

SB 781 S

FILED

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2006

ENROLLED

SENATE BILL NO. 781

(By Senator HELMICK, ET AL)

PASSED MARCH 11, 2006

In Effect 90 Days From Passage

FILED

2006 APR -5 P 6: 23

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 781

(BY SENATORS HELMICK, SHARPE, CHAFIN, PREZIOSO, PLYMALE,
EDGELL, LOVE, BAILEY, BOWMAN, MCCABE, MINEAR, BOLEY,
FACEMYER, YODER, GUILLS 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.

1 (a) Notwithstanding any provision of law to the con-
2 trary, the secretary shall have sole authority to negotiate
3 and enter into long-term lease agreements for lease of
4 public lands to be used for placement of wireless commu-
5 nication towers: *Provided*, That such long-term lease
6 agreements may not be for periods in excess of thirty
7 years: *Provided, however*, That for the governmental units
8 named in subsection (d) of this section, any lease proposed
9 by the secretary may only be entered into upon approval
10 in writing of the ranking administrator of the respective
11 governmental unit described in said subsection.

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

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

20 (d) Revenues derived from the lease of property under
21 the control of the Department of Transportation shall be
22 deposited into the State Road Fund. Revenues derived
23 from the lease of property under the control of the Divi-
24 sion of Natural Resources shall be deposited into the State
25 Park Improvement Fund. Revenues derived from the lease
26 of property under the control of the Department of
27 Agriculture shall be deposited into the Agriculture Fees
28 Fund. Revenues derived from the lease of property under
29 the control of the Division of Forestry shall be deposited
30 into the Division of Forestry Fund. Revenues derived from
31 the lease of property under the control of institutions of
32 higher education shall be deposited into the institution's
33 education and general capital fees fund. Revenues derived
34 from the lease of property under the control of Higher

35 Education Policy Commission shall be deposited into the
36 commission's State Gifts Grants and Contracts Fund.
37 Revenues derived from the lease of property under the
38 control of the West Virginia Council for Community and
39 Technical College Education shall be deposited into the
40 council's Tuition and Required Educational and General
41 Fees Fund.

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

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

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

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

1 The secretary shall have the power and authority to
2 promulgate such rules and regulations as he may deem
3 necessary to carry out the provisions of sections
4 thirty-eight, thirty-nine, forty, forty-a and forty-one of
5 this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chandy White
.....
Chairman Senate Committee

W. Beer
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carol G. Galloway
.....
Clerk of the Senate

Gregg M. Smith
.....
Clerk of the House of Delegates

Carl Bay
.....
President of the Senate

Robert L. ...
.....
Speaker House of Delegates

The within *is approved* this the *5th*
Day of *April*, 2006.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 03 2006

Time 2:15 p