WEST VIRGINIA LEGISLATURE
Regular Session, 2005

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

(By Senators Pynake and Jenkins)

PASSED April 9, 2005

In Effect 90 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 goods sold by the park district.

3 (a) Charges for services may be in the form 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.

4 (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.

5 (2) Impose upon the users of the park system reasonable service fees in addition to the service fees authorized by paragraph (a), subdivision (1) of this section. As used in this section, “users” means any persons to whom the park system is made available.

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

7 (b) In addition to meeting the ballot and election requirements set forth in subdivision (3) of this section, the
31 ball check 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
a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for publication shall be the district. All of the provisions of the general election laws of this State concerning primary or general elections, when not in conflict with the provisions of this section, shall apply to elections hereunder, insofar as practicable.

(4) 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.

Levies for support, maintenance and operation.

(5) 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 the first day of July, one thousand nine hundred eighty-three:

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

(b) The county commission of Wayne County, for the first year of the act and annually thereafter: Class I, .0066 cents; Class II, .0132 cents; Class III and Class IV, .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 I, .433 cents; Class II, .866 cents; Class III and Class IV, 1.73 cents.

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

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

(6) 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.

(7) The municipalities of Huntington and Milton 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
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 park and recreation bonds bear to the total amount of bonds authorized.

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 by it 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 the purpose 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.

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,
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.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the Day of May, 2005.

Governor