

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 321

BY SENATORS BLAIR AND BOSO

[Originating in the Committee on Government
Organization; Reported on February 9, 2018]

1 A BILL to amend and reenact §5A-11-3 of the Code of West Virginia, 1931, as amended, relating
2 to the powers and duties of the Public Land Corporation; allowing the proceeds of public
3 lands to be given to the agency or institution with title to the public land; authorizing the
4 Public Land Corporation to retain proceeds to cover any expenses incurred; requiring all
5 agencies and institutions provide an annual inventory of public lands; and including in the
6 annual report to the Legislature those agencies or institutions that do not comply with
7 annual inventory reporting requirements to the Public Land Corporation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. PUBLIC LAND CORPORATION.

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

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

2 (1) Acquire from any persons or the State Auditor or any local, state, or federal agency,
3 by 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 §5A-
20 11-3-(a)(3) of this code;

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 §5A-11-5 and §5A-11-6 of this code. The corporation shall reserve title and ownership to the
41 mineral 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. The corporation shall remit the proceeds of
50 public land sales and exchanges and rents, royalties, and other payments from mineral leases,
51 less any costs or fees incurred by the corporation, to the agency, institution, division, or
52 department of title: *Provided*, That all royalties and payments derived from rivers, streams, or
53 public lands acquired or managed by the Division of Natural Resources pursuant to §20-1-7 and
54 §20-5-2 of this code shall be retained by the Division of Natural Resources: *Provided, however*,
55 That all proceeds, rents, royalties, and other payments from land sales, exchanges, and mineral
56 rights leasing for public lands owned, managed, or controlled by the Adjutant General's
57 Department will be retained in a fund managed by the Adjutant General in accordance with §15-
58 6-1 *et seq.* of this code: *Provided further*, That all free gas, sand, gravel, or other natural resources
59 derived from a lease or contract made pursuant to this article will be used to benefit the state
60 agencies, institutions, or departments located on the affected public lands, or for which the
61 corporation was acting or to benefit any state agencies, institutions, or departments having
62 adjacent property. The corporation may acquire public lands from use of the payments made to
63 the fund, along with any interest accruing to the fund. The corporation shall report annually, just
64 prior to the beginning of the regular session of the Legislature, to the finance committees of the
65 Legislature on the financial condition of the special fund. The corporation shall report annually to
66 the Legislature on its public land holdings and all its leases, its financial condition, and its
67 operations and shall make such recommendations to the Legislature concerning the acquisition,
68 leasing, development, disposition, and use of public lands.

69 (c) All state agencies, institutions, divisions, and departments shall make an inventory of
70 the public lands of the state as may be by law specifically allocated to and used by each and

71 provide to the corporation a list of such public lands and minerals, including their current use,
72 intended use or best use to which lands and minerals may be put. ~~Provided, That the Division of~~
73 ~~Highways need not provide the inventory of public lands allocated to and used by it, and the~~
74 ~~Division of Natural Resources need not provide the inventory of rivers, streams and public lands~~
75 ~~acquired or managed by it~~ The inventory shall identify those parcels of land which have no present
76 or foreseeable useful purpose to the State of West Virginia. The inventory shall be submitted
77 annually to the corporation by August 1. The corporation shall compile the inventory of all public
78 lands and minerals and report annually to the Legislature by no later than January 1 on its public
79 lands and minerals and the lands and minerals of the other agencies, institutions, divisions, or
80 departments of this state which are required to report their holdings to the corporation as set forth
81 in this subsection, and its financial condition and its operations. The report shall include those
82 agencies, institutions, divisions, or departments that have not provided an annual inventory to the
83 corporation.

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

NOTE: The purpose of this bill is to allow the proceeds of public land sales or exchanges, or rents, royalties, and other payments to be given back to the agency that was assigned the public land, rather than with the Public Land Corporation. The bill also requires the corporation to report to the Legislature the agencies that do not provide an annual inventory as required.

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