

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972



## ENROLLED

HOUSE BILL No. 1159

(By Mr. Potter)



PASSED March 11 1972

In Effect from Passage



FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE

THIS DATE 3-22-72

6-5  
11

**ENROLLED**

# **House Bill No. 1159**

(By MR. POTTER)

---

[Passed March 11, 1972; in effect from passage.]

---

AN ACT to amend and reenact section two, article eleven; and sections seven and eight, article twelve, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county parks and recreation commissions; relating to the general powers and authority of county parks and recreation commissions; authorizing county parks and recreation commissions to borrow money and execute and deliver evidences of indebtedness and give security therefor and to issue and sell revenue bonds; incorporating the provisions of article sixteen, chapter eight of the code with respect to the powers and authority of county parks and recreation commissions; authorizing county parks and recreation commissions to establish, charge and collect reasonable fees and charges; providing that no indebtedness or obligation incurred by any county parks and recreation commission shall give any right against the county or any member of the county court or any member of any such commission; providing that no indebtedness of any nature of any such commission shall constitute an indebtedness of the county or of the county court or be a charge against any property of the county, the rights of creditors of any such commission to be solely against any such commission as a corporate body; authorizing any such county parks and recreation commission to enter into any agreement; exempting any such county parks and recreation commission from the

payment of any taxes or fees; exempting the property of any such county parks and recreation commission from all municipal and county taxes; providing that bonds, notes, debentures and other evidences of indebtedness of any such commission, together with the interest and income thereon shall be exempt from taxation; relating to development authorities generally; relating to and expanding the powers and authority of development authorities; incorporating the provisions of article sixteen, chapter eight of the code with respect to the powers and authority of development authorities; setting forth certain legislative findings with respect to the powers and authority of development authorities; and relating to the incurring of indebtedness by development authorities.

*Be it enacted by the Legislature of West Virginia:*

That section two, article eleven; and sections seven and eight, article twelve, 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.**

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

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

17 tered; to take and hold title to any real or personal prop-  
18 erty; to receive all operating and capital funds appropri-  
19 ated by the county court to the commission; to receive  
20 all income and other funds, whether in cash or check,  
21 received by the county court and derived from properties  
22 and facilities devoted to park and recreational uses and  
23 under the control of said commission; to receive all re-  
24 ceipts from income producing park and recreational prop-  
25 erties and facilities under the control of the commission;  
26 to deposit, invest, manage and disburse, all such funds,  
27 income or receipts, including the interest or income  
28 earned thereon or therefrom; to borrow money and exe-  
29 cute and deliver negotiable notes, mortgage bonds, other  
30 bonds, debentures and other evidences of indebtedness  
31 therefor, and give such security therefor as shall be re-  
32 quisite, including giving a mortgage or deed of trust on  
33 the properties or facilities under the control of the com-  
34 mission or assigning or pledging the gross or net revenues  
35 therefrom; to raise funds by the issuance and sale of rev-  
36 enue bonds in the manner provided by the applicable  
37 provisions of article sixteen, chapter eight of this code,  
38 it being hereby expressly provided that for the purpose  
39 of the issuance and sale of revenue bonds, the commis-  
40 sion is a "governing body" as that term is used in said  
41 article sixteen; to establish, charge and collect reasonable  
42 fees and charges for services or for the use of any part  
43 of the properties or facilities under its control, or for both  
44 services and such use; to sue and be sued; to contract and  
45 be contracted with; to obtain one or more insurance pol-  
46 icies affording coverage for loss of or damage to the prop-  
47 erties and facilities under its control and affording public  
48 liability coverage for the legal liability of the commission,  
49 its officers, agents and employees; to adopt bylaws gov-  
50 erning the operation of the commission and specifying  
51 the powers and duties of its officers; and to do any and all  
52 things which may be necessary or convenient to carry  
53 out and effectuate the purposes and provisions of this  
54 article.

55 Any such county court is hereby empowered and au-  
56 thorized to transfer to any such commission all such funds  
57 or income, as provided for in the preceding paragraph of

58 this section, and such county court may require a blanket  
59 surety bond covering those individuals authorized to sign  
60 checks on behalf of the commission in a penal sum not in  
61 excess of twenty-five thousand dollars.

62 The commission may incur any proper indebtedness  
63 and issue any obligations and give any security therefor  
64 which it may deem necessary and advisable in connection  
65 with carrying out any of its purposes. No indebtedness  
66 or obligation incurred by the commission shall give any  
67 right against the county or any member of the county  
68 court or any member of the commission. No indebtedness  
69 of any nature of the commission shall constitute an in-  
70 debtedness of the county or the county court or be a  
71 charge against any property of the county. The rights  
72 of creditors of the commission shall be solely against the  
73 commission as a corporate body and shall be satisfied  
74 only out of property held by it in its corporate ca-  
75 pacity.

76 Without in any way limiting the generality of any of  
77 the other provisions of this article, the commission may, in  
78 connection with obtaining moneys or property for its  
79 purposes, enter into any agreement with any person, in-  
80 cluding the federal government, or any department,  
81 agency or subdivision thereof, containing such provi-  
82 sions, covenants, terms and conditions as the commis-  
83 sion may deem advisable.

84 The commission shall be exempt from the payment of  
85 any taxes or fees to the state or any subdivision thereof  
86 or any municipality or to any officer or employee of the  
87 state or of any subdivision thereof or of any municipality.  
88 The property of the commission shall be exempt from all  
89 municipal and county taxes. Bonds, notes, debentures  
90 and other evidences of indebtedness of the commission  
91 are declared to be issued for a public purpose and to be  
92 public instrumentalities, and, together with interest and  
93 income thereon, shall be exempt from taxation.

#### §7-12-7. Powers generally.

1 The development authority is hereby given power and  
2 authority as follows: (1) To make and adopt all nec-  
3 essary bylaws, rules and regulations for its organization

4 and operations not inconsistent with law; (2) To elect  
5 its own officers, to appoint committees and to employ  
6 and fix compensation for personnel necessary for its op-  
7 eration; (3) To enter into contracts with any person,  
8 agency, governmental department, firm or corporation,  
9 including both public and private corporations, and gen-  
10 erally to do any and all things necessary or convenient  
11 for the purpose of promoting, developing and advancing  
12 the business prosperity and economic welfare of the  
13 county in which it is intended to operate, its citizens and  
14 industrial complex, including, without limiting any of  
15 the foregoing, the construction of any building or struc-  
16 ture for lease to the federal government or any of its  
17 agencies or departments, and in connection therewith to  
18 prepare and submit bids and negotiate with the federal  
19 government or such agencies or departments in accor-  
20 dance with plans and specifications and in the manner  
21 and on the terms and conditions and subject to any re-  
22 quirements, regulations, rules and laws of the United  
23 States of America for the construction of said buildings  
24 or structures and the leasing thereof to the federal gov-  
25 ernment or such agencies or departments; (4) to amend  
26 or supplement any contracts or leases or to enter into  
27 new, additional or further contracts or leases upon such  
28 terms and conditions, for such consideration and for such  
29 term of duration, with or without option of renewal, as  
30 may be agreed upon by the authority and such person,  
31 agency, governmental department, firm or corporation;  
32 (5) unless otherwise provided for in, and subject to the  
33 provisions of, such contracts, or leases, to operate, repair,  
34 manage, and maintain such buildings and structures and  
35 provide adequate insurance of all types, and in connec-  
36 tion with the primary use thereof and incidental thereto  
37 to provide such services, such as barber shops, news-  
38 stands, drugstores and restaurants, and to effectuate such  
39 incidental purposes, grant leases, permits, concessions or  
40 other authorizations to any person or persons, upon such  
41 terms and conditions, for such consideration and for such  
42 term of duration as may be agreed upon by the autho-  
43 rity and such person, agency, governmental department,  
44 firm or corporation; (6) to delegate any authority given

45 to it by law to any of its officers, committees, agents or  
46 employees; (7) to apply for, receive and use grants-in-  
47 aid, donations and contributions from any source or  
48 sources, and to accept and use bequests, devises, gifts  
49 and donations from any person, firm or corporation; (8)  
50 to acquire lands and other real property by gift, purchase,  
51 or construction, or in any other lawful manner, and hold  
52 title thereto in its own name; (9) to purchase or other-  
53 wise acquire, own, hold, sell and dispose of personal prop-  
54 erty and real estate, and to own, hold, sell, lease or other-  
55 wise dispose of all or part of such personal property and  
56 any real property which it may own; (10) pursuant to a  
57 determination by the board that there exists a continuing  
58 need for programs to alleviate and prevent unemploy-  
59 ment within the county in which the authority is intended  
60 to operate or aid in the rehabilitation of areas in said  
61 county which are underdeveloped, decaying or otherwise  
62 economically depressed, and that moneys or funds of the  
63 authority are necessary therefor, to borrow money and  
64 execute and deliver the authority's negotiable notes,  
65 mortgage bonds, other bonds, debentures, and other evi-  
66 dences of indebtedness therefor, on such terms as the  
67 authority shall determine, and give such security there-  
68 for as shall be requisite, including giving a mortgage or  
69 deed of trust on its real or personal property and facili-  
70 ties in connection with the issuance of mortgage bonds;  
71 (11) to raise funds by the issuance and sale of revenue  
72 bonds in the manner provided by the applicable pro-  
73 visions of article sixteen, chapter eight of this code, it  
74 being hereby expressly provided that a development  
75 authority created under this article is a "governing body"  
76 with the definition of that term as used in said article  
77 sixteen, chapter eight of this code; (12) to expend its  
78 funds in the execution of the powers and authority here-  
79 in given, which expenditures, by the means authorized  
80 herein, are hereby determined and declared as a matter  
81 of legislative finding to be for a public purpose and use,  
82 in the public interest, and for the general welfare of the  
83 people of West Virginia, to alleviate and prevent eco-  
84 nomic deterioration and to relieve the existing critical  
85 condition of unemployment existing within the state.

**§7-12-8. Incurring indebtedness; rights of creditors.**

1 The authority may incur any proper indebtedness and  
2 issue any obligations and give any security therefor which  
3 it may deem necessary or advisable in connection with  
4 carrying out its purposes as hereinbefore mentioned. No  
5 statutory limitation with respect to the nature, or amount,  
6 interest rate or duration of indebtedness which may be  
7 incurred by municipalities or other public bodies shall  
8 apply to indebtedness of the authority. No indebtedness  
9 of any nature of the authority shall constitute an indebt-  
10 edness of the county court of the county in which the  
11 commission is intended to operate or any municipality  
12 situated therein, or a charge against any property of said  
13 county court, municipalities, or other appointing agen-  
14 cies. The rights of creditors of the authority shall be  
15 solely against the authority as a corporate body and shall  
16 be satisfied only out of property held by it in its cor-  
17 porate capacity.



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

Russell H. Beall  
Chairman Senate Committee

Phyllis J. Rutledge  
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard W. Carson  
Clerk of the Senate

C. A. Blankinship  
Clerk of the House of Delegates

E. H. McCourt  
President of the Senate

Lucius W. Mauns  
Speaker House of Delegates

The within approved this the 27th  
March  
day of \_\_\_\_\_, 1972.

Arthur Shouse Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/20/72  
Time 10:17 a.m.

MAR 29 9 23 AM '72

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA