

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969



ENROLLED

HOUSE BILL No. 985

(By Mr. Specker, Mr. Donahy, and
Mr. Kopelman)



PASSED March 6, 1969

In Effect from Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-17-69

985

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House Bill No. 985

(By MR. SPEAKER, MR. BOIARSKY, and MR. KOPELMAN)

[Passed March 6, 1969; in effect from passage.]

AN ACT to amend and reenact article eleven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation of a county parks and recreation commission by county courts of counties having a population in excess of two hundred thousand persons, to establish, improve, develop, administer, maintain and operate a parks and recreation system for the county; constituting any such commission a body corporate; providing that any such commission shall have perpetual existence; relating to the powers and duties of any such commission; providing for the appointment, qualification, term of office and oath of the members of any such commission; relating to insurance; relating to the

personnel of the commission; relating to the power of eminent domain; authorizing any such commission to receive, deposit, invest, manage, control and expend its own income and funds; authorizing any such county court to turn over to any such commission the funds to be appropriated by such county court and other income to such commission; authorizing rules and regulations, the violation of which shall constitute a misdemeanor; authorizing any such commission to appoint, establish and maintain a park police force; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

§7-11-1. County courts authorized to create a county parks and recreation commission.

1 The county court of any county having a population
2 in excess of two hundred thousand persons is hereby
3 authorized and empowered, by order entered of record,
4 to create a county parks and recreation commission for

5 the purpose of establishing, improving, developing, ad-
6 ministering, operating and maintaining a county public
7 parks and recreation system.

**§7-11-2. Commission a body corporate; perpetual existence;
name; power and authority; authority of county
court.**

1 Any parks and recreation commission created by a
2 county court pursuant to the authority of this article
3 shall be a public corporate body with perpetual exis-
4 tence and a corporate seal. It shall be known as the
5 (name of county) county parks and recreation com-
6 mission. Any board of park and recreation commis-
7 sioners heretofore created under the former provisions
8 of this article shall hereafter be known as the (name of
9 county) county parks and recreation commission, and
10 such commission shall succeed to all of the properties,
11 interest and assets of any such board of park and recre-
12 ation commissioners. The commission shall have the
13 power and authority to receive and control any gift,
14 federal grant, other grant, donation and bequest or de-
15 vise; to exercise the right of eminent domain if an order
16 of the county court authorizing exercise of the right as

17 to any proposed acquisition is first made and entered;
18 to take and hold title to any real or personal property;
19 to receive all operating and capital funds appropriated
20 by the county court to the commission; to receive all
21 income and other funds, whether in cash or check,
22 received by the county court and derived from prop-
23 erties and facilities devoted to park and recreational
24 uses and under the control of said commission; to receive
25 all receipts from income producing park and recreational
26 properties and facilities under the control of the com-
27 mission; to deposit, invest, manage and disburse, all
28 such funds, income or receipts, including the interest
29 or income earned thereon or therefrom; to sue and be
30 sued; to contract and be contracted with; to obtain one
31 or more insurance policies affording coverage for loss
32 of or damage to the properties and facilities under its
33 control and affording public liability coverage for the
34 legal liability of the commission, its officers, agents and
35 employees; to adopt bylaws governing the operation of
36 the commission and specifying the powers and duties
37 of its officers; and to do any and all things which may

38 be necessary or convenient to carry out and effectuate
39 the purposes and provisions of this article.

40 Any such county court is hereby empowered and
41 authorized to transfer to any such commission all such
42 funds or income, as provided for in the preceding para-
43 graph of this section, and such county court may require
44 a blanket surety bond covering those individuals author-
45 ized to sign checks on behalf of the commission in a penal
46 sum not in excess of twenty-five thousand dollars.

**§7-11-3. Number of members; quorum; qualifications; appoint-
ments; terms; disqualifications.**

1 The commission shall consist of eleven members, a
2 majority of whom shall constitute a quorum for the
3 transaction of business. Each member of said commis-
4 sion shall be a bona fide resident of the county and shall
5 own real estate within such county. The term of the
6 commission members shall be for three years and until
7 their successors have been appointed and have quali-
8 fied: *Provided*, That the county court in appointing the
9 members of the first commission shall appoint three
10 members for a term of one year; four members for a
11 term of two years and four members for a term of three

12 years. The order of the county court shall fix the date
13 on which the term of such commission members shall
14 begin. The members of any board of park and recre-
15 ation commissioners heretofore created under the for-
16 mer provisions of this article shall continue in office
17 as members of the parks and recreation commission of
18 such county until their terms expire and their successors
19 have been appointed and have qualified. Any member
20 of the commission who shall cease to be a bona fide
21 resident of the county or a freeholder thereof, shall
22 thereby be disqualified as a member of said commission
23 and his office shall become vacant. When a vacancy
24 occurs on said commission by reason of death, resigna-
25 tion, change of residence from the county, failure to
26 remain a freeholder of the county, or expiration of term,
27 the county court shall appoint a successor or successors
28 to fill out the unexpired term of the member of the com-
29 mission whose term has been vacated.

§7-11-4. Oath of members; officers; location of office; personnel.

1 After appointment, the members of the commission
2 shall qualify by taking and filing with the clerk of the
3 county court the oath prescribed by law for public offi-

4 cials; one of the members of said commission shall be
5 elected as president, another as vice president, and a
6 secretary shall be elected who need not be a member of
7 the commission. Said commission shall maintain an office
8 at any place it may designate in the county and have
9 control of the management and operation of all properties
10 and facilities which shall be operated in connection with
11 the public parks and recreation system of such county
12 and shall have power to employ or appoint such persons
13 as, in its opinion, may be necessary for the construction,
14 establishment, improvement, development, administra-
15 tion, operation and maintenance of the properties and
16 facilities under its control, subject, however, to the limits
17 of available funds.

**§7-11-5. General powers of commission; rules and regulations;
misdemeanor offenses; park police authorized.**

1 The commission shall have the necessary powers and
2 authority to manage and control all public parks and
3 recreational properties and facilities owned by the county
4 or commission and used as a part of such public parks
5 and recreation system, including the right to promulgate
6 rules and regulations concerning the management and

7 control of such parks and recreational properties and
8 facilities and to enforce any such rules and regulations so
9 promulgated.

10 The commission shall also have plenary power and
11 authority to prepare and submit to the county court for
12 adoption rules and regulations regulating the use of any
13 parks and recreational properties and facilities under the
14 control of the commission and prohibiting any type of
15 use of or activities in connection with any such properties
16 or facilities, and any such rules and regulations, if so
17 adopted, shall be duly entered of record in the order book
18 of the county court. The violation of any such rule and
19 regulation so adopted by the county court shall constitute
20 a misdemeanor, and any person convicted of any such
21 violation shall be punished by a fine of not less than five
22 dollars nor more than one hundred dollars, or by im-
23 prisonment in jail for a period not exceeding thirty days,
24 or by both such fine and imprisonment. Justices of the
25 peace of the county shall have concurrent jurisdiction
26 with the circuit court and other courts of record (having
27 criminal jurisdiction) of any misdemeanor offenses aris-

28 ing under this article. The violation of any such rule and
29 regulation which also constitutes the violation of any
30 state law or municipal ordinance may be prosecuted and
31 punished as a violation of such state law or municipal or-
32 dinance rather than under the provisions of this section.
33 To enforce any such rules and regulations, to protect and
34 preserve all properties and facilities under the control
35 of the commission and to preserve law and order in con-
36 nection therewith, the commission shall have plenary
37 power and authority to provide in its bylaws procedures
38 for the appointment, supervision and discharge of one or
39 more park police officers. Whenever any such appoint-
40 ment is made, a copy of the order of appointment shall
41 be filed by the commission with the county court.

42 In any area under the jurisdiction and control of the
43 commission, or in connection with any properties or facili-
44 ties under the jurisdiction and control of the commission,
45 or in pursuit of one or more individuals therefrom, any
46 park police officer so appointed shall have all of the
47 power and authority which a regularly appointed deputy
48 sheriff of such county has in enforcing the criminal laws

49 of the state. Notwithstanding any provisions of this code
50 to the contrary, park police officers appointed as afore-
51 said shall not be required to obtain a state license to
52 carry a weapon, as required by the provisions of section
53 two, article seven, chapter sixty-one of this code. When
54 any such commission has purchased one or more policies
55 of public liability insurance providing the commission
56 and its officers, agents and employees insurance coverage
57 for legal liability of said commission and its officers,
58 agents and employees for bodily injury, personal injury
59 or damage (including, but not limited to, false arrest and
60 false imprisonment) and property damage, and affording
61 said commission and its officers, agents and employees
62 insurance coverage against any and all legal liability
63 arising from, growing out of, by reason of or in any way
64 connected with, any acts or omissions of said commission,
65 or its officers, agents or employees in the performance
66 of their official duties, and so long as the coverage afore-
67 said remains in full force and effect as to such park po-
68 lice officers, then the bond specified in section five, article
69 seven of said chapter sixty-one shall not be required as to
70 such park police officers.

§7-11-6. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held invalid, such in-
3 validity shall not affect other provisions or applications
4 of the article, and to this end the provisions of this
5 article are declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompau
Chairman Senate Committee

Phyllis J. Rutledge
Vice Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Keyes
Clerk of the Senate

A Blankenship
Clerk of the House of Delegates

Lyndee Jones
President of the Senate

Ivor F. Boiarsky
Speaker House of Delegates

The within *approved* this the *14th*
day of *March*, 1968 ~~1968~~ 1969.

Arch A. Shaefer Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/11/69
Time 2:00 p.m.

RECEIVED

MAR 17 9 12 PM '69

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA