

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4437**

BY DELEGATES STORCH, FLUHARTY, ZATEZALO AND

CANESTRARO

[Introduced February 6, 2018; 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 and other stated purposes; and permitting  
 5 counties that do not have state parks to retain rents and royalties from such leases.

*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, 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 §20-1-7 and §20-5-2 of  
59 this code shall be retained by the Division of Natural Resources: *Provided, That* all rents, royalties  
60 and other payments, from mineral leases derived from public lands acquired or managed by the  
61 Division of Natural Resources in counties that do not have a state park, shall be retained by the  
62 county in which the mineral lease is in place;

63 (2) All rents and royalties from mineral leases, entered on or after July 1, 2018, relating to  
64 or derived from the rivers and streams of the state shall be deposited into the State Road Fund  
65 to be expended for maintenance, contract paving and secondary road maintenance purposes;

66           (3) All rents and royalties from mineral leases, entered prior to July 1, 2018, relating to or  
67 derived from the rivers and streams of the state shall be retained by the Division of Natural  
68 Resources;

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

71           (5) All rents, royalties and other payments from land sales, exchanges and mineral rights  
72 leasing for public lands owned, managed or controlled by the Adjutant General's Department will  
73 be retained in a fund managed by the Adjutant General in accordance with §15-6-1 et seq. of this  
74 code.

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

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

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

99 (d) Except as otherwise provided by law, when the corporation exercises its powers, the  
100 corporation will coordinate with other state agencies, institutions, and departments in order to  
101 develop and execute plans to utilize mineral rights which benefit their operations or the operations  
102 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. The bill also permits counties that do not have state parks to retain rents and royalties from such leases.

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