WEST VIRGINIA CODE: §16-13B-8

§16-13B-8. Assessment district to be a public corporation and political subdivision; powers thereof; community improvement boards.

(a) From and after the date of the adoption or enactment of the order or ordinance creating an assessment district, it shall thereafter be a public corporation and political subdivision of this state, but without any power to levy or collect ad valorem taxes. Each assessment district is hereby empowered and authorized, in addition to any other rights, powers and authorities conferred upon it in this article or elsewhere in this code, to:

(1) Acquire, own and hold, in its corporate name, by purchase, lease, right of eminent domain, gift or otherwise, such property, both real and personal, public ways and other interests in real estate, or any other property, whether tangible or intangible, as may be necessary or incident to the construction and completion of a project;

(2) Construct and complete one or more projects, and assess the cost of all or any portion of a project on abutting property located in the assessment district, in the case of a wastewater or water project, or on the property protected by a flood relief project;

(3) Sue or be sued;

(4) Establish a bank account or accounts in its name;

(5) Enter into agreements or other transactions with any person or governmental agency necessary or incident to the development, planning, construction or improvement of a project, or for the operation, maintenance or disposition of a project or for any other services required by a project;

(6) Provide grants to any person owning property abutting a wastewater or water project, or on which a flood relief project is undertaken, in consideration of the completion by such person of a portion of the work necessary or incident to the completion of the project;

(7) Expend funds to acquire, or construct part of a project on property located outside of an assessment district, and for any work undertaken thereon, as may be necessary or incident to the completion of a project;

(8) Enter into agreements with one or more counties, municipalities or assessment districts to plan, develop, construct or improve a project jointly;

(9) Accept appropriations, gifts, grants, bequests and devises, and use or dispose of the same to carry out its corporate purpose;

(10) Make and execute contracts, releases, assignments, compromises, and other instruments necessary or convenient for the exercise of its powers, or to carry out its

WV Legislature

corporate purpose;

(11) Have a seal and alter the same;

(12) Issue assessment certificates to carry out and effectuate the purpose of this article;

(13) Borrow money to carry out and effectuate the purpose of this article and to issue its notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its corporate powers;

(14) Obtain options to acquire real property, or any interest therein, by purchase, lease or otherwise, which is found by the board to be suitable as a site, or part of a site, for the construction of a project; and

(15) Take any and all other actions consistent with the purpose of this article and not in violation of the Constitution of this state, as may be necessary or incident to the construction and completion of a project.

(b) The powers of each assessment district shall be vested in and exercised by a community improvement board which shall be composed of five members, four of whom shall be appointed by the governing body of the county or municipality in which the assessment district is located, and one of whom shall be the sheriff of the county or the treasurer of the municipality (or such other person serving in an equivalent capacity if there is no treasurer), as the case may be, in which the assessment district is located. At least one member of the board shall be a professional engineer and at least three members of the board shall be residents of the assessment district. No more than three members of the board may be from the same political party.

(c) The provisions of this subsection apply to the four members appointed by the governing body. They shall be appointed for overlapping terms of four years each and until their respective successors have been appointed and have qualified, except for the original appointments. For the purpose of original appointments, one member shall be appointed for a term of four years and until his or her successor has been appointed and qualified; one member shall be appointed for a term of three years and until his or her successor has been appointed and qualified; one member shall be appointed for a term of two years and until his or her successor has been appointed and qualified; and one member shall be appointed for a term of one year and until his or her successor has been appointed and qualified. Members may be reappointed for any number of terms. Before entering upon the performance of his or her duties, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state. Vacancies shall be filled by appointment by the governing body of the county or municipality creating the assessment district for the unexpired term of the member whose office shall be vacant and such appointment shall be made within thirty days of the occurrence of such vacancy. Any such member may be removed by the governing body which appointed such member in case of incompetency, neglect of duty, gross immorality or malfeasance in office. Members shall not be entitled to

WV Legislature

any compensation for their services.

(d) The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after January 1, of each year by selecting one of its members to serve as chairman, one to serve as treasurer and one to serve as secretary. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records, and the treasurer shall maintain records of all financial matters relating to the assessment district, which shall also be available for inspection as other public records. Duplicate records shall be filed with the clerk or recorder, as the case may be, of the county or municipality which created the assessment district and shall include the minutes of all board meetings. The secretary and treasurer shall perform such other duties pertaining to the affairs of the assessment district as shall be prescribed by the board.

(e) The members of the board, and the chairman, secretary and treasurer thereof, shall make available to the governing body responsible for appointing the board, at all times, all of its books and records pertaining to the assessment district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly.

(f) A majority of the members of the board constitutes a quorum and meetings shall be held at the call of the chairman.

(g) Staff, office facilities and costs of operation of the board shall be provided by the county or municipality which created the assessment district.

(h) The chairman shall preside at all meetings of the board and may vote as any other members of the board, but if he should be absent from any meeting the remaining members may select a temporary chairman, and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organizational meeting.

(i) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. The members of the board shall not be personally liable or responsible for any obligations of the assessment district or the board but are answerable only for willful misconduct in the performance of their duties.

(j) The official name of an assessment district created under the provisions of this article may contain the name of the county or municipality, as the case may be, in which it is located.

(k) Notwithstanding any provision in this code to the contrary, the power and authority hereby conferred on assessment districts may extend within the territory of a public service district created under section two, article thirteen-a of this chapter.

WV Legislature