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H. B. 2977

(By Delegates Storch, D. Evans, Gearheart, Ashley, Howell,
Zatezalo, Weld, Fluharty and Ferro)

[Introduced February 24, 2015; referred to the
Committee on Roads and Transportation then Finance.]

A BILL to amend and reenact §5A-11-3 of the Code of West Virginia, 1931, as amended, relating to collecting rents and royalties from leases of public lands; and providing that rents and royalties from leases of the minerals under the state's rivers and streams shall be expended for road paving and maintenance.

Be it enacted by the Legislature of West Virginia:

That §5A-11-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11. PUBLIC LAND CORPORATION.

§5A-11-3. Public Land Corporation, powers and duties.

(a) The corporation is hereby authorized and empowered to:

(1) Acquire from any persons or the State Auditor or any local, state or federal agency, by purchase, lease or other agreement, any lands necessary and required for public use;

(2) Acquire by purchase, condemnation, lease or agreement, receive by gifts and devises or exchange, rights-of-way, easements, waters and minerals suitable for public use;

1 (3) Sell or exchange public lands where it is determined that the sale or exchange of such
2 tract meets any or all of the following disposal criteria:

3 (A) The tract was acquired for a specific purpose and the tract is no longer required for that
4 or any other state purpose;

5 (B) Disposal of the tract serves important public objectives including, but not limited to,
6 expansion of communities and economic development which cannot be achieved on lands other than
7 public lands and which clearly outweigh other public objectives and values including, but not limited
8 to, recreation and scenic values which would be served by maintaining the tract in state ownership;
9 or

10 (C) The tract, because of its location or other characteristics, is difficult and uneconomic to
11 manage as part of the public lands and is not suitable for management by another state department
12 or agency.

13 (4) Sell, purchase or exchange lands or stumpage for the purpose of consolidating lands under
14 state or federal government administration subject to the disposal criteria specified in subdivision
15 (3) of this subsection;

16 (5) Negotiate and effect loans or grants from the government of the United States or any
17 agency thereof for acquisition and development of lands as may be authorized by law to be acquired
18 for public use;

19 (6) Expend the income from the use and development of public lands for the following
20 purposes:

21 (A) Liquidate obligations incurred in the acquisition, development and administration of
22 lands, until all obligations have been fully discharged;

1 (B) Purchase, develop, restore and preserve for public use, sites, structures, objects and
2 documents of prehistoric, historical, archaeological, recreational, architectural and cultural
3 significance to the State of West Virginia; and

4 (C) Obtain grants or matching moneys available from the government of the United States
5 or any of its instrumentalities for prehistoric, historic, archaeological, recreational, architectural and
6 cultural purposes.

7 (7) Designate lands, to which it has title, for development and administration for the public
8 use including recreation, wildlife stock grazing, agricultural rehabilitation and homesteading or other
9 conservation activities;

10 (8) Enter into leases as a lessor for the development and extraction of minerals, including
11 coal, oil, gas, sand or gravel except as otherwise circumscribed herein: *Provided*, That leases for the
12 development and extraction of minerals shall be made in accordance with the provisions of sections
13 five and six of this article. The corporation shall reserve title and ownership to the mineral rights
14 in all cases;

15 (9) Convey, assign or allot lands to the title or custody of proper departments or other
16 agencies of state government for administration and control within the functions of departments or
17 other agencies as provided by law;

18 (10) Make proper lands available for the purpose of cooperating with the government of the
19 United States in the relief of unemployment and hardship or for any other public purpose.

20 (b) There is hereby continued in the state Treasury a special Public Land Corporation Fund
21 into which shall be paid all proceeds from public land sales and exchanges and rents, royalties and
22 other payments from mineral leases, ~~*Provided*, That all royalties and payments derived from rivers,~~

1 ~~streams or public lands acquired or managed by the Division of Natural Resources pursuant to~~
2 ~~section seven, article one, chapter twenty of this code and section two, article five, chapter twenty~~
3 ~~of this code shall be retained by the Division of Natural Resources: *Provided, however,* That all~~
4 ~~proceeds, rents, royalties and other payments from land sales, exchanges and mineral rights leasing~~
5 ~~for public lands owned, managed or controlled by the Adjutant General's Department will be~~
6 ~~retained in a fund managed by the Adjutant General in accordance with article six, chapter fifteen~~
7 ~~of the code: *Provided further,* That except as follows:~~

8 (1) All rents, royalties and other payments from mineral leases derived from public lands
9 acquired or managed by the Division of Natural Resources pursuant to section seven, article one,
10 chapter twenty of this code and section two, article five, chapter twenty of this code shall be retained
11 by the Division of Natural Resources;

12 (2) All rents and royalties from mineral leases, entered on or after July 1, 2015, relating to
13 or derived from the rivers and streams of the state shall be deposited into the State Road Fund to be
14 expended for maintenance, contract paving and secondary road maintenance purposes;

15 (3) All rents and royalties from mineral leases, entered prior to July 1, 2015, relating to or
16 derived from the rivers and streams of the state shall be retained by the Division of Natural
17 Resources;

18 (4) All payments, other than rents and royalties, from mineral leases respecting the rivers and
19 streams of the state shall be retained by the Division of Natural Resources; and

20 (5) All rents, royalties and other payments from land sales, exchanges and mineral rights
21 leasing for public lands owned, managed or controlled by the Adjutant General's Department will
22 be retained in a fund managed by the Adjutant General in accordance with article six, chapter fifteen

1 of the code.

2 All free gas, sand, gravel or other natural resources derived from a lease or contract made
3 pursuant to this article will be used to benefit the state agencies, institutions, or departments located
4 on the affected public lands, or for which the corporation was acting or to benefit any state agencies,
5 institutions, or departments having adjacent property. The corporation may acquire public lands
6 from use of the payments made to the fund, along with any interest accruing to the fund. The
7 corporation shall report annually, just prior to the beginning of the regular session of the Legislature,
8 to the finance committees of the Legislature on the financial condition of the special fund. The
9 corporation shall report annually to the Legislature on its public land holdings and all its leases, its
10 financial condition and its operations and shall make such recommendations to the Legislature
11 concerning the acquisition, leasing, development, disposition and use of public lands.

12 (c) All state agencies, institutions, divisions and departments shall make an inventory of the
13 public lands of the state as may be by law specifically allocated to and used by each and provide to
14 the corporation a list of such public lands and minerals, including their current use, intended use or
15 best use to which lands and minerals may be put: *Provided*, That the Division of Highways need not
16 provide the inventory of public lands allocated to and used by it, and the Division of Natural
17 Resources need not provide the inventory of rivers, streams and public lands acquired or managed
18 by it. The inventory shall identify those parcels of land which have no present or foreseeable useful
19 purpose to the State of West Virginia. The inventory shall be submitted annually to the corporation
20 by August 1. The corporation shall compile the inventory of all public lands and minerals and report
21 annually to the Legislature by no later than January 1, on its public lands and minerals and the lands
22 and minerals of the other agencies, institutions, divisions or departments of this state which are

1 required to report their holdings to the corporation as set forth in this subsection, and its financial
2 condition and its operations.

3 (d) Except as otherwise provided by law, when the corporation exercises its powers, the
4 corporation will coordinate with other state agencies, institutions, and departments in order to
5 develop and execute plans to utilize mineral rights which benefit their operations or the operations
6 of any other state agencies, institutions, or departments.

NOTE: The purpose of this bill is to provide that the rents and royalties from future mineral leases in respect of the state's rivers and streams shall be dedicated to road maintenance and paving.

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