

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

ENROLLED

Com. Sub. For
HOUSE BILL No. 4822

(By Delegate Amores, Hunt, Siacrist,
Walters and Manuel)

Passed March 8, 1996

In Effect Ninety Days From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 4822

(BY DELEGATES AMORES, HUNT, SEACRIST, WALTERS AND MANUEL)

[Passed March 8, 1996; in effect ninety days from passage.]

AN ACT to allow the Kanawha County commission the authority to construct and maintain county transportation, parking and other public facilities; delegation of authority to board or commission; financing.

Be it enacted by the Legislature of West Virginia:

KANAWHA COUNTY PUBLIC PARKING FACILITIES.

§1. Authority to construct and maintain county transportation, parking, and other public facilities; delegation of authority to board or commission; financing; additional special provisions as to motor vehicle parking facilities.

1 (a) The Kanawha County commission is hereby
2 authorized and empowered to construct, reconstruct,
3 establish, acquire, improve, renovate, extend, enlarge,
4 increase, own, equip, repair (including replacement),
5 maintain and operate transportation terminals, county and
6 other public facilities and motor vehicle parking facilities
7 including parking lots, buildings, ramps, curblin parking,
8 meters and other facilities deemed necessary, appropriate,
9 useful, convenient or incidental to the regulation, control
10 and parking of motor vehicles.

§2. Definitions.

1 "Governing body" means the Kanawha County
2 commission exercising the power and authority directly,
3 or any commission or board created by the Kanawha
4 County commission for the purposes described herein.

§3. Delegation of power and authority.

1 The power and authority conferred upon the Kanawha
2 County commission may be exercised by the Kanawha
3 County commission directly or may be delegated to
4 commissions or boards created by the county commission
5 for this purpose.

§4. Issuance of bonds; financing.

1 (a) In order to pay for all costs and expenses incurred
2 in carrying out the provisions of this section, the Kanawha
3 County commission is authorized to issue general
4 obligation bonds of the county if the issuance thereof has
5 been authorized by the voters of county as provided by
6 law. Further, the Kanawha County commission may
7 finance the costs and expenses by any other method
8 permitted by law, including, without limiting the generality
9 of the foregoing, the use of lease purchase financing
10 through a building commission created pursuant to article
11 thirty-three, chapter eight of this code or from any other
12 person.

13 (b) The Kanawha County commission, in its discretion,
14 may provide for the following:

15 (1) The leasing, or subleasing if the governing body is
16 leasing the motor vehicle parking facility from a building
17 commission created pursuant to article thirty-three,
18 chapter eight of this code or from any other person, by
19 the governing body as lessor or sublessor of space in or
20 on a motor vehicle parking facility for any business,
21 commercial or charitable use to the person, for fair and
22 adequate consideration, for the period or periods of time
23 and upon other terms and conditions to which the
24 governing body may agree. In connection with the
25 leasing or subleasing of any space, the governing body
26 may agree to provide in or on the motor vehicle parking

27 facility structures, accommodations or improvements as
 28 may be necessary for the business, commercial or
 29 charitable use or space may be leased or subleased upon
 30 condition that the lessee or sublessee shall provide the
 31 same in or on the space so leased or subleased.

32 (2) The leasing, or subleasing if the governing body is
 33 leasing the motor vehicle parking facility from a building
 34 commission created pursuant to article thirty-three,
 35 chapter eight of this code or from any other person, by
 36 the governing body as lessor or sublessor of air space over
 37 a motor vehicle parking facility for any business,
 38 commercial or charitable use to such person, for fair and
 39 adequate consideration, for period or periods of time and
 40 upon other terms and conditions to which the governing
 41 body may agree. Any lease or sublease of such air space
 42 may contain provisions: (i) Authorizing the use of areas
 43 of the underlying motor vehicle parking facility as are
 44 essential for ingress or egress to and from the air space;
 45 (ii) relating to the support of any building or other
 46 structure to be erected in the air space; and (iii) relating to
 47 the connection of essential public or private utilities to any
 48 building or other structure in the air space.

49 Every lease or sublease shall be authorized by
 50 resolution of the Kanawha County commission, which
 51 resolution may specify terms and conditions which must
 52 be contained in the lease or sublease: *Provided*, That
 53 before any proposed lease or sublease is authorized by
 54 resolution of the Kanawha County commission, a public
 55 hearing on the proposed lease or sublease shall be held by
 56 the Kanawha County commission after notice of the date,
 57 time, place and purpose of the public hearing has been
 58 published as a Class I legal advertisement in compliance
 59 with the provisions of article three, chapter fifty-nine of
 60 this code, which publication shall occur at least ten days
 61 prior to the public hearing, and the publication area for
 62 the publication shall be the county in which the motor
 63 vehicle parking facility is situate.

64 (c) The proceeds from any lease or sublease as

65 provided in this section may be used by the governing
66 body to pay all or any portion of the rental payments
67 payable by the governing body for such motor vehicle
68 parking facility if the governing body is leasing such
69 facility from a building commission created pursuant to
70 article thirty-three, chapter eight of this code or from any
71 other person, to defray the costs of operation of such
72 motor vehicle parking facility, or for any other lawful
73 purpose, as the Kanawha County commission shall direct
74 in the resolution approving such lease or sublease.

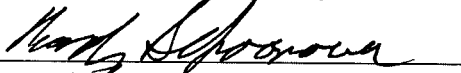
75 (d) Notwithstanding the fact that any motor vehicle
76 parking facility subject to the provisions of this article is
77 county owned or leased and the fact that a lease or
78 sublease under the provisions of subdivision (1) or
79 subdivision (2), subsection (c) of this section is for a
80 public purpose as declared in subsection (b) of this
81 section, any leasehold interest under subdivision (1), and
82 any building, structure, accommodation or improvement
83 erected, made or operated in any air space leased or
84 subleased under subdivision (2) shall be subject to all
85 property taxes, which shall be assessed and imposed
86 against the lessee or sublessee, as the case may be, unless
87 the use of the leasehold interest, building, structure,
88 accommodation or improvement is otherwise exempt from
89 property taxation under the provisions of section nine,
90 article three, chapter eleven of this code.


91 (e) Without limiting the generality of the foregoing
92 provisions of this section, any governing body is hereby
93 authorized and empowered, but shall not be required to
94 construct, reconstruct, establish, acquire, improve, renovate,
95 extend, enlarge, increase, own, lease, equip (including
96 replacement), maintain and operate motor vehicle parking
97 facilities (including parking lots, buildings, ramps,
98 curblin parking, meters and other facilities deemed
99 necessary, appropriate, useful, convenient or incidental to
100 the regulation, control and parking of motor vehicles) for
101 use by the public as well as by employees, officers and
102 agents of the Kanawha County commission or of any
103 other governmental body, and to charge any person for

104 the use of the facilities, the rates and charges as may be
105 established from time to time by the governing body. The
106 rates and charges may include the costs of operation of
107 the facilities, the costs of leasing or financing the facilities,
108 reimbursement for prior capital expenditures, and other
109 costs, charges and other considerations as the governing
110 body shall determine to be appropriate in its sole
111 discretion.

Enr. Com. Sub. for H. B. 4822] 6

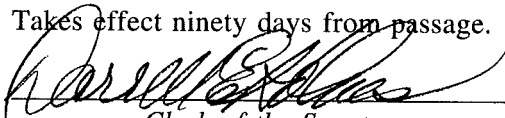
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

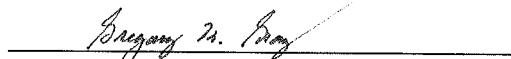

Chairman Senate Committee

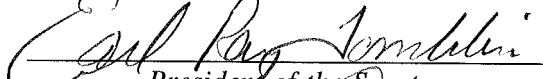

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

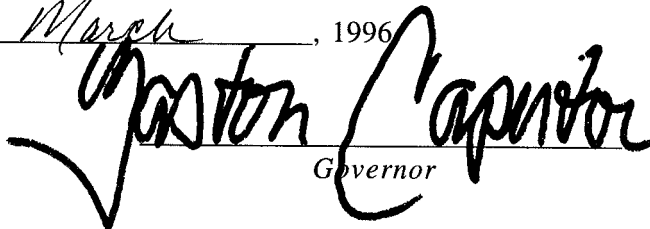

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 28th
day of March, 1996


Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/96

Time 2:35 pm