WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

ENROLLED
Committee Substitute for
SENATE BILL NO. 276

(By Senator Bandele, M. President, by request)

PASSED March 9, 1990
In Effect 60 days from Passage
AN ACT to amend and reenact section four, article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sales of public land to federal or state entities for less than fair market value.

Be it enacted by the Legislature of West Virginia:

That section four, article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended to read as follows:

ARTICLE 1A. REAL ESTATE MANAGEMENT AND PROCEDURES.

§20-1A-4. Public land corporation to conduct sales of public lands by competitive bidding, modified competitive bidding or direct sale.

(a) Sales, exchanges or transfers of public lands under this article shall be conducted under competitive bidding procedures. However, where the secretary determines it necessary and proper in order to assure the following public policies including, but not
limited to, a preference to users, lands may be sold by modified competitive bidding or without competitive bidding. In recognizing public policies, the secretary shall give consideration to the following potential purchasers:

(1) The local government entities which are in the vicinity of the lands; and

(2) Adjoining land owners.

(b) The policy for selecting the methods of sale is as follows:

(1) Competitive sale is the general procedure for sales of public lands and shall be used in the following circumstances:

(A) Wherever in the judgment of the secretary the lands are accessible and usable regardless of adjoining land ownership; or

(B) Wherever the lands are within a developing or urbanizing area and land values are increasing due to the location of the land and interest on the competitive market.

(2) Modified competitive sales may be used to permit the adjoining landowner or local governmental entity to meet the high bid at the public sale. Lands otherwise offered under this procedure would normally be public lands not located near urban expansion areas, or not located near areas with rapidly increasing land values, and where existing use of adjacent lands would be jeopardized by sale under competitive bidding procedures.

(3) Direct sale may be used when the lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by local governments.

(4) In no event shall lands be offered for sale by "modified competitive sales" or "direct sale" unless and until the corporation makes a written finding of justification for use of an alternative bidding procedure.
(5) Subject to the bidding procedures set forth herein, the corporation is authorized, at its discretion, to sell public lands subject to rights-of-way, restrictive covenants or easements retained by the corporation, limiting the use of such lands to purposes consistent with the use of adjoining or nearby lands owned by the corporation.

(c) When lands have been offered for sale by one method of sale and the lands remain unsold, then the lands may be reoffered by another method of sale.

(d) Except as provided herein, public lands may not be sold, exchanged or transferred by the corporation for less than fair market value. Fair market value shall be determined by an appraisal made by an independent person or firm chosen by the public land corporation. The appraisal shall be performed using the principles contained in the “Uniform Appraisal Standards for Federal Land Acquisitions” published under the auspices of the Interagency Land Acquisition Conference, United States Government Printing Office, 1972: Provided, That public lands may be sold exchanged or transferred to any federal agency or to the state or any of its political subdivisions for less than fair market value if, upon a specific written finding of fact, the corporation determines that such a transfer would be in the best interests of the corporation and the state.

(e) The corporation may reject all bids when such bids do not represent the corporation's considered value of the property exclusive of the fair market value.

(f) The corporation shall promulgate rules, in accordance with the provisions of chapter twenty-nine-a of this code, regarding procedures for conducting public land sales by competitive bidding, modified competitive bidding and direct sales.
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 ....... this the 30th day of ....... 1980.

Governor