

**H. B. 2600**

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

[Introduced February 22, 2013; referred to the  
Committee on Political Subdivisions then the Judiciary.]

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

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

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

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

18 That the Code of West Virginia, 1931, as amended, be amended  
19 by adding thereto a new article, designated §7-25-1, §7-25-2,  
20 §7-25-3, §7-25-4, §7-25-5, §7-25-6, §7-25-7, §7-25-8, §7-25-9,  
21 §7-25-10, §7-25-11, §7-25-12, §7-25-13, §7-25-14, §7-25-15,  
22 §7-25-16, §7-25-17, §7-25-18, §7-25-19, §7-25-20, §7-25-21,  
23 §7-25-22, §7-25-23, §7-25-24 and §7-25-25; and that §30-29-1 of  
24 said code be amended and reenacted, all to read as follows:

1 **ARTICLE 25. RESORT AREA DISTRICTS.**

2 **§7-25-1. Short Title.**

3 This article shall be known and cited as the "Resort Area  
4 District Act".

5 **§7-25-2. Findings.**

6 The Legislature finds that:

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

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

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

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

22 (e) This article is necessary for the public health, safety  
23 and welfare and economic development of West Virginia's resorts and  
24 other recreational areas.

1 **§7-25-3. Definitions.**

2 For purposes of this article:

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

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

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

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

16 (e) "Cost" means the cost of:

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

18 (2) Construction, reconstruction, renovation and acquisition  
19 of all lands, structures, real or personal property, rights,  
20 rights-of-way, franchises, easements and interests acquired or to  
21 be acquired by a resort area district;

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

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

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

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

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

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

12       (9) Plans, specifications, studies, surveys and estimates of  
13 costs and revenues;

14       (10) Administrative expenses necessary or incident to any  
15 project or service; and

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

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

20       (g) "Governmental agency" means the state government or any  
21 agency, department, division or unit thereof; counties;  
22 municipalities; any watershed enhancement districts, soil  
23 conservation districts, sanitary districts, public service  
24 districts, drainage districts, school districts, urban renewal

1 authorities or regional governmental authorities established  
2 pursuant to this code.

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

11 (i) "Parcel" shall mean:

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

15 (2) A unit within a multiunit property.

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

19 (k) "Project" means the design, construction, reconstruction,  
20 establishment, acquisition, improvement, renovation, extension,  
21 enlargement, equipping, maintenance, repair (including  
22 replacements) and start-up operation of public buildings, culverts,  
23 streets, bridges (including approaches, causeways, viaducts,  
24 underpasses and connecting roadways), motor vehicle parking

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

18 (l) "Purchase price" means the measure subject to the resort  
19 service fee authorized to be imposed by this article and has the  
20 same meaning as sales price. For purposes of this article, the  
21 purchase price of a good or service shall not include the taxes  
22 levied under articles fifteen or fifteen-a of chapter eleven of  
23 this code or any other provision of law.

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



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

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

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

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

10       (4) Is a destination location containing each of the  
11 following:

12       (i) Residential, improved real property;

13       (ii) One or more resort operators;

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

16       (iv) Unimproved real property which remains developable;

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

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

23       (p) "Resort operator" means any person owning and operating  
24 the primary outdoor recreational facilities in a resort area and

1 offering outdoor recreational services such as skiing, golf or  
2 boating to the general public.

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

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

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

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

13 (4) Retail establishments;

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

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

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

22 (s) "Service" includes, but is not limited to, snow removal;  
23 operation and maintenance of public transportation; maintenance,  
24 upgrade and beautification of public common areas; maintenance and

1 repair of roads and sidewalks; providing for the collection and  
2 disposal of garbage and other refuse matter; recycling; operation,  
3 upgrade and maintenance of any projects or improvements; and any  
4 other public service authorized by this article. For purposes of  
5 this article, a common area shall not include a ski slope.

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

8 **§7-25-4. Power and authority of county commissions to create and**  
9 **establish resort area districts.**

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

17 (b) Unless agreed to by each affected municipality, the power  
18 and authority hereby conferred on a county shall not extend into  
19 territory within the boundaries of any municipality: *Provided,*  
20 That notwithstanding any provision in this code to the contrary,  
21 the power and authority hereby conferred on counties may extend  
22 within the territory of a public service district created under  
23 section two, article thirteen-a, chapter sixteen of this code.

24 **§7-25-5. Petition for creation or expansion of resort area**

1                   **district; petition requirements.**

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

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

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

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

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

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

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

22           (6) The proposed rate or rates, not to exceed five percent of  
23 the purchase price, of the resort service fee and the proposed  
24 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.**

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

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

21       (c) At least sixty days prior to the date of the meeting the  
22 notice required by this section shall, using reasonable efforts, be  
23 mailed to each owner of real property to be included in the  
24 proposed resort area district as provided in subsection (g) of this

1 section, posted in multiple, conspicuous public locations within  
2 such proposed district and published as a Class II legal  
3 advertisement in compliance with the provisions of article three,  
4 chapter fifty-nine of this code and the publication area for such  
5 publication shall be the county in which the proposed resort area  
6 district is located. The notice shall be in the form of, or  
7 substantially in the form of, the following notice:

8

9 "NOTICE TO ALL PERSONS OWNING PROPERTY LOCATED WITHIN .....  
10 (here describe the boundaries of the proposed resort area district)  
11 IN THE COUNTY OF ..... (name of county):

12

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

23

24 The petition to create a resort area district will be

1 considered by the county commission at a public meeting to be held  
2 on the ..... day of ....., ....., at ... m. at ..... Any  
3 owner of real property whose property may be affected by the  
4 creation of the above-described resort area district, and any owner  
5 of real property whose property is not located within said resort  
6 area district but wishes his or her property to be included, will  
7 be given an opportunity, under oath, to protest or be heard at said  
8 meeting or any adjournment thereof:

9 ..... (name of clerk)

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

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

22 (f) After the public meeting and before the governing body may  
23 adopt an order creating a resort area district, the governing body  
24 shall, using reasonable efforts, mail a true copy of the proposed



1 order creating the resort area district to the owners of real  
2 property in the proposed district as provided in subsection (g) of  
3 this section and shall post copies of such proposed order in  
4 multiple, conspicuous public locations within such proposed  
5 district. Unless waived in writing, any petitioning owner of real  
6 property shall have thirty days from mailing of the proposed order  
7 in which to withdraw his or her signature from the petition in  
8 writing prior to the vote of the governing body on such order. If  
9 any signatures on the petition are so withdrawn, the governing body  
10 may adopt the proposed order only upon certification by the  
11 petitioners that the petition otherwise continues to meet the  
12 requirements of this article. If all petitioning owners of real  
13 property waive the right to withdraw their signatures from the  
14 petition, then the governing body may immediately adopt the order.

15 (g) For purposes of the mailing of each notice to owners of  
16 real property required by this section, reasonable efforts shall be  
17 made to mail such notice to all owners of real property proposed to  
18 be included within such resort area district using the real  
19 property tax records and land books of the county in which such  
20 proposed district is located and any lists maintained by a resort  
21 operator or homeowners association within such proposed district.  
22 Such notice shall be also mailed to each president of a homeowners  
23 association, if any, located within a proposed district which has  
24 registered with a resort operator to receive such information.

1 Immaterial defects in the mailing of such notices shall not affect  
2 the validity of such notices.

3 **§7-25-7. Creation of resort area district; resort area district to**  
4 **be a public corporation and political subdivision.**

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

7 (b) From and after the date of the adoption of the order  
8 creating a resort area district, it shall thereafter be a public  
9 corporation and political subdivision of the state, but without any  
10 power to levy or collect ad valorem taxes.

11 **§7-25-8. Powers of resort area district.**

12 Each resort area district may:

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

14 (b) Sue and be sued, and be a party to suits, actions and  
15 proceedings;

16 (c) Purchase insurance;

17 (d) Enter into agreements, contracts or other transactions  
18 with any person or governmental agency necessary or incident to the  
19 provision of services or the development, planning, construction,  
20 acquisition or improvement of a project or for the operation,  
21 maintenance or disposition of a project or for any other services  
22 required by a project, or to carry out any purposes of the  
23 district;

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

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

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

6       (h) Accept from any public or private source appropriations,  
7 grants, gifts, bequests, devises, loans, contributions and any  
8 other benefits available for use in furtherance of district  
9 purposes, and to use or dispose of the same to carry out district  
10 purposes;

11       (i) Expend funds to pay the costs of providing services within  
12 the district and to acquire, or construct part of a project on  
13 property located within or outside of a district, and for any work  
14 undertaken thereon, as may be necessary or incident to the  
15 completion of a project;

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

19       (k) Borrow money and incur indebtedness and other obligations  
20 and evidence the same by certificates, notes or debentures;

21       (l) Raise funds by the issuance and sale of assessment bonds  
22 and resort service fee bonds;

23       (m) Annually, on or before June 7, certify to the sheriff of  
24 the county in which the property is located the assessments granted

1 against all property in the district for inclusion in the tax  
2 ticket;

3 (n) Charge interest and levy fines and penalties on unpaid  
4 assessments;

5 (o) Create and enforce liens for unpaid assessments;

6 (p) Adopt bylaws not inconsistent with law;

7 (q) Implement, administer and collect a resort service fee for  
8 the purpose of providing funds for the provision of services and to  
9 design, plan, finance, develop, construct, acquire, extend, improve  
10 and complete a project or projects within a resort area district;

11 (r) Acquire, own or hold, in its corporate name, real or  
12 personal property, including easements and rights-of-way, by  
13 purchase, lease, gift or otherwise, within or without a resort area  
14 district for district purposes, as well as obtain options for the  
15 acquisition of real property;

16 (s) Provide services necessary to protect the health and  
17 welfare of residents in a resort area district and the value of  
18 property therein and to enter into agreements with any governmental  
19 agency, public or private agency, institution or person for the  
20 furnishing of such services;

21 (t) Provide for the public safety, including the appointment  
22 of resort area rangers;

23 (u) Provide for public recreation by means of parks,  
24 including, but not limited to, playgrounds, golf courses, swimming

1 pools, skating rinks or recreation buildings;

2 (v) Provide for the opening, widening, extending,  
3 straightening and surfacing in whole, or in part of, any street and  
4 snow removal or clearance for the same or other roads or streets;

5 (w) Provide for the construction and improvement of street  
6 lights, bridges, culverts, curbs, gutters, drains and works  
7 incidental to any street improvement; and

8 (x) Do any and all other things necessary to carry out the  
9 purposes of this article and not in violation of the Constitution  
10 of this state as may be necessary or incident to the provision of  
11 services or the construction and completion of a project.

12 **§7-25-9. Official name of resort area districts.**

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

16 **§7-25-10. Resort area boards.**

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

1       (b) The composition of a resort area board shall be as  
2 follows:

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

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

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

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

14       (c) For purposes of this section, if a parcel of real property  
15 is owned by one or more entities (such as a corporation, limited  
16 liability companies, or other entity), then the following are also  
17 eligible to serve on the board as an owner with respect to such  
18 parcel: (1) Any person having an ultimate beneficial interest in  
19 the parcel, whether directly or indirectly and regardless of the  
20 number of intermediate ownership entities; and (2) any person  
21 designated at the outset of the election as authorized, by an  
22 owning entity, to serve on the board as an owner for that  
23 particular parcel. Nothing in this provision, however, creates any  
24 additional voting rights to the owners of a single parcel of real

1 property, and each parcel of real property shall be entitled to  
2 only one vote, regardless of the number of owners participating in  
3 ownership of the parcel. Furthermore, nothing in this provision  
4 authorizes the owners of real property of one type (such as the  
5 resort operator, owners of residential improved real estate, or  
6 owners of unimproved, developable real estate) to vote regarding a  
7 board position reserved to another ownership category.

8 (d) The board members shall be elected for terms of four years  
9 each and thereafter until their respective successors have been  
10 elected and have been qualified, except, that of the board members  
11 elected at the initial election meeting, two shall serve for a term  
12 of two years, two shall serve for a term of three years and three  
13 shall serve for a term of four years. At the first meeting of the  
14 board, the board members shall determine by lot which of them shall  
15 serve the terms less than four years. Each succeeding term is four  
16 years. Board members may be reelected for any number of terms. In  
17 the event a board member who is required to own real property  
18 within the district to be eligible for such board position no  
19 longer owns real property within the district, such member may  
20 serve out the remainder of his or her term.

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

24 (f) Elections for board members shall be held in accordance

1 with bylaws adopted by the board, but section eleven of this  
2 article shall govern the initial election of board members. The  
3 voting restrictions set forth in subsections (d) and (e) of section  
4 eleven of this article shall apply to all board elections and may  
5 not be altered.

6 (g) Before entering upon the performance of his or her duties,  
7 each member shall take and subscribe to the oath required by  
8 Section five, Article IV of the Constitution of this state.  
9 Vacancies shall be filled by appointment by the board for the  
10 unexpired term of the member whose office shall be vacant and such  
11 appointment shall be made within thirty days of the occurrence of  
12 such vacancy. Any such member may be removed by the board in case  
13 of incompetency, neglect of duty, gross immorality or malfeasance  
14 in office.

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



1 secretary and treasurer shall perform such other duties pertaining  
2 to the affairs of the resort area district as shall be prescribed  
3 by the board.

4 (i) The initial board shall adopt bylaws for the district;  
5 Provided, That the adoption of such bylaws and any subsequent  
6 amendments thereto shall require approval by six sevenths of the  
7 board.

8 (j) The members of the board, and the chairman, secretary and  
9 treasurer thereof, shall make available, at all reasonable times  
10 and upon reasonable notice, all of its books and records pertaining  
11 to the resort area district's operation, finances and affairs for  
12 inspection and audit. The board shall meet at least semiannually.

13 (k) A majority of the members of the board constitutes a  
14 quorum and meetings shall be held at the call of the chairman.

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

20 (m) The chairman shall preside at all meetings of the board  
21 and shall vote as any other members of the board, but if he or she  
22 should be absent from any meeting the remaining members may select  
23 a temporary chairman, and if the member selected as chairman  
24 resigns as chairman or ceases for any reason to be a member of the

1 board, the board shall select one of its members to serve as  
2 chairman until the next annual organizational meeting.

3 (n) The board shall, by resolution, determine its own rules of  
4 procedure, fix the time and place of its meetings and the manner in  
5 which special meeting may be called. The members of the board  
6 shall not be personally liable or responsible for any obligations  
7 of the resort area district or the board but are answerable only  
8 for willful misconduct in the performance of their duties.

9 (o) The members of the board shall serve without compensation  
10 but shall receive reimbursement for actual and necessary expenses  
11 incurred in connection with the performance of their duties.

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

20 **§7-25-11. Election procedure for initial members of resort area**  
21 **board.**

22 (a) Within ninety days of the adoption of the order creating  
23 the resort area district, a public meeting shall be held at which  
24 elections for the initial members of the board shall be held. Such

1 meeting shall be held at a location within the district not less  
2 than twenty days after the publication of the notice required by  
3 subsection (b) of this section.

4 (b) Prior to the meeting required by this section, the  
5 petitioners for the creation of the resort area district shall,  
6 using reasonable efforts, cause notice of the initial election  
7 meeting to be given to all owners of real property, including  
8 owners of commercial business property, located within the  
9 district. Such notice shall be mailed to each owner of real  
10 property included in the resort area district as provided in  
11 subsection (h) of this section, posted in multiple, conspicuous  
12 public locations within such district and published at least thirty  
13 days prior to the date of the meeting as a Class II legal  
14 advertisement in compliance with the provisions of article three,  
15 chapter fifty-nine of this code and the publication area for such  
16 publication shall be the resort area district. The notice shall  
17 provide, at a minimum, the following information:

18 (1) The purpose of the meeting;

19 (2) Descriptions of the board positions;

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

23 (4) The location of the meeting; and

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

1       (c) At the meeting required by this section, nominations shall  
2 be made for each board position. Persons nominated for board  
3 positions shall meet the criteria provided for each board position  
4 as set forth in subsection (b), section ten of this article.  
5 Nominations shall be made for each board position in the following  
6 manner:

7       (1) Only owners of residential, improved real property located  
8 within the resort area district may nominate persons for the three  
9 board positions provided for owners of or representatives of owners  
10 of residential, improved real property located within the resort  
11 area district;

12       (2) Only representatives of the resort operator or resort  
13 operators may nominate persons for the two board positions provided  
14 for representatives of the resort operator or resort operators  
15 located within the resort area district;

16       (3) Only owners of commercial business property located within  
17 the resort area district may nominate persons for the board  
18 position provided for an owner of or a representative of owners of  
19 commercial business property located within the resort area  
20 district; and

21       (4) Only owners of unimproved, developable real property  
22 located within the resort area district may nominate persons for  
23 the board position provided for an owner of or a representative of  
24 owners of unimproved, developable real property located within the

1 resort area district.

2 (d) Following board member nominations, a vote shall be taken  
3 by written ballot for board members to be elected. Voting shall  
4 occur in the following manner:

5 (1) Only owners of residential, improved real property located  
6 within the resort area district may vote for the three board  
7 positions provided for owners of or representatives of owners of  
8 residential, improved real property located within the resort area  
9 district. Each owner is entitled to one vote per unit or parcel of  
10 residential, improved real property he or she owns;

11 (2) Only a representative of each resort operator may vote for  
12 the two board positions provided for representatives of the resort  
13 operator or resort operators located within the resort area  
14 district;

15 (3) Only owners of commercial business property located within  
16 the resort area district may vote for the board position provided  
17 for an owner of or a representative of owners of commercial  
18 business property located within the resort area district. Each  
19 owner is entitled to one vote per unit of commercial business  
20 property he or she owns; and

21 (4) Only owners of unimproved, developable real property  
22 located within the resort area may vote for the board position  
23 provided for an owner of or a representative of owners of  
24 unimproved, developable real property located within the resort

1 area district. Each owner is entitled to one vote per parcel of  
2 unimproved, developable real property that he or she owns.

3 (e) For purposes of voting:

4 (1) The owners of each parcel or unit of real property are  
5 entitled one vote, irrespective of the number of owners of such  
6 parcel or unity;

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

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

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

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

17 (h) For purposes of the mailing of notice to owners of real  
18 property required by this section, reasonable efforts shall be made  
19 to mail such notice to all owners of real property included within  
20 such resort area district using the real property tax records and  
21 land books of the county in which such district is located and any  
22 lists maintained by a resort operator or homeowners association  
23 within such district. Such notice shall be also mailed to each  
24 president of a homeowners association, if any, located within a

1 district which has registered with a resort operator to receive  
2 such information. Immaterial defects in the mailing of such  
3 notices shall not affect the validity of such notices.

4 **§7-25-12. Resort area districts authorized to levy resort service**  
5 **fee; procedure for implementation and cessation of**  
6 **resort service fee; abstract and notice of**  
7 **implementing resolution; rate of resort service fee;**  
8 **permissible uses; limitations on imposition.**

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

12 (b) No resort service fee shall be implemented within a resort  
13 area district without approval by six sevenths of the board. If six  
14 sevenths of the board has approved the implementation of a resort  
15 service fee, the board shall adopt a resolution specifying the  
16 following:

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

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

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

1       (c) A board may repeal the resolution authorizing  
2 implementation of a resort service fee upon approval by six  
3 sevenths of the board: *Provided*, That such resolution may not be  
4 repealed if a district has outstanding resort service fee bonds and  
5 the terms of such bonds restrict the repeal of such resolution.

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

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

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

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

24       (1) Paying all or a portion of the costs of providing a



1 service or services within the district; or

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

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

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

10 **§7-25-13. Resort service fee administration.**

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

17 (b) The administrative resolution shall specify:

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

20 (2) The office, officer or employee of the district  
21 responsible for collecting and accounting for the resort service  
22 fee receipts;

23 (3) The office, officer or employee of the district  
24 responsible for enforcing collection of resort service fees and the

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

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

6 (c) The administrative resolution may include:

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

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

12 **§7-25-14. Implementation and provision of services within resort**  
13 **area district; adoption of annual budget.**

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

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

19 (1) The services to be offered;

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

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

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

1 (d) Services to be offered by a resort area district shall not  
2 be inconsistent with those permitted under the bylaws of the  
3 district or this article and shall not include the operation or  
4 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.

8 **§7-25-15. Authorization to implement assessments for projects;**  
9 **procedures for implementing assessments; by-laws to**  
10 **provide additional procedures for implementation of**  
11 **assessments; notice to property owners before**  
12 **implementation of assessments for projects; affidavit**  
13 **of publication.**

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

18 (b) The bylaws of a district:

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

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

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

9       (d) Upon following the procedures provided in this section and  
10 a resort area district's bylaws for the implementation of an  
11 assessment to pay the costs of a project, the board may, after  
12 giving notice to all real property owners and holding a public  
13 meeting as required by this section, adopt a resolution authorizing  
14 such assessment to pay the costs of a project upon approval by six  
15 sevenths of the board.

16       (e) Before the adoption of a resolution authorizing an  
17 assessment to pay the costs of a project, the board shall cause  
18 notice to be given to the owners of real property located within  
19 the resort area district that such resolution will be considered  
20 for adoption at a public meeting of the board at a date, time and  
21 place named in the notice and that all persons at that meeting, or  
22 any adjournment thereof, shall be given an opportunity to protest  
23 or be heard concerning the adoption or rejection of the resolution.

24       (f) An assessment shall not be authorized by the board if at

1 the public meeting required by this section written protest is  
2 filed by at least twenty-five percent of the owners of the real  
3 property within the district to be benefitted by the proposed  
4 project and subject to the assessment. In the event of such  
5 protest, the proposed assessment in the same form may not be  
6 reconsidered by a board for a period of at least one year from the  
7 date of the public meeting.

8 (g) At least thirty days prior to the date of the public  
9 meeting, the notice required by this section shall, using  
10 reasonable efforts, be mailed to the owners of real property to be  
11 assessed for a proposed project as provided in subsection (k) of  
12 this section, posted in multiple, conspicuous public locations  
13 within such district and published as a Class II legal  
14 advertisement in compliance with the provisions of article three,  
15 chapter fifty-nine of this code. The publication area for such  
16 publication shall be the resort area district.

17 (h) An affidavit of publication of the notice made by  
18 newspaper publisher, or a person authorized to do so on behalf of  
19 such publisher, and a copy of the notice shall be made part of the  
20 minutes of the board and spread on its records of the meeting  
21 described in the notice. The service of said notice upon all  
22 persons owning any interest in any real property located within the  
23 resort area district shall conclusively be deemed to have been  
24 given upon completion of mailing as provided in subsection (k) of

1 this section and such newspaper publication.

2 (i) After the public meeting and before the board may adopt a  
3 resolution authorizing implementation of assessments, the board  
4 shall, using reasonable efforts, mail a true copy of the proposed  
5 resolution authorizing implementation of an assessment to the  
6 owners of real property in the resort area district as provided in  
7 subsection (k) of this section.

8 (j) A board shall make available to the owners of real  
9 property within the district a list of all owners of real property  
10 within the district for the purposes of enabling such owners of  
11 real property to solicit support for a petition proposing or a  
12 protest against an assessment.

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

24 **§7-25-16. Provisions for construction of a project.**

1       (a) Prior to beginning construction on a project, the board  
2 shall provide by resolution for the construction of the project and  
3 shall also provide in the same or subsequent resolutions for the  
4 supervision of such work by a professional engineer, governmental  
5 agency or any other person designated by the board. The board may  
6 provide for the construction of the project by one of the two  
7 following methods or any combination thereof:

8       (1) If there exists a governmental agency with the experience,  
9 knowledge and authority to construct the project, the board may  
10 elect to enter in a contract with such agency for the construction  
11 of all, or a part of, the project or for any other service  
12 necessary or incident to the construction of the project, in which  
13 case such governmental agency shall be responsible for entering  
14 into contracts, subject to the board's approval, with such other  
15 persons as may be necessary or incident to the construction of the  
16 project; or

17       (2) The board may elect to enter into one or more contracts  
18 with such contractors and other persons as may be necessary or  
19 incident to the construction of the project, in which case it shall  
20 solicit competitive bids. All contracts for work on any project,  
21 the expense of which will exceed \$50,000, shall be awarded to the  
22 lowest qualified responsible bidder who shall furnish a sufficient  
23 performance and payment bond. The board may reject any and all  
24 bids and if it rejects all bids, notices shall be published as

1 original required before any other bids may be received. The board  
2 may let portions of the work necessary to complete a project under  
3 different contracts.

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

6 (c) Prior to the construction of the project, the board shall  
7 obtain such permits and licenses required by law for the  
8 construction and operation of the project.

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

11 **§7-25-17. Notice to property owners of assessments; correcting and**  
12 **laying assessments; report on project completion.**

13 (a) Prior to the issuance of assessment bonds or the levying  
14 of any assessments, the board shall cause a report to be prepared  
15 describing each lot or parcel of land located within the resort  
16 area district to be assessed for the project and setting forth the  
17 total cost of the project based on the contract with the  
18 governmental agency, the accepted bid or bids, or a cost estimate  
19 certified by a professional engineer, and all other costs incurred  
20 prior to the commencement of construction and the future  
21 administrative costs, and the respective amounts chargeable upon  
22 each lot or parcel of land and the proper amount to be assessed  
23 against the respective lots or parcels of land with a description  
24 of the lots and parcels of land as to ownership and location. If



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

1 governing body which created the district.

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

23 (c) For purposes of the mailing of each notice to owners of  
24 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

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

1       (b) At or before the time of issuance of any bonds under this  
2 article, the board shall by resolution provide for the creation of  
3 a sinking fund and for payments into such fund from the assessments  
4 or resort service fees granted under this article in such amount as  
5 may be sufficient to pay the accruing interest and retire the bonds  
6 at or before the time each will respectively become due and to  
7 establish or maintain reserves therefor. All sums which are or  
8 should be, in accordance with such provisions, paid into such  
9 sinking fund shall be used solely for the payment of interest and  
10 for the retirement of such bonds at or prior to maturity as may be  
11 provided or required by such resolution.

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

16 **§7-25-20. Indebtedness of resort area district.**

17       No constitutional or statutory limitation with respect to the  
18 nature or amount of or rate of interest on indebtedness which may  
19 be incurred by municipalities, counties or other public or  
20 governmental bodies shall apply to the indebtedness of a resort  
21 area district. No indebtedness of any nature of a resort area  
22 district shall constitute an indebtedness of any county creating  
23 and establishing such district or a charge against any property of  
24 said counties but shall be paid solely from the resort service fee

1 or assessments which the resort area district is authorized to  
2 impose on the owners of the property within the district by this  
3 article. No indebtedness or obligation incurred by a resort area  
4 district shall give any right against any member of the governing  
5 body or any member of the board of a resort area district.

6 **§7-25-21. Payment of assessments to sheriff; report to resort area**  
7 **district; collection of delinquent assessments.**

8 (a) The assessments authorized to be imposed pursuant to this  
9 article will not be considered to be ad valorem taxes or the  
10 equivalent of ad valorem taxes under any provision of this code:  
11 Provided, That for the exclusive purposes of collection of the  
12 assessments authorized to be imposed under this article and  
13 enforcement of the assessment liens created by section twenty-two  
14 of this article, the provisions of chapter eleven-a of this code  
15 shall apply as if the assessments were taxes as that term is  
16 defined in section one, article one of that chapter.

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

24 (c) Payments to the resort area district shall be made in the

1 time set forth in section fifteen, article one, chapter eleven-a of  
2 this code and the sheriff shall be entitled to take a commission  
3 for collection of the assessments on behalf of the resort area  
4 district, as provided in section seventeen of said article.

5 (d) For each tax year, the sheriff will prepare and deliver to  
6 the board of each resort area district located in the county, a  
7 statement setting forth the aggregate amount of assessments  
8 received for such district and the name of any property owner who  
9 failed to pay the assessments due and payable for the period in  
10 question. The report shall be due on or before August 1, of the  
11 following year.

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

17 **§7-25-22. Liens; recording notice of liens; priority; release of**  
18 **lien; notice to future property owners.**

19 (a) With the exception of property exempt from assessment  
20 pursuant to section eighteen of this article, there shall be a lien  
21 on all real property located within the resort area district for  
22 the assessments imposed by section seventeen of this article, which  
23 lien shall attach to those parcels made subject to the assessment  
24 on the date specified in the notice to property owners. A notice

1 of the liens of said assessments referring to the assessing  
2 resolution and setting forth a list of the property assessed,  
3 described respectively as to amounts of assessment, ownership and  
4 location of the property, shall be certified, by the chairman and  
5 secretary of the board, to the clerk of the county commission of  
6 the county wherein the project is located. The county clerk shall  
7 record the notice of such lien in the appropriate trust deed book  
8 or other appropriate county lien book and index the same in the  
9 name of each owner of real property assessed. From the date of an  
10 assessment, the trustee, for the benefit of bondholders if  
11 assessment bonds are issued by the resort area district, and/or the  
12 district shall have such lien and shall be entitled to enforce the  
13 same in its, his, her or their name to the extent of the amount,  
14 including principal and interest and any penalty due for any  
15 failure to pay an installment when due, of such assessments and  
16 against the property to which the assessment applies, as to any  
17 assessment not paid as and when due. The trustee or the district,  
18 as an alternative to the enforcement provision set forth in section  
19 twenty-one of this article, are granted all legal remedies as are  
20 necessary to collect the assessment. Such assessments shall be and  
21 constitute liens for the benefit of the resort area district or the  
22 trustee, for the benefit of bondholders if assessment bonds are  
23 issued by the resort area district, upon the respective lots and  
24 parcels of land assessed and shall have priority over all other



1 liens except to those for land taxes due the state, county and  
2 municipality and except any liens for preexisting special  
3 assessments provided under this code. If any assessment is revised  
4 in accordance with this article, the lien created by this section  
5 shall extend to the assessment so revised and shall have the same  
6 priority as the priority of the lien created upon the laying of the  
7 original assessment. Such assessments and interest thereon shall  
8 be paid by the owners of the property assessed as and when the  
9 installments are due. Following the payment in full of any  
10 assessment bonds including any interest thereon, the chairman and  
11 secretary of the board shall execute a release of all liens and  
12 shall certify the same to county clerk for recordation.

13 (b) Following the grant of any assessment on property as  
14 provided in this article, the seller of such property shall provide  
15 reasonable disclosure to the buyer in the real estate contract that  
16 an assessment has been granted on the property, the amount of the  
17 assessment and the duration of the assessment.

18 **§7-25-23. Resort Area Rangers.**

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

24 (b) Before performing the duties of ranger, each appointed

1 person shall qualify for the position of ranger in the same manner  
2 as is required of county officers by the taking and filing of an  
3 oath of office as required by section three, article one, chapter  
4 six of this code and by posting an official bond as required by  
5 section one, article two, chapter six of this code. To facilitate  
6 the performance of the duties of a ranger, a ranger may carry a  
7 firearm or other dangerous weapon while the ranger is on duty.

8       (c) It is the duty of any person appointed and qualified as a  
9 ranger hereunder to preserve law and order on any premises which  
10 are part of a resort area district and immediately adjacent public  
11 lands. For this purpose, the ranger shall be considered to be a  
12 law-enforcement officer in accordance with the provisions of  
13 section one, article twenty-nine, chapter thirty of this code and,  
14 as to offenses committed within those areas, have and may exercise  
15 all the powers and authority and are subject to all the  
16 requirements and responsibilities of a law-enforcement officer.  
17 The assignment of rangers to the duties authorized by this section  
18 may not supersede in any way the authority or duty of other peace  
19 officers to preserve law and order on those premises.

20       (d) The salary of all rangers shall be paid by the board. The  
21 board shall furnish each ranger with an official uniform to be worn  
22 while on duty and shall furnish and require each ranger while on  
23 duty to wear a shield with an appropriate inscription and to carry  
24 credentials certifying the person's identity and authority as a

1 ranger.

2 (e) The board at its pleasure may revoke the authority of any  
 3 ranger. The chairman of the board shall report the termination of  
 4 employment of a ranger by filing a notice to that effect in the  
 5 office of the clerk of the county in which the ranger's oath of  
 6 office was filed and in the case of a ranger licensed to carry a  
 7 firearm or other dangerous weapon, by notifying the clerk of the  
 8 circuit court of the county in which the license for the firearm or  
 9 other dangerous weapon was granted.

10 **§7-25-24. Annual audit.**

11 Each resort area district shall cause an audit of its books  
 12 and accounts to be made at least once each fiscal year by certified  
 13 public accountants, and the cost thereof may be defrayed as an  
 14 administrative cost.

15 **§7-25-25. 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:

1           (1) "Approved law-enforcement training academy" means any  
2 training facility which is approved and authorized to conduct law-  
3 enforcement training as provided in this article;

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

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

12          (4) "Exempt rank" means any noncommissioned or commissioned  
13 rank of sergeant or above;

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

19          (6) "Law-enforcement officer" means any duly authorized member  
20 of a law-enforcement agency who is authorized to maintain public  
21 peace and order, prevent and detect crime, make arrests and enforce  
22 the laws of the state or any county or municipality thereof, other  
23 than parking ordinances, and includes those persons employed as  
24 campus police officers at state institutions of higher education in

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

19 (7) "Law-enforcement official" means the duly appointed chief  
20 administrator of a designated law-enforcement agency or a duly  
21 authorized designee;

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

24 (9) "Subcommittee" or "law-enforcement professional standards

1 subcommittee" means the subcommittee of the Governor's committee on  
2 crime, delinquency and correction created by section two of this  
3 article; and

4 (10) "West Virginia law-enforcement agency" means any duly  
5 authorized state, county or municipal organization employing one or  
6 more persons whose responsibility is the enforcement of laws of the  
7 state or any county or municipality thereof: *Provided*, That neither  
8 the Hatfield-McCoy Regional Recreation Authority, the Public  
9 Service Commission nor any state institution of higher education or  
10 resort area district is a law-enforcement agency.

NOTE: The purpose of this bill is to authorize county commissions to create resort area districts; provide for the petition process for creation or expansion of resort area districts; provide notice requirements for creation or expansion of resort area districts; provide that resort area districts are public corporations and political subdivisions; set forth powers of resort area districts; authorize resort area districts to undertake capital projects; authorize resort area districts to levy assessments upon real property; authorize resort area districts to borrow money and incur indebtedness; authorize resort area districts to issue assessment bonds and resort service fee bonds; authorize resort area districts to impose penalties for unpaid assessments; authorize resort area districts to levy resort service fee on purchases of certain goods and services; authorize resort area districts to provide public services; authorize resort area districts to provide for public safety and appoint resort area rangers; provide for official name of resort area districts; provide for creation of resort area boards; set forth powers and certain procedures for resort area boards; provide for election of resort area board members; provide election procedures for resort area boards; require certain resort area board members to give bond; provide notice requirements for resort area boards election; provide procedures and notice requirements for resort service fee implementation and administration; provide procedures for implementing and providing services within resort area districts; require adoption of budget annually; provide procedures for

implementation of assessments; provide notice requirements for assessments; provide procedures for construction of capital projects; provide procedures for revision of assessments; exempt public property from assessments; provide terms for assessment bonds and resort service fee bonds; exempt assessment bonds and resort service fee bonds from state taxation; provide that indebtedness of resort area district to be paid solely from resort service fee and assessments; provide procedure for payment of assessments to sheriff; authorize sheriff to collect delinquent assessments; provide for lien against property subject to assessment and notice thereof; provide for appointment of resort area rangers; authorize resort area rangers to exercise authority of law-enforcement officers; require annual audit of resort area districts; provide for liberal construction of article; and provide that resort area rangers are considered law-enforcement officers subject to the same training and requirements as other law-enforcement officers.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.