WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

---

ENROLLED

Com. Sub. for HOUSE BILL No. 4237.

(By Mr. Speaker, Mr. Chambers, & Dal Sweat)

---

Passed March 4, 1988

In Effect Ninety Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4237
(By Mr. Speaker, Mr. Chambers, and Delegate Swann)

[Passed March 4, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact section nineteen, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the authority of the commissioner of highways with respect to the sale, lease, exchange or lease of certain real property acquired by the West Virginia department of highways; sale, lease or use of former railroad rights-of-way and those properties which were formerly used as turnpikes and in which the department of highways has a property interest; and permitting those properties to be first sold to abutting property owners without the necessity of public auction.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.


1 The department of highways, subject to the conditions
2 herein, may sell, exchange, or lease real property, or any
3 interest or right therein, held by the department of
4 highways.
When the real property, or any interest or right therein, is being held for future road purposes, it may be leased. When the real property, or any part thereof, or any interest or right therein, is deemed by the commissioner not necessary, or desirable for present or presently foreseeable future state road purposes, it may be exchanged for other real property, or any interest or right therein, deemed by the commissioner to be necessary or desirable for present or presently foreseeable future state road purposes, or it may be sold. In addition the department may exchange real property, or any part thereof, or any interest or right therein, even though it may be necessary or desirable for present or presently foreseeable future state road purposes, if the exchange is made for other real property, or any interest or right therein, in close proximity thereto which the commissioner deems of equal or superior useful value for present or presently foreseeable future state road purposes. In making exchanges the department may make allowances for differences in the value of the properties being exchanged and may move or pay the cost of moving buildings, structures, or appurtenances in connection with the exchange.

Every such sale of real property, or any interest or right therein or structure thereon, shall be at public auction in the county in which the real property, or the greater part thereof in value, is located, and the department shall advertise, by publication or otherwise, the time, place, and terms of such sale at least twenty days prior thereto. The property shall be sold in the manner which will bring the highest and best price therefor. The department may reject any or all bids received at the sale. The commissioner shall keep a record, open to public inspection, indicating the manner in which such real property, or any interest or right therein or structure thereon, was publicly advertised for sale, the highest bid received therefor and from whom, the person to whom sold, and payment received therefor. Such record shall be kept for a period of five years and may thereafter be destroyed.

The commissioner may transfer, sell, or otherwise
dispose of those portions of former railroad right-of-way properties owned by or to be acquired by the department of highways and those properties formerly used for turnpike roads which the commissioner in his sole discretion shall determine are not necessary or desirable for present or presently foreseeable future state road purposes by first offering the same to the principal abutting landowners without following the procedure for public auction hereinbefore set forth in this section.

The commissioner shall adopt and promulgate rules in accordance with the provisions of article three, chapter twenty-nine-a of this code governing and controlling the making of any leases or sales pursuant to the provisions of this section, which rules may provide for the giving of preferential treatment in making leases to the persons from whom the properties or rights or interests therein were acquired, or their heirs or assigns and shall also provide for granting a right of first refusal to abutting landowners at fair market value in the sale or lease of former railroad right-of-way properties and former turnpike roads owned by the department of highways.

The commissioner may insert in any deed or conveyance, whether it involves an exchange, lease, or sale, such conditions as are in the public interest and have been approved in advance by the governor.

All moneys received from the exchange, sale, or lease of real property, or any right or interest therein, shall be paid into the state treasury and credited to the state road fund.

Notwithstanding the provisions of this section, no such property shall be transferred, sold or otherwise disposed of unless the commissioner finds that such right-of-way or other property has no significant value to the state as a hiking trail and does not serve as a link between two or more state owned properties, except that any such property that lies within six hundred feet of any dwelling house may be transferred, sold or otherwise disposed of without such a finding pursuant to the provisions of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The above described bill is hereby approved this the 14th day of March, 1988.

Governor