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H. B. 2305

(By Delegate Manypenny)
[Introduced January 12, 2011; referred to the
Committee on Political Subdivisions then the Judiciary.]

A BILL to amend and reenact §8-12-18 of the Code of West Virginia,
1931, as amended, relating to municipal corporations; sale,
lease or disposition of municipal property; and providing
misdemeanor criminal penalty for failing to comply with law
regarding sales, including automatic removal from office.

Be it enacted by the Legislature of West Virginia:

That §8-12-18 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

**ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED
RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND
MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST
MUNICIPALITIES.**

PART VI. SALE, LEASE OR DISPOSITION OF
OTHER MUNICIPAL PROPERTY.

1 **§8-12-18. Sale, lease or disposition of other municipal property.**

2 (a) Every municipality, municipal building commission created
3 pursuant to article thirty-three of this chapter and municipal
4 development authority created pursuant to article twelve, chapter
5 seven of this code is authorized to sell, lease as lessor or
6 dispose of any of its real or personal property or any interest
7 therein or any part thereof (other than a public utility which
8 shall be sold or leased in accordance with the provisions of
9 section seventeen of this article), as authorized in article five,
10 chapter one of this code, or to the United States of America or any
11 agency or instrumentality thereof, or to the state or any agency or
12 instrumentality thereof, for a public purpose for an adequate
13 consideration, without considering alone the present commercial or
14 market value of such property.

15 (b) In all other cases involving a sale, any municipality is
16 hereby empowered and authorized to sell any of its real or personal
17 property or any interest therein or any part thereof for a fair and
18 adequate consideration, the property to be sold at public auction
19 at a place designated by the governing body, but before making any
20 sale, notice of the time, terms and place of sale, together with a
21 brief description of the property to be sold, shall be published as
22 a Class II legal advertisement in compliance with the provisions of
23 article three, chapter fifty-nine of this code and the publication
24 area for the publication shall be the municipality. The

1 requirements of notice and public auction shall not apply to the
2 sale of any one item or piece of property of less value than one
3 thousand dollars and under no circumstances shall the provisions of
4 this section be construed as being applicable to any transaction
5 involving the trading in of municipally owned property on the
6 purchase of new or other property for the municipality and every
7 municipality shall have plenary power and authority to enter into
8 and consummate any trade-in transaction.

9 (c) In all other cases involving a lease, any municipality is
10 hereby empowered and authorized to lease as lessor any of its real
11 or personal property or any interest therein or any part thereof
12 for a fair and adequate consideration and for a term not exceeding
13 fifty years. Every lease shall be authorized by resolution of the
14 governing body of the municipality, which resolution may specify
15 terms and conditions which must be contained in such lease:
16 *Provided*, That before any proposed lease is authorized by
17 resolution of the governing body, a public hearing on the proposed
18 lease shall be held by the governing body after notice of the date,
19 time, place and purpose of the public hearing has been published as
20 a Class I legal advertisement in compliance with the provisions of
21 article three, chapter fifty-nine of this code and the publication
22 area for the publication shall be the municipality. The power and
23 authority granted in this subsection shall be in addition to, and
24 not in derogation of, any power and authority vested in any

1 municipality under any Constitutional or other statutory provision
2 now or hereafter in effect.

3 (d) Any member of the governing body of a municipality,
4 municipal building commission or other officer or officers thereof
5 who fail to comply with the provisions of subsection (b) or (c) of
6 this section, is guilty of a misdemeanor and, upon conviction
7 thereof, shall be fined not less than \$500 nor more than \$1,000,
8 and shall automatically be removed from office.

NOTE: The purpose of this bill is to provide misdemeanor criminal penalty for failing to comply with law regarding sale, lease or disposition of municipal property. The penalty includes automatic removal from office.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.