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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2005

ENROLLED

Committee Substitute for Committee Substitute for
SENATE BILL NO. _____ 561 _____

(By Senators *Pymate and Jenkins* _____)

PASSED _____ *April 9, 2005* _____

In Effect *90 days* **from** **Passage**

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COMMITTEE SUBSTITUTE

FOR

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Senate Bill No. 561

(SENATORS PLYMALE AND JENKINS, *original sponsors*)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact section 7, chapter 26 of the Acts of the Legislature, regular session, 1925 (municipal charters), as last amended by chapter 175, Acts of the Legislature, regular session, 1991, relating to Greater Huntington Park and Recreation District; authorizing the District to impose fees and issue revenue bonds; requiring an election on the imposition of fees and issuance of revenue bonds; notice and election requirements; and authorizing the new fees to secure and pay the revenue bonds.

Be it enacted by the Legislature of West Virginia:

That section 7, chapter 26, Acts of the Legislature, regular session, 1925 (municipal charters), as last amended by chapter

175, Acts of the Legislature, regular session, 1991, be amended and reenacted to read as follows:

GREATER HUNTINGTON PARK AND RECREATION DISTRICT.

§7. 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 form 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; restricted member-
9 ship fees; and cemetery service 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; cemetery plots,
13 crypts, monuments, memorials, markers, vaults and any
14 other forms of merchandise sold in connection with the
15 burial of the dead; and other items that may pertain to the
16 operation and maintenance of the park district.

17 (2) Impose upon the users of the park system reasonable
18 service fees in addition to the service fees authorized by
19 paragraph (a), subdivision (1) of this section. As used in
20 this section, "users" means any persons to whom the park
21 system is made available.

22 (a) The board of directors of the park district may adopt
23 one or more resolutions establishing the amount and
24 manner of collection of the fees and providing for reason-
25 able penalties for failure to pay service fees. No resolution
26 imposing a service fee is effective until it is ratified by a
27 majority of the legal votes cast by the qualified voters of
28 the district at a primary or general election.

29 (b) In addition to meeting the ballot and election re-
30 quirements set forth in subdivision (3) of this section, the

31 ballot question must set forth the service fee, the manner
32 in which it will be imposed and the general use to which
33 the proceeds of the service fee shall be put. From time to
34 time, the board may submit additional resolutions impos-
35 ing additional service fees to the district's electors for
36 approval pursuant to this section.

37 (3) Issue revenue bonds or refunding revenue bonds for
38 the district, in the manner prescribed by the applicable
39 provisions of sections seven, ten, twelve and sixteen,
40 article sixteen, chapter eight of the code of West Virginia,
41 1931, as amended. No revenue bonds, except for refunding
42 revenue bonds, may be issued under this section until all
43 questions connected with the bonds are first submitted to
44 a vote of the qualified electors of the district for which the
45 bonds are to be issued, and receive a majority of all the
46 votes cast for and against the issuance. The ballot ques-
47 tion must set forth:

48 (a) The necessity for issuing the bonds;

49 (b) Purpose or purposes for which the proceeds of bonds
50 are to be expended;

51 (c) Total indebtedness, bonded or otherwise;

52 (d) Amount of the proposed bond issue;

53 (e) Maximum term of bonds and series;

54 (f) Maximum rate of interest;

55 (g) Date of election;

56 (h) That the park district is authorized to collect fees to
57 provide funds for the payment of the interest upon the
58 bonds and the principal at maturity, and the approximate
59 amount of fees necessary for this purpose.

60 (i) Notice of any election shall be given by publication,
61 within fourteen consecutive days next preceding the date
62 of the election, of the resolution imposing the service fee as

63 a Class II legal advertisement in compliance with the
64 provisions of article three, chapter fifty-nine of this code
65 and the publication area for publication shall be the
66 district. All of the provisions of the general election laws
67 of this State concerning primary or general elections, when
68 not in conflict with the provisions of this section, shall
69 apply to elections hereunder, insofar as practicable.

70 (4) Annually levy on each one hundred dollars of the
71 assessed valuation of the property taxable in said park
72 district, within the corporate boundaries of the city of
73 Huntington according to the last assessment thereof for
74 state and county purposes, as follows:

75 On Class I property, one and one-half cents; on Class II
76 property, three cents; on Class IV property, six cents. The
77 park district may levy a lesser amount, in which case the
78 above levies shall be reduced proportionately. These levies
79 shall be made at the time and in the manner provided by
80 article eight, chapter eleven of the Code of West Virginia,
81 one thousand nine hundred thirty-one, as amended; except
82 that the levies shall be included in the maximum rates for
83 the city of Huntington as established by law.

84 After the park district has made the levy, it shall certify
85 to the finance director of the city of Huntington the
86 amount of the said levy, and the finance director shall
87 thereupon extend the levy upon the tax tickets, and all
88 levies made by the park district shall be collected by the
89 finance director who shall occupy a fiduciary relationship
90 with the park district, and then such levy funds shall be
91 paid to the park district upon written order of the park
92 district signed by the president of the park district and
93 countersigned by the secretary of the park district.

94 Levies for support, maintenance and operation.

95 (5) In order to ensure adequate support for the mainte-
96 nance and operation of the park district, the following
97 governing authorities shall, upon written request by the

98 park district, levy annually as follows within the respec-
99 tive taxing districts of the governing authorities, on each
100 one hundred dollars of assessed valuation of the property
101 taxable in the area served by it according to the last
102 assessment for state and county purposes, amounts not
103 exceeding the following amounts for fiscal year beginning
104 the first day of July, one thousand nine hundred eighty-
105 three:

106 (a) The county commission of Cabell County, for the first
107 year of the act and annually thereafter: Class I, .433 cents;
108 Class II, .866 cents; Class III and Class IV, 1.73 cents.

109 (b) The county commission of Wayne County, for the
110 first year of the act and annually thereafter; Class I, .0066
111 cents; Class II, .0132 cents; Class III and Class IV, .0266
112 cents.

113 (c) The board of education of the county of Cabell shall
114 provide funds available to the board through special and
115 excess levies for the first year of the act and annually
116 thereafter: Class I, .433 cents; Class II, .866 cents; Class III
117 and Class IV, 1.73 cents.

118 (d) The city of Huntington, for the first year of the act
119 and annually thereafter: Class I, one and three-tenths
120 cents; Class II, two and six-tenths cents; Class III and
121 Class IV, five and two-tenths cents.

122 (e) The town of Milton, for the first year of the act and
123 annually thereafter: Class I, one and three-tenths cents;
124 Class II, two and six-tenths cents; Class III and Class IV,
125 five and two-tenths cents.

126 In addition to the aforesaid amounts which, upon
127 written request by said board, the governing authorities
128 shall levy, each such governing authority may support the
129 park district with any other general or special revenues or
130 excess levies. All income realized by the operation of the
131 park district from any sources other than the above levies

132 shall be used by the board of directors for support of the
133 park district.

134 All money collected or appropriated by the foregoing
135 governing authorities for park district purposes shall be
136 deposited in a special account of the park district and shall
137 be disbursed by that board for the purpose of operating
138 such park district.

139 (6) Assess the cost of improvements to or construction of
140 streets, sidewalks, sewers, curbs, alleys, public ways or
141 easements, or portions thereof, upon the abutting property
142 owners whose property lies within the park district. Such
143 assessments shall require approval of a majority of the
144 commissioners present and voting and shall be commenced
145 and conducted in such manner as is prescribed by article
146 eighteen, chapter eight of the Code of West Virginia, one
147 thousand nine hundred thirty-one, as amended.

148 (7) The municipalities of Huntington and Milton and the
149 counties of Cabell and Wayne are hereby empowered, and
150 authorized to issue, in the manner prescribed by law,
151 revenue bonds or general obligation bonds for the purpose
152 of raising funds to establish, construct, improve, extend,
153 develop, maintain or operate a system of public parks and
154 recreational facilities for the city or counties, or to refund
155 any bonds of the city or counties, the proceeds of which
156 were expended in the establishing, constructing, improv-
157 ing, extending, developing, maintaining or operating of
158 such public park and recreation system or any part
159 thereof. Any bonds issued for any of the purposes stated
160 in this section shall contain in the title or subtitle thereto
161 the words "public park and recreation bonds", in order to
162 identify the same, and shall be of such form, denomination
163 and maturity and shall bear such rate of interest as shall
164 be fixed by ordinance of the governing body of the city or
165 counties. The governing body may provide for the issu-
166 ance of bonds for other lawful purposes of the city or
167 counties in the same ordinance in which provision shall be
168 made for the issuance of bonds under the provisions of this

169 section. The park district shall pay all of the costs and
170 expenses of any election which shall be held to authorize
171 the issuance of public park and recreation bonds only. The
172 costs and expenses of holding an election to authorize the
173 issuance of public park and recreation bonds and bonds
174 for other city or county purposes shall be paid by the park
175 district and the city or counties respectively, in the propor-
176 tion that the public park and recreation bonds bear to the
177 total amount of bonds authorized.

178 Whenever the governing body of the city or counties and
179 the requisite majority of the legal votes cast at the election
180 thereon shall authorize in the manner prescribed by law,
181 the issuance of bonds for the purpose of establishing,
182 constructing, improving, extending, developing, maintain-
183 ing or operating, or any combination of the foregoing, a
184 system of public parks and recreational facilities for the
185 city or counties or for refunding any outstanding bonds,
186 the proceeds of which were applied to any of said pur-
187 poses, said bonds shall be issued and delivered to the park
188 district to be by it sold in the manner prescribed by law
189 and the proceeds thereof shall be paid into the treasury of
190 the park district and the same shall be applied and utilized
191 by the park district for the purposes prescribed by the
192 ordinance authorizing the issuance of such bonds. In any
193 ordinance for the issuance of bonds for such purposes, it
194 shall be a sufficient statement of the purposes for creating
195 the debt to specify that the same is for the purpose of
196 establishing, constructing, improving, extending, develop-
197 ing, maintaining or operating, or any combination of the
198 foregoing, a public park and recreation system for the city
199 or counties, without specifying the particular establish-
200 ment, construction, improvement, extension, development,
201 maintenance or operation contemplated; but an ordinance
202 for refunding bonds shall designate the issue and the
203 number of bonds which it is proposed to refund.

204 (8) Sue and be sued; make contracts and guarantees;
205 incur liabilities; borrow or lend money for any time period
206 deemed advisable by the commission, sell, mortgage, lease,

207 exchange, transfer or otherwise dispose of its property; or
208 pledge its property as collateral or security for any time
209 period deemed advisable by the commission.

210 (9) Create trusts of such kind as will expedite the
211 efficient management of the property and other assets
212 owned or controlled by the park district. The trustee,
213 whether individual or corporate, in any such trust shall
214 have a fiduciary relationship with the park district and
215 may be removed by the park district for good cause shown
216 or for a breach of the fiduciary relationship with the park
217 district.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

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

The within *is appended* this the *2nd*
Day of *May*, 2005.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 27 2005

Time 10:05 am