
WEST VIRGINIA CODE CHAPTER 8
ARTICLE 32

WV Legislature

PART I. MUSEUMS; CULTURAL CENTERS, ETC.

§8-32-1. Legislative findings; authority of municipalities and counties to make appropriations, conveyances or leases; limitations and restrictions.

(a) The Legislature hereby finds that the support of nonstock, nonprofit corporations dedicated to making available to the general public (1) museums, historic landmarks, facilities or cultural centers for the appreciation, advancement or enjoyment of art, crafts, music, dance, drama, nature, science or other educational and cultural activities or (2) parks, playgrounds, athletic fields, stadiums, swimming pools, skating rinks, arenas or other public park and recreational facilities for the promotion, advancement or enjoyment of education, recreation and health is for the general welfare of the public and is a public purpose. This section is enacted in view of this finding and shall be liberally construed in the light thereof.

(b) When a nonstock, nonprofit corporation, chartered under the laws of this state, or licensed to do business in this state, (1) is organized for the construction, maintenance or operation of (i) museums, historic landmarks, facilities or cultural centers for the appreciation, advancement or enjoyment of art, crafts, music, dance, drama, nature, science or other educational and cultural activities or (ii) parks, playgrounds, athletic fields, stadiums, swimming pools, skating rinks, arenas or other public park and recreational facilities for the promotion, advancement or enjoyment of education, recreation and health and provides in its charter that its buildings or facilities, or a designated portion thereof, shall be devoted to the use by the public for all purposes set forth in such charter without regard to race, sex, religion, national origin or economic circumstance, and free from charge except such as is necessary to provide the means to keep the buildings, facilities and grounds in proper condition and repair, and to pay the cost of insurance, care, management, operations, teaching and attendants, so that the general public may have the benefit of such establishment for the uses set forth in such corporation's charter at as little expense as possible, (2) provides in its charter that no member trustee, or member of the board of directors (by whatever name the same may be called), of the corporation shall receive any compensation, gain or profit from such corporation, and (3) is operated in compliance with such charter provisions as aforesaid, then, notwithstanding any statutory or municipal charter provisions to the contrary, any municipality in which such nonstock, nonprofit corporation is operating or which is or will be served by such nonstock, nonprofit corporation, if any, and the county commission of any county in which such nonstock, nonprofit corporation is operating or which is or will be served by such nonstock, nonprofit corporation, may appropriate funds, subject to the provisions and limitations set forth in subsections (c) and (d) of this section, to such nonstock, nonprofit corporation, for such public purposes or convey or lease real or personal property, with or without consideration, to such nonstock, nonprofit corporation, for such public purposes, except that no such conveyance or lease may be made by a municipality or a county commission to such nonstock, nonprofit corporation for any of the public purposes set forth in (2) of subsection (a) of this section if such county has a county parks and recreation commission or board

operating in or for such county, or participates in a consolidated recreation commission or board with a municipality as the case may be: Provided, That if at any time such property ceases to be used for such public purposes, it shall by operation of law revert to and vest in the municipality or county commission which conveyed or leased the same and such nonstock, nonprofit corporation shall thereafter have no right, title or interest therein or thereto.

In every such case, the governing body of any such municipality or any such county commission and such corporation may agree for the appointment of additional members to the board of directors of such corporation by such governing body or county commission, either as regular members or in an ex officio capacity.

(c) No funds appropriated by a municipality or county commission under the authority of this section shall be disbursed by any such nonstock, nonprofit corporation unless and until the expenditure thereof has been approved by the governing body of such municipality or any such county commission, as the case may be, which made such appropriation, and such corporation shall upon demand at any time make a full and complete accounting of all such funds to such governing body or county commission, as the case may be, and shall in every event without demand make to such governing body or county commission an annual accounting thereof.

(d) Under no circumstances whatever shall any action taken by any municipality or county commission under the authority of this section give rise to or create any indebtedness on the part of the municipality, the governing body of such municipality, the county, such county commission, any member of such governing body or the county commission or any municipal or county official or employee.

§8-32-2. Membership and participation in area development corporations.

Every municipality and county commission is hereby empowered and authorized to become associated with and to participate as a member of any area development corporation chartered as a nonstock, nonprofit corporation under the laws of this state for the purposes of promoting, developing and advancing the business prosperity and economic welfare of the area embraced, its citizens and its industrial complex; encouraging and assisting through loans, investments or other business transactions in locating new business and industry within such area and rehabilitating and assisting existing businesses and industries therein; stimulating and promoting the expansion of all kinds of business and industrial activity which will tend to advance, develop and maintain economic stability and provide maximum opportunities for employment in such area; cooperating and acting in conjunction with other organizations, federal, state or local, in the promotion and advancement of industrial, commercial, agricultural and recreational developments within such area; and furnishing money and credit, land and industrial sites, technical assistance and such other aid as may be deemed requisite for the promotion, development and conduct of all types of business, agricultural and recreational activities within each area: Provided, That it is specified in the charter of such corporation that no member trustee or member of the board of directors (by whatever name the same may be called) of the corporation shall receive any compensation, gain or profit from such corporation, and such corporation is operated in compliance with all charter provisions. The Legislature hereby finds that the aforesaid purposes of such nonstock, nonprofit area development corporations are for the general welfare of the public and are public purposes. This section is enacted in view of this finding and shall be liberally construed in the light thereof.

Every municipality and county commission is hereby empowered and authorized to contribute to the cost of the operations and projects of such area development corporation by appropriating for such purposes money from its general funds not otherwise appropriated. Every municipality and county commission is hereby empowered and authorized, notwithstanding any other provision of this chapter to the contrary, to transfer and convey to such area development corporation property of any kind heretofore acquired by such municipality or county commission for or adaptable to use in industrial and economic development, such transfers or conveyances to be without consideration or for such price and upon such terms and conditions as such municipality or county commission shall deem proper.

Every municipality or county commission shall require as a condition of any such appropriation, transfer or conveyance that the area development corporation receiving the same shall upon demand at any time by such municipality or county commission make a full and complete accounting thereto of all receipts and disbursements and shall in every event without demand, within thirty days after the close of the quarter, make to such municipality or county commission a report containing an itemized statement of its receipts and disbursements during the preceding quarter, and make available to audit and examination by the office of the State Tax Commissioner and any other proper public official or body its books, records and accounts.

Under no circumstances whatever shall any action taken by any municipality or county commission under the authority of this section give rise to or create any indebtedness on the part of the municipality or county commission, the governing body of such municipality or county commission, any member of such governing body or any municipal or county commission official or employee: Provided, That any public entity holding title to real property, and considering transfer of such real property to any municipality or county commission for the purpose of conveying real property to any such area development corporation will publish notice by a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area will be the municipality or county involved. This notice will include the property to be transferred, the area development corporation receiving such property, and the date, time, and place when such public entity will conduct an open hearing to consider public comment regarding the intended transfer. Such notice shall be published initially at least sixty days prior to the published date of the public hearing.

PART III. OBTAINING FEDERAL GRANTS.

§8-32-3. Power to secure federal grants for certain nonprofit organizations.

(a) Notwithstanding any statutory or charter provisions to the contrary, every municipality is, subject to the provisions and limitations set forth in subsections (b) and (c) of this section, hereby empowered and authorized to make application for, receive and accept grants from the federal government, or any agency thereof, for, on behalf of and for use by a nonstock, nonprofit corporation chartered under the laws of this state, or licensed to do business in this state, for charitable, patriotic or philanthropic or other public purposes and operating within the corporate limits of said municipality. The Legislature hereby finds that the support of such nonstock, nonprofit corporations is for the general welfare of the public and is a public purpose. This section is enacted in view of this finding and shall be liberally construed in the light thereof.

(b) No federal funds received by a municipality under the authority of this section shall be disbursed by any such nonstock, nonprofit corporation unless and until the expenditure thereof has been approved by the governing body of such municipality, and such corporation shall upon demand at any time make a full and complete accounting of all such funds to such governing body.

(c) Under no circumstances whatever shall any action taken by any municipality under the authority of this section give rise to or create any indebtedness on the part of such municipality, the governing body of such municipality, any member thereof or any municipal official or employee.

PART IV. HEALTH INSTITUTIONS.

§8-32-4. Legislative findings; authority of municipalities and county commissions to make appropriations; limitations and restrictions.

(a) The Legislature hereby finds that the support of public or nonprofit health institutions dedicated to making available to the general public health and mental health services is for the general welfare of the public and is a public purpose for which funds of a municipality or county commission may be lawfully expended. This section is enacted in view of this finding and shall be liberally construed in the light thereof. As used in this section, the term "health institution" means a hospital, health or mental health clinic, regional or community health or mental health center, mental retardation facility, extended care facility, nursing home, or other health or mental health institution, which is open to the general public.

(b) Notwithstanding any statutory or charter provision to the contrary, municipalities and county commissions are hereby empowered and authorized to appropriate funds, subject to the conditions and limitations set forth in this section, for the establishment, cost, operation, maintenance and projects of any health institution, whether such health institution be situated within or without the confines of any such municipality or county. Funds may not be appropriated by a municipality or county commission for the benefit and use of any health institution unless such health institution is either owned and operated by a unit of government, or is owned and operated by a nonstock, nonprofit corporation chartered under the laws of or licensed to do business in this state which provides in its charter that no member trustee or member of the board of directors (by whatever name the same may be called) shall receive any compensation, gain or profit from such corporation and which is operated in compliance with such charter provisions. Any such appropriation shall be made from the General Funds of such municipality or county commission not otherwise appropriated or from federal revenue sharing funds received by such municipality or county commission.

(c) The recipient of any funds appropriated under the provisions of this section shall upon demand at any time make a full and complete accounting of all such funds to the governing body of the municipality or county commission which made such appropriation and shall in every event without demand make to such governing body an annual accounting thereof.

(d) Under no circumstances whatever shall any action taken by any municipality or county commission under the authority of this section give rise to or create any indebtedness on the part of the municipality, the county, the governing body of such municipality, the county commission, any member of such governing body or county commission or any municipal or county official or employee.

(e) No provision within this article prohibits the ability of a county or municipal hospital to borrow money and to perform such actions and do those things which are reasonably necessary to effectuate the purposes of this section, including, but not limited to, obtaining credit to further the mission of such hospital and acceptance of a loan for working capital

requirements, as that term is generally defined: Provided, That the hospital complies with the provisions of subsection (d) of this section so that any indebtedness created is at no time an obligation of any municipality, the county commission, any member of such governing body or county commission or any municipal or county official or employee.

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PART V. CELEBRATION OF AMERICAN REVOLUTION BICENTENNIAL.

§8-32-5. Legislative findings; authority of municipalities and counties to make appropriations for the celebration of historical and commemorative events; limitations and restrictions.

(a) The Legislature hereby finds that the support of nonstock, nonprofit corporations dedicated to making available to the general public, programs, activities or events organized by a commission, committee, group, organization or community, for the purpose of providing historical or cultural activities, municipal, county or regional improvement events or other programs related to the celebration of historical and commemorative events, is for the general welfare of the public and is a public purpose for which funds of a municipality or county may be lawfully expended. This section is enacted in view of this finding and shall be liberally construed in the light thereof.

(b) When a commission, committee, group, organization or community (hereinafter referred to as corporation) is chartered as a nonstock, nonprofit corporation under the laws of this state, and, (1) is organized for the purpose of providing historical or cultural activities, municipal, county or regional improvement events or other programs related to the celebration of a historical or commemorative event, and provides in its charter that its programs, activities or events shall be devoted to the use by the public for all purposes set forth in such charter without regard to race, sex, religion, national origin or economic circumstance, and free from charge except such as is necessary to provide the means to keep any buildings, facilities or grounds in proper condition and repair, or to pay the cost of insurance, care, management, operations, programs, activities or events, so that the general public may have the benefit of such establishments, programs, activities or events for the uses set forth in such corporation's charter at as little expense as possible, (2) provides in its charter that no member, trustee or member of the board of directors (by whatever name the same may be called) of the corporation shall receive any compensation, gain or profit from such corporation, and (3) is operated in compliance with such charter provisions as aforesaid, any municipality in the county in which such corporation is operating, and the county commission of any county in which such corporation is operating, are hereby empowered and authorized to appropriate funds to any such corporation, subject to the provisions and limitations set forth in this section.

(c) Any appropriation shall be made from the General Funds of such municipality or county that have not been otherwise appropriated. Each corporation receiving an appropriation from a municipality or county shall upon demand at any time make a full and complete accounting of all such funds to such governing body of the municipality or to the county commission, as the case may be, and shall in every event without demand make to such governing body or county commission an accounting thereof. Each corporation shall return to the county or municipality all of the funds the county or municipality appropriated pursuant to this section or pursuant to the previous enactments of this section for the celebration of the American Revolution Bicentennial which are unexpended after the

conclusion of the programs, activities or events relating to the historical or commemorative event. The county or municipality may at any time set a date after the conclusion of the programs, activities or events by which such return shall be made.

(d) Under no circumstances whatever shall any action taken by any municipality or county commission under the authority of this section give rise to or create any indebtedness on the part of the municipality, the governing body of such municipality, the county, such county commission, any member of such governing body or county commission or any municipal or county official or employee.

(e) No municipality or county commission may appropriate funds to any corporation under this article unless and until such corporation has recorded a certified copy of its corporate charter in the county in which the principal office of such corporation is located, and has received from the prosecuting attorney a written statement that the charter of such corporation contains the necessary language to comply with the provisions of this article.

(f) No officer, agent or instrumentality of the state shall require that local government funds be appropriated or expended under this section as a prerequisite for, or as matching funds for, a federal or state grant or as a prerequisite to entitle such corporation to receive a grant of federal or state funds.