

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2474

**FISCAL
NOTE**

BY DELEGATE STORCH AND FRICH

[Introduced February 15, 2017; Referred
to the Committee on Energy then Finance.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11. PUBLIC LAND CORPORATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (8) Enter into leases as a lessor for the development and extraction of minerals, including
38 coal, oil, gas, sand or gravel except as otherwise circumscribed herein: *Provided*, That leases for
39 the development and extraction of minerals shall be made in accordance with the provisions of

40 sections five and six of this article. The corporation shall reserve title and ownership to the mineral
41 rights in all cases;

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

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

47 (b) There is hereby continued in the State Treasury a special Public Land Corporation
48 Fund into which shall be paid all proceeds from public land sales and exchanges and rents,
49 royalties and other payments from mineral leases, ~~Provided, That all royalties and payments~~
50 ~~derived from rivers, streams or public lands acquired or managed by the Division of Natural~~
51 ~~Resources pursuant to section seven, article one, chapter twenty of this code and section two,~~
52 ~~article five, chapter twenty of this code shall be retained by the Division of Natural Resources:~~
53 ~~Provided, however, That all proceeds, rents, royalties and other payments from land sales,~~
54 ~~exchanges and mineral rights leasing for public lands owned, managed or controlled by the~~
55 ~~Adjutant General's Department will be retained in a fund managed by the Adjutant General in~~
56 ~~accordance with article six, chapter fifteen of the code: Provided further, That except as follows:~~

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

61 (2) All rents and royalties from mineral leases, entered on or after July 1, 2017, relating to
62 or derived from the rivers and streams of the state shall be deposited into the State Road Fund
63 to be expended for maintenance, contract paving and secondary road maintenance purposes;

64 (3) All rents and royalties from mineral leases, entered prior to July 1, 2017, relating to or
65 derived from the rivers and streams of the state shall be retained by the Division of Natural
66 Resources;

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

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

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

84 (c) All state agencies, institutions, divisions and departments shall make an inventory of
85 the public lands of the state as may be by law specifically allocated to and used by each and
86 provide to the corporation a list of such public lands and minerals, including their current use,
87 intended use or best use to which lands and minerals may be put: *Provided*, That the Division of
88 Highways need not provide the inventory of public lands allocated to and used by it, and the
89 Division of Natural Resources need not provide the inventory of rivers, streams and public lands

90 acquired or managed by it. The inventory shall identify those parcels of land which have no
91 present or foreseeable useful purpose to the State of West Virginia. The inventory shall be
92 submitted annually to the corporation by August 1. The corporation shall compile the inventory
93 of all public lands and minerals and report annually to the Legislature by no later than January 1,
94 on its public lands and minerals and the lands and minerals of the other agencies, institutions,
95 divisions or departments of this state which are required to report their holdings to the corporation
96 as set forth in this subsection, and its financial condition and its operations.

97 (d) Except as otherwise provided by law, when the corporation exercises its powers, the
98 corporation will coordinate with other state agencies, institutions, and departments in order to
99 develop and execute plans to utilize mineral rights which benefit their operations or the operations
100 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 a heading or the present law and underscoring indicates new language that would be added.