

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 634

BY SENATORS WOODRUM, TRUMP, CLEMENTS, AND

JEFFRIES

[Originating in the Committee on Government

Organization; reported on February 24, 2023]

1 A BILL to amend and reenact §8-12-18 of the Code of West Virginia, 1931, as amended, relating
2 to increasing the value at which municipal property must be sold through public auction;
3 and allowing for the negotiated sale of real property to adjacent property owners.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED
RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL
OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.**

§8-12-18. Sale, lease, or disposition of other municipal property.

1 (a) Every municipality, municipal building commission created pursuant to §8-33-1 *et seq.*
2 of this code, and municipal development authority created pursuant to §7-12-1 *et seq.* of this code
3 is authorized to sell, lease as lessor, or dispose of any of its real or personal property or any
4 interest therein or any part thereof (other than a public utility which shall be sold or leased in
5 accordance with the provisions of §8-12-17 of this code), as authorized in §1-5-1 *et seq.* of this
6 code, or to the United States of America or any agency or instrumentality thereof, or to the state
7 or any agency or instrumentality thereof, for a public purpose for an adequate consideration,
8 without considering alone the present commercial or market value of such property.

9 (b) In all other cases involving a sale, any municipality is hereby empowered and
10 authorized to sell any of its real or personal property or any interest therein or any part thereof for
11 a fair and adequate consideration, the property to be sold at public auction at a place designated
12 by the governing body, or by using an Internet-based public auction service, but before making
13 any sale, notice of the time, terms, and place of sale, together with a brief description of the
14 property to be sold, shall be published as a Class II legal advertisement in compliance with the
15 provisions of §59-3-1 *et seq.* of this code and the publication area for the publication shall be the
16 municipality. The requirements of notice and public auction shall not apply to the sale of any one
17 item or piece of property of less value than ~~\$1,000~~ \$10,000. The requirements of notice and public

18 auction shall not apply to the sale of any one piece of real property when the governing body of
19 the municipality finds that the highest and best use of the property is that it be conveyed to an
20 owner of the property adjacent to the municipal property. When such finding is made, the
21 municipality shall provide written notice to all owners of real property that is adjacent to the
22 municipal property and may negotiate the sale of such municipal property with an adjacent
23 property holder or holders expressing interest in purchasing the property: *Provided*, That no
24 employee or official of the municipality may benefit from the disposition of municipal property, and
25 no employee or official of the municipality may purchase municipally owned property that is
26 adjacent to the employee or official's property. and under Under no circumstances shall the
27 provisions of this section be construed as being applicable to any transaction involving the trading
28 in of municipally owned property on the purchase of new or other property for the municipality and
29 every municipality shall have plenary power and authority to enter into and consummate any
30 trade-in transaction.

31 (c) In all other cases involving a lease, any municipality is hereby empowered and
32 authorized to lease as lessor any of its real or personal property or any interest therein or any part
33 thereof for a fair and adequate consideration and for a term not exceeding 50 years. Every lease
34 shall be authorized by resolution of the governing body of the municipality, which resolution may
35 specify terms and conditions which must be contained in such lease: *Provided*, That before any
36 proposed lease is authorized by resolution of the governing body, a public hearing on the
37 proposed lease shall be held by the governing body after notice of the date, time, place, and
38 purpose of the public hearing has been published as a Class I legal advertisement in compliance
39 with the provisions of §59-3-1 *et seq.* of this code and the publication area for the publication shall
40 be the municipality. The power and authority granted in this subsection shall be in addition to, and
41 not in derogation of, any power and authority vested in any municipality under any constitutional
42 or other statutory provision now or hereafter in effect.