WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

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ENROLLED

Committee Substitute for

HOUSE BILL No. 892

(By Mr. [Signature])

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PASSED March 9, 1974

In Effect from Passage

897

FILLED IN THE OFFICE
EDGAR F. HARRIS, JR.
SECRETARY OF STATE
THIS DATE 3-27-74
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 re-enacted, 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 city of Huntington.

3. “City” means the city of Huntington, in the counties of Cabell and Wayne.

4. “Commissioners” means the commissioners of the board of park commissioners of the city of Huntington.

5. “Control” means the right and authority to manage, direct, order and otherwise exercise dominion over.

6. “Park district” means the area within the corporate boundaries of the city of Huntington, as the boundaries are, or may be in the future, established.

7. “Park system” means public parks, arboretums, arenas, athletic fields and facilities, cemeteries, concession stands, gardens, golf courses, museums, parkways and boulevards, playgrounds, ponds and lakes, restaurants and lodges, skating rinks, skiing facilities, stadiums, theaters, zoos and other public park and recreational facilities.

8. “Public office” means any elective office, whether federal, state or municipal, where the office holder is elected by the public at large and is obligated to perform duties as an office holder.

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

1. (a) The purpose of the board of park commissioners of the city of Huntington, as heretofore created and established by the acts hereby amended and reenacted, shall be to establish, own, develop and operate a park system for the benefit, health, safety, welfare, pleasure and relaxation of the inhabitants of the park district.
(b) The board shall consist of six commissioners who shall be elected and continue in office as follows:

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

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

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

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

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

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

§3. Vacancies in office of park commissioners.

Any vacancy which may occur in the office of park commissioner, by death, resignation, refusal to serve, or otherwise, shall be filled by the board of park commissioners at its first
regular meeting thereafter, by appointment of a suitable person, who is a member of the same political party as the board member whose death, resignation, refusal to serve or otherwise shall have caused the vacancy, and the person so appointed shall hold office until the next election for park commissioners, when a person shall be elected for the remainder of the unexpired 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.

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

“I ___________________________ do solemnly swear that I will faithfully perform the duties as a member of the board of park commissioners of the city of Huntington during the term for which I was elected, to the best of my ability according to law.”

(b) At the board’s first meeting and every year thereafter, the board shall elect one of its members as president, and another member as vice president. The board shall elect a secretary who need not be a member of the board, as well as elect a member of the board who shall serve as treasurer. The board shall have the power to appoint from among its members such other officers as it deems necessary and to delegate such duties and authority to these other officers as is consistent with carrying out the purpose of this charter. Any officer may be removed from office, although not relieved of his duties as a commissioner, by a vote of the majority of commissioners present and voting.

(c) The officers of the board shall have the following specified duties and any duty which is reasonably inferred therefrom and which is consistent with carrying out the purposes of this charter.

(1) President — The president shall perform such duties as ordinarily devolve upon the presiding officer of a deliberative
body, except that he shall have a vote upon each and every question, as every other commissioner, but he shall have only one vote on each question. Additionally, the president shall:
(a) Act as chief administrative officer and legal representative of the board; (b) represent and speak for the board to other organizations and to the public; (c) appoint committees and delegate duties; (d) sign letters or documents necessary to carry out the will of the board.

(2) Vice President — The vice president shall assume the duties of the president in case of the absence or incapacity of the president and shall become president on the death, resignation or permanent incapacity of the president as determined by the board.

(3) Secretary — The Secretary shall be the chief recording and corresponding officer and the custodian of the records of the board. The duties of the secretary shall be to: (a) Take careful and authentic notes of the proceedings of the meetings as a basis for preparing the minutes; (b) prepare and certify the correctness of the minutes and enter them in the official minute book; (c) read or circulate the minutes to the board for correction and approval; (d) enter any corrections approved by the commissioners in the minute book and initial them; (e) record and attest by his signature the approved minutes as the official minutes of the board, with the date of approval; (f) provide the presiding officer of the assembly with the exact wording of a pending motion or of one previously acted on; (g) prepare a list of members and call the roll when directed by the presiding officer; (h) read all papers, documents, or communications as directed by the presiding officer; (i) bring to each meeting the minute book, a copy of ordinances, rules, and policies, a list of the members, a list of standing and special committees, and a copy of the parliamentary authority adopted by the organization; (j) search the minutes for information requested by officers or members; (k) assist the presiding officer before each meeting in preparing a detailed agenda; (l) preserve all records, reports, and official documents of the board except those specifically assigned to the custody of others as well as preserve all papers containing evidence of title, contracts and obligations; (m) prepare and send required no-
tices of meetings and proposals; (n) provide the chairman of each special committee with a list of his committee members, a copy of the motion referring the subject to the committee, and instructions and other documents that may be useful; (o) provide the chairman of each standing committee with a copy of all proposals referred to it, instructions, or material that may be useful; (p) authenticate official documents by his signature; (q) carry on the official correspondence of the board as directed, except correspondence assigned to other officers; (r) make available the minute book for public inspection as a public record; (s) codify and preserve all ordinances enacted by the board.

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

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

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

(a) The commissioners shall select a regular time and place for meetings of the board which meetings shall be open
to the public. Not less than four members shall constitute a
quorum to transact business. Special meetings, also open to
the public, may be called by the president, or at the request
of two members, by the secretary. The concurrence of four
members of the board shall be required to decide all questions
involving the expenditure of money.

(b) All meetings of the board shall be conducted under
the rules of parliamentary procedure as established by the

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

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

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

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

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

(3) Sue and be sued;

(4) Contract and be contracted with;

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

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

(7) Acquire in the board’s name by purchase, lease, or
by exercise of the power of eminent domain, or otherwise,
such lands, structures or bodies of water, located anywhere
within the state of West Virginia, as the board shall determine

to be necessary, appropriate, convenient or incidental to the
establishment, construction, improvement, extension, develop-
ment, maintenance or operation of a park system;

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

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

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

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

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

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

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

(15) Enter into contracts, agreements, leases and other
legal obligations extending beyond a period of one fiscal
year; provided that the contract, agreement, lease or other legal
obligation does not require the expenditure of tax revenues;
(16) Enter into intergovernmental agreements as any municipal corporation would be so entitled to enter into according to law and under such conditions as are required by law of municipal corporations before they enter intergovernmental agreements; provided, every such intergovernmental agreement shall, prior to and as a condition precedent to its becoming effective, be submitted to the attorney general of the state of West Virginia who shall determine whether the agreement is in proper form and is compatible with the laws of this state;

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

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

§7. Financing and financial powers.

The board shall have the following powers to:

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

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

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

After the board has made the levy, it shall certify to the finance director of the city of Huntington the amount of the
said levy, and the finance director shall thereupon extend the
levy upon the tax tickets, and all levies made by the board shall
be collected by the finance director who shall occupy a fidu-
ciary relationship with the board, and then such levy funds
shall be paid to the board upon written order of the board
signed by the president of the board and countersigned by the
secretary of the board.

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

(4) The city of Huntington and the counties of Cabell and
Wayne are hereby empowered and authorized to issue, in the
manner prescribed by law, revenue bonds or general obli-
gation bonds, for the purpose of raising funds to establish,
construct, improve, extend, develop, maintain or operate, a
system of public parks and recreational facilities for the city
or counties, or to refund any bonds of the city or counties,
the proceeds of which were expended in the establishing, con-
structing, improving, extending, developing, maintaining or
operating of such public park and recreation system or any
part thereof. Any bonds issued for any of the purposes stated
in this section shall contain in the title or subtitle thereto the
words "public park and recreation bonds," in order to identify
the same, and shall be of such form, denomination and matur-
ity and shall bear such rate of interest as shall be fixed by
ordinance of the governing body of the city or counties. The
governing body may provide for the issuance of bonds for
other lawful purposes of the city or counties in the same ordi-
nance in which provision shall be made for the issuance of
bonds under the provisions of this section. The board shall
pay all of the costs and expenses of any election which shall
be held to authorize the issuance of public park and recreation
bonds only. The costs and expenses of holding an election to
authorize the issuance of public park and recreation bonds and bonds for other city or county purposes shall be paid by the board and the city or counties respectively, in the proportion that the public park and recreation bonds bear to the total amount of bonds authorized.

Whenever the governing body of the city or counties and the requisite majority of the legal votes cast at the election thereon shall authorize in the manner prescribed by law, the issuance of bonds for the purpose of establishing, constructing, improving, extending, developing, maintaining or operating, or any combination of the foregoing, a system of public parks and recreational facilities for the city or counties, or for refunding any outstanding bonds, the proceeds of which were applied to any of said purposes, said bonds shall be issued and delivered to the board to be by it sold in the manner prescribed by law, and the proceeds thereof shall be paid into the treasury of the board, and the same shall be applied and utilized by the board for the purposes prescribed by the ordinance authorizing the issuance of such bonds. In any ordinance for the issuance of bonds for such purposes, it shall be a sufficient statement of the purposes for creating the debt to specify that the same is for purposes of establishing, constructing, improving, extending, developing, maintaining or operating, or any combination of the foregoing, a public park and recreation system for the city or counties, without specifying the particular establishment, construction, improvement, extension, development, maintenance or operation contemplated; but an ordinance for refunding bonds shall designate the issue and the number of bonds which it is proposed to refund.

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

(6) Create trusts of such kind as will expedite the efficient management of the property and other assets owned or controlled by the board. The trustee, whether individual or corporate, in any such trust shall have a fiduciary relationship
§8. Law enforcement.

(a) The board is authorized and empowered to employ as many park rangers as the board shall deem proper and necessary. Park rangers shall have the power to make arrests for violations of ordinances promulgated by the board upon the property under the jurisdiction of the board. Park rangers may not carry a gun without obtaining a license therefor as required by law.

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

(c) For violations of board ordinances committed within the city of Huntington, jurisdiction of all warrants relating thereto to be issued is hereby granted to the municipal judge of the city of Huntington; further, all persons arrested under such ordinances shall be tried by the municipal judge of the city of Huntington. For violations of board ordinances committed outside of the city of Huntington, jurisdiction of all warrants relating thereto to be issued is hereby granted to such courts as have criminal jurisdiction of misdemeanors committed upon property outside the city of Huntington which is owned or controlled by the board.

§9. Title to property.

The title to all parks, parkways, playgrounds, athletic fields, cemeteries, boulevards and other property, real, per-
sonal and mixed, vested in the board of park commissioners
under the powers and authority of the acts hereby amended
and reenacted shall be and remain vested in the board of
park commissioners of the city of Huntington as herein
reconstituted.

Notwithstanding any provisions of this chapter to the
contrary, the board is hereby authorized and empowered to
grant and convey to any municipality, town, village, county or
to the state of West Virginia, all right, title, control and
interest, jurisdiction and maintenance of any streets or boule-
vards owned by the board, whenever the board deems such
action to be necessary or convenient and proper and in the
best interest of the inhabitants of the park district.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor
PRESENTED TO THE
GOVERNOR

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