

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

— ● —

ENROLLED

Committee Substitute for
HOUSE BILL No. 892

(By Mr. *Kincaid* & *Mrs. Smirl*)

— ● —

PASSED March 9 1974

In Effect from Passage



C 641

FILED IN THE OFFICE
OF THE CLERK OF THE HOUSE
SECRETARY OF STATE
THIS DATE 3-27-74

897

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 897
(By MR. KINCAID and MRS. SMIRL)

[Passed March 9, 1974; in effect from passage.]

AN ACT to amend and reenact chapter twenty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-five (municipal charters); as amended by chapter one hundred twenty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-three, and by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred seventy-two, all relating to the board of park commissioners of the City of Huntington; definitions; park district defined; board generally, composition, terms, political affiliation, conflicts; compensation; expenses; vacancies; oaths; elections; duties; bonds; meetings; board a public corporate body; perpetual existence; seal; powers; financing; law enforcement; title to property.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-five (municipal charters), as amended by chapter one hundred twenty two, acts of the Legislature, regular session, one thousand nine hundred thirty-three, and by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred seventy-two, be amended and reenacted, all to read as follows:

HUNTINGTON PARK COMMISSION.

§1. Definitions.

1 Unless the context clearly indicates otherwise:

2 "Board" means the board of park commissioners of the
3 city of Huntington.

4 "City" means the city of Huntington, in the counties of
5 Cabell and Wayne.

6 "Commissioners" means the commissioners of the board of
7 park commissioners of the city of Huntington.

8 "Control" means the right and authority to manage, direct,
9 order and otherwise exercise dominion over.

10 "Park district" means the area within the corporate boun-
11 daries of the city of Huntington, as the boundaries are, or
12 may be in the future, established.

13 "Park system" means public parks, arboretums, arenas,
14 athletic fields and facilities, cemeteries, concession stands,
15 gardens, golf courses, museums, parkways and boulevards,
16 playgrounds, ponds and lakes, restaurants and lodges, skating
17 rinks, skiing facilities, stadiums, theaters, zoos and other
18 public park and recreational facilities.

19 "Public office" means any elective office, whether federal,
20 state or municipal, where the office holder is elected by the
21 public at large and is obligated to perform duties as an
22 office holder.

**§2. Board of park commissioners; composition; terms of office;
political affiliation; no commissioner may hold another
elected public office; compensation; expenses; no commis-
sioner may be personally interested in contracts or property
controlled by board.**

1 (a) The purpose of the board of park commissioners of
2 the city of Huntington, as heretofore created and established
3 by the acts hereby amended and reenacted, shall be to establish,
4 own, develop and operate a park system for the benefit,
5 health, safety, welfare, pleasure and relaxation of the in-
6 habitants of the park district.

7 (b) The board shall consist of six commissioners who shall
8 be elected and continue in office as follows:

9 (1) Commissioners shall be nominated and elected in the
10 general election for state officers on the first Tuesday after
11 the first Monday in November, and in the manner prescribed
12 by the general law for the nomination and election of district
13 officers and shall be elected for terms of six years. Two of
14 said commissioners shall be elected every two years to fill
15 staggered terms of office due to expire as heretofore estab-
16 lished by the acts hereby amended and reenacted. Each
17 commissioner's term shall commence on the first day of
18 January following his election and continue until his successor
19 is elected and qualified.

20 (2) The commissioners in office upon the effective date
21 of this act under the authority of the acts hereby amended
22 and reenacted, shall continue in office for the term for which
23 they were elected.

24 (c) Not more than three commissioners shall be members
25 of the same political party.

26 (d) No commissioner shall hold any other elected public
27 office.

28 (e) Commissioners shall receive no compensation for their
29 services as commissioners, but they shall be entitled to
30 reimbursement for all reasonable and necessary expenses
31 actually incurred in the performance of their duties as com-
32 missioners.

33 (f) Commissioners shall have no personal financial interest,
34 directly or indirectly, in any contract entered into by the
35 board, or hold any remunerative position in connection with
36 the establishment, construction, improvement, extension, de-
37 velopment, maintenance or operation of any of the property
38 under their control as commissioners.

§3. Vacancies in office of park commissioners.

1 Any vacancy which may occur in the office of park com-
2 missioner, by death, resignation, refusal to serve, or otherwise,
3 shall be filled by the board of park commissioners at its first

4 regular meeting thereafter, by appointment of a suitable per-
5 son, who is a member of the same political party as the board
6 member whose death, resignation, refusal to serve or otherwise
7 shall have caused the vacancy, and the person so appointed
8 shall hold office until the next election for park commissioners,
9 when a person shall be elected for the remainder of the unex-
10 pired term of park commissioner.

**§4. Oath of park commissioners; election of officers; election of
other officers; duties of officers; bond of secretary; secretary
pro tempore.**

1 (a) After appointment or election, and before entering upon
2 his duties as commissioner, each new commissioner shall take
3 the following oath as administered by the clerk of the city of
4 Huntington:

5 "I -----do solemnly swear that I will
6 faithfully perform the duties as a member of the board of park
7 commissioners of the city of Huntington during the term for
8 which I was elected, to the best of my ability according to
9 law."

10 (b) At the board's first meeting and every year thereafter,
11 the board shall elect one of its members as president, and
12 another member as vice president. The board shall elect a
13 secretary who need not be a member of the board, as well as
14 elect a member of the board who shall serve as treasurer. The
15 board shall have the power to appoint from among its mem-
16 bers such other officers as it deems necessary and to delegate
17 such duties and authority to these other officers as is consis-
18 tent with carrying out the purpose of this charter. Any officer
19 may be removed from office, although not relieved of his duties
20 as a commissioner, by a vote of the majority of commissioners
21 present and voting.

22 (c) The officers of the board shall have the following speci-
23 fied duties and any duty which is reasonably inferred there-
24 from and which is consistent with carrying out the purposes
25 of this charter.

26 (1) President — The president shall perform such duties as
27 ordinarily devolve upon the presiding officer of a deliberative

28 body, except that he shall have a vote upon each and every
29 question, as every other commissioner, but he shall have only
30 one vote on each question. Additionally, the president shall:
31 (a) Act as chief administrative officer and legal representative
32 of the board; (b) represent and speak for the board to other
33 organizations and to the public; (c) appoint committees and
34 delegate duties; (d) sign letters or documents necessary to
35 carry out the will of the board.

36 (2) Vice President — The vice president shall assume the
37 duties of the president in case of the absence or incapacity of
38 the president and shall become president on the death, resig-
39 nation or permanent incapacity of the president as determined
40 by the board.

41 (3) Secretary — The Secretary shall be the chief recording
42 and corresponding officer and the custodian of the records of
43 the board. The duties of the secretary shall be to: (a) Take
44 careful and authentic notes of the proceedings of the meet-
45 ings as a basis for preparing the minutes; (b) prepare and certi-
46 fy the correctness of the minutes and enter them in the official
47 minute book; (c) read or circulate the minutes to the board for
48 correction and approval; (d) enter any corrections approved by
49 the commissioners in the minute book and initial them; (e) re-
50 cord and attest by his signature the approved minutes as the
51 official minutes of the board, with the date of approval; (f)
52 provide the presiding officer of the assembly with the exact
53 wording of a pending motion or of one previously acted on;
54 (g) prepare a list of members and call the roll when directed
55 by the presiding officer; (h) read all papers, documents, or
56 communications as directed by the presiding officer; (i) bring
57 to each meeting the minute book, a copy of ordinances, rules,
58 and policies, a list of the members, a list of standing and
59 special committees, and a copy of the parliamentary authority
60 adopted by the organization; (j) search the minutes for informa-
61 tion requested by officers or members; (k) assist the presiding
62 officer before each meeting in preparing a detailed agenda;
63 (l) preserve all records, reports, and official documents of the
64 board except those specifically assigned to the custody of oth-
65 ers as well as preserve all papers containing evidence of title,
66 contracts and obligations; (m) prepare and send required no-

67 tices of meetings and proposals; (n) provide the chairman of
68 each special committee with a list of his committee members,
69 a copy of the motion referring the subject to the committee,
70 and instructions and other documents that may be useful; (o)
71 provide the chairman of each standing committee with a copy
72 of all proposals referred to it, instructions, or material that
73 may be useful; (p) authenticate official documents by his sig-
74 nature; (q) carry on the official correspondence of the board
75 as directed, except correspondence assigned to other officers;
76 (r) make available the minute book for public inspection as a
77 public record; (s) codify and preserve all ordinances enacted
78 by the board.

79 For this service the secretary, who is not a commissioner,
80 may receive such compensation as the board may allow. Be-
81 fore entering upon the duties of his office, the secretary shall
82 enter into a bond with one or more sureties deemed sufficient
83 by the board and approved by the board, conditioned upon the
84 faithful performance of his duties, the bond to be payable to
85 the board of park commissioners of the city of Huntington, in
86 such penal sum as the board determines, which bond shall be
87 filed with the board for safekeeping. In the secretary's absence,
88 the board may appoint a secretary pro tempore.

89 (4) Treasurer — The treasurer shall be responsible for the
90 collection, safekeeping, investing and expenditure of all funds
91 and assets of the board, and for keeping an accurate financial
92 record thereof which record shall be available for public in-
93 spection. Before entering upon the duties of his office, the
94 treasurer shall enter into a bond with one or more sureties
95 deemed sufficient by the board, and approved by the board,
96 conditioned upon the faithful discharge of his duties and the
97 accounting for and paying over, as may be required, all moneys
98 which may come into his possession by virtue of his office.
99 Such bond shall be in such penal sum as the board may require,
100 payable to the board of park commissioners of the city of
101 Huntington, and filed with the board for safekeeping.

§5. Meetings; quorum; parliamentary authority; office.

1 (a) The commissioners shall select a regular time and
2 place for meetings of the board which meetings shall be open

3 to the public. Not less than four members shall constitute a
 4 quorum to transact business. Special meetings, also open to
 5 the public, may be called by the president, or at the request
 6 of two members, by the secretary. The concurrence of four
 7 members of the board shall be required to decide all questions
 8 involving the expenditure of money.

9 (b) All meetings of the board shall be conducted under
 10 the rules of parliamentary procedure as established by the
 11 Sturgis Standard Code of Parliamentary Procedure.

12 (c) The board shall have and maintain an office in a
 13 location of its own choosing in facilities presently owned by
 14 the board and which office shall be open to the public during
 15 normal business hours.

**§6. Board a public corporate body; perpetual existence; seal;
 powers.**

1 The board of park commissioners of the city of Huntington
 2 shall be a public corporate body, although not a municipal
 3 corporation, and shall have perpetual existence and a com-
 4 mon seal. The board shall have powers to:

5 (1) Purchase, hold, own, sell, convey or lease or take
 6 lease of real or personal property;

7 (2) Receive any gift, grant, donation, bequest, devise or
 8 trust funds;

9 (3) Sue and be sued;

10 (4) Contract and be contracted with;

11 (5) Do any and all things and acts which may be neces-
 12 sary, appropriate, convenient or incidental to carry out and
 13 effectuate the purposes and provisions of this charter;

14 (6) Retain complete and exclusive control and manage-
 15 ment of all of the properties owned by the board and dispose
 16 of the same as in the board's opinion will best serve the
 17 purposes of this charter and the interests of the public;

18 (7) Acquire in the board's name by purchase, lease, or
 19 by exercise of the power of eminent domain, or otherwise,
 20 such lands, structures or bodies of water, located anywhere

21 within the state of West Virginia, as the board shall determine
22 to be necessary, appropriate, convenient or incidental to the
23 establishment, construction, improvement, extension, develop-
24 ment, maintenance or operation of a park system;

25 (8) Establish, construct, improve, extend, develop, main-
26 tain and operate a park system;

27 (9) Employ such persons as, in its opinion, may be
28 necessary for the establishment, construction, improvement,
29 extension, development, maintenance, operation or manage-
30 ment of the property under its control, at such wages, salaries
31 or fees as it shall deem proper, and the board shall have
32 full control of all employees;

33 (10) Promulgate those ordinances, rules and regulations
34 necessary to maintain the property belonging to the board as
35 places of beauty, education and recreation or necessary to
36 promote the health, property, lives, decency, morality and
37 good order of the independent park district, its inhabitants
38 and members of the general public making use of such
39 property owned or controlled by the board, or necessary to
40 regulate the use of or driving upon the property owned or
41 controlled by the board;

42 (11) Abate, or cause to be abated, all nuisances affecting
43 the board's property or persons thereupon;

44 (12) Regulate or prohibit the placing of signs, billboards,
45 posters and advertisements upon the board's property, or
46 adjacent thereto;

47 (13) Keep the board's property in good order and free
48 from obstruction for the use and benefit of the public;

49 (14) Construct, improve, maintain, repair, operate, curb
50 or recurb, pave or repave, grade or regrade, surface or re-
51 surface roads, bridges, sewers, culverts, sidewalks, public ways,
52 easements and other public works upon lands controlled or
53 owned by the board;

54 (15) Enter into contracts, agreements, leases and other
55 legal obligations extending beyond a period of one fiscal
56 year; provided that the contract, agreement, lease or other legal
57 obligation does not require the expenditure of tax revenues;

58 (16) Enter into intergovernmental agreements as any
 59 municipal corporation would be so entitled to enter into accord-
 60 ing to law and under such conditions as are required by law
 61 of municipal corporations before they enter intergovernmental
 62 agreements; provided, every such intergovernmental agreement
 63 shall, prior to and as a condition precedent to its becoming
 64 effective, be submitted to the attorney general of the state of
 65 West Virginia who shall determine whether the agreement
 66 is in proper form and is compatible with the laws of this
 67 state;

68 (17) Provide by contract with the city of Huntington for
 69 the joint construction of sewers and other public works upon
 70 property owned or controlled by the board, to be paid
 71 for by joint funds;

72 (18) Spend moneys of the board to effectuate the purposes
 73 set forth in this charter.

§7. Financing and financial powers.

1 The board shall have the following powers to:

2 (1) Make reasonable charges to the public for services of-
 3 fered or goods sold by the board or for the privilege of using
 4 any of the recreational or other facilities provided in parks
 5 or upon other lands owned or controlled by the board.

6 (2) Annually levy on each one hundred dollars of the as-
 7 sessed valuation of the property taxable in said park district,
 8 according to the last assessment thereof for state and county
 9 purposes, as follows:

10 On Class 1 property, one and one-half cents; on Class II
 11 property, three cents; on Class IV property, six cents; except
 12 that the board may levy a lesser amount, in which case the
 13 above levies shall be reduced proportionately. These levies
 14 shall be made at the time and in the manner provided by arti-
 15 cle eight, chapter eleven of the code of West Virginia, one
 16 thousand nine hundred thirty-one, as amended; except that
 17 the levies shall be included in the maximum rates for the city
 18 of Huntington as established by law.

19 After the board has made the levy, it shall certify to the
 20 finance director of the city of Huntington the amount of the

21 said levy, and the finance director shall thereupon extend the
22 levy upon the tax tickets, and all levies made by the board shall
23 be collected by the finance director who shall occupy a fidu-
24 ciary relationship with the board, and then such levy funds
25 shall be paid to the board upon written order of the board
26 signed by the president of the board and countersigned by the
27 secretary of the board.

28 (3) Assess the cost of improvements to or construction of
29 streets, sidewalks, sewers, curbs, alleys, public ways or ease-
30 ments, or portions thereof, upon the abutting property owners
31 whose property lies within the park district. Such assessments
32 shall require approval of a majority of the commissioners pre-
33 sent and voting, and shall be commenced and conducted in
34 such manner as is prescribed by article eighteen, chapter eight
35 of the code of West Virginia, one thousand nine hundred
36 thirty-one, as amended.

37 (4) The city of Huntington and the counties of Cabell and
38 Wayne are hereby empowered and authorized to issue, in the
39 manner prescribed by law, revenue bonds or general obli-
40 gation bonds, for the purpose of raising funds to establish,
41 construct, improve, extend, develop, maintain or operate, a
42 system of public parks and recreational facilities for the city
43 or counties, or to refund any bonds of the city or counties,
44 the proceeds of which were expended in the establishing, con-
45 structing, improving, extending, developing, maintaining or
46 operating of such public park and recreation system or any
47 part thereof. Any bonds issued for any of the purposes stated
48 in this section shall contain in the title or subtitle thereto the
49 words "public park and recreation bonds," in order to identify
50 the same, and shall be of such form, denomination and matur-
51 ity and shall bear such rate of interest as shall be fixed by
52 ordinance of the governing body of the city or counties. The
53 governing body may provide for the issuance of bonds for
54 other lawful purposes of the city or counties in the same ordi-
55 nance in which provision shall be made for the issuance of
56 bonds under the provisions of this section. The board shall
57 pay all of the costs and expenses of any election which shall
58 be held to authorize the issuance of public park and recreation
59 bonds only. The costs and expenses of holding an election to

60 authorize the issuance of public park and recreation bonds
61 and bonds for other city or county purposes shall be paid by
62 the board and the city or counties respectively, in the propor-
63 tion that the public park and recreation bonds bear to the total
64 amount of bonds authorized.

65 Whenever the governing body of the city or counties and
66 the requisite majority of the legal votes cast at the election
67 thereon shall authorize in the manner prescribed by law, the
68 issuance of bonds for the purpose of establishing, constructing,
69 improving, extending, developing, maintaining or operating, or
70 any combination of the foregoing, a system of public parks and
71 recreational facilities for the city or counties, or for refunding
72 any outstanding bonds, the proceeds of which were applied to
73 any of said purposes, said bonds shall be issued and delivered
74 to the board to be by it sold in the manner prescribed by law,
75 and the proceeds thereof shall be paid into the treasury of the
76 board, and the same shall be applied and utilized by the board
77 for the purposes prescribed by the ordinance authorizing the
78 issuance of such bonds. In any ordinance for the issuance of
79 bonds for such purposes, it shall be a sufficient statement of
80 the purposes for creating the debt to specify that the same is
81 for purposes of establishing, constructing, improving, extend-
82 ing, developing, maintaining or operating, or any combination
83 of the foregoing, a public park and recreation system for the
84 city or counties, without specifying the particular establish-
85 ment, construction, improvement, extension, development,
86 maintenance or operation contemplated; but an ordinance for
87 refunding bonds shall designate the issue and the number of
88 bonds which it is proposed to refund.

89 (5) Borrow money which debt shall be paid off in full
90 within the same fiscal year in which the money is borrowed.
91 In no event shall the property owned or controlled by the
92 board be used as collateral or security for such a loan nor
93 shall said property be in any manner encumbered nor shall
94 any form of lien be placed upon said property.

95 (6) Create trusts of such kind as will expedite the efficient
96 management of the property and other assets owned or con-
97 trolled by the board. The trustee, whether individual or cor-
98 porate, in any such trust shall have a fiduciary relationship

99 with the board and may be removed by the board for good
100 cause shown or for a breach of the fiduciary relationship with
101 the board.

§8. Law enforcement.

1 (a) The board is authorized and empowered to employ as
2 many park rangers as the board shall deem proper and neces-
3 sary. Park rangers shall have the power to make arrests for
4 violations of ordinances promulgated by the board upon the
5 property under the jurisdiction of the board. Park rangers
6 may not carry a gun without obtaining a license therefor as re-
7 quired by law.

8 (b) Police officers employed by the city of Huntington,
9 members of the West Virginia department of public safety,
10 sheriff's deputies and constables when acting within their
11 respective counties of Cabell or Wayne, are hereby authorized
12 and empowered to make arrests for violations of ordinances
13 promulgated by the board upon property within the park
14 district which is under the jurisdiction of the board; and all of
15 the foregoing officers of the law, except members of the
16 Huntington police department, are hereby authorized and
17 empowered to make arrests for violations of ordinances pro-
18 mulgated by the board upon property under the jurisdiction
19 of the board which is outside of the park district.

20 (c) For violations of board ordinances committed within
21 the city of Huntington, jurisdiction of all warrants relating
22 thereto to be issued is hereby granted to the municipal judge
23 of the city of Huntington; further, all persons arrested under
24 such ordinances shall be tried by the municipal judge of the
25 city of Huntington. For violations of board ordinances com-
26 mitted outside of the city of Huntington, jurisdiction of all
27 warrants relating thereto to be issued is hereby granted to
28 such courts as have criminal jurisdiction of misdemeanors
29 committed upon property outside the city of Huntington which
30 is owned or controlled by the board.

§9. Title to property.

1 The title to all parks, parkways, playgrounds, athletic
2 fields, cemeteries, boulevards and other property, real, per-

3 sonal and mixed, vested in the board of park commissioners
 4 under the powers and authority of the acts hereby amended
 5 and reenacted shall be and remain vested in the board of
 6 park commissioners of the city of Huntington as herein
 7 reconstituted.

8 Notwithstanding any provisions of this chapter to the
 9 contrary, the board is hereby authorized and empowered to
 10 grant and convey to any municipality, town, village, county or
 11 to the state of West Virginia, all right, title, control and
 12 interest, jurisdiction and maintenance of any streets or boulevards
 13 owned by the board, whenever the board deems such
 14 action to be necessary or convenient and proper and in the
 15 best interest of the inhabitants of the park district.

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

H. Darrel Darby
Chairman Senate Committee

Clarence C. Chustan Jr.
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard W. Carson
Clerk of the Senate

Ch. Blaskenship
Clerk of the House of Delegates

H. T. Bratherton Jr.
President of the Senate

Lewis M. M. Munn
Speaker House of Delegates

The within approved this the 26th
day of March, 1974.

Arch A. Moore Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/18/74
Time 3:05 p.m.