WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED

SENATE BILL NO. 179

(By Mr. [Name], Jr., President)

PASSED February 25, 1976
In Effect ninety days from Passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA
THIS DATE 3/5/76
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 re-enact 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That section eighteen, article twenty-seven, chapter eight be repealed; that sections three, ten, fifteen, twenty and twenty-five of said article be amended and reenacted; and that section three, article one and section one,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.


1 As used in this article, unless a different meaning appears from the context:
(a) "Authority" means any urban mass transportation authority created pursuant to the provisions of this article;

(b) "Board" means the board of any urban mass transportation authority;

(c) "Contiguous counties" means two or more counties which constitute a compact territorial unit within an unbroken boundary wherein one county touches at least one other county, but does not require that each county touch all of the other counties so combining;

(d) "Facilities and equipment" means all real and personal property of every kind and character owned or held by any urban mass transportation system for the purpose of providing transportation by bus or rail or other conveyance serving the public;

(e) "Participating government" means any municipality or county establishing or participating in an urban mass transportation authority;

(f) "Project" means any undertaking of an authority;

(g) "Revenues" means the gross receipts derived directly or indirectly from or in connection with the operation by an authority of any urban mass transportation system or systems and shall include, without limitation, all fees, rates, fares, rentals or other income actually received or receivable by or for the account of an authority from the operation of the system, and any other receipts from whatever source derived;

(h) "Service area of the authority" means and includes an area commensurate with the area served by an existing system or systems acquired or to be acquired by an authority, or if there be no existing system, the area shall extend to and include an area to be defined by the authority;

(i) "System" means any urban mass transportation system;

(j) "Trust indenture" means a security instrument entered into by an authority pursuant to which bonds or notes are issued;
(k) "Urban area" means any area that includes a municipality or other built-up place which is appropriate for a system to serve commuters or others in the locality taking into consideration the local patterns and trends of growth;

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

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

PART III. POWERS AND DUTIES OF AUTHORITIES.


Each authority is hereby given the power:

(a) To sue and be sued, implead and be impleaded;
(b) To have and use a seal and alter the same at pleasure;
(c) To make and adopt all rules and regulations and bylaws as may be necessary or desirable to enable it to exercise the powers and perform the duties conferred or imposed upon it by the provisions of this article;
(d) To employ, in its discretion, planning, architectural and engineering consultants, attorneys, accountants, construction, financial transportation and traffic experts and consultants, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation;
(e) To acquire by grant, purchase, gift, or devise or lease and to hold, use, sell, lease or otherwise dispose of real and personal property of every kind and nature whatsoever, licenses, franchises, rights and interests necessary for the full exercise of its powers pursuant to the provisions of this article, or which may be convenient or useful for the carrying out of such powers;
(f) To acquire, construct, reconstruct, complete, develop, improve, own, equip, maintain and operate any system or systems, or any part thereof, including, without limitation, the power to acquire by purchase, lease or gift all or any part of any licenses, franchises, rights,
interests, engineering and technical studies, data or reports owned or held by any person and determined by its board to be necessary, convenient or useful to the authority in connection with the acquisition, construction, reconstruction, completion, development, improvement, ownership, equipping, maintenance or operation of any system or systems and to reimburse public utilities for relocation of any utility line or facility made necessary by the construction, reconstruction, completion, development, improvement, equipping, maintenance or operation of any system or systems;

(g) To acquire any land, rights or easements deemed necessary or incidental for the purposes of the authority by eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by business corporations;

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

(i) To enter into contracts and agreements for superintendence and management services with any person, who has executive personnel with experience and skill applicable to the superintendence and management of any system, for the furnishing of its services and the services of experienced and qualified personnel for the superintendence and management of any system or any part thereof, including, without limitation, superintendence over personnel, purchases, properties and operations and all matters relating thereto, and any revenue bond
trust indenture may require such contract or agreement, but the personnel whose services are to be so furnished under any such contract or agreement shall not include any member of the board, any member of the immediate family of a member of the board or any agents or employees of the authority, and no such contract or agreement shall extend beyond a term of ten years or such longer time as there are outstanding any revenue bonds under a trust indenture which requires such contract or agreement;

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

(k) To execute security agreements, contracts, leases, equipment trust certificates and any other forms of contracts or agreements, granting or creating a lien, security interest, encumbrance or other security in, on or to facilities and equipment, containing such terms and provisions as the board deems necessary;

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

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

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

(o) To make or cause to be made either by itself or in cooperation with other persons or organizations, whether public or private, traffic surveys, population surveys and such other surveys and studies as it shall consider useful in the performance of its duties or the exercise
of its powers under the provisions of this article and in connection therewith the authority may contract with any person or organization for such planning services;

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

(q) To fix and establish from time to time, such fees, rates or other charges and routes, time schedules and standards of service as will provide revenues in each year at least sufficient to pay the principal of and interest on all bonds issued by the authority, and reasonable reserves therefor, as the same shall become due, together with the cost of administration, maintenance, repair and operation of such system or systems in each year, together with all other payments required in each such year by the resolution which authorized the issuance of such bonds, or the trust indenture securing the same, including, without limitation, reasonable reserves or margins for any of such purposes: Provided, That prior to the initial implementation of any fees, rates or other charges and any subsequent increase thereof affecting generally the users of the system, every authority shall hold a public hearing in the service area of the system on such proposed fees, rates or other charges or any increase thereof, and each authority shall publish a notice of the time and place of said hearing as a Class II 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 the service area of the authority. Such notice shall plainly state the fees, rates or other charges or any increase thereof to be imposed, the time when they shall go into effect, and the time and place where such public hearing will be conducted. Said public hearing shall not be less than ten days subsequent to the date of the last publication of such notice. At such hearing all objections and suggestions shall be heard, and after the hearing has been held the authority shall take such action as it shall deem proper: Provided, however, That the foregoing public hearing and notice
requirements shall not apply to fees, rates or charges
imposed for charter or special services rendered by said
authorities;

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

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

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

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

PART VI. DEVELOPMENT OF SYSTEM; FINANCING THEREOF.


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

9 Any resolution authorizing the issuance of such bonds
or any trust indenture securing the same may contain
such provisions for protecting and enforcing the rights
and remedies of the bondholders and of the trustee as
the authority may deem necessary and proper and
not in violation of law, including provisions pledging
all or any part of the revenues of such authority or
encumbering all or any part of the facilities and equip-
ment of such authority to secure the payment of the
bonds subject to such agreements with bondholders as
may then exist; limiting the purpose to which the pro-
ceeds of sale of any bonds then or thereafter to be issued may be applied; defining the duties of such authority in relation to the acquisition, construction, improvement, maintenance, repair, operation and insurance of any project or projects in connection with which such bonds shall have been authorized; providing for the custody, safeguarding and application of all moneys; limiting the issuance of additional bonds; prescribing a procedure by which the provisions of any trust indenture or contract with bondholders may be amended or modified; requiring such authority to fix and establish such fees, rates or other charges and routes, time schedules and standards of service as will provide revenues in each year at least sufficient to pay the principal and interest on all bonds issued by such authority and reasonable reserves therefor as the same shall become due, together with the cost of administration, maintenance, repair and operation of such system or systems in each year, including, without limitation, reasonable reserves or margins or sinking funds for any of such purposes, defining the acts or omissions to act which shall constitute a default in the duties of such authority to the holders of its bonds and providing the rights and remedies of such holders and of the trustee in the event of default and the manner and terms upon which such default may be declared cured; vesting in a trustee such property rights, powers and duties, in trust, as such authority may determine; and such other additional provisions as such authority may deem necessary or desirable for the security of the holders of bonds issued under the provisions of this article, notwithstanding that such other provisions are not expressly enumerated in this section, it being the intention to grant to the authority the power to make any and all covenants or agreements necessary to secure greater marketability of bonds issued under the provisions of this article, as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services, and to grant to such authorities full and complete power to enter into any contract, covenant or agreement
PART VIII. INDEBTEDNESS; EXEMPTION FROM TAXATION.


It is hereby found, determined and declared that the creation of any authority and the carrying out of its purposes is in all respects for the benefit of the people of this state in general, and of the participating governments in particular, and is a public purpose; and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by the provisions of this article. Accordingly, each authority and, without limitation, its revenues, properties, operations and activities shall be exempt from the payment of any taxes or fees to the state or any of its political subdivisions or to any officer or employee of the state or any of its political subdivisions. Property, real and personal, owned by or leased and used exclusively by each authority shall be public property and therefore exempt from taxation in accordance with section nine, article three, chapter eleven of this code. The revenue bonds or other evidences of indebtedness issued pursuant to the provisions of this article, and the interest thereon, shall be exempt from taxation, except inheritance and transfer taxes.

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

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

This article shall constitute full and complete authority for the creation of any authority and for carrying out the powers and duties of any such authority and for the issuance, sale or exchange of revenue bonds by such authority as provided in this article. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals shall be required in connection 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 specifically otherwise provided, shall not apply to:

2 (1) Motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers;

3 (2) Motor vehicles owned and operated by the United States of America, the state of West Virginia, or any county, municipality or county board of education, urban mass transportation authority established and maintained pursuant to article twenty-seven, chapter eight of this code, or by any department thereof, and any motor vehicles operated under a contract with a county board of education exclusively for the transportation of children to and from school or such other legitimate transportation for the schools as the commission may specifically authorize;

4 (3) Motor vehicles used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage plants, and in the transportation of agricultural or horticultural supplies to such farms or orchards to be used thereon;

5 (4) Motor vehicles used exclusively in the transportation of human or animal excreta;

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

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

8 (7) Motor vehicles used exclusively in the transportation of coal from mining operations to loading facilities for further shipment by rail or water carriers; and

9 (8) Motor vehicles used by petroleum commission
agents and oil distributors solely for the transportation of petroleum products and related automotive products when such transportation is incidental to the business of selling said products: *Provided*, That the owner of said vehicle or vehicles shall have in effect at all times a public liability insurance policy with respect to said vehicle or vehicles and the driver or drivers thereof in an amount equal to or in excess of that required by the public service commission of West Virginia for similar vehicles under its jurisdiction, evidence of which insurance shall be filed with the motor carrier division of said public service commission. All such motor vehicles not so insured shall be subject to the provisions of this chapter.

**ARTICLE 5. POWERS AND DUTIES OF COMMISSION.**

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

The commission shall have power to originate, establish, promulgate, change, investigate and enforce tariffs, rates, joint rates, classifications, and schedules for all motor carriers, except urban mass transportation authorities established and maintained pursuant to article twenty-seven, chapter eight of this code, and the practices, services and facilities of all motor carriers. And whenever the commission shall, after hearing, find any existing rates, tariffs, joint rates, classifications, schedules, practices, services, or facilities unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall, by order, fix and require reasonable rates, joint rates, tariffs, classifications, schedules, practices, services, or facilities to be followed or established in the future in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provisions of law.
Enr. S. B. No. 174] 12

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

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. Wesley Stedman
Clerk of the Senate

Clerk of the House of Delegates

W. W. Barbour
President of the Senate

Speaker House of Delegates

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

Governor
PRESENTED TO THE GOVERNOR

Date  2/27/76
Time   4:00 p.m.