

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

Committee Substitute for
SENATE BILL NO. 275

(By Mr. *Gainer & Mr. Benson*)



PASSED March 19, 1977

In Effect ninety days from Passage



110: 210

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 275

(By MR. GAINER and MR. BENSON)

[Passed March 19, 1977; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, three and four, article thirty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authorization of municipalities and counties to contribute to and secure federal grants for certain nonstock, nonprofit corporations or health institutions for certain public purposes; requiring that such corporations be either chartered in this state or licensed or authorized to do business therein; and authorizing county commissions to appropriate funds for health institutions.

Be it enacted by the Legislature of West Virginia:

That sections one, three and four, article thirty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 32. INTERGOVERNMENTAL RELATIONS—CONTRIBUTIONS TO OR INVOLVEMENT WITH NONSTOCK, NONPROFIT CORPORATIONS OR HEALTH INSTITUTIONS FOR PUBLIC PURPOSES.

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.

1 (a) The Legislature hereby finds that the support of
2 nonstock, nonprofit corporations dedicated to making

3 available to the general public (1) museums, historic
4 landmarks, facilities or cultural centers for the apprecia-
5 tion, advancement or enjoyment of art, crafts, music,
6 dance, drama, nature, science or other educational and
7 cultural activities or (2) parks, playgrounds, athletic
8 fields, stadiums, swimming pools, skating rinks, arenas
9 or other public park and recreational facilities for the
10 promotion, advancement or enjoyment of education,
11 recreation and health is for the general welfare of the
12 public and is a public purpose. This section is enacted
13 in view of this finding and shall be liberally construed in
14 the light thereof.

15 (b) When a nonstock, nonprofit corporation, chartered
16 under the laws of this state, or licensed to do business
17 in this state, (1) is organized for the construction, mainte-
18 nance or operation of (i) museums, historic landmarks,
19 facilities or cultural centers for the appreciation, ad-
20 vancement or enjoyment of art, crafts, music, dance,
21 drama, nature, science or other educational and cultural
22 activities or (ii) parks, playgrounds, athletic fields,
23 stadiums, swimming pools, skating rinks, arenas or other
24 public park and recreational facilities for the promotion,
25 advancement or enjoyment of education, recreation and
26 health and provides in its charter that its buildings or
27 facilities, or a designated portion thereof, shall be de-
28 voted to the use by the public for all purposes set forth
29 in such charter without regard to race, sex, religion,
30 national origin or economic circumstance, and free from
31 charge except such as is necessary to provide the means
32 to keep the buildings, facilities and grounds in proper
33 condition and repair, and to pay the cost of insurance,
34 care, management, operations, teaching and attendants,
35 so that the general public may have the benefit of such
36 establishment for the uses set forth in such corporation's
37 charter at as little expense as possible, (2) provides in
38 its charter that no member trustee, or member of the
39 board of directors (by whatever name the same may
40 be called), of the corporation shall receive any compen-
41 sation, gain or profit from such corporation, and (3) is
42 operated in compliance with such charter provisions as
43 aforesaid, then, notwithstanding any statutory or municipi-

44 pal charter provisions to the contrary, any municipality
45 in which such nonstock, nonprofit corporation is oper-
46 ating or which is or will be served by such nonstock,
47 nonprofit corporation, if any, and the county commission
48 of any county in which such nonstock, nonprofit corpora-
49 tion is operating or which is or will be served by such
50 nonstock, nonprofit corporation, may appropriate funds,
51 subject to the provisions and limitations set forth in sub-
52 sections (c) and (d) of this section, to such nonstock,
53 nonprofit corporation, for such public purposes or convey
54 or lease real or personal property, with or without con-
55 sideration, to such nonstock, nonprofit corporation, for
56 such public purposes, except that no such conveyance
57 or lease may be made by a municipality or a county
58 commission to such nonstock, nonprofit corporation for
59 any of the public purposes set forth in (2) of subsection
60 (a) of this section if such county has a county parks
61 and recreation commission or board operating in or for
62 such county, or participates in a consolidated recreation
63 commission or board with a municipality as the case may
64 be: *Provided*, That if at any time such property ceases
65 to be used for such public purposes, it shall by operation
66 of law revert to and vest in the municipality or county
67 commission which conveyed or leased the same and such
68 nonstock, nonprofit corporation shall thereafter have no
69 right, title or interest therein or thereto.

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

76 (c) No funds appropriated by a municipality or county
77 commission under the authority of this section shall be
78 disbursed by any such nonstock, nonprofit corporation
79 unless and until the expenditure thereof has been ap-
80 proved by the governing body of such municipality or
81 any such county commission, as the case may be, which
82 made such appropriation, and such corporation shall upon
83 demand at any time make a full and complete accounting
84 of all such funds to such governing body or county com-

85 mission, as the case may be, and shall in every event
86 without demand make to such governing body or county
87 commission an annual accounting thereof.

88 (d) Under no circumstances whatever shall any action
89 taken by any municipality or county commission under
90 the authority of this section give rise to or create any
91 indebtedness on the part of the municipality, the gov-
92 erning body of such municipality, the county, such county
93 commission, any member of such governing body or the
94 county commission or any municipal or county official or
95 employee.

PART III. OBTAINING FEDERAL GRANTS.

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

1 (a) Notwithstanding any statutory or charter provi-
2 sions to the contrary, every municipality is, subject to
3 the provisions and limitations set forth in subsections
4 (b) and (c) of this section, hereby empowered and
5 authorized to make application for, receive and accept
6 grants from the federal government, or any agency
7 thereof, for, on behalf of and for use by a nonstock, non-
8 profit corporation chartered under the laws of this state,
9 or licensed to do business in this state, for charitable,
10 patriotic or philanthropic or other public purposes and
11 operating within the corporate limits of said munic-
12 ipality. The Legislature hereby finds that the support
13 of such nonstock, nonprofit corporations is for the general
14 welfare of the public and is a public purpose. This sec-
15 tion is enacted in view of this finding and shall be liberally
16 construed in the light thereof.

17 (b) No federal funds received by a municipality under
18 the authority of this section shall be disbursed by any
19 such nonstock, nonprofit corporation unless and until the
20 expenditure thereof has been approved by the govern-
21 ing body of such municipality, and such corporation shall
22 upon demand at any time make a full and complete ac-
23 counting of all such funds to such governing body.

24 (c) Under no circumstances whatever shall any action
25 taken by any municipality under the authority of this

26 section give rise to or create any indebtedness on the
 27 part of such municipality, the governing body of such
 28 municipality, any member thereof or any municipal of-
 29 ficial or employee.

PART IV. HEALTH INSTITUTIONS.

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

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

15 (b) Notwithstanding any statutory or charter provision
 16 to the contrary, municipalities and county commissions
 17 are hereby empowered and authorized to appropriate
 18 funds, subject to the conditions and limitations set forth
 19 in this section, for the establishment, cost, operation,
 20 maintenance and projects of any health institution,
 21 whether such health institution be situate within or
 22 without the confines of any such municipality or county.
 23 Funds may not be appropriated by a municipality or
 24 county commission for the benefit and use of any health
 25 institution unless such health institution is either owned
 26 and operated by a unit of government, or is owned and
 27 operated by a nonstock, nonprofit corporation chartered
 28 under the laws of or licensed to do business in this state
 29 which provides in its charter that no member trustee or
 30 member of the board of directors (by whatever name
 31 the same may be called) shall receive any compensation,

32 gain or profit from such corporation and which is operat-
33 ed in compliance with such charter provisions. Any such
34 appropriation shall be made from the general funds of
35 such municipality or county commission not otherwise
36 appropriated or from federal revenue sharing funds
37 received by such municipality or county commission.

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

45 (d) Under no circumstances whatever shall any action
46 taken by any municipality or county commission under the
47 authority of this section give rise to or create any in-
48 debtedness on the part of the municipality, the county,
49 the governing body of such municipality, the county
50 commission, any member of such governing body or
51 county commission or any municipal or county official or
52 employee.

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

James L. Davis
Chairman Senate Committee

Doreen C. Christman
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. C. Dillon Jr
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

W. T. Beathley Jr
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 28
day of March, 1977.

John D. Rorly
Governor



APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED
MAR 23 2 50 PM '77
OFFICE OF THE GOVERNOR

Date March 28, 1977
Time 9:30 a.m.

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77 MAR 29 4:05
OFFICE
SECY. OF STATE