ENROLLED

SENATE BILL NO. 33

(Passed--By Senator--
Mr. President and
Bolle, By Request of the Executive)

PASSED March 11, 1995
In Effect Upon Passage
AN ACT to repeal article one, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two, four and five, article one-a of said chapter; to amend and reenact section two, article two of said chapter; to further amend said article by adding thereto six new sections, designated sections eight through thirteen, inclusive; and to amend chapter twenty of said code by adding thereto a new article, designated article five, all relating to recodifying the laws relating to the tourism functions of the former division of tourism and parks and the transfer by executive order of state parks, state recreation areas and wildlife recreation areas to the division of natural resources; transferring responsibility for development of any additional rails to trails to the state rail authority; changing composition of the council for community and
economic development and clarifying office of director; continuing the tourism functions of the former division of tourism and parks within the West Virginia development office; creating a new tourism commission, composed of both private-sector and public-sector members, to govern the activities of the division of tourism; authorizing the formation of a nonprofit private corporation whose directors may include members of the tourism commission; authorizing the combining of public and private funds for use in the promotion and development of tourism in West Virginia; requiring the tourism commission to develop a comprehensive tourism promotion and development strategy and to consider various tourism initiatives and to make recommendations on the same; requiring legislative rules and permitting procedural rules for application forms and instructions; providing for expenditure of the tourism promotion fund for advertising and promotion; recodifying provisions relating to state parks and recreation areas within the division of natural resources; jurisdiction of section of parks and recreation and appointment of chief; continuation of contracts and ratification of funds transfer; the powers of the director; procedures for land acquisitions, sales, exchanges, transfers and contracts and authority of the director relating thereto; authorizing director to approve expenditures for advertising of state facilities; allowing waiver of certain fees; providing market for West Virginia products; continuing telemarketing functions within the division of natural resources; continuation of operation and protection of various parks and recreation areas within the parks and recreation section, including the Greenbrier river trail and the North Bend rail trail; continuation of bonding authority as a power of the director; tax exemption; authorizing director to enter into contracts of twenty-five years for recreational facilities in certain parks and limitations on that authority; and continuation of discounts.

Be it enacted by the Legislature of West Virginia:

That article one, chapter five-b of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, be repealed; that sections two, four and five, article one-a of said chapter be amended and reenacted; that section two, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto six new sections, designated sections eight through thirteen, inclusive; and that chapter twenty of said code be amended by adding thereto a new article, designated article five, all to read as follows:

CHAPTER 5B. ECONOMIC DEVELOPMENT
ACT OF 1985.

ARTICLE 1A. WEST VIRGINIA RAILS TO TRAILS PROGRAM.

§5B-1A-2. Rails to trails program.

There is continued within the state rail authority provided for in article eighteen, chapter twenty-nine of this code the "West Virginia Rails to Trails Program", the purpose of which is to acquire or assist with the acquisition of, and to develop or assist with the development of, abandoned railroad rights-of-way for interim use as public nonmotorized recreational trails.

§5B-1A-4. Powers and duties of the authority.

The state rail authority is authorized to:

(1) Enter into agreements with any person on behalf of the state to acquire an interest in any abandoned railroad right-of-way, to develop, maintain or promote any rail trails created pursuant to the provisions of this article and, with the consent of the director of the division of natural resources, to transfer the maintenance and operation of rail trails created and developed to the division of natural resources.

(2) Assist any political subdivision or any person in acquiring an interest in any abandoned railroad right-of-way and in developing, maintaining or promoting rail trails.

(3) Evaluate existing and potential abandoned railroad rights-of-way so as to identify such lands as may be
suitable for nonmotorized recreational trail use.

(4) Establish state rail trails, subject to the limitations on acquisition of land for state recreational facilities as set forth in section twenty, article one, chapter twenty of this code.

§5B-1A-5. Powers to hold and acquire real property.

(a) The state rail authority shall hold fee simple title or any lesser interest in land, including easements and leaseholds, on all abandoned railroad rights-of-way acquired by the state and utilized for interim nonmotorized recreational trail use pursuant to the provisions of this article. The state rail authority may, at the option of a political subdivision of this state, hold fee simple title or any lesser interest in land, including easements and leaseholds, on all abandoned railroad rights-of-way acquired by such political subdivision and utilized for interim nonmotorized recreational trail use. Any provision of article one-a, chapter twenty of this code to the contrary notwithstanding, the public land corporation shall not be vested with title to any abandoned railroad right-of-way which becomes vested in the state pursuant to the provisions of this article.

(b) The state rail authority may acquire an interest in an abandoned railroad right-of-way to be used as a rail trail, in accordance with the provisions of section six, article eighteen, chapter twenty-nine of this code.

(c) The state rail authority shall issue a rail bank certificate for each abandoned railroad right-of-way held by the state rail authority for interim nonmotorized recreational purposes in accordance with the provisions of section six of this article.

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

§5B-2-2. Council for community and economic development created; members, appointment and expenses; meetings; appointment and compensation of director.
(a) There is hereby continued within the West Virginia development office a council for community and economic development, which is a body corporate and politic, constituting a public corporation and government instrumentality. Membership on the council shall consist of:

(1) Nine members to be appointed by the governor, with the advice and consent of the Senate, representing community or regional interests, including economic development, commerce, banking, manufacturing, the utility industry, the mining industry, the telecommunications/data processing industry, small business, labor, tourism or agriculture: Provided, That one member appointed pursuant to this subsection shall be a member of a regional planning and development council. Of the nine members representing community or regional interests, three members shall be from each congressional district of the state and shall be appointed in such a manner as to provide a broad geographical distribution of members of the council;

(2) Two at-large members to be appointed by the governor with the advice and consent of the Senate;

(3) One member to be appointed by the governor from a list of two persons recommended by the speaker of the House of Delegates;

(4) One member to be appointed by the governor from a list of two persons recommended by the president of the Senate;

(5) The president of the West Virginia economic development council; and

(6) The chair of the tourism commission created pursuant to the provisions of section eight of this article.

(b) Not later than the first day of July, one thousand nine hundred ninety-two, the governor shall appoint the thirteen appointed members of the council for staggered terms. The terms of the board members first taking
office on or after the effective date of this legislation shall expire as designated by the governor at the time of the nomination, three at the end of the first year, three at the end of the second year, three at the end of the third year and four at the end of the fourth year, after the first day of July, one thousand nine hundred ninety-two. As these original appointments expire, each subsequent appointment shall be for a full four-year term. Any member whose term has expired shall serve until his successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment. In cases of any vacancy in the office of a member, such vacancy shall be filled by the governor in the same manner as the original appointment.

(c) Members of the council shall not be entitled to compensation for services performed as members, but shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties. A majority of the members shall constitute a quorum for the purpose of conducting business. The council shall elect its chair for a term to run concurrent with the term of office of the member elected as chair. The chair is eligible for successive terms in that position.

(d) The council shall employ an executive director of the West Virginia development office by reason of extensive education and experience in the field of professional economic development to serve at the will and pleasure of the council. The salary of the director shall be fixed by the council. The director shall have overall management responsibility and administrative control and supervision within the West Virginia development office. It is the intention of the Legislature that the director shall provide professional and technical expertise in the field of professional economic and tourism development in order to support the policy-making functions of the council, but that the director is not a public officer, agent, servant or contractor within
the meaning of section thirty-eight, article VI of the
constitution of the state and is not a statutory officer
within the meaning of section one, article two, chapter
five-f of this code. Subject to the provisions of the
contract provided for in section four of this article, the
director is authorized to hire and fire economic develop-
ment representatives employed pursuant to the provi-
sions of section five of this article.

§5B-2-8. Tourism commission created; members, appointed
and expenses.

(a) There is hereby created within the West Virginia
development office an independent tourism commission,
which is a body corporate and politic, constituting a
public corporation and government instrumentality.
Membership on the council shall consist of nine mem-
bers:

(1) Six members to be appointed by the governor, with
the advice and consent of the Senate, representing
private-sector participants in the state’s tourism indus-
try. Of the six members so appointed, one shall represent
a convention and visitors bureau and another shall be a
member of a convention and visitors bureau. In making
the private-sector appointments the governor may select
from a list provided by the West Virginia hospitality and
travel association of qualified applicants. Of the six
private-sector members so appointed, no more than two
shall be from each congressional district within the state
and shall be appointed to provide the broadest geo-
graphic distribution which is feasible;

(2) One member to be appointed by the governor from
the membership of the council for community and
economic development created pursuant to the provi-
sions of section two of this article;

(3) One member to be appointed by the governor to
represent public sector nonstate participants in the
tourism industry within the state; and

(4) The secretary of transportation or his or her de-
(b) Not later than thirty days from the date of enactment of this article, the governor shall appoint the eight appointed members of the commission to terms of four years, to assume the duties of the office and to meet at the call of the chair not later than the first day of July, one thousand nine hundred ninety-five. The terms of the initial members of the commission shall be staggered such that the governor shall designate three members who shall serve for a term of two years, three members who shall serve for a term of three years and two members who shall serve for a full term of four years. Each subsequent appointment of a member upon the expiration of the designated terms shall serve a term of four years. Any member whose term has expired shall serve until his or her successor has been appointed. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment. In cases of vacancy in the office of member, such vacancy shall be filled by the governor in the same manner as the original appointment.

(c) Members of the commission shall not be entitled to compensation for services performed as members. A majority of these members shall constitute a quorum for the purpose of conducting business. The governor shall appoint a chair of the commission for a term to run concurrent with the term of the office of the member appointed to be the chair. The chair is eligible for successive terms in that position.


(a) The commission shall develop a comprehensive tourism promotion and development strategy for West Virginia. "Comprehensive tourism promotion and development strategy" means a plan that outlines strategies and activities designed to continue, diversify or expand the tourism base of the state as a whole; create tourism jobs; develop a highly skilled tourism workforce; facilitate business access to capital for tourism;
advertise and market the resources offered by the state with respect to tourism promotion and development; facilitate cooperation among local, regional and private tourism enterprises; improve infrastructure on a state, regional and community level in order to facilitate tourism development; improve the tourism business climate generally; and leverage funding from sources other than the state, including local, federal and private sources.

(b) In developing its strategies, the commission shall consider the following:

(1) Improvement and expansion of existing tourism marketing and promotion activities;

(2) Promotion of cooperation among municipalities, counties, and the West Virginia infrastructure and jobs development council in funding physical infrastructure to enhance the potential for tourism development.

(c) The tourism commission shall have the power and duty:

(1) To acquire for the state in the name of the commission by purchase, lease or agreement, or accept or reject for the state, in the name of the commission, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, to effectuate or support the purposes of this article;

(2) To make recommendations to the governor and the Legislature of any legislation deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to exercise any other power that may be necessary or proper for the orderly conduct of the business of the commission and the effective discharge of the duties of the commission;

(3) To cooperate and assist in the production of motion pictures and television and other communications;

(4) To purchase advertising time or space in or upon
any medium generally engaged or employed for said purpose to advertise and market the resources of the state or to inform the public at large or any specifically targeted group or industry about the benefits of living in, investing in, producing in, buying from, contracting with, or in any other way related to, the state of West Virginia or any business, industry, agency, institution or other entity therein: Provided, That of any funds appropriated and allocated for purposes of advertising and marketing expenses for the promotion and development of tourism, not less than twenty percent of the funds shall be expended with the approval of the director of the division of natural resources to advertise, promote and market state parks, state forests, state recreation areas and wildlife recreational resources; and

(5) To take such additional actions as may be necessary to carry out the duties and programs described in this article.

(d) The commission shall submit a report annually to the council for community and economic development about the development of the tourism industry in the state and the necessary funding required by the state to continue the development of the tourism industry.

(e) The executive director of the West Virginia development office shall assist the commission in the performance of its powers and duties and the executive director is hereby authorized in providing this assistance to employ necessary personnel, contract with professional or technical experts or consultants and to purchase or contract for the necessary equipment or supplies.

(f) The commission shall promulgate legislative rules pursuant to the provisions of chapter twenty-nine-a of this code to carry out its purposes and programs, to include generally the programs available, the procedure and eligibility of applications relating to assistance under such programs and the staff structure necessary to support such programs, which structure shall include the qualifications for a professional staff person qualified by
reason of exceptional training and experience in the field of advertising to supervise the advertising and promotion functions of the commission, and shall further include provision for the management of West Virginia welcome centers. The commission is further authorized to promulgate procedural rules pursuant to said chapter to include instructions and forms for applications relating to assistance.

§5B-2-10. Program and policy action statement; submission to joint committee on government and finance.

The tourism commission, the West Virginia development office and any other authorities, boards, commissions, corporations or other entities created or amended under this chapter and article eleven, chapter eighteen-b of this code, shall prepare and submit to the joint committee on government and finance on or before the first day of December, one thousand nine hundred ninety-five, and each year thereafter, a program and policy action statement which shall outline in specific detail according to the purpose, powers and duties of the office or section, its procedure, plan and program to be used in accomplishing its goals and duties as required under this article.

§5B-2-11. Public private partnerships.

(a) The commission is authorized to enter into contractual or joint venture agreements with a nonprofit corporation organized pursuant to the corporate laws of the state, organized to permit qualification pursuant to Section 501(c) of the Internal Revenue Code and organized for purposes of the promotion and development of tourism in West Virginia, and funded from sources other than the state. Members of the commission are authorized to sit on the board of directors of the private nonprofit corporation.

(b) From time to time the commission may enter into joint ventures wherein the West Virginia development office and the nonprofit corporation share in the devel-
(c) All contracts and joint venture agreements must be approved by recorded vote of the commission. Contracts entered into pursuant to this section for longer than one fiscal year shall contain, in substance, a provision that the contract shall be considered canceled without further obligation on the part of the state if the Legislature or, where appropriate, the federal government shall fail to appropriate sufficient funds therefor or shall act to impair the contract or cause it to be canceled.

§5B-2-12. Tourism promotion fund created; use of funds.

There is continued in the state treasury the special revenue fund known as the "tourism promotion fund" created under prior enactment of section nine, article one of this chapter.

(a) A minimum of five percent of the moneys deposited in the fund each year shall be used solely for direct advertising for West Virginia travel and tourism: Provided, That no less than twenty percent of these funds be expended with the approval of the director of the division of natural resources to effectively promote and market the state's parks, state forests, state recreation areas and wildlife recreational resources. Direct advertising means advertising which is limited to television, radio, mailings, newspaper, magazines and outdoor billboards, or any combination thereof;

(b) The balance of the moneys deposited in the fund shall be used for direct advertising within the state's travel regions as defined by the commission. The funds shall be made available to these districts beginning the first day of July, one thousand nine hundred ninety-five, according to legislative rules promulgated by the tourism commission: Provided, That emergency rules for the distribution of funds for the fiscal year ending the thirtieth day of June, one thousand nine hundred ninety-six, are specifically authorized; and
(c) All advertising expenditures over twenty-five thousand dollars from the tourism promotion fund require prior approval by recorded vote of the commission.

§5B-2-13. Sunset provision.

Unless sooner terminated by law, the tourism commission shall terminate on the first day of July, one thousand nine hundred ninety-seven, in accordance with the provisions of article ten, chapter four of this code.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 5. PARKS AND RECREATION.

§20-5-1. Section of parks and recreation; chief of section; existing obligation; appropriations.

(a) The section of parks and recreation of the division of natural resources shall have within its jurisdiction and supervision the parks functions of the former division of tourism and parks, transferred to the division of natural resources pursuant to the provisions of section twelve, article one, chapter five-b of this code enacted in the year one thousand nine hundred ninety-four. The section of parks and recreation shall be under the control of a chief, to be appointed by and to serve at the will and pleasure of the director, who shall be qualified by reason of exceptional training and experience in the field of public recreation administration or natural resource management.

(b) The division of natural resources shall have the duty and authority to administer those properties which are a part of the state parks and public recreation system, to which legal title has remained with the division of natural resources, while the section of parks and recreation was part of the former division of tourism and parks.

(c) All existing contracts and obligations of the section of parks and recreation, including those in the name of the division of tourism and parks administered on behalf
of the section of parks and recreation, shall remain in
full force and effect and any existing contracts and
obligations relating to parks and recreation shall be
performed by the division of natural resources.

(d) The transfer, made pursuant to executive order, to
the division of natural resources of the unexpended
balance existing on the thirtieth day of June, one thou-
sand nine hundred ninety-five, in any appropriation
originally made to the division of tourism and parks is
hereby ratified.

§20-5-2. Powers of the director with respect to the section of
parks and recreation.

The director of the division of natural resources shall
be responsible for the execution and administration of
the provisions herein as an integral part of the parks and
recreation program of the state and shall organize and
staff the section of parks and recreation for the orderly,
efficient and economical accomplishment of these ends.
The authority granted in the year one thousand nine
hundred ninety-four to the director of the division of
natural resources to employ up to six additional unclas-
sified personnel to carry out the parks functions of the
division of natural resources is continued.

The director of the division of natural resources shall
further have the authority, power and duty to:

(a) Establish, manage and maintain the state's parks
and recreation system for the benefit of the people of this
state and do all things necessary and incidental to the
development and administration thereof;

(b) Acquire property for the state in the name of the
division of natural resources by purchase, lease or
agreement; retain, employ and contract with legal
advisors and consultants; or accept or reject for the state,
in the name of the division, gifts, donations, contribu-
tions, bequests or devises of money, security or property,
both real and personal, and any interest in such prop-
erty, including lands and waters, for state park or
recreational areas for the purpose of providing public
recreation: Provided, That the provisions of section
twenty, article one of this chapter are specifically made
applicable to any acquisitions of land: Provided, how-
ever, That any sale, exchange or transfer of property for
the purposes of completing land acquisitions or provid-
ing improved recreational opportunities to the citizens of
the state shall be subject to the procedures of article
one-a of this chapter: Provided further, That no sale of
any park or recreational area property, including lands
and waters, used for purposes of providing public
recreation on the effective date of this article and no
privatization of any park may occur without statutory
authority;

(c) Approve and direct the use of all revenue derived
from the operation of the state parks and public recrea-
tion system for the operation, maintenance and im-
provement of the system, individual projects of the
system or for the retirement of park development reve-
nue bonds;

(d) Approve the use of no less than twenty percent of
the: (i) Funds appropriated for purposes of advertising
and marketing expenses related to the promotion and
development of tourism, pursuant to subsection (j),
section eighteen, article twenty-two, chapter twenty-
nine of this code; and (ii) funds authorized for expendi-
ture from the tourism promotion fund for purposes of
direct advertising, pursuant to section twelve, article
two, chapter five-b of this code and section ten, article
twenty-two-a, chapter twenty-nine of this code, to
effectively promote and market the state's parks, state
forests, state recreation areas and wildlife recreational
resources;

(e) Issue park development revenue bonds as provided
in this article;

(f) Provide for the construction and operation of
cabins, lodges, resorts, restaurants and other developed
recreational service facilities, subject to the provisions of
section fifteen of this article and section twenty, article one of this chapter;

(g) Promulgate rules to control uses of the parks, subject to the provisions of chapter twenty-nine-a of this code: Provided, That the director shall not permit public hunting, the exploitation of minerals or the harvesting of timber for commercial purposes in any state park;

(h) Notwithstanding any provision of this code to the contrary, the director may, for amounts less than two hundred fifty dollars, exempt designated state parks from the requirement that all payments must be deposited in a bank within twenty-four hours;

(i) The director of the division of natural resources shall waive the use fee normally charged to an individual or group for one day's use of a picnic shelter or one week's use of a cabin in a state recreation area when the individual or group donates the materials and labor for the construction of the picnic shelter or cabin: Provided, That the individual or group was authorized by the director to construct the picnic shelter or cabin and that it was constructed in accordance with the authorization granted and the standards and requirements of the division pertaining to such construction. The individual or group to whom the waiver is granted may use the picnic shelter for one reserved day or the cabin for one reserved week during each calendar year until the amount of the donation equals the amount of the loss of revenue from the waiver or until the individual dies or the group ceases to exist, whichever first occurs. The waiver is not transferable. The director shall permit free use of picnic shelters or cabins to individuals or groups who have contributed materials and labor for construction of picnic shelters or cabins prior to the effective date of this section. The director shall promulgate a legislative rule in accordance with the provisions of chapter twenty-nine-a of this code governing the free use of picnic shelters or cabins provided for in this section, the eligibility for free use, determining the value of the
§20-5-3. Section of parks and recreation; purpose; powers and duties generally.

The purposes of the section of parks and recreation shall be to promote conservation by preserving and protecting natural areas of unique or exceptional scenic, scientific, cultural, archaeological or historic significance and to provide outdoor recreational opportunities for the citizens of this state and its visitors. It shall be the duty of the section of parks and recreation to have within its jurisdiction and supervision:

(a) All state parks and recreation areas, including all lodges, cabins, swimming pools, motorboating and all other recreational facilities therein, except the roads heretofore transferred pursuant to section one, article four, chapter seventeen of this code to the state road system and to the responsibility of the commissioner of highways with respect to the construction, reconstruction and maintenance of the roads or any future roads for public usage on publicly owned lands for future state parks, state forests and public hunting and fishing areas;

(b) The authority and responsibility to do the necessary...
(c) The administration of all laws and regulations relating to the establishment, development, protection, use and enjoyment of all state parks and state recreational facilities consistent with the provisions of this article;

(d) The continued operation and maintenance of the Berkeley Springs historical state park, in Morgan county, as a state recreational facility, designated the Berkeley Springs sanitarium under prior enactment of this code;

(e) The continued operation and maintenance of that portion of Washington Carver camp in Fayette county formerly incorporated within the boundaries of Babcock state park;

(f) The continued operation and maintenance of Camp Creek state park as a state recreational facility, formerly delineated according to section three, article one-a, chapter nineteen of this code;

(g) The continued operation and maintenance of Moncove Lake state park as a state recreational facility, formerly delineated pursuant to enactment of section thirteen, article one, chapter five-b of this code in the year one thousand nine hundred ninety;

(h) The continued protection, operation and maintenance of approximately seventy-five miles of right-of-way along the former Greenbrier subdivision of the Chessie railroad system between Caldwell in Greenbrier county and Cass in Pocahontas county, designated the Greenbrier river trail, including the protection of the trail from motorized vehicular traffic and operation for the protection of adjacent public and private property; and

(i) The continued protection, operation and maintenance of approximately sixty and fifty-seven one-
hundredths miles of right-of-way of the CSX railway system between Walker in Wood county and Wilsonburg in Harrison county, designated the North Bend rail trail, including the protection of the trail from motorized vehicular traffic and operation for the protection of adjacent public and private property.

§20-5-4. Definitions; state parks and recreation system.

1 As used in this article, unless the context clearly requires otherwise:

2 "Bonds" shall mean bonds issued by the director.

3 "Cost of project" shall embrace the cost of construction, the cost of all land, property, material and labor which are deemed essential thereto, cost of improvements, financing charges, interest during construction and all other expenses, including legal fees, trustees', engineers' and architects' fees which are necessary or properly incidental to the project.

4 "Project" shall be deemed to mean collectively the acquisition of land, the construction of any buildings or other works, together with incidental approaches, structures and facilities, reasonably necessary and useful in order to provide new or improved recreational facilities.

5 "Recreational facilities" shall mean and embrace cabins, lodges, swimming pools, golf courses, restaurants, commissaries and other revenue producing facilities in any state park.

6 "Rent or rental" shall include all moneys received for the use of any recreational facility.

§20-5-5. Authority of director to issue park development revenue bonds; grants and gifts.

1 The director, with the approval of the governor, is hereby empowered to raise the cost of any project, as defined in this article, by the issuance of park development revenue bonds of the state, the principal of and
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interest on the bonds shall be payable solely from the special fund herein provided for the payment. The bonds shall be authorized by order of the director, approved by the governor, which shall recite an estimate by the director of the cost of the project, and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided, to produce the cost, less the amount of any grant or grants, gift or gifts received, or in the opinion of the director expected to be received from the United States of America or from any other source. The acceptance by the director of any and all grants and gifts, whether in money or in land, labor or materials, is hereby expressly authorized. All bonds shall have and are hereby declared to have all the qualities of negotiable instruments under the provisions of article eight, chapter forty-six of this code. The director shall have the power:

(a) To issue negotiable bonds, security interests or notes and to provide for and secure the payment thereof and to provide for the rights of the holders thereof and to purchase, hold and dispose of any of its bonds, security interests or notes.

(b) To sell, at public or private sale, any bond or other negotiable instrument, security interests or obligation of the director in any manner and upon such terms as the director deems would best serve the purposes set forth herein.

(c) To issue its bonds, security interests and notes payable solely from the revenues or funds available to the director therefor; and the director may issue its bonds, security interests or notes in such principal amounts as it shall deem necessary to provide funds for any purposes herein including:

(i) The payment, funding or refunding of the principal of, interest on or redemption premiums on any bonds, security interests or notes issued by it whether the bonds, security interests, notes or interest to be funded or refunded have or have not become due.
(ii) The establishment or increase of reserves to secure or to pay bonds, security interests, notes or the interest thereon and all other costs or expenses of the director incident to and necessary or convenient to carry out its purposes and powers. Any bonds, security interests or notes may be additionally secured by a pledge of any revenues, funds, assets or moneys of the special fund herein provided.

(d) To issue renewal notes, or security interests, to issue bonds to pay notes or security interests and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no such renewal notes shall be issued to mature more than ten years from date of issuance of the notes renewed, and no such refunding bonds shall be issued to mature more than twenty-five years from the date of original issuance.

(e) To apply the proceeds from the sale of renewal notes, security interests or refunding bonds to the purchase, redemption or payment of the notes, security interests or bonds to be refunded.

(f) To accept gifts or grants or property, funds, security interests, money materials, labor, supplies or services from the United States of America or from any governmental unit or any person, firm or corporation and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants and to do any and all things necessary, useful, desirable or convenient in connection with the procuring, acceptance or disposition of gifts or grants.

(g) To the extent permitted under its contracts with the holders of bonds, security interests or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interest, note or contract or agreement of any kind to which the director is a party.
(h) The director shall determine the form of the bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the director, under the great seal of the state, attested by the secretary of state and the coupons attached thereto shall bear the facsimile signature of the director. In case any of the officers whose signatures appear on bonds or coupons shall cease to be officers before the delivery of the bonds, the signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

(i) The director shall fix the denominations of the bonds, the principal and interest of which shall be payable at the office of the treasurer of the state of West Virginia, at the capitol of the state or, at the option of the holder, at such other place to be named in the bonds in such medium as may be determined by the director.

(j) The director may provide for the registration of the bonds in the name of the owner as to principal alone, and as to both principal and interest under such terms and conditions as the director may determine, and shall sell the bonds in such manner as he or she may determine to be for the best interest of the state, taking into consideration the financial responsibility of the purchaser and the terms and conditions of the purchase and especially the availability of the proceeds of the bonds when required for payment of the cost of the project.

(k) The proceeds of the bonds shall be used solely for the payment of the cost of the project and shall be deposited and withdrawn as provided by section thirteen-g of this article, and under such further restrictions, if any, as the director may provide.

(l) If the proceeds of such bonds, by error in calculation or otherwise, shall be less than the cost of the project, additional bonds may in like manner be issued to provide the amount of the deficiency and, unless otherwise provided for in the trust agreement hereinafter mentioned, shall be deemed to be of the same issue and shall
be entitled to payment from the same fund without preference or priority as the bonds before issued.

(m) If the proceeds of bonds issued for the project shall exceed the cost thereof, the surplus shall be paid into a special fund to be established for payment of the principal and interest of the bonds as specified in the trust agreement provided for in the following section. The fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but not exceeding the price, if any, which bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be canceled and shall not again be issued. Prior to the preparation of definitive bonds, the director may, under like restrictions, issue temporary bonds with or without coupons exchangeable for definitive bonds upon the issuance of the latter. The revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required herein or by the constitution of the state.

§20-5-6. Tax exemption.

1 The exercise of the powers granted to the director herein will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience and welfare and for the enhancement of their recreational opportunities and is a public purpose. As the operation and maintenance of park development projects will constitute the performance of essential government functions, the director shall not be required to pay any taxes or assessments upon any park development projects or upon any property acquired or used by the director or upon the income therefrom, other than taxes collected from the consumer pursuant to article fifteen, chapter eleven of this code. The bonds and notes and all interest and income thereon shall be exempt from all taxation by this state or any county, municipality, political subdivision or agency thereof, except inheri-
§20-5-7. **Investment in notes, bonds and security interests.**

The notes, bonds and security interests of the director are hereby made securities in which the state board of investments, all insurance businesses, all banking institutions, trust companies, building and loan associations, savings and loan associations may invest and upon which notes, security interests or bonds become subject to redemption plus accrued interest to such date. Upon the purchase, the notes, security interests or bonds shall be canceled.

§20-5-8. **Disclaimer of any liability of state of West Virginia.**

The state of West Virginia shall not be liable on notes, security interests or bonds or other evidences of indebtedness of the director and the notes, security interests of bonds or other evidence of indebtedness shall not be a debt of the state of West Virginia and the notes, security interests or bonds or other evidence of indebtedness shall contain on the face thereof a statement to such effect.

§20-5-9. **Trustee for holders of park development revenue bonds.**

The director may enter into an agreement or agreements with any trust company, or with any bank having the powers of a trust company, either within or outside the state, as trustee for the holders of bonds issued hereunder, setting forth therein the duties of the state and of the director in respect to acquisition, construction, improvement, maintenance, operation, repair and insurance of the project, the conservation and application of all moneys, the insurance of moneys on hand or on deposit and the rights and remedies of the trustee and the holders of the bonds, as may be agreed upon with the original purchasers of the bonds, and including therein provisions restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds and debentures of corporations, protecting and enforcing the rights and remedies of the trustee and the
bondholders and providing for approval by the original
purchaser of the bonds of the appointment of consulting
architects, and of the security given by those who
contract to construct the project, and by any bank or
trust company in which the proceeds of bonds or rentals
shall be deposited, and for approval by the consulting
architects of all contracts for construction. All expenses
incurred in carrying out the agreement may be treated as
a part of the cost of maintenance, operation and repair
of the project.

§20-5-10. Proceeds of park development revenue bonds,
grants and gifts.

The proceeds of all bonds sold for any park develop-
ment project and the proceeds of any grant or gift
received by the director for any project financed by the
issuance of park development revenue bonds shall be
paid to the treasurer of the state of West Virginia, who
shall not commingle the funds with any other moneys,
but shall deposit them in a separate bank account or
accounts. The moneys in the accounts shall be paid by
the treasurer on requisition of the director or any other
person as the director may authorize to make such
requisition. All deposits of the moneys shall, if required
by the treasurer or the director, be secured by obligation
of the United States, of the state of West Virginia, or of
the director, of a market value equal at all times to the
amount of the deposit and all banking institutions are
authorized to give such deposits.

§20-5-11. Authority of director to pledge revenue from recre-
ational facilities as security.

The director, with the approval of the governor, shall
have authority to pledge all revenue derived from any
project as security for any bonds issued to defray the
cost of the project. In any case in which the director may
deem it advisable, he or she shall also have the authority
to pledge the revenue derived from any existing recre-
atational facilities under his or her control, or any state
park or forest, as additional security for the payment of
any bonds issued under the provisions of this article to pay the cost of any park development project.

§20-5-12. Management and control of project.

1 The division shall properly maintain, repair, operate, manage and control the project, fix the rates of rental and establish bylaws and rules for the use and operation of the project and may make and enter into all contracts or agreements necessary and incidental to the performance of its duties and the execution of its powers hereunder.

§20-5-13. Provisions of constitution and law observed; what approval required.

1 It shall not be necessary to secure from any officer or board not named in this article any approval or consent, or any certificate or finding, or to hold an election, or to take any proceedings whatever, either for the construction of any project, or the improvement, maintenance, operation or repair thereof, or for the issuance of bonds hereunder, except as are prescribed by these provisions or are required by the constitution of this state.

9 Nothing contained herein shall be so construed or interpreted as to authorize or permit the incurring of state debt of any kind or nature as contemplated by the provisions of the constitution of the state in relation to state debt.

§20-5-14. Restaurants and other facilities.

1 The director may, on all areas under his or her jurisdiction and control, operate commissaries, restaurants and other establishments for the convenience of the public.

For these purposes the director may purchase equipment, foodstuffs, supplies and commodities according to law.

§20-5-15. Contracts for operation of commissaries, restaurants, recreational facilities and other establishments limited to ten years' duration; renewal at option of director; termination of contract by the
When it is considered necessary by the director to enter into a contract with a person, firm, corporation, foundation or public agency for the operation of a commissary, restaurant, recreational facility or other establishment within the state parks and public recreation system, the contract shall be for a duration not to exceed ten years, but the contract may provide for an option to renew at the director's discretion for an additional term or terms not to exceed ten years at the time of renewal. Prior to initiating a contract for the operation of a state park lodge, cabin, campground, gift shop, golf facility, including pro shop operations, or ski facility, the director shall submit the specific location which would be subject to the contract to the Legislature for its approval and authorization: Provided, That for contracts for gift shops or golf facilities in specific locations operated under contract on the effective date of this section, and contracts for a duration of not more than one year which provide for options to renew for not more than five succeeding years, notice to the joint committee on government and finance, but not specific legislative authorization and approval, is required prior to execution of the contract.

Any contract entered into by the director shall provide an obligation upon the part of the operator that he or she maintain a level of performance satisfactory to the director and shall further provide that any contract may be terminated by the director in the event he or she determines that the performance is unsatisfactory and has given the operator reasonable notice of the termination.

§20-5-16. Authority to enter into contracts with third parties to construct lodge facilities.

Notwithstanding any other provision of this code to the
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contrary, in addition to all other powers and authority
vested in the director, he or she is hereby authorized and
empowered to enter into contracts with third parties for
the construction and operation of recreational facilities
at Chief Logan state park, Beech Fork state park,
Tomlinson Run state park and Stonewall Jackson lake
state park: Provided, That the term of the contracts may
not exceed a period of twenty-five years, at which time
the full title to the lodge facilities shall vest in the state:
Provided, however, That contracts shall be presented to
the joint committee on government and finance for
review and comment prior to execution: Provided
further, That the contract may provide for renewal for
the purpose of permitting continued operation of the
facilities at the option of director for a term or terms not
to exceed ten years: And provided further, That no
extension or renewal beyond the original twenty-five-
year term may be executed by the director absent the
approval of the joint committee on government and
finance.

§20-5-17. Correlation of projects and services.

The director of the division of natural resources shall
correlate and coordinate park and recreation programs,
projects and developments with the functions and
services of other offices and sections of the division and
other agencies of the state government so as to provide,
consistent with the provisions of this chapter, suitable
and adequate facilities, landscaping, personnel and other
services at and about all state parks and public recre-
ation facilities under his or her jurisdiction.

§20-5-18. Discounts for West Virginia residents over the age
of sixty-two.

The director shall provide to West Virginia citizens
who are sixty-two years of age or older, and who docu-
ment residency and age by a valid West Virginia driver’s
license, a fifty percent reduction in campground rental
fees for each campsite to be used exclusively by said
eligible camper: *Provided, That the fifty percent reduction in campground rental fees shall only apply to those rentals occurring during the period of time beginning on the day after Labor Day and ending four days prior to Memorial Day.*

§20-5-19. Discounts for West Virginia residents who are totally and permanently disabled.

The director shall issue a discount card to West Virginia residents who are totally and permanently disabled which would provide a fifty percent reduction in campground rental fees for each campsite to be used exclusively by the eligible camper: *Provided, That in order to be eligible for the reduction, the person shall document that he or she is a resident of this state and that he or she has a total and permanent disability. The director shall promulgate rules in accordance with article three, chapter twenty-nine of this code setting forth the documentation which is necessary to prove residency and total and permanent disability: *Provided, however, That the fifty percent reduction in campground rental fees applies only to those rentals occurring during the period of time beginning on the day after Labor Day and ending four days prior to Memorial Day.*
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That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 23rd .............

day of ............. March ............., 1995.

Governor