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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



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COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 125

(By Senator MCKENZIE, ET AL)



PASSED MARCH 9 2000

In Effect NINETY DAYS FROM Passage

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SENATE CLERK

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 125

(SENATORS MCKENZIE, MITCHELL, BOWMAN, OLIVERIO,
SNYDER AND KESSLER, *original sponsors*)

[Passed March 9, 2000; in effect ninety days from passage.]

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-gg, relating to empowering county commissions to execute lease agreements to obtain equipment or materials.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-gg, to read as follows:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3gg. Lease agreements for equipment or materials with option to cancel or renew.

1 (a) In addition to all other powers and duties now
2 conferred by law upon county commissions, county
3 commissions are hereby authorized and empowered to
4 enter into and execute a lease agreement to obtain equip-
5 ment or material.

6 (b) The lease agreement may not be voided because it
7 provides: (1) That title to the equipment or material shall
8 vest in the county commission at or before the expiration
9 of the leasehold term upon fulfillment of the terms and
10 conditions stipulated in the lease agreement; (2) for
11 application of the annual rental payments made under the
12 lease agreement toward the purchase price of the equip-
13 ment or material, although the total rental payments
14 under the lease agreement are in excess of the cash price of
15 the equipment or material described in the lease agree-
16 ment, whether the excess is by way of interest or a time-
17 price differential; and/or (3) that the risk of loss of the
18 equipment or material shall be borne by the county
19 commission.

20 (c) A lease agreement shall be void, unless the lease
21 agreement provides that the county commission has the
22 following options, during each fiscal year of the lease
23 agreement: (1) The option to terminate the lease agree-
24 ment and return the equipment or material without any
25 further obligation on the part of the county commission;
26 and (2) the option to continue the lease agreement for an
27 additional rental period not to exceed one year in length.

28 When the lease agreement contains the provisions
29 described in subdivisions (1), (2) and (3), subsection (b) of

30 this section, then the following option must be included:
31 The option to pay in advance at any time during any fiscal
32 year the balance due under the lease agreement, with an
33 appropriate rebate of the unearned interest or time-price
34 differential.

35 (d) The funds for the initial rental payment under a lease
36 agreement must be legally at the disposal of the county
37 commission for expenditure in the fiscal year in which the
38 lease agreement is executed. If the county commission
39 elects during any subsequent fiscal year to continue the
40 lease agreement for any additional rental period or to pay
41 in advance the balance due, the funds for the additional
42 rental period or the funds to be used to pay the balance in
43 advance must be legally at the disposal of the county
44 commission for expenditure in the fiscal year in which the
45 county commission elects to continue the lease agreement
46 or to pay in advance the balance due.

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

Wm Bailey

Chairman Senate Committee

Joe F. Smith

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Harold Clarke

Clerk of the Senate

Gregory M. Sear
Clerk of the House of Delegates

Carl Roy Tomblin
President of the Senate

John H. Harman
Speaker House of Delegates

The within *approved* this the *20th*
Day of *March*, 2000

Sei Anderson
Governor

PRESENTED TO THE

GOVERNOR

Date 7/15/00

Time 3:00 pm