ENROLLED

SENATE BILL NO. 781

(By Senator HELMICK, ET AL.)

PASSED MARCH 11, 2004

In Effect 90 Days From Passage
ENROLLED

Senate Bill No. 781

(By Senators Helmick, Sharpe, Chafin, Prezioso, Plymale, Edgell, Love, Bailey, Bowman, McCabe, Minear, Boley, Facemyer, Yoder, Guill and Sprouse)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-40a; and to amend and reenact §5A-3-42 of said code, all relating to long-term leases for wireless communication towers on public lands; authorizing the Secretary of the Department of Administration to negotiate and enter into long-term lease agreements; excluding public lands under the jurisdiction of the Division of Natural Resources; limiting the duration and conditions of such agreements; requiring leases to be recorded with the clerk of the county commission; and directing the secretary to promulgate rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-3-40a; and that §5A-3-42 of said code be amended and reenacted, all to read as follows:

ARTICLE 3. PURCHASING DIVISION.
§5A-3-40a. Long-term leases of public lands for wireless communication towers.

(a) Notwithstanding any provision of law to the contrary, the secretary shall have sole authority to negotiate and enter into long-term lease agreements for lease of public lands to be used for placement of wireless communication towers: Provided, That such long-term lease agreements may not be for periods in excess of thirty years: Provided, however, That for the governmental units named in subsection (d) of this section, any lease proposed by the secretary may only be entered into upon approval in writing of the ranking administrator of the respective governmental unit described in said subsection.

(b) All revenues derived from leases established upon the enactment of this section shall be deposited into the general revenue fund except as provided in subsections (c) and (d) of this section.

(c) Revenues from leases initiated prior to the enactment of this section or subsequently renewed shall continue to be treated as they were prior to the enactment of this section.

(d) Revenues derived from the lease of property under the control of the Department of Transportation shall be deposited into the State Road Fund. Revenues derived from the lease of property under the control of the Division of Natural Resources shall be deposited into the State Park Improvement Fund. Revenues derived from the lease of property under the control of the Department of Agriculture shall be deposited into the Agriculture Fees Fund. Revenues derived from the lease of property under the control of the Division of Forestry shall be deposited into the Division of Forestry Fund. Revenues derived from the lease of property under the control of institutions of higher education shall be deposited into the institution's education and general capital fees fund. Revenues derived from the lease of property under the control of Higher
Education Policy Commission shall be deposited into the
commission's State Gifts Grants and Contracts Fund.
Revenues derived from the lease of property under the
control of the West Virginia Council for Community and
Technical College Education shall be deposited into the
council's Tuition and Required Educational and General
Fees Fund.

(e) Any long-term lease agreement entered into pursuant
to this section shall contain provisions allowing for the
nonexclusive use of the public lands and allowance for use
of the same public space for additional towers by compet-
ing persons or corporations.

(f) The secretary is further authorized to enter into long-
term lease agreements for additional wireless communica-
tion towers by other persons or corporations upon the
same public lands in which there already exists a lease and
tower provided for under this section.

(g) Any long-term lease agreement entered into pursuant
to this section shall be recorded in the office of the county
clerk where public land which is the subject of the lease
agreement is located.

§5A-3-42. Leasing for space rules and regulations.

The secretary shall have the power and authority to
promulgate such rules and regulations as he may deem
necessary to carry out the provisions of sections
thirty-eight, thirty-nine, forty, forty-a and forty-one of
this article.
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 is approved this the Day of , 2006.

Governor