officer or em-
13 ployee of the state or any of its political subdivisions.
14 Property, real and personal, owned by or leased and
15 used exclusively by each authority shall be public prop-
16 erty and therefore exempt from taxation in accordance
17 with section nine, article three, chapter eleven of this
18 code. The revenue bonds or other evidences of in-
19 debtedness issued pursuant to the provisions of this
20 article, and the interest thereon, shall be exempt from
21 taxation, except inheritance and transfer taxes.

PART X. CONFLICT OF INTEREST; BIDS; LEGAL
INVESTMENTS; CONSTRUCTION.

§8-27-25. Article constitutes complete authority; liberal construction.

1 This article shall constitute full and complete au-
2 thority for the creation of any authority and for carrying
3 out the powers and duties of any such authority and for
4 the issuance, sale or exchange of revenue bonds by such
5 authority as provided in this article. The provisions of
6 this article shall be liberally construed to accomplish its
7 purpose and no procedure or proceedings, notices,
8 consents or approvals shall be required in connection
9 therewith except as may be prescribed by this article.

**CHAPTER 24A. MOTOR CARRIERS OF PASSENGERS
AND PAYMENTS FOR HIRE.**

ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.

§24A-1-3. Exemptions from chapter.

1 The provisions of this chapter, except where specifi-
2 cally otherwise provided, shall not apply to:

3 (1) Motor vehicles operated exclusively in the trans-
4 portation of United States mail or in the transportation
5 of newspapers;

6 (2) Motor vehicles owned and operated by the United
7 States of America, the state of West Virginia, or any
8 county, municipality or county board of education, ur-
9 ban mass transportation authority established and main-
10 tained pursuant to article twenty-seven, chapter eight
11 of this code, or by any department thereof, and any
12 motor vehicles operated under a contract with a county
13 board of education exclusively for the transportation
14 of children to and from school or such other legitimate
15 transportation for the schools as the commission may
16 specifically authorize;

17 (3) Motor vehicles used exclusively in the transpor-
18 tation of agricultural or horticultural products, live-
19 stock, poultry and dairy products from the farm or or-
20 chard on which they are raised or produced to markets,
21 processing plants, packing houses, canneries, railway
22 shipping points and cold storage plants, and in the trans-
23 portation of agricultural or horticultural supplies to
24 such farms or orchards to be used thereon;

25 (4) Motor vehicles used exclusively in the transpor-
26 tation of human or animal excreta;

27 (5) Motor vehicles used exclusively in ambulance
28 service, or duly chartered rescue squad service;

29 (6) Motor vehicles used exclusively for volunteer
30 fire department service;

31 (7) Motor vehicles used exclusively in the transpor-
32 tation of coal from mining operations to loading fa-
33 cilities for further shipment by rail or water carriers;
34 and

35 (8) Motor vehicles used by petroleum commission

36 agents and oil distributors solely for the transportation
37 of petroleum products and related automotive products
38 when such transportation is incidental to the business
39 of selling said products: *Provided*, That the owner of
40 said vehicle or vehicles shall have in effect at all times
41 a public liability insurance policy with respect to said
42 vehicle or vehicles and the driver or drivers thereof in
43 an amount equal to or in excess of that required by the
44 public service commission of West Virginia for similar
45 vehicles under its jurisdiction, evidence of which in-
46 surance shall be filed with the motor carrier division
47 of said public service commission. All such motor vehi-
48 cles not so insured shall be subject to the provisions of
49 this chapter.

ARTICLE 5. POWERS AND DUTIES OF COMMISSION.

§24A-5-1. Powers of commission as to rates, schedules, etc.

1 The commission shall have power to originate, estab-
2 lish, promulgate, change, investigate and enforce tariffs,
3 rates, joint rates, classifications, and schedules for all
4 motor carriers, except urban mass transportation au-
5 thorities established and maintained pursuant to article
6 twenty-seven, chapter eight of this code, and the prac-
7 tices, services and facilities of all motor carriers. And
8 whenever the commission shall, after hearing, find any
9 existing rates, tariffs, joint rates, classifications, sched-
10 ules, practices, services, or facilities unjust, unreason-
11 able, insufficient, or unjustly discriminatory or other-
12 wise in violation of any of the provisions of this chapter,
13 the commission shall, by order, fix and require reason-
14 able rates, joint rates, tariffs, classifications, schedules,
15 practices, services, or facilities to be followed or estab-
16 lished in the future in lieu of those found to be unjust,
17 unreasonable, insufficient, or unjustly discriminatory
18 or otherwise in violation of any provisions of law.

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

James L. Davis
Chairman Senate Committee

Robert G. Thompson
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. C. Steen Jr.
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

W. T. Bullington Jr.
President of the Senate

Lewis T. McMane
Speaker House of Delegates

The within *approved* this the *4th*
day of *March*, 1976

Arva Shaare Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/27/76

Time 4:00 p.m.