WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 569

(By Mr. [signature] and [signature])

PASSED March 5, 1983
In Effect July 1, 1983
ENROLLED
Senate Bill No. 569

(By Mr. Nelson and Mr. Heck)

[Passed March 5, 1983; in effect July 1, 1983.]

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; by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred seventy-two; and by chapter one hundred forty-eight, acts of the Legislature, regular session, one thousand nine hundred seventy-four, all relating to the Greater Huntington park and recreation district; definitions; park district generally, composition, terms, conflicts; compensation; expenses; vacancies; oaths; elections; duties; bonds; meetings; commission a public corporate body; perpetual existence; seal; powers; comprehensive plan; financing; providing for additional levies on certain governing authorities; 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, by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred seventy-two; and by chapter one hundred forty-eight, acts of the Legislature, regular session, one thousand nine hundred seventy-four, be amended and reenacted, all to read as follows:
GREATER HUNTINGTON PARK AND RECREATION DISTRICT.

§1. Definitions.

1. Unless the context clearly indicates otherwise:
2. "Commissioners" means the members of the Greater Huntington park and recreation district as defined hereinafter.
3. "Control" means the right and authority to manage, direct, order and otherwise exercise dominion over.
4. "Greater Huntington park and recreation district" means both the geographical area within the boundaries of the county of Cabell and Westmoreland tax district in the county of Wayne, established on the effective date of this act and the public corporate entity created herein.
5. "Park system" means any and all indoor and outdoor park, recreation, and conservation areas and facilities which are or in the future may be owned, operated or leased in the park district. Said areas and facilities may include, by way of illustration and not as a limitation: Regional, community, and neighborhood parks and playgrounds; athletic facilities and play fields such as sports centers, stadiums, arenas, gymnasiums and physical fitness centers; aquatic facilities such as swimming pools, lakes, ponds, water parks, water amusements, beaches, waterfronts, boat docks, boat houses, and boat launching ramps; court areas for net games such as basketball, volleyball, badminton, tennis, handball, racquetball, squash and platform tennis; picnic facilities such as groves, shelters and lodges; golf courses, skating rinks; stables and riding paths; gardens, botanic gardens, arboretums, nature centers, zoos, aviaries and environmental interpretive centers; museums, historic landmarks and historic districts; snack bars, restaurants, lounges and gift shops; camps and overnight lodges; theaters; performing arts and crafts centers; recreation centers; mechanical and electronic games centers; dance halls; amusement; parkways and boulevards; and cemeteries, and other public parks and recreational areas and facilities.
6. "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. Greater Huntington park and recreation district; 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.

(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 Greater Huntington park and recreation district and shall hereafter be known as the Greater Huntington park and recreation district.

(b) The park district shall be governed by ten commissioners; nine of whom shall be elected from Cabell County but no more than two of whom shall be elected from any one magisterial district, and one of whom shall be elected from Westmoreland magisterial district in the county of Wayne. The commissioners shall be elected pursuant to paragraph one of subsection (b) of this section.

(1) Commissioners of the park district 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 law for the nomination and election of district officers, except as provided in subsection (b).

At the general election in the year one thousand nine hundred eighty-four, there shall be elected six commissioners. One commissioner shall be elected from the Westmoreland magisterial district in the county of Wayne. Five commissioners shall be elected from the county of Cabell. In Westmoreland district of Cabell County the person receiving the highest number of votes shall be elected for a term of six years. In Cabell County, the three persons receiving the highest number of votes shall be elected for a term of six years, the person receiving the next highest number of votes shall be elected for a term of four years, and the remaining elected commissioner shall be elected for a term of two years.

Beginning at the general election in the year one thousand nine hundred eighty-six and every sixth year thereafter, there shall be elected three commissioners who shall be elected for a term of six years.
Beginning at the general election in the year one thousand three hundred eighty-eight and every sixth year thereafter, there shall be elected three commissioners who shall be elected for a term of six years.

Beginning at the general election in the year one thousand ninety, and every sixth year thereafter, there shall be elected four commissioners who shall be elected for a term of six years.

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

(d) 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.

(e) Commissioners shall have no personal financial interest, directly or indirectly, in any contract entered into by the park district, 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 an elected commissioner, by death, resignation, refusal to serve, or otherwise, shall be filled by the park district at its first regular meeting thereafter, by appointment of a suitable person, and the person so appointed shall hold office until the next election for commissioners, when a person shall be elected for the remainder of the unexpired term of commissioner.

§4. Oath of 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 Greater Huntington park and recreation district during the term for which I was elected, to the best of my ability according to law.”

(b) At the park district's first meeting and every year thereafter, it shall elect one of its members as president, and another member as vice-president. The park district shall elect a secretary who need not be a member of the park district, as well as elect a member of the park district who shall serve as treasurer. The park district 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 purposes of this charter. Any officer may be removed from office, upon adequate notice and hearing, 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 park district 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 park district; (b) represent and speak for the park district 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 park district.

(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 park district.

(3) Secretary—The secretary shall be the chief recording and corresponding officer and the custodian of the records of the park district. 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
commissioners 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 park
district, 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 park district
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
notices 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 park district 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 park
district.

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

§5. Meetings; quorum; parliamentary authority; office.
   (a) The commissioners shall select a regular time and
   place for meetings of the park district which meetings shall
   be open to the public. Minutes of commission meetings shall
   be open to any bona fide resident of the park district upon
   request. Not less than six 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
   four members, by the secretary. The concurrence of six
   members of the park district shall be required to decide all
   questions involving the expenditure of money.
   (b) All meetings of the park district shall be conducted
   under the rules of parliamentary procedure as established by
   the Sturgis Standard Code of Parliamentary Procedure.
   (c) The park district shall have and maintain an office in a
   location of its own choosing which office shall be open to the
   public during normal business hours.

§6. Park District a public corporate body; perpetual existence;
   seal; powers.
   (a) The Greater Huntington park and recreation district shall
   be a public corporate body, although not a municipal
corporation, and shall have perpetual existence and a
common seal. The park district shall have powers to:
   (1) Appropriate and expend funds from the sources of
   income derived from the enactment of this charter for the
   purposes of establishing, constructing, improving, extending,
developing, maintaining and operating, or any combination
of the foregoing, a public park system for the park district; however, it may not expend funds on or appropriate funds to external agencies, public or private, for any purpose whatsoever. In accordance with section six, item four, the park district may contract with other agencies for direct services received or for joint endeavors in which the park district is an active participant;

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

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

(4) Sue and be sued;

(5) Contract and be contracted with;

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

(7) Retain complete and exclusive control and management of all of the properties owned by the park district and dispose of the same as in the park district's opinion will best serve the purposes of this charter and the interests of the public;

(8) Acquire in the park district'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 park district as the park district shall determine to be necessary, appropriate, convenient or incidental to the establishment, construction, improvement, extension, development, maintenance or operation of a park system;

(9) Establish, construct, improve, extend, develop, maintain and operate a park system;

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

(11) Promulgate those ordinances, rules and regulations necessary to maintain the property belonging to the park district 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 park district, or
necessary to regulate the use of or driving upon the property
owned or controlled by the park district;
(12) Abate, or cause to be abated, all nuisances affecting
the park district's property or persons thereupon;
(13) Regulate or prohibit the placing of signs, billboards,
posters and advertisements upon the park district's property,
or adjacent thereto;
(14) Keep the park district's property in good order and
free from obstruction for the use and benefit of the public;
(15) Construct, improve, maintain, repair, operate, curb or
recurb, pave or repave, grade or regrade, surface or resurface
roads, bridges, sewers, culverts, sidewalks, public ways,
easements and other public works upon lands controlled or
owned by the park district;
(16) 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;
(17) 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, That 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;
(18) Provide by contract with the city of Huntington, town
of Milton, village of Barboursville, and the counties of Cabell
and Wayne 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; and
(19) Spend moneys of the park district to effectuate the
purposes set forth in this charter.

§6a. Comprehensive plan.
1 No later than the first day of January, one thousand nine
2 hundred eighty-six, the park district shall prepare and make
3 public a comprehensive plan as to the future development of
4 the park district. During the year one thousand nine hundred
5 eighty-four, the commission shall conduct at least one public
§7. Financing and financial powers.

The park district shall have the following powers to:

1. Make charges to the public for services offered or goods sold by the park district.

   (a) Charges for services may be in the forms of, but not limited to: Admission and entrance fees; exclusive use and rental fees; user fees; license and permit fees; equipment rental; program maintenance fees; instructor fees; special accommodation fees; amusement fees; restricted membership fees; and cemetery service fees.

   (b) Charges for goods sold may be in the forms of, but not limited to: Beverages and foods; novelties and gifts; clothing; athletic equipment and supplies; cemetery plots, crypts, monuments, memorials, markers, vaults and any other forms of merchandise sold in connection with the burial of the dead; and other items that may pertain to the operation and maintenance of the park district.

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

   On Class I property, one and one-half cents; on Class II property, three cents; on Class IV property, six cents. The park district 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 park district 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 park district shall be collected by the finance director who shall occupy a fiduciary relationship with the park district, and then such levy funds shall be paid to the park district upon written order of the park district signed by the president of
the park district and countersigned by the secretary of the park district.

(3) In order to ensure adequate support for the maintenance and operation of the park district the following governing authorities shall, upon written request by the park district levy annually as follows within the respective taxing districts of the governing authorities, on each one hundred dollars of assessed valuation of the property taxable in the area served by it according to the last assessment for state and county purposes, amounts not exceeding the following amounts for fiscal year beginning July first, one thousand nine hundred eighty-three:

(a) The county commission of Cabell County, for the first year of the act and annually thereafter: Class one, .433 cents; class two, .866 cents; class three and class four, 1.73 cents.

(b) The county commission of Wayne County, for the first year of the act and annually thereafter: Class one, .0066 cents; class two, .0132 cents; class three and class four, .0266 cents.

(c) The board of education of the county of Cabell shall provide funds available to the board through special and excess levies for the first year of the act and annually thereafter: Class one, .433 cents; class two, .866 cents; class three and class four, 1.73 cents.

(d) The city of Huntington, for the first year of the act and annually thereafter: Class one, one and three-tenths cents; class two, two and six-tenths cents; class three and four, five and two-tenths cents.

(e) The town of Milton, for the first year of the act and annually thereafter: Class one, one and three-tenths cents; class two, two and six-tenths cents; class three and class four, five and two-tenths cents.

(f) The town of Barboursville, for the first year of the act and annually thereafter: Class one, one and three-tenths cents; class two, two and six-tenths cents; class three and class four, five and two-tenths cents.

In addition to the aforesaid amounts which, upon written request by said board, the governing authorities shall levy, each such governing authority may support the park district with any other general or special revenues or excess levies. All income realized by the operation of the park district from any sources other than the above levies shall be used by the board of directors for support of the park district.
All money collected or appropriated by the foregoing governing authorities for park district purposes shall be deposited in a special account of the park district and shall be disbursed by that board for the purpose of operating such park district.

(4) Assess the cost of improvements to or construction of streets, sidewalks, sewers, curbs, alleys, public ways or easements, 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 present 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.

(5) The municipalities of Huntington, Milton, and Barboursville and the counties of Cabell and Wayne are hereby empowered, and authorized to issue, in the manner prescribed by law, revenue bonds or general obligation 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, constructing, 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 maturity 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 ordinance in which provision shall be made for the issuance of bonds under the provisions of this section. The park district 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 park district and the city or counties respectively, in the proportion that the public...
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 park district to be sold in the manner prescribed by law, and the proceeds thereof shall be paid into the treasury of the park district, and the same shall be applied and utilized by the park district 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.

(6) Sue and be sued; make contracts and guarantees; incur liabilities; borrow or lend money for any time period deemed advisable by the commission, sell, mortgage, lease, exchange, transfer or otherwise dispose of its property; or pledge its property as collateral or security for any time period deemed advisable by the commission.

(7) Create trusts of such kind as will expedite the efficient management of the property and other assets owned or controlled by the park district. The trustee, whether individual or corporate, in any such trust shall have a fiduciary relationship with the park district and may be removed by the park district for good cause shown or for a breach of the fiduciary relationship with the park district.
§8. Law-enforcement.

(a) The park district is authorized and empowered to employ as many park rangers as the park district shall deem proper and necessary. Park rangers shall have the power to make arrests for violations of ordinances promulgated by the park district upon the property under the jurisdiction of the park district. 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, town of Milton, village of Barboursville, members of the West Virginia department of public safety and sheriff's deputies in Cabell and Wayne counties are hereby authorized and empowered to make arrests for violations of ordinances promulgated by the park district upon property within the park district which is under the jurisdiction of the park district; 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 park district upon property under the jurisdiction of the park district which is outside of the park district.

(c) For violations of park district ordinances, jurisdiction of all warrants relating thereto to be issued is hereby granted to such courts as have criminal jurisdiction of misdemeanors committed upon property which is owned or controlled by the park district.

§9. Title to property.

The title of all parks, parkways, playgrounds, athletic fields, cemeteries, boulevards and other property, real, personal 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 Greater Huntington park and recreation district as herein reconstituted.

Notwithstanding any provisions of this charter to the contrary, the park district 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 boulevards owned by the park district, whenever the park district deems such action to be necessary or convenient and proper and in the best interests of the inhabitants of the park district.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Arnold Greek  
Chairman House Committee

Originated in the Senate.

In effect July 1, 1983.

J. C. Hinch  
Clerk of the Senate

Donald L. Kepp  
Clerk of the House of Delegates

Warren P. McConkey  
President of the Senate

M. Lee Smith  
Speaker House of Delegates

The within is approved this the 26th day of March, 1983.

John D. Ramsey  
Governor