

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2600**

4 (By Delegates Hartman, McCuskey, Campbell, Miley,
5 Nelson, E., Sponaugle, Skaff and Lynch)

6 (Originating in the Committee on the Judiciary)

7
8 [March 29, 2013]

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §7-25-1, §7-25-2,
12 §7-25-3, §7-25-4, §7-25-5, §7-25-6, §7-25-7, §7-25-8, §7-25-9,
13 §7-25-10, §7-25-11, §7-25-12, §7-25-13, §7-25-14, §7-25-15,
14 §7-25-16, §7-25-17, §7-25-18, §7-25-19, §7-25-20, §7-25-21,
15 §7-25-22, §7-25-23, §7-25-24, §7-25-25 and §7-25-26; and to
16 amend and reenact §30-29-1 of said code, all relating to the
17 creation of resort area districts; providing short title for
18 article; providing legislative findings for resort area
19 districts; defining terms; authorizing county commissions to
20 create resort area districts; providing for petition process
21 for creation or expansion of resort area districts; providing
22 notice requirements for creation or expansion of resort area
23 districts; providing that resort area districts are public
24 corporations; setting forth powers of resort area districts;
25 authorizing resort area districts to undertake capital
26 projects; authorizing resort area districts to levy

1 assessments upon real property; authorizing resort area
2 districts to borrow money and incur indebtedness; authorizing
3 resort area districts to issue assessment bonds and resort
4 service fee bonds; authorizing resort area districts to impose
5 penalties for unpaid assessments; authorizing resort area
6 districts to levy resort service fee on purchases of certain
7 goods and services; authorizing resort area districts to
8 provide public services; authorizing resort area districts to
9 provide for public safety and appoint resort area rangers;
10 providing for official name of resort area districts;
11 providing for creation of resort area boards; setting forth
12 powers and certain procedures for resort area boards;
13 providing for election of resort area board members; providing
14 election procedures for resort area boards; requiring certain
15 resort area board members to give bond; providing notice
16 requirements for resort area boards election; providing
17 procedures and notice requirements for resort service fee
18 implementation and administration; providing procedures for
19 implementing and providing services within resort area
20 districts; requiring adoption of budget annually; providing
21 resort area district board ability to condition budgeted
22 expenditures, projects and undertakings on the receipt and
23 availability of additional funds provided by resort operator
24 or other sources; providing procedures for implementation of
25 assessments; providing notice requirements for assessments;
26 providing procedures for construction of capital projects;

1 providing procedures for revision of assessments; exempting
2 public property from assessments; providing terms for
3 assessment bonds and resort service fee bonds; exempting
4 assessment bonds and resort service fee bonds from state
5 taxation; providing that indebtedness of resort area district
6 to be paid solely from resort service fee and assessments;
7 providing procedure for payment of assessments to sheriff;
8 authorizing sheriff to collect delinquent assessments;
9 providing for lien against property subject to assessment and
10 notice thereof; providing for appointment of resort area
11 rangers; authorizing resort area rangers to exercise authority
12 of law-enforcement officers; requiring annual audit of resort
13 area districts; requiring notice of change of ownership of
14 properties within district; reasonable notice by district in
15 absence of receiving notice of change in ownership; providing
16 for liberal construction of article; providing that resort
17 area rangers are considered law-enforcement officers; and
18 making resort area rangers subject to same training and
19 requirements as other law-enforcement officers.

20 *Be it enacted by the Legislature of West Virginia:*

21 That the Code of West Virginia, 1931, as amended, be amended
22 by adding thereto a new article, designated §7-25-1, §7-25-2,
23 §7-25-3, §7-25-4, §7-25-5, §7-25-6, §7-25-7, §7-25-8, §7-25-9,
24 §7-25-10, §7-25-11, §7-25-12, §7-25-13, §7-25-14, §7-25-15,
25 §7-25-16, §7-25-17, §7-25-18, §7-25-19, §7-25-20, §7-25-21,
26 §7-25-22, §7-25-23, §7-25-24, §7-25-25 and §7-25-26; and that

1 §30-29-1 of said code be amended and reenacted, all to read as
2 follows:

3 **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

4 **ARTICLE 25. RESORT AREA DISTRICTS.**

5 **§7-25-1. Short Title.**

6 This article shall be known and cited as the "Resort Area
7 District Act".

8 **§7-25-2. Findings.**

9 The Legislature finds that:

10 (a) West Virginia's resorts and other recreational areas have
11 an important role in the economy of the local areas surrounding
12 their locations.

13 (b) West Virginia's resorts and other recreational areas are
14 often located in unincorporated areas and, as a consequence, such
15 areas have less funding available to provide infrastructure and
16 essential services within such areas.

17 (c) West Virginia's resorts and other recreational areas
18 derive the major portion of their economic well-being from
19 businesses catering to the recreational and personal needs of
20 persons traveling to or through the area.

21 (d) Better infrastructure and provision of essential services
22 to West Virginia's resorts and other recreational areas are likely
23 to increase visits to such areas, which will result in greater
24 economic development and job creation in such areas.

25 (e) The State and the public will benefit from granting West

1 Virginia's resorts and recreational areas the ability to have a
2 governing body to provide for the infrastructure and essential
3 services within common areas; which common areas are separate from
4 the profit-making operations of the resorts or recreational areas.

5 (f) This article is necessary for the public health, safety
6 and welfare and economic development of West Virginia's resorts and
7 other recreational areas.

8 **§7-25-3. Definitions.**

9 For purposes of this article:

10 (a) "Assessment" means the fee, including interest, paid by an
11 owner of real property located within a resort area district to pay
12 for the cost of a project or projects constructed upon or
13 benefitting or protecting such property and administrative expenses
14 thereto, which fee is in addition to all taxes and other fees
15 levied on the property.

16 (b) "Assessment bonds" means special obligation bonds or notes
17 issued by a resort area district which are payable from the
18 proceeds of assessments.

19 (c) "Board" means a resort area board created pursuant to this
20 article.

21 (d) "Code" means the Code of West Virginia, 1931, as amended
22 by the Legislature.

23 (e) "Cost" means the cost of any or all of the following:

24 (1) Providing services within a resort area district;

25 (2) Construction, reconstruction, renovation and acquisition
26 of all lands, structures, real or personal property, rights,

1 rights-of-way, franchises, easements and interests acquired or to
2 be acquired by a resort area district;

3 (3) All machinery and equipment, including machinery and
4 equipment needed to provide, expand or enhance services to a resort
5 area district;

6 (4) Financing charges and interest prior to and during
7 construction and, if deemed advisable by a resort area district,
8 for a limited period after completion of construction;

9 (5) Interest and reserves for principal and interest,
10 including costs of bond insurance and any other type of financial
11 guarantee;

12 (6) Costs of issuance in connection with the issuance of
13 assessment bonds or resort service fee bonds;

14 (7) The design of extensions, enlargements, additions and
15 improvements to the facilities of a resort area district;

16 (8) Architectural, engineering, financial and legal services;

17 (9) Plans, specifications, studies, surveys and estimates of
18 costs and revenues;

19 (10) Administrative expenses necessary or incident to any
20 project or service; and

21 (11) Other expenses as may be necessary or incident to the
22 provision of services or the construction, acquisition and
23 financing of a project.

24 (f) "Governing body" means the county commission of a county.

25 (g) "Governmental agency" means the state government or any
26 agency, department, division or unit thereof; counties;

1 municipalities; any watershed enhancement districts, soil
2 conservation districts, sanitary districts, public service
3 districts, drainage districts, school districts, urban renewal
4 authorities or regional governmental authorities established
5 pursuant to this code.

6 (h) "Landowner" or "owner of real property" means the person
7 or persons holding an interest in the record fee title to one or
8 more parcels of real property, including residential, improved real
9 property and unimproved, developable real property, or of units
10 within a multiunit property, including condominiums and townhouses,
11 within a resort area district or a proposed resort area district:
12 Provided, That the holder or holders of a deed of trust shall not
13 be considered a landowner or owner of real property.

14 (I) "Parcel" shall mean:

15 (1) A lot or parcel of real property as set forth on a plat
16 covering such real property, or, in the event no plat exists, as
17 set forth on the tax maps of a county; or

18 (2) A unit within a multiunit property.

19 (j) "Person" means an individual, firm, partnership,
20 corporation, limited liability company, voluntary association or
21 any other type of entity.

22 (k) "Project" means the design, construction, reconstruction,
23 establishment, acquisition, improvement, renovation, extension,
24 enlargement, equipping, maintenance, repair (including
25 replacements) and start-up operation of public buildings, culverts,
26 streets, bridges (including approaches, causeways, viaducts,

1 underpasses and connecting roadways), motor vehicle parking
2 facilities (including parking lots, buildings, ramps, curb-line
3 parking, meters and other facilities deemed necessary, appropriate,
4 useful, convenient or incidental to the regulation, control and
5 parking of motor vehicles), public transportation, public
6 recreation centers, public recreation parks, bicycle paths and
7 trails, hiking paths and trails, landscaping, swimming pools,
8 tennis courts, golf courses, skating rinks, equine facilities,
9 motor vehicle competition and recreational facilities, flood
10 protection or relief projects, or the grading, regrading, paving,
11 repaving, surfacing, resurfacing, curbing, recurbing, widening,
12 lighting or otherwise improving any street, avenue, road, highway,
13 alley or way, or the building or renewing of sidewalks and flood
14 protection; and the term shall mean and include any project as a
15 whole, and all integral parts thereof, including all necessary,
16 appropriate, useful, convenient or incidental appurtenances and
17 equipment in connection with any one or more of the above:
18 Provided, That a project shall not include a facility or service
19 that benefits only the resort operator, or which the resort
20 operator charges a fee or obtains revenue, or that constitutes part
21 of any facility or service provided by the resort operator, such as
22 a ski lift or ski slope.

23 (1) "Purchase price" means the measure subject to the resort
24 service fee authorized to be imposed by this article and has the
25 same meaning as sales price. For purposes of this article, the
26 purchase price of a good or service shall not include the taxes

1 levied under articles fifteen or fifteen-a of chapter eleven of
2 this code or any other provision of law.

3 (m) "Ranger" means a resort area ranger.

4 (n) "Resort area" means an area that:

5 (1) Is an unincorporated area with a contiguous geographic
6 boundary within one county that has been defined by the process set
7 forth in this article;

8 (2) Has a permanent population of less than two thousand
9 people, according to the most recent federal census;

10 (3) Derives the major portion of its economic well-being from
11 businesses catering to the recreational and personal needs of
12 persons traveling to or through the area;

13 (4) Is a destination location containing each of the
14 following:

15 (I) Residential, improved real property;

16 (ii) One or more resort operators;

17 (iii) Commercial business properties such as retail stores,
18 restaurants and hotels or other lodging accommodations; and

19 (iv) Unimproved real property which remains developable;

20 (5) Does not include real property primarily used for
21 manufacturing, milling, converting, producing, processing or
22 fabricating materials, generating electricity or the extraction or
23 processing of minerals.

24 (o) "Resort area district" or "district" means a resort area
25 district created pursuant to this article.

26 (p) "Resort operator" means any person owning and operating

1 the primary outdoor recreational facilities in a resort area and
2 offering outdoor recreational services such as skiing, golf or
3 boating to the general public.

4 (q) "Resort service fee" means the fee imposed on the purchase
5 price of goods and services sold within a resort area district by
6 any of the following establishments:

7 (1) Hotels, motels, campgrounds, lodges and other lodging or
8 camping facilities;

9 (2) Restaurants, fast-food stores, and other food service
10 establishments selling prepared foods;

11 (3) Taverns, bars, nightclubs, lounges and other public
12 establishments that serve beer, wine, liquor or other alcoholic
13 beverages by the drink;

14 (4) Retail establishments;

15 (5) Entertainment facilities, including, but not limited to,
16 theaters, amphitheaters, halls and stadiums; and

17 (6) Recreational facilities and activities, including, but not
18 limited to, ski resorts, golf courses, water sports, rafting,
19 canoeing, kayaking, rock climbing and zip lines.

20 (r) "Resort service fee bonds" means special obligation bonds
21 or notes issued by a resort area district which are payable from
22 the proceeds of resort service fees.

23 (s) "Service" includes, but is not limited to, snow removal;
24 operation and maintenance of public transportation; maintenance,
25 upgrade and beautification of public common areas; maintenance and
26 repair of roads and sidewalks; providing for the collection and

1 disposal of garbage and other refuse matter; recycling; operation,
2 upgrade and maintenance of any projects or improvements; and any
3 other public service authorized by this article, including fire
4 protection and public safety. For purposes of this article, a
5 common area shall not include any facility that benefits only the
6 resort operator, or for which the resort operator charges a fee or
7 obtains revenue, or which constitutes part of any facility or
8 service provided by the resort operator, such as a ski lift or ski
9 slope.

10 (t) "Sheriff" means the sheriff of the county in which a
11 resort area district is located.

12 **§7-25-4. Power and authority of county commissions to create and**
13 **establish resort area districts.**

14 (a) Every county is hereby empowered and authorized, in
15 addition to any other rights, powers and authority conferred upon
16 it elsewhere in this code, to create, modify, reject or expand
17 resort area districts within that county in the manner hereinafter
18 set forth and to assist in the provision of services and
19 development, construction, acquisition, extension or improvement of
20 a project or projects located within a resort area district.

21 (b) Unless agreed to by each affected municipality, the power
22 and authority hereby conferred on a county shall not extend into
23 territory within the boundaries of any municipality: *Provided,*
24 That notwithstanding any provision in this code to the contrary,
25 the power and authority hereby conferred on counties may extend
26 within the territory of a public service district created under

1 section two, article thirteen-a, chapter sixteen of this code.

2 **§7-25-5. Petition for creation or expansion of resort area**
3 **district; petition requirements.**

4 (a) The owners of at least sixty-one percent of the real
5 property, determined by acreage, located within the boundaries of
6 the resort area described in the petition, by metes and bounds or
7 otherwise in a manner sufficient to describe the area, may petition
8 a governing body to create or expand a resort area district.

9 (b) The petition for the creation or expansion of a resort
10 area district shall include, where applicable, the following:

11 (1) The proposed name and proposed boundaries of such district
12 and a list of the names and addresses of all owners of real
13 property within the proposed district;

14 (2) A description of proposed projects and services to be
15 provided within the district;

16 (3) A map showing the proposed resort area to be included in
17 the resort area district;

18 (4) A list of estimated project and service costs;

19 (5) A feasibility or consultant study concerning the formation
20 of the proposed district and the funds to be generated by the
21 implementation of a resort service fee and indicating that the
22 proposed resort service fee will provide sufficient revenue for
23 proposed services and projects;

24 (6) The proposed rate or rates, not to exceed five percent of
25 the purchase price, of the resort service fee and the proposed
26 classes of goods and services to which each rate shall apply;

1 (7) The proposed effective date of the resort service fee;

2 (8) A certification from the State Tax Commissioner of the
3 amount of consumers sales and service taxes collected from
4 businesses located in the proposed district during the most recent
5 twelve calendar month period for which such data is available that
6 precedes the calendar quarter during which the petition will be
7 submitted to the governing body;

8 (9) A development schedule; and

9 (10) A statement of the benefits that can be expected from the
10 creation of the district.

11 (c) Within sixty days of the submission of a petition for the
12 creation of a resort area district, the governing body shall by
13 order determine the completeness of the petition. If the governing
14 body determines that the petition is complete, it shall set a date
15 for the public meeting required under section six of this article
16 and shall cause the petition to be filed with the clerk of the
17 governing body and be made available for inspection by interested
18 persons before the meeting. If the governing body determines that
19 such petition is not complete, the petition shall be returned to
20 the petitioners with a statement of additional information required
21 for such petition to be complete.

22 **§7-25-6. Notice to property owners before creation or expansion of**
23 **resort area district; form of notice; affidavit of**
24 **publication.**

25 (a) Before the adoption of an order creating a resort area

1 district, the governing body shall cause notice to be given to the
2 owners of real property located within the proposed resort area
3 district that such order will be considered for adoption at a
4 public meeting of the governing body at a date, time and place
5 named in the notice and that all persons at that meeting, or any
6 adjournment thereof, shall be given an opportunity to protest or be
7 heard concerning the adoption or rejection of the order. At or
8 after the meeting the governing body may amend, revise or otherwise
9 modify the information in the petition for formation or expansion
10 of a resort area district as it may deem appropriate after taking
11 into account any comments received at such meeting.

12 (b) A resort area district may not be created by a governing
13 body if, at the public meeting required by this section, written
14 protest is filed by at least twenty-five percent of the owners of
15 real property proposed to be included within the district. In the
16 event of a such protest, the petition for the creation of the
17 resort area district may not be resubmitted to the governing body
18 for a period of at least one year from the date of the original
19 submission.

20 (c) At least sixty days prior to the date of the meeting the
21 notice required by this section shall, using reasonable efforts, be
22 mailed to each owner of real property to be included in the
23 proposed resort area district as provided in subsection (g) of this
24 section, posted in multiple, conspicuous public locations within
25 such proposed district and published as a Class II legal
26 advertisement in compliance with the provisions of article three,

1 chapter fifty-nine of this code and the publication area for such
2 publication shall be the county in which the proposed resort area
3 district is located. The notice shall be in the form of, or
4 substantially in the form of, the following notice:

5

6 "NOTICE TO ALL PERSONS OWNING PROPERTY LOCATED WITHIN
7 (here describe the boundaries of the proposed resort area district)
8 IN THE COUNTY OF (name of county):

9

10 A petition has been presented to the county commission of the
11 County of (name of county) requesting establishment of a
12 resort area district and authorization of a resort service fee
13 under article twenty-five, chapter seven of the code of West
14 Virginia, 1931, as amended, to (describe potential projects
15 and/or services to be provided) in the county of (name of
16 county) as the county commission may deem proper. A copy of the
17 petition is available in the office of the clerk of the county
18 commission of the County of (name of county) for review by
19 the public during regular office hours.

20

21 The petition to create a resort area district will be
22 considered by the county commission at a public meeting to be held
23 on the day of,, at ... m. at Any
24 owner of real property whose property may be affected by the
25 creation of the above-described resort area district, and any owner
26 of real property whose property is not located within said resort

1 area district but wishes his or her property to be included, will
2 be given an opportunity, under oath, to protest or be heard at said
3 meeting or any adjournment thereof:

4 (name of clerk)

5 (d) An affidavit of publication of the notice made by
6 newspaper publisher, or a person authorized to do so on behalf of
7 such publisher, and a copy of the notice shall be made part of the
8 minutes of the governing body and spread on its records of the
9 meeting described in the notice. The service of said notice upon
10 all persons owning any interest in any real property located within
11 the proposed resort area district shall conclusively be deemed to
12 have been given upon completion of mailing as provided in
13 subsection (g) of this section and such newspaper publication.

14 (e) The petitioners shall bear the expense of publication of
15 the notice, the meeting and the mailing of the proposed order, as
16 requested by subsection (f) of this section.

17 (f) After the public meeting and before the governing body may
18 adopt an order creating a resort area district, the governing body
19 shall, using reasonable efforts, mail a true copy of the proposed
20 order creating the resort area district to the owners of real
21 property in the proposed district as provided in subsection (g) of
22 this section and shall post copies of such proposed order in
23 multiple, conspicuous public locations within such proposed
24 district. Unless waived in writing, any petitioning owner of real
25 property shall have thirty days from mailing of the proposed order
26 in which to withdraw his or her signature from the petition in

1 writing prior to the vote of the governing body on such order. If
2 any signatures on the petition are so withdrawn, the governing body
3 may adopt the proposed order only upon certification by the
4 petitioners that the petition otherwise continues to meet the
5 requirements of this article. If all petitioning owners of real
6 property waive the right to withdraw their signatures from the
7 petition, then the governing body may immediately adopt the order.

8 (g) For purposes of the mailing of each notice to owners of
9 real property required by this section, reasonable efforts shall be
10 made to mail such notice to all owners of real property proposed to
11 be included within such resort area district using the real
12 property tax records and land books of the county in which such
13 proposed district is located and any lists maintained by a resort
14 operator or homeowners association within such proposed district.
15 Such notice shall be also mailed to each president of a homeowners
16 association, if any, located within a proposed district which has
17 registered with a resort operator to receive such information.
18 Immaterial defects in the mailing of such notices shall not affect
19 the validity of such notices.

20 **§7-25-7. Creation of resort area district; resort area district to**
21 **be a public corporation.**

22 (a) Each resort area district shall be created by adoption of
23 an order by the governing body.

24 (b) From and after the date of the adoption of the order
25 creating a resort area district, it shall thereafter be a public
26 corporation, but without any power to levy or collect ad valorem

1 taxes.

2 **§7-25-8. Powers of resort area district.**

3 Each resort area district may:

4 (a) Have and use a corporate seal, and alter the same;

5 (b) Sue and be sued, and be a party to suits, actions and
6 proceedings;

7 (c) Purchase insurance;

8 (d) Enter into agreements, contracts or other transactions
9 with any person or governmental agency necessary or incident to the
10 provision of services or the development, planning, construction,
11 acquisition or improvement of a project or for the operation,
12 maintenance or disposition of a project or for any other services
13 required by a project, or to carry out any purposes of the
14 district;

15 (e) Establish a bank account or accounts in its name;

16 (f) Design, plan, finance, develop, construct, acquire,
17 extend, improve and complete a project or projects;

18 (g) Upon following the procedures set forth in this article,
19 assess the cost of all or any portion of a project on real property
20 located within the resort area district;

21 (h) Accept from any public or private source appropriations,
22 grants, gifts, bequests, devises, loans, contributions and any
23 other benefits available for use in furtherance of district
24 purposes, and to use or dispose of the same to carry out district
25 purposes;

26 (I) Expend funds to pay the costs of providing services within

1 the district and to acquire, or construct part of a project on
2 property located within or outside of a district, and for any work
3 undertaken thereon, as may be necessary or incident to the
4 completion of a project;

5 (j) Enter into agreements with the county within which the
6 resort area district is located to plan, develop, construct,
7 acquire or improve a project jointly;

8 (k) Borrow money and incur indebtedness and other obligations
9 and evidence the same by certificates, notes or debentures:
10 Provided, That such indebtedness shall not exceed the annual budget
11 for the Resort without the approval of the property owners at a
12 meeting called for such purpose, a majority of those voting shall
13 constitute approval. Voting may be in person, by mailed ballot, by
14 proxy or by electronic means;

15 (l) Raise funds by the issuance and sale of assessment bonds
16 and resort service fee bonds: Provided, That the source and sales
17 of bonds shall be approved at a meeting of the property owners
18 called for such purpose. A majority of those voting shall
19 constitute approval. Voting at such meeting may done be in person,
20 by mailed ballot, by proxy or by electronic means;

21 (m) Annually, on or before June 7, certify to the sheriff of
22 the county in which the property is located the assessments granted
23 against all property in the district for inclusion in the tax
24 ticket;

25 (n) Charge interest and levy fines and penalties on unpaid
26 assessments;

- 1 (o) Create and enforce liens for unpaid assessments;
- 2 (p) Adopt bylaws not inconsistent with law;
- 3 (q) Implement, administer and collect a resort service fee for
4 the purpose of providing funds for the provision of services and to
5 design, plan, finance, develop, construct, acquire, extend, improve
6 and complete a project or projects within a resort area district;
- 7 (r) Acquire, own or hold, in its corporate name, real or
8 personal property, including easements and rights-of-way, by
9 purchase, lease, gift or otherwise, within or without a resort area
10 district for district purposes, as well as obtain options for the
11 acquisition of real property;
- 12 (s) Provide services necessary to protect the health and
13 welfare of residents in a resort area district and the value of
14 property therein and to enter into agreements with any governmental
15 agency, public or private agency, institution or person for the
16 furnishing of such services;
- 17 (t) Provide for fire protection service;
- 18 (u) Provide for the public safety, including the appointment
19 of resort area rangers;
- 20 (v) Provide for public recreation by means of parks,
21 including, but not limited to, playgrounds, golf courses, swimming
22 pools, skating rinks or recreation buildings;
- 23 (w) Provide for the opening, widening, extending,
24 straightening and surfacing in whole, or in part of, any street and
25 snow removal or clearance for the same or other roads or streets;
- 26 (x) Provide for the construction and improvement of street

1 lights, bridges, culverts, curbs, gutters, drains and works
2 incidental to any street improvement; and

3 (y) Do any and all other things necessary to carry out the
4 purposes of this article and not in violation of the Constitution
5 of this state as may be necessary or incident to the provision of
6 services or the construction and completion of a project.

7 **§7-25-9. Official name of resort area districts.**

8 The official name of a resort area district created under the
9 provisions of this article may contain the name of the resort area
10 or county in which it is located.

11 **§7-25-10. Resort area boards.**

12 (a) The powers of each resort area district shall be vested in
13 and exercised by a resort area board which shall be composed of
14 seven members, the composition of which shall be as set forth in
15 subsection (b) of this section. Board members need not be
16 residents of the district or landowners, except where specifically
17 required otherwise. For purposes of this section, "residential,
18 improved real property" includes, but is not limited to,
19 condominium units, townhouses and single-family residences.

20 (b) The composition of a resort area board shall be as
21 follows:

22 (1) Three board members shall be owners of or representatives
23 of owners of residential, improved real property located within the
24 resort area district;

25 (2) Two board members shall be representatives of the resort
26 operator or operators located within the resort area district;

1 (3) One board member shall be an owner or a representative of
2 owners of commercial business property located within the resort
3 area district; and

4 (4) One board member shall be an owner or a representative of
5 owners of unimproved, developable real property located within the
6 resort area district.

7 (c) For purposes of this section, if a parcel of real property
8 is owned by one or more entities (such as a corporation, limited
9 liability companies, or other entity), then the following are also
10 eligible to serve on the board as an owner with respect to such
11 parcel: (1) Any person having an ultimate beneficial interest in
12 the parcel, whether directly or indirectly and regardless of the
13 number of intermediate ownership entities; and (2) any person
14 designated at the outset of the election as authorized, by an
15 owning entity, to serve on the board as an owner for that
16 particular parcel. Nothing in this provision, however, creates any
17 additional voting rights to the owners of a single parcel of real
18 property, and each parcel of real property shall be entitled to
19 only one vote, regardless of the number of owners participating in
20 ownership of the parcel. Furthermore, nothing in this provision
21 authorizes the owners of real property of one type (such as the
22 resort operator, owners of residential improved real estate, or
23 owners of unimproved, developable real estate) to vote regarding a
24 board position reserved to another ownership category.

25 (d) The board members shall be elected for terms of four years
26 each and thereafter until their respective successors have been

1 elected and have been qualified, except, that of the board members
2 elected at the initial election meeting, two shall serve for a term
3 of two years, two shall serve for a term of three years and three
4 shall serve for a term of four years. At the first meeting of the
5 board, the board members shall determine by lot which of them shall
6 serve the terms less than four years. Each succeeding term is four
7 years. Board members may be reelected for any number of terms. In
8 the event a board member who is required to own real property
9 within the district to be eligible for such board position no
10 longer owns real property within the district, such member may
11 serve out the remainder of his or her term.

12 (e) Only owners of real property, including owners of
13 commercial business property, located within the district shall be
14 eligible to vote in elections for board members.

15 (f) Elections for board members shall be held in accordance
16 with bylaws adopted by the board, but section eleven of this
17 article shall govern the initial election of board members. Voting
18 shall be in person, by mailed ballot, by proxy or by electronic
19 means. The voting restrictions set forth in subsections (d) and
20 (e) of section eleven of this article shall apply to all board
21 elections and may not be altered.

22 (g) Before entering upon the performance of his or her duties,
23 each member shall take and subscribe to the oath required by
24 Section five, Article IV of the Constitution of this state.

25 (h) In the event that a board vacancy arises before the
26 scheduled end of a board member's term, vacancies on the board

1 shall be filled for the remainder of the unexpired term of the
2 member whose office shall be vacant and such appointment, pursuant
3 to the procedures set forth in subsection (r) of this section. Any
4 board member may be removed by the board in case of incompetency,
5 neglect of duty, gross immorality or malfeasance in office, upon a
6 unanimous vote of the remaining six board members. A vote of four
7 board members is sufficient to schedule and conduct an election to
8 fill an unexpired board member's term. Any other action of the
9 board taken while one or more board positions are vacant must be
10 unanimously approved by a board which is comprised of at least six
11 active serving board members.

12 (i) The board shall organize within thirty days following the
13 first election of board members and annually thereafter at its
14 first meeting after January 1, of each year by selecting one of
15 its members to serve as chairman, one to serve as treasurer and one
16 to serve as secretary. The secretary, or his or her designee,
17 shall keep a record of all proceedings of the board which shall be
18 available for inspection as other public records and the Treasurer,
19 or his or her designee, shall maintain records of all financial
20 matters relating to the resort area district, which shall also be
21 made available for inspection as other public records. The
22 secretary and treasurer shall perform such other duties pertaining
23 to the affairs of the resort area district as shall be prescribed
24 by the board.

25 (j) The initial board shall adopt bylaws for the district;
26 Provided, That the adoption of such bylaws and any subsequent

1 amendments thereto shall require approval by six sevenths of the
2 board.

3 (k) The members of the board, and the chairman, secretary and
4 treasurer thereof, shall make available, at all reasonable times
5 and upon reasonable notice, all of its books and records pertaining
6 to the resort area district's operation, finances and affairs for
7 inspection and audit. The board shall meet at least semiannually.

8 (l) A majority of the members of the board constitutes a
9 quorum and meetings shall be held at the call of the chairman.
10 Board members may vote either in person, by telephone or by
11 electronic means.

12 (m) Staff, office facilities and costs of operation of the
13 board may be provided by the county which created the resort area
14 district or by contract and said costs of operations shall be
15 funded from resort service fees collected within the district or
16 any other source.

17 (n) The chairman shall preside at all meetings of the board
18 and shall vote as any other members of the board, but if he or she
19 should be absent from any meeting the remaining members may select
20 a temporary chairman, and if the member selected as chairman
21 resigns as chairman or ceases for any reason to be a member of the
22 board, the board shall select one of its members to serve as
23 chairman until the next annual organizational meeting.

24 (o) The board shall, by resolution, determine its own rules of
25 procedure, fix the time and place of its meetings and the manner in
26 which special meeting may be called. The members of the board

1 shall not be personally liable or responsible for any obligations
2 of the resort area district or the board but are answerable only
3 for willful misconduct in the performance of their duties.

4 (p) The members of the board shall serve without compensation
5 but shall receive reimbursement for actual and necessary expenses
6 incurred in connection with the performance of their duties.

7 (q) Every board member who handles public funds or property,
8 and every other officer or employee of a resort area district of
9 whom it shall be required, shall, unless otherwise provided by law,
10 give bond, with good security, to be approved by the board, and in
11 such penalty as such board, conditioned upon the faithful discharge
12 of the duties of his or her office or employment and the faithful
13 accounting for and paying over, as required by law, of any funds or
14 property coming into his or her possession.

15 (r) Vacancies on the board shall be filled by a special
16 election within 120 days of the vacancy, on a date specified by the
17 board, which shall not be less than 45 days sooner than publication
18 of notice of the election. The publication process for an election
19 to fill a vacancy shall be the same as set forth in subsections
20 (c), (d) and (e) of section 11 of this article, and only those
21 owners eligible to vote for the board member whose departure from
22 office caused the vacancy shall be eligible to vote to replace the
23 member. Without limiting the foregoing, and by way of example,
24 only owners of improved residential property may vote to fill a
25 vacancy created by the departure from office of a board member
26 elected by that class of owner. Notwithstanding the provisions of

1 this subsection, a vacancy in the office of board as to a board
2 member elected or appointed as a resort operator representative,
3 may be filled by direct appointment of the resort operator, rather
4 than by election, if only one resort operator exists in the
5 district.

6 **§7-25-11. Election procedure for initial members of resort area**
7 **board; subsequent elections; elections and procedures**
8 **to fill board vacancies.**

9 (a) Within ninety days of the adoption of the order creating
10 the resort area district, a public meeting shall be held at which
11 elections for the initial members of the board shall be held. Such
12 meeting shall be held at a location within the district not less
13 than twenty days after the publication of the notice required by
14 subsection (b) of this section.

15 (b) Prior to the meeting required by this section, the
16 petitioners for the creation of the resort area district shall,
17 using reasonable efforts, cause notice of the initial election
18 meeting to be given to all owners of real property, including
19 owners of commercial business property, located within the
20 district. Such notice shall be mailed to each owner of real
21 property included in the resort area district as provided in
22 subsection (h) of this section, posted in multiple, conspicuous
23 public locations within such district and published at least thirty
24 days prior to the date of the meeting as a Class II legal
25 advertisement in compliance with the provisions of article three,

1 chapter fifty-nine of this code and the publication area for such
2 publication shall be the resort area district. The notice shall
3 provide, at a minimum, the following information:

4 (1) The purpose of the meeting;

5 (2) Descriptions of the board positions;

6 (3) A statement that only owners of real property, including
7 owners of commercial business property, located within the district
8 are eligible to vote in such election;

9 (4) The location of the meeting; and

10 (5) The date and time of the meeting.

11 (c) At the meeting required by this section, nominations shall
12 be made for each board position. Persons nominated for board
13 positions shall meet the criteria provided for each board position
14 as set forth in subsection (b), section ten of this article.
15 Nominations shall be made for each board position in the following
16 manner:

17 (1) Only owners of residential, improved real property located
18 within the resort area district may nominate persons for the three
19 board positions provided for owners of or representatives of owners
20 of residential, improved real property located within the resort
21 area district;

22 (2) Only representatives of the resort operator or resort
23 operators may nominate persons for the two board positions provided
24 for representatives of the resort operator or resort operators
25 located within the resort area district;

26 (3) Only owners of commercial business property located within

1 the resort area district may nominate persons for the board
2 position provided for an owner of or a representative of owners of
3 commercial business property located within the resort area
4 district; and

5 (4) Only owners of unimproved, developable real property
6 located within the resort area district may nominate persons for
7 the board position provided for an owner of or a representative of
8 owners of unimproved, developable real property located within the
9 resort area district.

10 (d) Following board member nominations, a vote shall be taken
11 by written ballot for board members to be elected, but owners of
12 any class of property may grant proxies to any person to cast the
13 owner's ballot as if the owner were present in person. Voting shall
14 occur in the following manner:

15 (1) Only owners of residential, improved real property located
16 within the resort area district may vote for the three board
17 positions provided for owners of or representatives of owners of
18 residential, improved real property located within the resort area
19 district. Each owner is entitled to one vote per unit or parcel of
20 residential, improved real property he or she owns;

21 (2) Only a representative of each resort operator may vote for
22 the two board positions provided for representatives of the resort
23 operator or resort operators located within the resort area
24 district;

25 (3) Only owners of commercial business property located within
26 the resort area district may vote for the board position provided

1 for an owner of or a representative of owners of commercial
2 business property located within the resort area district. Each
3 owner is entitled to one vote per unit of commercial business
4 property he or she owns; and

5 (4) Only owners of unimproved, developable real property
6 located within the resort area may vote for the board position
7 provided for an owner of or a representative of owners of
8 unimproved, developable real property located within the resort
9 area district. Each owner is entitled to one vote per parcel of
10 unimproved, developable real property that he or she owns.

11 (e) For purposes of voting in the initial election and in all
12 subsequent elections for board members:

13 (1) The owners of each parcel or unit of real property are
14 entitled one vote, irrespective of the number of owners of such
15 parcel or unity;

16 (2) Fractional voting shall not be permitted; and

17 (3) The vote pertaining to a parcel or unit shall be cast in
18 accordance with the direction of the person or persons holding the
19 majority interest in such parcel or unit, and in the event there is
20 no majority, such vote shall be forfeited.

21 (f) Each board member shall be elected by a majority of the
22 votes cast for such board position.

23 (g) The petitioners for the creation of the resort area
24 district shall be responsible for the costs of the initial election
25 and meeting required by this section.

26 (h) For purposes of the mailing of notice to owners of real

1 property required by this section, reasonable efforts shall be made
2 to mail such notice to all owners of real property included within
3 such resort area district using the real property tax records and
4 land books of the county in which such district is located and any
5 lists maintained by a resort operator or homeowners association
6 within such district. Such notice shall be also mailed to each
7 president of a homeowners association, if any, located within a
8 district which has registered with a resort operator to receive
9 such information. Immaterial defects in the mailing of such
10 notices shall not affect the validity of such notices.

11 **§7-25-12. Resort area districts authorized to levy resort service**
12 **fee; procedure for implementation and cessation of**
13 **resort service fee; abstract and notice of**
14 **implementing resolution; rate of resort service fee;**
15 **permissible uses; limitations on imposition.**

16 (a) Resort area districts are hereby authorized to impose a
17 resort service fee within such district by following the procedures
18 set forth in this section.

19 (b) No resort service fee shall be implemented within a resort
20 area district without approval by six sevenths of the board. If six
21 sevenths of the board has approved the implementation of a resort
22 service fee, the board shall adopt a resolution specifying the
23 following:

24 (1) The rate or rates of the resort service fee and the
25 classes of goods and services to which each rate shall apply;

1 (2) The services and projects authorized to be funded from the
2 proceeds of the resort service fee; and

3 (3) The effective date of the resort service fee: *Provided,*
4 That the resort service fee shall not take effect less than ninety
5 days following the adoption of the resolution.

6 (c) A board may repeal the resolution authorizing
7 implementation of a resort service fee upon approval by six
8 sevenths of the board: *Provided,* That such resolution may not be
9 repealed if a district has outstanding resort service fee bonds and
10 the terms of such bonds restrict the repeal of such resolution.

11 (d) After the adoption of a resolution regarding
12 implementation of a resort service fee, an abstract of such
13 resolution, determined by the board to contain sufficient
14 information as to give notice of the contents of such resolution,
15 and notice that such resolution has been adopted shall be posted in
16 multiple, conspicuous public locations within such district and
17 published as a Class II legal advertisement in compliance with the
18 provisions of article three, chapter fifty-nine of this code and
19 the publication area for such publication shall be the resort area
20 district.

21 (e) The rate of a resort service fee shall not exceed five
22 percent of the purchase price of the goods or services upon which
23 the resort service fee is levied: *Provided,* That a district may
24 impose the resort service fee at a rate less than five percent.

25 (f) A resort area district may levy a resort service fee at
26 different rates upon different classes of goods and services.

1 (g) The proceeds generated by a resort service fee shall
2 solely be used for:

3 (1) Paying all or a portion of the costs of providing a
4 service or services within the district; or

5 (2) Paying all or a portion of the costs of a project or
6 projects, including payment of debt service on resort service fee
7 bonds;

8 (3) However, a minimum of twenty-five percent of all service
9 fees shall be placed in a reserve account and shall not be used
10 except in compliance with the bylaws.

11 (h) A resort service fee shall not be imposed upon goods and
12 services sold for resale.

13 **§7-25-13. Resort service fee administration.**

14 (a) Not less than thirty days prior to the date that the
15 resort service fee becomes effective, the board shall adopt an
16 administrative resolution governing the collection and reporting of
17 the resort service fee. This administrative resolution may be
18 amended at any time as may be necessary to effectively administer
19 the resort service fee.

20 (b) The administrative resolution shall specify:

21 (1) The time that the resort service fees collected by
22 businesses are to be remitted to the district;

23 (2) The office, officer or employee of the district
24 responsible for collecting and accounting for the resort service
25 fee receipts;

26 (3) The office, officer or employee of the district

1 responsible for enforcing collection of resort service fees and the
2 methods and procedures to be used in enforcing the collection of
3 resort service fees due; and

4 (4) The penalties for failure to report resort service fees
5 due, failure to remit resort service fees due and violation of the
6 administrative resolution.

7 (c) The administrative resolution may include:

8 (1) Further clarification and specificity in the categories of
9 goods and services that are subject to the resort service fee
10 consistent with subdivision (q), section three of this article; and

11 (2) Other administrative details necessary for the efficient
12 and effective administration of the resort service fee.

13 **§7-25-14. Implementation and provision of services within resort**
14 **area district; adoption of annual budget.**

15 (a) Upon the creation of a resort area district and
16 organization of its board, a resort area district may provide for
17 the provision of services by the adoption of a resolution.

18 (b) A resolution providing for the provision of services shall
19 set forth:

20 (1) The services to be offered;

21 (2) The sources of funding for such services; and

22 (3) All other information necessary for the administration of
23 providing such services.

24 (c) A resolution providing for the provision of services may
25 be amended from time to time, as deemed necessary by the board.

26 (d) Services to be offered by a resort area district shall not

1 be inconsistent with those permitted under the bylaws of the
2 district or this article and shall not include a service for which
3 the resort operator charges a fee or obtains revenue, such as
4 operation or maintenance of a ski slope or ski lift.

5 (e) The board shall adopt an annual budget for the district
6 each year. Such budget shall require approval by six sevenths of
7 the board to be adopted. Funds of the resort area district may not
8 be expended on any service or project in excess of the amounts
9 specified in the budget, and no material expenditures may occur on
10 services or projects not authorized by the budget, except upon
11 approval of at least six sevenths of the board.

12 (f) In setting the budget or any amendment to it, and in
13 approving any anticipated obligation, undertaking and related
14 expenditure of any funds received from any resort service fee or
15 from any assessment, the Board shall be empowered to condition the
16 an expenditure or undertaking, in whole or part, upon the receipt
17 of grants, loans or contribution of funds by or from other sources
18 or parties, including the resort operator, any commercial
19 interests, and any governmental entity, In the event that any such
20 conditions established by the Board are not met, the expenditure
21 and any related conditionally approved undertaking shall not be
22 required.

23 **§7-25-15. Authorization to implement assessments for projects;**
24 **procedures for implementing assessments; by-laws to**
25 **provide additional procedures for implementation of**

1 assessments; notice to property owners before
2 implementation of assessments for projects; affidavit
3 of publication.

4 (a) An assessment for a project within a resort area district
5 shall be authorized by the adoption of a resolution by the board.
6 A resolution authorizing an assessment shall only be adopted after
7 following the procedures set forth in this section.

8 (b) The bylaws of a district:

9 (1) Shall provide the procedures not addressed in this section
10 for the implementation of an assessment to pay the costs of a
11 project: *Provided*, That such procedures must be consistent with
12 constitutional standards and all other laws and regulations of this
13 state.

14 (2) May provide for the maximum amount of assessments which
15 may be levied against a parcel of real property within the
16 district.

17 (c) Fifty-one percent or more of the owners of real property
18 to be benefitted by a project may petition the board to implement
19 an assessment to pay the costs of such project. A board may on its
20 own initiative propose an assessment to pay the costs of a project
21 upon approval by six sevenths of the board.

22 (d) Upon following the procedures provided in this section and
23 a resort area district's bylaws for the implementation of an
24 assessment to pay the costs of a project, the board may, after
25 giving notice to all real property owners and holding a public

1 meeting as required by this section, adopt a resolution authorizing
2 such assessment to pay the costs of a project upon approval by six
3 sevenths of the board.

4 (e) Before the adoption of a resolution authorizing an
5 assessment to pay the costs of a project, the board shall cause
6 notice to be given to the owners of real property located within
7 the resort area district that such resolution will be considered
8 for adoption at a public meeting of the board at a date, time and
9 place named in the notice and that all persons at that meeting, or
10 any adjournment thereof, shall be given an opportunity to protest
11 or be heard concerning the adoption or rejection of the resolution.

12 (f) An assessment shall not be authorized by the board if at
13 the public meeting required by this section written protest is
14 filed by at least twenty-five percent of the owners of the real
15 property within the district to be benefitted by the proposed
16 project and subject to the assessment. In the event of such
17 protest, the proposed assessment in the same form may not be
18 reconsidered by a board for a period of at least one year from the
19 date of the public meeting.

20 (g) At least thirty days prior to the date of the public
21 meeting, the notice required by this section shall, using
22 reasonable efforts, be mailed to the owners of real property to be
23 assessed for a proposed project as provided in subsection (k) of
24 this section, posted in multiple, conspicuous public locations
25 within such district and published as a Class II legal
26 advertisement in compliance with the provisions of article three,

1 chapter fifty-nine of this code. The publication area for such
2 publication shall be the resort area district.

3 (h) An affidavit of publication of the notice made by
4 newspaper publisher, or a person authorized to do so on behalf of
5 such publisher, and a copy of the notice shall be made part of the
6 minutes of the board and spread on its records of the meeting
7 described in the notice. The service of said notice upon all
8 persons owning any interest in any real property located within the
9 resort area district shall conclusively be deemed to have been
10 given upon completion of mailing as provided in subsection (k) of
11 this section and such newspaper publication.

12 (I) After the public meeting and before the board may adopt a
13 resolution authorizing implementation of assessments, the board
14 shall, using reasonable efforts, mail a true copy of the proposed
15 resolution authorizing implementation of an assessment to the
16 owners of real property in the resort area district as provided in
17 subsection (k) of this section.

18 (j) A board shall make available to the owners of real
19 property within the district a list of all owners of real property
20 within the district for the purposes of enabling such owners of
21 real property to solicit support for a petition proposing or a
22 protest against an assessment.

23 (k) For purposes of the mailing of each notice to owners of
24 real property required by this section, reasonable efforts shall be
25 made to mail such notice to all owners of real property required to
26 receive notice under this section using the real property tax

1 records and land books of the county in which such district is
2 located and any lists maintained by a resort operator or homeowners
3 association within such district. Such notice shall be also mailed
4 to each president of a homeowners association, if any, located
5 within a district which has registered with a resort operator to
6 receive such information. Immaterial defects in the mailing of
7 such notices shall not affect the validity of such notices.

8 **§7-25-16. Provisions for construction of a project.**

9 (a) Prior to beginning construction on a project, the board
10 shall provide by resolution for the construction of the project and
11 shall also provide in the same or subsequent resolutions for the
12 supervision of such work by a professional engineer, governmental
13 agency or any other person designated by the board. The board may
14 provide for the construction of the project by one of the two
15 following methods or any combination thereof:

16 (1) If there exists a governmental agency with the experience,
17 knowledge and authority to construct the project, the board may
18 elect to enter in a contract with such agency for the construction
19 of all, or a part of, the project or for any other service
20 necessary or incident to the construction of the project, in which
21 case such governmental agency shall be responsible for entering
22 into contracts, subject to the board's approval, with such other
23 persons as may be necessary or incident to the construction of the
24 project; or

25 (2) The board may elect to enter into one or more contracts
26 with such contractors and other persons as may be necessary or

1 incident to the construction of the project, in which case it shall
2 solicit competitive bids. All contracts for work on any project,
3 the expense of which will exceed \$50,000, shall be awarded to the
4 lowest qualified responsible bidder who shall furnish a sufficient
5 performance and payment bond. The board may reject any and all
6 bids and if it rejects all bids, notices shall be published as
7 original required before any other bids may be received. The board
8 may let portions of the work necessary to complete a project under
9 different contracts.

10 (b) The resolution described in subsection (a) of this section
11 shall also provide for payment of the cost of the project.

12 (c) Prior to the construction of the project, the board shall
13 obtain such permits and licenses required by law for the
14 construction and operation of the project.

15 (d) No project shall be undertaken by a district that includes
16 a ski slope or ski lift.

17 **§7-25-17. Notice to property owners of assessments; correcting and**
18 **laying assessments; report on project completion.**

19 (a) Prior to the issuance of assessment bonds or the levying
20 of any assessments, the board shall cause a report to be prepared
21 describing each lot or parcel of land located within the resort
22 area district to be assessed for the project and setting forth the
23 total cost of the project based on the contract with the
24 governmental agency, the accepted bid or bids, or a cost estimate
25 certified by a professional engineer, and all other costs incurred
26 prior to the commencement of construction and the future

1 administrative costs, and the respective amounts chargeable upon
2 each lot or parcel of land and the proper amount to be assessed
3 against the respective lots or parcels of land with a description
4 of the lots and parcels of land as to ownership and location. If
5 two or more different kinds of projects are involved, the report
6 shall set forth the portion of the assessment attributable to each
7 respective project. The board shall thereupon give notice as
8 specified below to the owners of real property to be assessed that
9 on or after a date specified in the notice an assessment will be
10 deemed granted against the property. The notice shall state that
11 the owner of assessed property, or other interested party, may on
12 said date appear before the board to move the revision or
13 correction of the proposed assessment and shall show the total cost
14 of the project, whether the assessments will pay for all, or a part
15 of, the total cost of the project and the lots or parcels of
16 property to be assessed and the respective amounts to be assessed
17 against such lots or parcels, with a description of the respective
18 lots and parcels of land as to ownership and location. The notice
19 shall be mailed, using reasonable efforts, to the owners of real
20 property to be assessed for a proposed project as provided in
21 subsection (c) of this section, posted in multiple, conspicuous
22 public locations within such district and published as a Class II
23 legal advertisement in compliance with the provisions of article
24 three, chapter fifty-nine of this code, and the publication area
25 for such publication is the resort area district. On or after the
26 date so advertised, the board may revise, amend, correct and verify

1 the report and proceed by resolution to establish the assessments
2 as corrected and verified and shall certify the same to the
3 governing body which created the district.

4 (b) Upon completion of a project, the board shall prepare a
5 final report certifying the completion of the project and showing
6 the total cost of the project and whether the cost is greater or
7 less than the cost originally estimated. If the total cost of the
8 project is greater or less than the cost shown in the report
9 prepared prior to construction, the board may revise the assessment
10 charged on each lot or parcel of property pursuant to subsection
11 (a) of this section to reflect the total cost of the project as
12 completed, and in doing so shall, in the case of an assessment
13 increase only, follow the same procedure with regard to notice and
14 providing each owner of assessed property the right to appear
15 before the board to move for the revision or correction of such
16 proposed reassessment as required for the original assessment. If
17 the assessment is decreased, the board shall, by resolution and
18 written notice to the sheriff of the county in which the resort
19 area district is located, cause the next installment or
20 installments or assessments then due and payable by each affected
21 property owner to be reduced pro rata, and shall provide written
22 notice to such property owners of the amount of such decrease by
23 the deposit of such notice in the United States mail, postage
24 prepaid.

25 (c) For purposes of the mailing of each notice to owners of
26 real property required by this section, reasonable efforts shall be

1 made to mail such notice to all owners of real property required to
2 receive notice under this section using the real property tax
3 records and land books of the county in which such district is
4 located and any lists maintained by a resort operator or homeowners
5 association within such district. Such notice shall be also mailed
6 to each president of a homeowners association, if any, located
7 within a district which has registered with a resort operator to
8 receive such information. Immaterial defects in the mailing of
9 such notices shall not affect the validity of such notices.

10 **§7-25-18. Exemption of public property from assessments.**

11 No lots or parcels of land owned or controlled by the United
12 States, this state, any municipality, county, county board of
13 education, resort area district or other public body shall be
14 subject to any assessments under this article.

15 **§7-25-19. Assessment bonds and resort service fee bonds; sinking**
16 **fund for assessment bonds and resort service fee**
17 **bonds; tax exemption.**

18 (a) For constructing and acquiring any project authorized by
19 this article the board of any such district is hereby authorized to
20 borrow money, from time to time, and in evidence thereof issue the
21 bonds of such district, payable from the proceeds of the
22 assessments or resort service fees granted under this article.
23 Such bonds shall be issued in one or more series, may bear such
24 date or dates, may mature at such time or times not exceeding
25 thirty years from their respective dates, shall be fully registered

1 as to principal and interest in the name of the bondholder with a
2 certificate of authentication, may bear interest at such rate or
3 rates not exceeding eighteen percent per annum, may be payable at
4 such times, may be executed in such manner, may be payable at such
5 place or places, may be subject to such terms of redemption with or
6 without premium, may be declared or become due before maturity date
7 thereof, may be authenticated in any manner, and upon compliance of
8 such conditions, may contain such terms and covenants as provided
9 in the resolution or resolutions of the board. All such bonds
10 shall be, and shall be treated as, negotiable instruments for all
11 purposes. Bonds bearing the signatures of officers and offices on
12 the dates of the signing thereof shall be valid and binding for all
13 purposes notwithstanding that before the delivery thereof any or
14 all such persons whose signatures appear thereon shall have ceased
15 to be such officers. Notwithstanding the requirements or
16 provisions of any other law, any such bonds may be negotiated or
17 sold in such manner at such time or times and at such price or
18 prices as is found by the board to be most advantageous. Any
19 resolution or resolutions providing for the issuance of such bonds
20 may contain covenants and restrictions upon the issuance of
21 additional bonds thereafter as may be deemed necessary or advisable
22 for the assurance of the payment of the bonds thereby authorized.

23 (b) At or before the time of issuance of any bonds under this
24 article, the board shall by resolution provide for the creation of
25 a sinking fund and for payments into such fund from the assessments
26 or resort service fees granted under this article in such amount as

1 may be sufficient to pay the accruing interest and retire the bonds
2 at or before the time each will respectively become due and to
3 establish or maintain reserves therefor. All sums which are or
4 should be, in accordance with such provisions, paid into such
5 sinking fund shall be used solely for the payment of interest and
6 for the retirement of such bonds at or prior to maturity as may be
7 provided or required by such resolution.

8 (c) The property, including leased property, of the resort
9 area district and bonds and any income or interest thereon issued
10 by the resort area district are exempt from taxation by the state
11 of West Virginia and other taxing bodies of the state.

12 **§7-25-20. Indebtedness of resort area district.**

13 No constitutional or statutory limitation with respect to the
14 nature or amount of or rate of interest on indebtedness which may
15 be incurred by municipalities, counties or other public or
16 governmental bodies shall apply to the indebtedness of a resort
17 area district. No indebtedness of any nature of a resort area
18 district shall constitute an indebtedness of any county creating
19 and establishing such district or a charge against any property of
20 said counties but shall be paid solely from the resort service fee
21 or assessments which the resort area district is authorized to
22 impose on the owners of the property within the district by this
23 article. No indebtedness or obligation incurred by a resort area
24 district shall give any right against any member of the governing
25 body or any member of the board of a resort area district.

26 **§7-25-21. Payment of assessments to sheriff; report to resort area**

1 district; collection of delinquent assessments.

2 (a) The assessments authorized to be imposed pursuant to this
3 article will not be considered to be ad valorem taxes or the
4 equivalent of ad valorem taxes under any provision of this code:
5 Provided, That for the exclusive purposes of collection of the
6 assessments authorized to be imposed under this article and
7 enforcement of the assessment liens created by section twenty-two
8 of this article, the provisions of chapter eleven-a of this code
9 shall apply as if the assessments were taxes as that term is
10 defined in section one, article one of that chapter: Provided, That
11 any property subject to assessments may not be sold to satisfy such
12 lien.

13 (b) The sheriff shall promptly deposit all assessments upon
14 receipt thereof in a segregated account established by the sheriff
15 for such purpose and shall maintain a record of the assessments so
16 received. Each month, the sheriff shall pay all moneys collected
17 for the resort area district into the district treasury or, if the
18 sheriff consents, to a trustee for the benefit of bondholders if
19 assessment bonds are issued by the resort area district.

20 (c) Payments to the resort area district shall be made in the
21 time set forth in section fifteen, article one, chapter eleven-a of
22 this code and the sheriff shall be entitled to take a commission
23 for collection of the assessments on behalf of the resort area
24 district, as provided in section seventeen of said article.

25 (d) For each tax year, the sheriff will prepare and deliver to
26 the board of each resort area district located in the county, a

1 statement setting forth the aggregate amount of assessments
2 received for such district and the name of any property owner who
3 failed to pay the assessments due and payable for the period in
4 question. The report shall be due on or before August 1, of the
5 following year.

6 (e) The sheriff is authorized to collect delinquent
7 assessments and enforce the liens created in section twenty-two of
8 this article as if those assessments were delinquent real property
9 taxes and the taxes are tax liens using the enforcement tools
10 provided in articles two and three, chapter eleven-a of this code.

11 **§7-25-22. Liens; recording notice of liens; priority; release of**
12 **lien; notice to future property owners.**

13 (a) With the exception of property exempt from assessment
14 pursuant to section eighteen of this article, there shall be a lien
15 on all real property located within the resort area district for
16 the assessments imposed by section seventeen of this article, which
17 lien shall attach to those parcels made subject to the assessment
18 on the date specified in the notice to property owners. A notice
19 of the liens of said assessments referring to the assessing
20 resolution and setting forth a list of the property assessed,
21 described respectively as to amounts of assessment, ownership and
22 location of the property, shall be certified, by the chairman and
23 secretary of the board, to the clerk of the county commission of
24 the county wherein the project is located. The county clerk shall
25 record the notice of such lien in the appropriate trust deed book
26 or other appropriate county lien book and index the same in the

1 name of each owner of real property assessed. From the date of an
2 assessment, the trustee, for the benefit of bondholders if
3 assessment bonds are issued by the resort area district, and/or the
4 district shall have such lien and shall be entitled to enforce the
5 same in its, his, her or their name to the extent of the amount,
6 including principal and interest and any penalty due for any
7 failure to pay an installment when due, of such assessments and
8 against the property to which the assessment applies, as to any
9 assessment not paid as and when due. The trustee or the district,
10 as an alternative to the enforcement provision set forth in section
11 twenty-one of this article, are granted all legal remedies as are
12 necessary to collect the assessment. Such assessments shall be and
13 constitute liens for the benefit of the resort area district or the
14 trustee, for the benefit of bondholders if assessment bonds are
15 issued by the resort area district, upon the respective lots and
16 parcels of land assessed and shall have priority over all other
17 liens except to those for land taxes due the state, county and
18 municipality and except any liens for preexisting special
19 assessments provided under this code. If any assessment is revised
20 in accordance with this article, the lien created by this section
21 shall extend to the assessment so revised and shall have the same
22 priority as the priority of the lien created upon the laying of the
23 original assessment. Such assessments and interest thereon shall
24 be paid by the owners of the property assessed as and when the
25 installments are due. Following the payment in full of any
26 assessment bonds including any interest thereon, the chairman and

1 secretary of the board shall execute a release of all liens and
2 shall certify the same to county clerk for recondition.

3 (b) Following the grant of any assessment on property as
4 provided in this article, the seller of such property shall provide
5 reasonable disclosure to the buyer in the real estate contract that
6 an assessment has been granted on the property, the amount of the
7 assessment and the duration of the assessment.

8 **§7-25-23. Resort Area Rangers.**

9 (a) A board is hereby authorized to appoint bona fide
10 residents of this state to act as resort area rangers within its
11 respective resort area district upon any premises which are part of
12 said district, subject to the conditions and restrictions imposed
13 by this section.

14 (b) Before performing the duties of ranger, each appointed
15 person shall qualify for the position of ranger in the same manner
16 as is required of county officers by the taking and filing of an
17 oath of office as required by section three, article one, chapter
18 six of this code and by posting an official bond as required by
19 section one, article two, chapter six of this code. To facilitate
20 the performance of the duties of a ranger, a ranger may carry a
21 firearm or other dangerous weapon while the ranger is on duty.

22 (c) It is the duty of any person appointed and qualified as a
23 ranger hereunder to preserve law and order on any premises which
24 are part of a resort area district. For this purpose, the ranger
25 shall be considered to be a law-enforcement officer in accordance
26 with the provisions of section one, article twenty-nine, chapter

1 thirty of this code and, as to offenses committed within those
2 areas, have and may exercise all the powers and authority and are
3 subject to all the requirements and responsibilities of a
4 law-enforcement officer. The assignment of rangers to the duties
5 authorized by this section may not supersede in any way the
6 authority or duty of other peace officers to preserve law and order
7 on those premises.

8 (d) The salary of all rangers shall be paid by the board. The
9 board shall furnish each ranger with an official uniform to be worn
10 while on duty and shall furnish and require each ranger while on
11 duty to wear a shield with an appropriate inscription and to carry
12 credentials certifying the person's identity and authority as a
13 ranger.

14 (e) The board at its pleasure may revoke the authority of any
15 ranger. The chairman of the board shall report the termination of
16 employment of a ranger by filing a notice to that effect in the
17 office of the clerk of the county in which the ranger's oath of
18 office was filed and in the case of a ranger licensed to carry a
19 firearm or other dangerous weapon, by notifying the clerk of the
20 circuit court of the county in which the license for the firearm or
21 other dangerous weapon was granted.

22 **§7-25-24. Annual audit; books and records.**

23 Each resort area district shall cause an audit of its books
24 and accounts to be made at least once each fiscal year by an
25 independent certified public accountants, and the cost thereof may
26 be defrayed as an administrative cost. All books and records of

1 the resort area district shall be available for inspection by any
2 property owner during reasonable business hours.

3 **§7-25-25. Notice of transfer of change in ownership of property**
4 **within resort area district.**

5 After the resort area district has been formed and organized,
6 as a part of any bylaws, the district's board shall promulgate
7 rules and regulations as a part of its bylaws which require timely
8 notice to the District whenever ownership of property within the
9 District has changed, along with any change in address for any
10 notices required by this article. If a new property owner within
11 the District fails to notify the district board of change in the
12 property's ownership, any notice provided by the District to the
13 previous property owner's last known address shall be deemed
14 sufficient.

15 **§7-25-26. Liberal construction.**

16 This article being necessary for the public health, safety and
17 welfare and economic development, it shall be liberally construed
18 to effectuate the purpose hereof.

19 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

20 **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

21 **§30-29-1. Definitions.**

22 For the purposes of this article, unless a different meaning
23 clearly appears in the context:

24 (1) "Approved law-enforcement training academy" means any
25 training facility which is approved and authorized to conduct law-

1 enforcement training as provided in this article;

2 (2) "Chief executive" means the superintendent of the State
3 Police; the chief natural resources police officer of the Division
4 of Natural Resources; the sheriff of any West Virginia county; any
5 administrative deputy appointed by the chief natural resources
6 police officer of the Division of Natural Resources; or the chief
7 of any West Virginia municipal law-enforcement agency;

8 (3) "County" means the fifty-five major political subdivisions
9 of the state;

10 (4) "Exempt rank" means any noncommissioned or commissioned
11 rank of sergeant or above;

12 (5) "Governor's committee on crime, delinquency and
13 correction" or "Governor's committee" means the Governor's
14 committee on crime, delinquency and correction established as a
15 state planning agency pursuant to section one, article nine,
16 chapter fifteen of this code;

17 (6) "Law-enforcement officer" means any duly authorized member
18 of a law-enforcement agency who is authorized to maintain public
19 peace and order, prevent and detect crime, make arrests and enforce
20 the laws of the state or any county or municipality thereof, other
21 than parking ordinances, and includes those persons employed as
22 campus police officers at state institutions of higher education in
23 accordance with the provisions of section five, article four,
24 chapter eighteen-b of this code, and persons employed by the Public
25 Service Commission as motor carrier inspectors and weight
26 enforcement officers charged with enforcing commercial motor

1 vehicle safety and weight restriction laws although those
2 institutions and agencies may not be considered law-enforcement
3 agencies. The term also includes those persons employed as rangers
4 by the Hatfield-McCoy Regional Recreation Authority in accordance
5 with the provisions of section six, article fourteen, chapter
6 twenty of this code, or by resort area districts in accordance with
7 the provisions of section twenty-three, article twenty-five,
8 chapter seven of this code, although neither the authority nor any
9 resort area district may ~~not~~ be considered a law-enforcement
10 agency: *Provided,* That the subject rangers shall pay the tuition
11 and costs of training. As used in this article, the term "law-
12 enforcement officer" does not apply to the chief executive of any
13 West Virginia law-enforcement agency or any watchman or special
14 natural resources police officer;

15 (7) "Law-enforcement official" means the duly appointed chief
16 administrator of a designated law-enforcement agency or a duly
17 authorized designee;

18 (8) "Municipality" means any incorporated town or city whose
19 boundaries lie within the geographic boundaries of the state;

20 (9) "Subcommittee" or "law-enforcement professional standards
21 subcommittee" means the subcommittee of the Governor's committee on
22 crime, delinquency and correction created by section two of this
23 article; and

24 (10) "West Virginia law-enforcement agency" means any duly
25 authorized state, county or municipal organization employing one or
26 more persons whose responsibility is the enforcement of laws of the

1 state or any county or municipality thereof: *Provided*, That neither
2 the Hatfield-McCoy Regional Recreation Authority, the Public
3 Service Commission nor any state institution of higher education
4 nor any resort area district is a law-enforcement agency.