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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

Committee Substitute for
SENATE BILL NO. 189

(By Senator *Tomovich, Mr. President et al.*)

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PASSED March 12, 1987

In Effect unity day from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 189

(SENATORS TONKOVICH, MR. PRESIDENT (BY REQUEST), AND HARMAN,
original sponsors)

[Passed March 12, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section fifteen, article one, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to contracts for operation of commissaries, restaurants and other establishments; limiting contracts to ten years' duration; renewal at option of the commissioner; limitation of contract by commissioner; contracts for development of revenue producing facilities within the state parks and recreational facilities; level of investment of contracts; term of investment contracts; reservation of option to purchase, purchase price determination; requiring that contracts for a term of ten years or longer shall be subject to public hearing, prescribing the location of such hearing and requiring notice thereof; and providing for certain findings to be made by the commissioner of commerce.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article one, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 1. DEPARTMENT OF COMMERCE.

§5B-1-15. Contracts for operation of commissaries, restaurants, recreational facilities and other establishments limited to ten years' duration; renewal at option of commissioner; termination of contract by the commissioner; contracts for development of revenue producing facilities within the state parks and recreational facilities; level of investment of contracts; term of investment contract; reservation of option to purchase; purchase price determination.

1 (a) When it is deemed necessary by the commissioner to
2 enter into a contract with a person, firm or corporation for
3 the operation of a commissary, restaurant, recreational
4 facility or other such establishment within the state parks
5 and public recreation system, such contract shall be for a
6 duration not to exceed ten years, but a contract so made
7 may provide for an option to renew at the commissioner's
8 discretion for an additional term or terms not to exceed ten
9 years at the time of renewal.

10 Any contract entered into by the commissioner shall
11 provide an obligation upon the part of the operator that he
12 maintain a level of performance satisfactory to the
13 commissioner, and shall further provide that any such
14 contract may be terminated by the commissioner in the
15 event he determines that such performance is
16 unsatisfactory and has given the operator reasonable notice
17 thereof.

18 (b) When it is deemed necessary by the commissioner to
19 enter into a contract with a person, firm or corporation for
20 the development of revenue producing facilities within the
21 state parks and public recreation system for a period of
22 more than ten years, such contract shall be at least a one
23 million dollar level of investment for such revenue
24 producing facilities. The term of the investment contract
25 may be up to twenty-five years of duration at the
26 determination of the commissioner and based upon the
27 amount of the investment and the achievement of the
28 environmental, recreational and cultural goals of the state
29 park or recreation areas system of this state.

30 Any investment contract entered into by the
31 commissioner shall reserve an option to purchase the

32 investment at any time during the term of the contract upon
33 reasonable notice to the investor. The option to purchase
34 shall provide that the purchase price of the revenue
35 producing facilities shall be determined by the average of
36 three appraisals by three certified members of appraisal
37 institutes.

38 (c) No contract of a term greater than ten years shall be
39 entered into by the commissioner until a public hearing is
40 held in the vicinity of the location of the proposed facility
41 with at least two weeks notice of such hearing by Class I
42 publication pursuant to section two, article three, chapter
43 fifty-nine of this code. At such hearing the commissioner
44 shall present in writing the following findings and
45 supporting statements therefor:

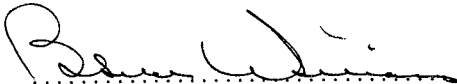
46 (i) That the proposed development will not deprive
47 users of the state park or recreational area of existing
48 recreational facilities in any significant fashion;

49 (ii) That the proposed development will not have
50 substantial negative impact on the environmental, scenic or
51 cultural qualities of the said park or area; and

52 (iii) That the proposed development, considered as a
53 whole, is of benefit to the recreational goals of the state.

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

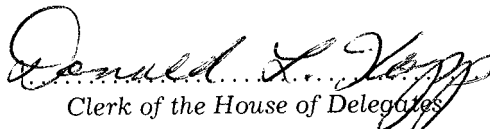

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Chairman Senate Committee

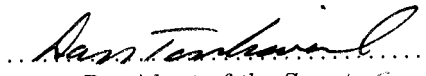

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Chairman House Committee

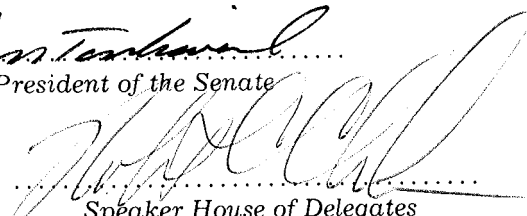
Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within  this the 
 day of, 1987.


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Governor

PRESENTED TO THE

GOVERNOR

Date 3/16/89

Time 3:16 p.m.