WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Com. Sub. For
HOUSE BILL No. 4822

(By Delegate Amoreo Hunt, Sponsor,
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.

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

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

§3. Delegation of power and authority.

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

§4. Issuance of bonds; financing.

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

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

(1) The leasing, or subleasing if the governing body is leasing the motor vehicle parking facility from a building commission created pursuant to article thirty-three, chapter eight of this code or from any other person, by the governing body as lessor or sublessor of space in or on a motor vehicle parking facility for any business, commercial or charitable use to the person, for fair and adequate consideration, for the period or periods of time and upon other terms and conditions to which the governing body may agree. In connection with the leasing or subleasing of any space, the governing body may agree to provide in or on the motor vehicle parking...
facility structures, accommodations or improvements as
may be necessary for the business, commercial or
charitable use or space may be leased or subleased upon
condition that the lessee or sublessee shall provide the
same in or on the space so leased or subleased.

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

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

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

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

(e) Without limiting the generality of the foregoing
provisions of this section, any governing body is hereby
authorized and empowered, but shall not be required to
construct, reconstruct, establish, acquire, improve, renovate,
extend, enlarge, increase, own, lease, equip (including
replacement), maintain and operate motor vehicle parking
facilities (including parking lots, buildings, ramps,
curbline parking, meters and other facilities deemed
necessary, appropriate, useful, convenient or incidental to
the regulation, control and parking of motor vehicles) for
use by the public as well as by employees, officers and
agents of the Kanawha County commission or of any
other governmental body, and to charge any person for
the use of the facilities, the rates and charges as may be established from time to time by the governing body. The rates and charges may include the costs of operation of the facilities, the costs of leasing or financing the facilities, reimbursement for prior capital expenditures, and other costs, charges and other considerations as the governing body shall determine to be appropriate in its sole discretion.
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 3/27/46
Time 2:38 pm