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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

— ● —

# ENROLLED

*Com. Sub. For*

HOUSE BILL No. 4559

(By Delegate *Pethel* )

— ● —

Passed *March 6,* 1992

In Effect *Ninety Days From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4559**  
(By DELEGATE PETHTEL)

[Passed March 6, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article three, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to monuments, tablets and memorials; setting the minimum number of members of county memorial board at five; setting the maximum number of members of county memorial board at eleven; and requiring at least one member be appointed from each magisterial district within the county.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 3. MONUMENTS, TABLETS AND MEMORIALS.**

**§10-3-2. Memorials to soldiers and sailors; sale of existing memorials; memorial fund; levies; board of directors; report of board to county commission; use of memorial; itemized report for public inspection; itemized budget estimate.**

- 1 (a) The county commission of any county shall have
- 2 the power, upon petition of twenty percent of the voters

3 of such county, based on the number of votes cast at the  
4 last general election for governor, to acquire and  
5 establish at the county seat, or at any other suitable  
6 place within the county, by purchase or otherwise,  
7 ground, park or grove, and to erect and maintain  
8 thereon a building or buildings, structure or structures,  
9 monument or monuments, to remodel, repair, remove or  
10 replace existing buildings or structures, or, within its  
11 discretion, to contribute money out of the county  
12 treasury to aid in the erection or the maintenance, or  
13 both, of any building or buildings, structure or struc-  
14 tures, where same is to be used with educational  
15 institutions operated by the state or any political  
16 subdivision thereof, or to aid in the erection or the  
17 maintenance, or both, of any memorial hospital owned  
18 and operated by a nonprofit corporation incorporated  
19 under the laws of this state, as a memorial or memorials,  
20 and, also shall have the power to sell any existing  
21 building or structure established and owned by the  
22 county commission as a war memorial and use the funds  
23 realized from the sale thereof together with other funds  
24 hereby authorized to create and establish and maintain  
25 new memorials, for the use of the public and to render  
26 the greatest benefit to the greatest number, in memory  
27 and in recognition of the virtues and sacrifices of the  
28 soldiers, sailors and marines from the state of West  
29 Virginia and each county thereof, and who served in the  
30 armed forces of the United States in the world wars. It  
31 is the declared purpose of this section to create or assist  
32 in creating memorials to the memory of such soldiers,  
33 sailors and marines by aiding all the living, for their  
34 health, safety and betterment.

35 (b) The county commission is authorized to and may  
36 lay a tax on all property in the county for the purposes  
37 of acquiring and establishing such memorials, remodel-  
38 ing, repairing, removing or replacing existing memor-  
39 ials, or making the initial contribution to memorials,  
40 said tax to be not in excess of the following maximum  
41 levies on each one hundred dollars' assessed valuation:  
42 On Class I property, six cents; on Class II property,  
43 twelve cents; and on Classes III and IV property,  
44 twenty-four cents; and thereafter for maintenance

45 purposes a like tax to be not in excess of the following  
46 maximum levies on each one hundred dollars assessed  
47 valuation: On Class I property, two cents; on Class II  
48 property, four cents; and on Classes III and IV property,  
49 eight cents, such tax to be levied and collected in like  
50 manner as the general taxes of the county, which shall  
51 be kept separate in a fund to be known as the "memorial  
52 fund": *Provided*, That in any county where such  
53 memorial has been established and under construction  
54 or partly completed the amount of tax for acquiring and  
55 establishing the same, or making the initial contribution  
56 thereto, shall not be in excess of the following maximum  
57 levies on each one hundred dollars assessed valuation:  
58 On Class I property, three cents; on Class II property,  
59 six cents; and on Classes III and IV property, twelve  
60 cents; and thereafter for maintenance purposes a like  
61 tax to be not in excess of the following maximum levies  
62 on each one hundred dollars assessed valuation: On Class  
63 I property, two cents; on Class II property, four cents;  
64 and on Classes III and IV property, eight cents.

65 (c) Whenever such memorial is acquired or estab-  
66 lished wholly by the county commission under this  
67 section, the county commission shall appoint a board of  
68 directors composed of at least five members with at least  
69 one member from each of the magisterial districts of the  
70 county not to exceed a total of eleven members. Such  
71 directors shall hold office for four years from the first  
72 day of July following their appointment, and until their  
73 successors are appointed. No person shall be ineligible  
74 to appointment by reason of sex. Vacancies in the board  
75 shall be reported to the county commission and filled by  
76 appointment in like manner as original appointments  
77 for the unexpired term. The county commission may  
78 remove any director for misconduct or neglect of duty.  
79 No compensation shall be paid or allowed any director.

80 The board of directors of each memorial shall,  
81 immediately after their appointment, meet and organize  
82 by electing one of their number as president and one as  
83 secretary; a majority of all the members of any board  
84 shall constitute a quorum for the transaction of business.  
85 They shall make and adopt such bylaws, rules and

86 regulations from time to time, for their own guidance  
87 and for the government and use of the memorial, as may  
88 be expedient and not inconsistent with this section. Such  
89 board shall have authority to contract for the construc-  
90 tion or purchase of a memorial established under this  
91 section and for repairs thereon or maintenance thereof  
92 and the supervision, care and custody of the ground,  
93 structure or structures: *Provided*, That all contracts  
94 shall be approved by the county commission and that the  
95 expenditures of all funds shall be subject to the approval  
96 of the county commission, and all moneys belonging to  
97 the memorial fund shall be deposited in the treasury of  
98 such county to the credit of the memorial fund and shall  
99 be drawn therefrom on orders issued by the county  
100 commission. Such orders shall not be drawn except upon  
101 requisition of the memorial board attached to proper  
102 authenticated vouchers. Ground, park or a grove for a  
103 memorial may be acquired by condemnation by such  
104 board in the same manner as the county commission  
105 may acquire other real estate for public uses and  
106 purposes, and the title of all such property shall be and  
107 vest in the county commission. The board shall have  
108 power to appoint a suitable custodian and assistants and  
109 prescribe rules for their conduct, fix their duties and  
110 compensation, and shall have power to remove such  
111 appointees and, in general, to carry out the spirit and  
112 intention of this section.

113 Each memorial operated by a board of directors as  
114 provided hereby shall be free for the use of the  
115 inhabitants of the county, subject to such reasonable  
116 rules and regulations as the board may adopt, in order  
117 to render the use of such building or structure of  
118 greatest benefit to the greatest number; and the board  
119 may exclude from the use of the building any and all  
120 persons who shall wilfully violate such rules. The board  
121 of directors may extend the use and privileges of the  
122 building and structure to an educational institution or  
123 to nonresidents of the county upon such terms and  
124 conditions as the board may prescribe.

125 The board of directors shall, on or before the first day  
126 of July in each year, make a report to the county

127 commission, stating the condition of the property, the  
128 various sums of money received from the memorial  
129 fund, and from all other sources, how much money was  
130 expended and for what expended; also an itemized  
131 budget estimate of expense of the property for the  
132 ensuing year, with such other information and sugges-  
133 tions as they deem of general interest, or that may be  
134 required by the county commission.

135 Any person or persons, including corporations,  
136 desiring to make donations of cash or other personal  
137 property or real estate for the benefit of the memorial,  
138 shall have the right to do so, and shall have the right  
139 to vest the title thereof in the county commission, to be  
140 held in trust and controlled by such board, the same as  
141 the other property owned or acquired, and according to  
142 the terms and for the purposes set out in the deed, gift,  
143 devise or bequest.

144 (d) Whenever the county commission contributes  
145 money out of the county treasury to aid in the erection  
146 or the maintenance, or both, of any building or build-  
147 ings, structure or structures, where same is or are  
148 operated by the state or any political subdivision thereof,  
149 or to aid in the erection or the maintenance, or both, of  
150 a memorial hospital owned and operated by a nonprofit  
151 corporation incorporated under the laws of this state, as  
152 such memorial or memorials, there shall be filed with  
153 the county commission, on or before the first day of July  
154 in each year, an annual itemized report, for public  
155 inspection, of the operation, income and expenditures for  
156 the twelve months preceding as of the thirty-first day  
157 of May in each year, and the condition of the property,  
158 by the officials, or board of directors, as the case may  
159 be, in charge thereof, and in the case of such memorial  
160 hospital such report also shall contain a complete  
161 schedule of the rates and charges to the public and the  
162 services rendered free to the indigent and needy unable  
163 to pay therefor; and there also shall be filed with the  
164 county commission, on or before the first day of July in  
165 each year, an itemized budget estimate of the expense  
166 and operation of such memorial or memorials for the  
167 ensuing year, with such other information and sugges-

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168 tions as may be deemed of public interest, or that may  
169 be required by the county commission.

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

*Somer Slack*  
-----  
Chairman Senate Committee

*Ernest C. Moore*  
-----  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Paul R. Palmer*  
-----  
Clerk of the Senate

*Donald L. Hoop*  
-----  
Clerk of the House of Delegates

*Kurt Faudate*  
-----  
President of the Senate

*Bob Call*  
-----  
Speaker of the House of Delegates

The within *is approved* this the *27th*  
day of *March*, 1992.

*Yaston Caperton*  
-----  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/9/92

Time 2:47 pm