

211-Veto

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

ENROLLED

SENATE BILL NO. 211

(By Senators Harman & Fulton)

PASSED February 29, 1988

In Effect ninety days from Passage



E N R O L L E D
Senate Bill No. 211
(By SENATORS HARMAN AND FELTON)

[Passed February 29, 1988; in effect ninety days from passage.]

AN ACT to establish the Taylor County Park and Recreation District; definitions; park district generally, board of park commissioners; composition; terms; conflicts; compensation; expenses; vacancies; oaths; elections; 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:

TAYLOR COUNTY PARK AND RECREATION DISTRICT.

§1. Definitions.

- 1 Unless the context clearly indicates otherwise:
- 2 "Commissioners" means the members of the Taylor
- 3 County park and recreation district as defined hereinafter.
- 4 "Control" means the right and authority to manage,
- 5 direct, order and otherwise exercise dominion over.
- 6 "Taylor County Park and Recreation District" means
- 7 both the geographical area within the boundaries of the
- 8 county of Taylor, established on the effective date of this act
- 9 and the public corporate entity created herein.
- 10 "Park system" means any and all indoor and outdoor
- 11 park, recreation, and conservation areas and facilities

12 which are or in the future may be owned, operated or leased
13 in the park district. Said areas and facilities may include, by
14 way of illustration and not as a limitation: Regional,
15 community and neighborhood parks and playgrounds;
16 athletic facilities and play fields such as sports centers,
17 stadiums, arenas, gymnasiums and physical fitness centers;
18 aquatic facilities such as swimming pools, lakes, ponds,
19 water parks, water amusements, beaches, waterfronts, boat
20 docks, boat houses and boat launching ramps; court areas
21 for net games such as basketball, volleyball, badminton,
22 tennis, handball, racketball, squash and platform tennis;
23 picnic facilities such as groves, shelters and lodges; golf
24 courses, skating rinks, stables and riding paths; gardens;
25 botanic gardens, arboretums, nature centers, zoos, aviaries
26 and environmental interpretive centers; museums, historic
27 landmarks and historic districts; snack bars, restaurants,
28 lounges and gift shops; camps and overnight lodges;
29 theater; performing arts and crafts centers; recreation
30 centers; mechanical and electronic games centers; dance
31 halls; amusements; parkways and boulevards; and other
32 public parks and recreational areas and facilities.
33 “Public office” means any elective office, whether
34 federal, state or municipal, where the office holder is
35 elected by the public at large and is obligated to perform
36 duties as an office holder.

**§2. Taylor County park and recreation district; board of park
commissioners; powers; composition; terms of office;
political affiliation; compensation; expenses; no
commissioner may be personally interested in contracts
or property controlled by board.**

1 (a) There is hereby created the Taylor County park and
2 recreation district and the board of park commissioners of
3 Taylor County which shall operate said district, which
4 district shall be supported by the county commission of
5 Taylor County and the city of Grafton and the board of
6 education of Taylor County as a joint endeavor of the three
7 governing bodies in the manner hereinafter provided.

8 (b) The board of park commissioners of Taylor County
9 shall establish, own, develop and operate a park system for
10 the benefit, health, safety, welfare, pleasure and relaxation
11 of the inhabitants of the Taylor County park and recreation

12 district and shall hereafter be known as the Taylor County
13 park and recreation district.

14 (c) The park district shall be governed by a board
15 composed of nine commissioners. The commissioners shall
16 be appointed as follows: Three by the Taylor County
17 commission; three by the Taylor County board of
18 education; and three by the city council of Grafton. The
19 term of each commissioner shall be three years and the
20 terms of all commissioners shall be staggered so that one
21 commissioner shall be appointed by each of the three
22 appointive bodies at the beginning of each fiscal year
23 ending the thirtieth day of June.

24 (d) The commissioners in office upon the effective date
25 of this act shall continue in office for the term for which
26 they were originally appointed and shall accede to the
27 powers and authority conferred upon them by this act.

28 (e) No commissioner shall hold any elected public office
29 while serving as commissioner.

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

35 (g) Commissioners shall have no personal financial
36 interest, directly or indirectly, in any contract entered into
37 by the park district, or hold any remunerative position in
38 connection with the establishment, construction,
39 improvement, extension, development, maintenance or
40 operation of any of the property under their control as
41 commissioners.

§3. Title to property.

1 The title to all property, both real and personal, which has
2 been maintained and supervised by the predecessor of the
3 park district known as the Grafton-Taylor County board of
4 parks recreation commission, and which property is
5 devoted to public recreational purposes by the county of
6 Taylor and the city of Grafton, shall, on the effective date of
7 this act, vest in the Taylor County park and recreation
8 district and board of park commissioners hereby created.

§4. Vacancies in office of park commissioners.

1 Any vacancy which may occur in the office of an

2 appointed commissioner, by death, resignation, refusal to
3 serve, or otherwise, shall be filled by the appointive agency
4 which appointed the person creating such vacancy and the
5 person so appointed shall hold office for the remainder of
6 the unexpired term of commissioner.

§5. Oath of commissioners; election of officers; election of other officers.

1 (a) After the appointment, and before entering upon his
2 duties as commissioner, each new commissioner shall take
3 the following oath as administered by the clerk of the
4 county commission of Taylor County.

5 "I do solemnly swear
6 that I will faithfully perform the duties as a member of the
7 Taylor County Park and Recreation District during the
8 term for which I was appointed, to the best of my ability
9 according to law."

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

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

1 (a) The commissioners shall select a regular time and
2 place for meetings of the park district which meetings shall
3 be open to the public. Minutes of commission meetings shall
4 be open to any bona fide resident of the park district upon
5 request. Not less than five members shall constitute a
6 quorum to transact business. Special meetings, also open to
7 the public, may be called by the president, or at the request
8 of three members, by the secretary. The concurrence of five
9 members of the park district shall be required to decide all
10 questions involving the expenditure of money.

11 (b) All meetings of the park district shall be conducted
12 under the rules of parliamentary procedure as established
13 by the Roberts Rules of Order.

14 (c) The park district shall have and maintain an office in
15 a location of its own choosing which office shall be open to
16 the public during normal business hours.

**§7. Park district a public corporate body; perpetual existence;
seal; powers.**

1 The Taylor County park and recreation district shall be a
2 public corporate body, and shall have perpetual existence
3 and a common seal. The park district shall have powers to:

4 (1) Appropriate and expend funds from the sources of
5 income derived from the enactment of this charter for the
6 purposes of establishing, constructing, improving,
7 extending, developing, maintaining and operating, or any
8 combination of the foregoing, a public park system for the
9 park district; however, it may not expend funds on or
10 appropriate funds to external agencies, public or private,
11 for any purpose whatsoever. In accordance with section
12 seven, item seventeen, the park district may contract with
13 other agencies for direct services received or for joint
14 endeavors in which the park district is an active
15 participant;

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

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

20 (4) Sue and be sued, subject to the provisions of article
21 twelve-a, chapter twenty-nine of the West Virginia code;

22 (5) Contract and be contracted with;

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

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

32 (8) Acquire in the park district's name by purchase,
33 lease or otherwise such lands, structures of bodies of water,
34 located anywhere within Taylor County as the park district
35 shall determine to be necessary, appropriate, convenient or
36 incidental to the establishment, construction,

37 improvement, extension, development, maintenance or
38 operation of a park system;

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

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

47 (11) Promulgate those ordinances, rules and regulations
48 necessary to maintain the property belonging to the park
49 district as places of beauty, education and recreation or
50 necessary to promote the health, property, lives, decency,
51 morality and good order of the independent park district,
52 its inhabitants and members of the general public making
53 use of such property owned or controlled by the park
54 district, or necessary to regulate the use of or driving upon
55 the property owned or controlled by the park district;

56 (12) Abate, or cause to be abated, all nuisances affecting
57 the park district's property or persons thereupon;

58 (13) Regulate or prohibit the placing of signs,
59 billboards, posters and advertisements upon the park
60 district's property, or adjacent thereto;

61 (14) Keep the park district's property in good order and
62 free from obstruction for the use and benefit of the public;

63 (15) Construct, improve, maintain, repair, operate, curb
64 or recurb, pave or repave, grade or regrade, surface or
65 resurface roads, bridges, sewers, culverts, sidewalks, public
66 ways, easements and other public works upon lands
67 controlled or owned by the park district;

68 (16) Enter into contracts, agreements, leases and other
69 legal obligations extending beyond a period of one fiscal
70 year: *Provided*, That the contract, agreement, lease or other
71 legal obligation does not require the expenditure of tax
72 revenues;

73 (17) Enter into intergovernmental agreements as any
74 municipal corporation would be so entitled to enter into
75 according to law and under such conditions as are required
76 by law of municipal corporations before they enter
77 intergovernmental agreements: *Provided*, That every such
78 intergovernmental agreement shall, prior to and as a
79 condition precedent to its becoming effective be submitted

80 to the attorney general of the state of West Virginia who
81 shall determine whether the agreement is in proper form
82 and is compatible with the laws of this state; and
83 (18) Spend moneys of the park district to effectuate the
84 purposes set forth herein.

§7a. Comprehensive plan.

1 No later than the first day of January, one thousand nine
2 hundred ninety, the park district shall prepare and make
3 public a comprehensive plan as to the future development
4 of the park district.

§8. Financing and financial powers.

1 The park district shall have the following powers to:

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

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

10 (b) Charges for goods sold may be in the forms of, but
11 not limited to: Beverages and foods; novelties and gifts;
12 clothing; athletic equipment and supplies; and other items
13 that may pertain to the operation and maintenance of the
14 park district.

15 (2) Levies for support, maintenance and operation.

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

26 (a) The county commission of Taylor County, for the
27 first year of the act and annually thereafter: Class I, 0.3
28 cents; Class II, 0.6 cents; Class III and Class IV, 1.2 cents:
29 *Provided*, That the amounts levied shall not exceed twenty-
30 five thousand dollars annually.

31 (b) The board of education of Taylor County, for the
32 first year of the act and annually thereafter: Class I, 0.3
33 cents; Class II, 0.6 cents; Class III and IV, 1.2 cents:
34 *Provided*, That the amounts levied shall not exceed
35 fourteen thousand dollars annually.

36 (c) The city of Grafton, for the first year of the act and
37 annually thereafter: Class I, 0.3 cents; Class II 0.6 cents; and
38 Class IV, 1.2 cents: *Provided*, That the amounts levied shall
39 not exceed twenty-five thousand dollars annually.

40 In addition to the aforesaid amounts which upon written
41 request by said board the governing authorities shall levy,
42 each such governing authority may support the park
43 district with any other general or special revenues or excess
44 levies. All income realized by the operation of the park
45 district from any sources other than the above levies shall
46 be used by the board of directors for support of the park
47 district.

48 All money collected or appropriated by the foregoing
49 governing authority for park district purposes shall be paid
50 quarterly to Taylor County park and recreation district and
51 shall be disbursed by that board for the purpose of
52 operating such park district.

53 Whenever the county commission and the requisite
54 majority of the legal votes cast at the election thereon shall
55 authorize in the manner prescribed by law, the issuance of
56 bonds for the purpose of establishing, constructing,
57 improving, extending, developing, maintaining or
58 operating, or any combination of the foregoing, a system of
59 public parks and recreational facilities for the city or
60 county, or for refunding any outstanding bonds, the
61 proceeds of which were applied to any of said purposes, said
62 bonds shall be issued and delivered to the park district to be
63 by it sold in the manner prescribed by law, and the proceeds
64 thereof shall be paid into the treasury of the park district,
65 and the same shall be applied and utilized by the park
66 district for the purposes prescribed by the ordinance
67 authorizing the issuance of such bonds. In any ordinance for
68 the issuance of bonds for such purposes, it shall be a
69 sufficient statement of the purposes for creating the debt to
70 specify that the same is for purposes of establishing,
71 constructing, improving, extending, developing,
72 maintaining or operating, or any combination of the
73 foregoing, a public park and recreation system for the city

74 or county, without specifying the particular establishment,
75 construction, improvement, extension, development,
76 maintenance or operation contemplated; but an ordinance
77 for refunding bonds shall designate the issue and the
78 number of bonds which it is proposed to refund.

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

85 (4) Create trusts of such kind as will expedite the
86 efficient management of the property and other assets
87 owned or controlled by the park district. The trustee,
88 whether individual or corporate, in any such trust shall
89 have a fiduciary relationship with the park district and may
90 be removed by the park district for good cause shown or for
91 a breach of the fiduciary relationship with the park district.

§9. Law enforcement.

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

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

[Handwritten signatures and stamps at the bottom of the page]

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

Blaise O. Dennis
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Edw. C. Muth
.....
Clerk of the Senate

Donald T. Papp
.....
Clerk of the House of Delegates

Sam. T. ...
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *disapproved* this the *30th*
March
day of 1988.

Arthur. Phane Jr.
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/8/88

Time 4:35 p.m.

RECEIVED

1908 MAR 31 PM 5:15

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE