WEST virginia legislature

**FISCAL NOTE**

2021 regular session

Introduced

**FISCAL NOTE**

Senate Bill 85

By Senators Maynard, Plymale, Woodrum, and Swope

[Introduced February 10, 2021; referred
to the Committee on Government Organization; and then to the Committee on Finance]

A BILL to amend and reenact §5A-10-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5A-11-3 of said code, all relating to requiring the Public Land Corporation and the Real Estate Division to jointly review all vacated publicly owned property to determine a proper reuse of those properties, determine the appraised value of those properties, or to provide assistance with the listing of those properties for sale or lease.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. REAL ESTATE DIVISION.

§5A-10-3. Powers and duties of Real Estate Division.

(a) The Real Estate Division has the following powers and duties:

(1) To provide leasing, appraisal, and other real estate services to state spending units;

(2) To ensure that the purchase of real estate and all contracts for lease are based on established real estate standards and fair market price;

(3) To develop and implement minimum lease space standards for the lease of any grounds, buildings, office, or other space required by any spending unit of state government;

(4) To develop and implement minimum standards for the selection and acquisition, by contract or lease, of all grounds, buildings, office space, or other space by a spending unit of state government except as otherwise provided in this article;

(5) To establish and maintain a comprehensive database of all state real estate contracts and leases;

(6) To develop policies and procedures for statewide real property management;

(7) To maintain a statewide real property management system that has consolidated real property, building, and lease information for all departments, agencies, and institutions of state government;

(8) To develop and maintain a centralized repository of comprehensive space needs for all state departments, agencies, and institutions of state government, including up-to-date space and resource utilization, anticipated needs, and recommended options;

(9) To provide statewide policy leadership and coordinate master planning to guide and organize capital asset management; and

(10) To provide assistance to all state departments, agencies, or institutions in acquiring, leasing, and disposing of real property.

(b) In consultation with the Public Land Corporation, the Real Estate Division shall review all vacated publicly-owned property to determine a proper reuse of those properties, the appraised value of those properties or assistance with the listing of those properties for sale or lease.

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, including, but not limited to, vacated school buildings or state-owned buildings with no apparent usage;

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

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

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

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

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

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

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

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

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

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

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

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

(8) Enter into leases as a lessor for the development and extraction of minerals, including coal, oil, gas, sand, or gravel except as otherwise circumscribed herein: *Provided,* That leases for the development and extraction of minerals shall be made in accordance with ~~the provisions of~~ §5A-11-5 and §5A-11-6 of this code. The corporation shall reserve title and ownership to the mineral rights in all cases;

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

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

(b) There is hereby continued in the state Treasury a special Public Land Corporation Fund into which shall be paid all proceeds from public land sales and exchanges and rents, royalties, and other payments from mineral leases: *Provided,* That all royalties and payments derived from rivers, streams, or public lands acquired or managed by the Division of Natural Resources pursuant to §20-1-7 and §20-5-2 of this code shall be retained by the Division of Natural Resources: *Provided, however,* That all proceeds, rents, royalties, and other payments from land sales, exchanges, and mineral rights leasing for public lands owned, managed, or controlled by the Adjutant General’s Department will be retained in a fund managed by the Adjutant General in accordance with §15-6-1 *et seq*. of this code: *Provided further,* That all free gas, sand, gravel, or other natural resources derived from a lease or contract made pursuant to this article will be used to benefit the state agencies, institutions, or departments located on the affected public lands, or for which the corporation was acting or to benefit any state agencies, institutions, or departments having adjacent property. The corporation may acquire public lands from use of the payments made to the fund, along with any interest accruing to the fund. The corporation shall report annually, just prior to the beginning of the regular session of the Legislature, to the finance committees of the Legislature on the financial condition of the special fund. The corporation shall report annually to the Legislature on its public land holdings and all its leases, its financial condition, and its operations and shall make such recommendations to the Legislature concerning the acquisition, leasing, development, disposition, and use of public lands.

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

(d) In consultation with the Real Estate Division, the Public Land Corporation shall review all vacated publicly-owned property to determine a proper reuse of those properties, the appraised value of those properties or assistance with the listing of those properties for sale or lease.

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

NOTE: The purpose of this bill is to require the Public Land Corporation and the Real Estate Division to jointly review all vacated publicly-owned property to determine a proper reuse of those properties, determine the appraised value of those properties, or to provide assistance with the listing of those properties for sale or lease.

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