

COMMITTEE SUBSTITUTE

FOR

H. B. 2600

(BY DELEGATE(S) HARTMAN, MCCUSKEY, CAMPBELL, MILEY,
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(Originating in the Committee on the Judiciary)

[March 29, 2013]

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, §7-25-25 and §7-26-26; 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; setting forth powers of resort area districts; authorizing resort area districts to undertake capital projects; authorizing resort area districts to levy assessments upon real property; authorizing resort area districts to borrow money and incur indebtedness; authorizing resort area districts to issue assessment bonds and resort service fee bonds; authorizing resort area districts to impose penalties for unpaid assessments; authorizing resort area districts to levy resort service fee on purchases of certain goods and services; authorizing resort area districts to provide public services; authorizing resort area districts to provide for public safety and appoint resort area rangers; providing for official name of resort area districts; providing for creation of resort area boards; setting forth powers and certain procedures for resort area boards; providing for election of resort area board members; providing election procedures for resort area boards; requiring certain resort area board members to give bond; providing notice requirements for resort area boards election; providing procedures and notice

requirements for resort service fee implementation and administration; providing procedures for implementing and providing services within resort area districts; requiring adoption of budget annually; providing resort area district board ability to condition budgeted expenditures, projects and undertakings on the receipt and availability of additional funds provided by resort operator or other sources; providing procedures for implementation of assessments; providing notice requirements for assessments; providing procedures for construction of capital projects; providing procedures for revision of assessments; exempting public property from assessments; providing terms for assessment bonds and resort service fee bonds; exempting assessment bonds and resort service fee bonds from state taxation; providing that indebtedness of resort area district to be paid solely from resort service fee and assessments; providing procedure for payment of assessments to sheriff; authorizing sheriff to collect delinquent assessments; providing for lien against property subject to assessment and notice thereof; providing for appointment of resort area rangers; authorizing resort area rangers to exercise authority of law-enforcement officers; requiring annual audit of resort area districts; requiring notice of change of ownership of properties

within district; reasonable notice by district in absence of receiving notice of change in ownership; providing for liberal construction of article; providing that resort area rangers are considered law-enforcement officers; and making resort area rangers subject to same training and requirements as other law-enforcement officers.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be 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, §7-25-25 and §7-25-26; and that §30-29-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 25. RESORT AREA DISTRICTS.

§7-25-1. Short Title.

- 1 This article shall be known and cited as the “Resort Area
- 2 District Act”.

§7-25-2. Findings.

- 1 The Legislature finds that:

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

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

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

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

17 (e) The State and the public will benefit from granting West
18 Virginia's resorts and recreational areas the ability to have a
19 governing body to provide for the infrastructure and essential
20 services within common areas; which common areas are separate
21 from the profit-making operations of the resorts or recreational
22 areas.

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

§7-25-3. Definitions.

1 For purposes of this article:

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

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

11 (c) “Board” means a resort area board created pursuant to
12 this article.

13 (d) “Code” means the Code of West Virginia, 1931, as
14 amended by the Legislature.

15 (e) “Cost” means the cost of any or all of the following:

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

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

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

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

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

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

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

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

35 (9) Plans, specifications, studies, surveys and estimates of
36 costs and revenues;

37 (10) Administrative expenses necessary or incident to any
38 project or service; and

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

42 (f) “Governing body” means the county commission of a
43 county.

44 (g) “Governmental agency” means the state government or
45 any agency, department, division or unit thereof; counties;
46 municipalities; any watershed enhancement districts, soil
47 conservation districts, sanitary districts, public service districts,
48 drainage districts, school districts, urban renewal authorities or
49 regional governmental authorities established pursuant to this
50 code.

51 (h) “Landowner” or “owner of real property” means the
52 person or persons holding an interest in the record fee title to one
53 or more parcels of real property, including residential, improved
54 real property and unimproved, developable real property, or of
55 units within a multiunit property, including condominiums and
56 townhouses, within a resort area district or a proposed resort area

57 district: *Provided*, That the holder or holders of a deed of trust
58 shall not be considered a landowner or owner of real property.

59 (I) “Parcel” shall mean:

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

63 (2) A unit within a multiunit property.

64 (j) “Person” means an individual, firm, partnership,
65 corporation, limited liability company, voluntary association or
66 any other type of entity.

67 (k) “Project” means the design, construction, reconstruction,
68 establishment, acquisition, improvement, renovation, extension,
69 enlargement, equipping, maintenance, repair (including
70 replacements) and start-up operation of public buildings,
71 culverts, streets, bridges (including approaches, causeways,
72 viaducts, underpasses and connecting roadways), motor vehicle
73 parking facilities (including parking lots, buildings, ramps,
74 curb-line parking, meters and other facilities deemed necessary,
75 appropriate, useful, convenient or incidental to the regulation,
76 control and parking of motor vehicles), public transportation,

77 public recreation centers, public recreation parks, bicycle paths
78 and trails, hiking paths and trails, landscaping, swimming pools,
79 tennis courts, golf courses, skating rinks, equine facilities, motor
80 vehicle competition and recreational facilities, flood protection
81 or relief projects, or the grading, regrading, paving, repaving,
82 surfacing, resurfacing, curbing, recurbing, widening, lighting or
83 otherwise improving any street, avenue, road, highway, alley or
84 way, or the building or renewing of sidewalks and flood
85 protection; and the term shall mean and include any project as a
86 whole, and all integral parts thereof, including all necessary,
87 appropriate, useful, convenient or incidental appurtenances and
88 equipment in connection with any one or more of the above:
89 *Provided*, That a project shall not include a facility or service
90 that benefits only the resort operator, or which the resort operator
91 charges a fee or obtains revenue, or that constitutes part of any
92 facility or service provided by the resort operator, such as a ski
93 lift or ski slope.

94 (1) “Purchase price” means the measure subject to the resort
95 service fee authorized to be imposed by this article and has the
96 same meaning as sales price. For purposes of this article, the

97 purchase price of a good or service shall not include the taxes
98 levied under articles fifteen or fifteen-a of chapter eleven of this
99 code or any other provision of law.

100 (m) “Ranger” means a resort area ranger.

101 (n) “Resort area” means an area that:

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

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

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

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

111 (I) Residential, improved real property;

112 (ii) One or more resort operators;

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

115 (iv) Unimproved real property which remains developable;

116 (5) Does not include real property primarily used for
117 manufacturing, milling, converting, producing, processing or

118 fabricating materials, generating electricity or the extraction or
119 processing of minerals.

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

122 (p) "Resort operator" means any person owning and
123 operating the primary outdoor recreational facilities in a resort
124 area and offering outdoor recreational services such as skiing,
125 golf or boating to the general public.

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

129 (1) Hotels, motels, campgrounds, lodges and other lodging
130 or camping facilities;

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

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

136 (4) Retail establishments;

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

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

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

145 (s) "Service" includes, but is not limited to, snow removal;
146 operation and maintenance of public transportation;
147 maintenance, upgrade and beautification of public common
148 areas; maintenance and repair of roads and sidewalks; providing
149 for the collection and disposal of garbage and other refuse
150 matter; recycling; operation, upgrade and maintenance of any
151 projects or improvements; and any other public service
152 authorized by this article, including fire protection and public
153 safety. For purposes of this article, a common area shall not
154 include any facility that benefits only the resort operator, or for
155 which the resort operator charges a fee or obtains revenue, or
156 which constitutes part of any facility or service provided by the
157 resort operator, such as a ski lift or ski slope.

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

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

1 (a) Every county is hereby empowered and authorized, in
2 addition to any other rights, powers and authority conferred upon
3 it elsewhere in this code, to create, modify, reject or expand
4 resort area districts within that county in the manner hereinafter
5 set forth and to assist in the provision of services and
6 development, construction, acquisition, extension or
7 improvement of a project or projects located within a resort area
8 district.

9 (b) Unless agreed to by each affected municipality, the
10 power and authority hereby conferred on a county shall not
11 extend into territory within the boundaries of any municipality:
12 Provided, That notwithstanding any provision in this code to the
13 contrary, the power and authority hereby conferred on counties
14 may extend within the territory of a public service district
15 created under section two, article thirteen-a, chapter sixteen of
16 this code.

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

1 (a) The owners of at least sixty-one percent of the real
2 property, determined by acreage, located within the boundaries

3 of the resort area described in the petition, by metes and bounds
4 or otherwise in a manner sufficient to describe the area, may
5 petition a governing body to create or expand a resort area
6 district.

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

9 (1) The proposed name and proposed boundaries of such
10 district 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
15 in the resort area district;

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

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

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

26 (8) A certification from the State Tax Commissioner of the
27 amount of consumers sales and service taxes collected from
28 businesses located in the proposed district during the most recent
29 twelve calendar month period for which such data is available
30 that precedes the calendar quarter during which the petition will
31 be submitted to the governing body;

32 (9) A development schedule; and

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

35 (c) Within sixty days of the submission of a petition for the
36 creation of a resort area district, the governing body shall by
37 order determine the completeness of the petition. If the
38 governing body determines that the petition is complete, it shall
39 set a date for the public meeting required under section six of
40 this article and shall cause the petition to be filed with the clerk
41 of the governing body and be made available for inspection by

42 interested persons before the meeting. If the governing body
43 determines that such petition is not complete, the petition shall
44 be returned to the petitioners with a statement of additional
45 information required for such petition to be complete.

**§7-25-6. Notice to property owners before creation or expansion of
resort area district; form of notice; affidavit of
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 public
5 meeting of the governing body at a date, time and place named
6 in the notice and that all persons at that meeting, or any
7 adjournment thereof, shall be given an opportunity to protest or
8 be heard concerning the adoption or rejection of the order. At or
9 after the meeting the governing body may amend, revise or
10 otherwise modify the information in the petition for formation or
11 expansion of a resort area district as it may deem appropriate
12 after taking into account any comments received at such
13 meeting.

14 (b) A resort area district may not be created by a governing
15 body if, at the public meeting required by this section, written

16 protest is filed by at least twenty-five percent of the owners of
17 real property proposed to be included within the district. In the
18 event of a such protest, the petition for the creation of the resort
19 area district may not be resubmitted to the governing body for a
20 period of at least one year from the date of the original
21 submission.

22 (c) At least sixty days prior to the date of the meeting the
23 notice required by this section shall, using reasonable efforts, be
24 mailed to each owner of real property to be included in the
25 proposed resort area district as provided in subsection (g) of this
26 section, posted in multiple, conspicuous public locations within
27 such proposed district and published as a Class II legal
28 advertisement in compliance with the provisions of article three,
29 chapter fifty-nine of this code and the publication area for such
30 publication shall be the county in which the proposed resort area
31 district is located. The notice shall be in the form of, or
32 substantially in the form of, the following notice:

33 “NOTICE TO ALL PERSONS OWNING PROPERTY
34 LOCATED WITHIN (here describe the
35 boundaries of the proposed resort area district) IN THE
36 COUNTY OF (name of county):

37 A petition has been presented to the county commission of
38 the County of (name of county) requesting
39 establishment of a resort area district and authorization of a
40 resort service fee under article twenty-five, chapter seven of the
41 code of West Virginia, 1931, as amended, to
42 (describe potential projects and/or services to be provided) in the
43 county of (name of county) as the county
44 commission may deem proper. A copy of the petition is available
45 in the office of the clerk of the county commission of the County
46 of (name of county) for review by the public
47 during regular office hours.

48 The petition to create a resort area district will be considered
49 by the county commission at a public meeting to be held on the
50 day of,, at ... m. at
51 Any owner of real property
52 whose property may be affected by the creation of the
53 above-described resort area district, and any owner of real
54 property whose property is not located within said resort area
55 district but wishes his or her property to be included, will be
56 given an opportunity, under oath, to protest or be heard at said
57 meeting or any adjournment thereof:..... (name of clerk)

58 (d) An affidavit of publication of the notice made by
59 newspaper publisher, or a person authorized to do so on behalf
60 of such publisher, and a copy of the notice shall be made part of
61 the minutes of the governing body and spread on its records of
62 the meeting described in the notice. The service of said notice
63 upon all persons owning any interest in any real property located
64 within the proposed resort area district shall conclusively be
65 deemed to have been given upon completion of mailing as
66 provided in subsection (g) of this section and such newspaper
67 publication.

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

71 (f) After the public meeting and before the governing body
72 may adopt an order creating a resort area district, the governing
73 body shall, using reasonable efforts, mail a true copy of the
74 proposed order creating the resort area district to the owners of
75 real property in the proposed district as provided in subsection
76 (g) of this section and shall post copies of such proposed order
77 in multiple, conspicuous public locations within such proposed

78 district. Unless waived in writing, any petitioning owner of real
79 property shall have thirty days from mailing of the proposed
80 order in which to withdraw his or her signature from the petition
81 in writing prior to the vote of the governing body on such order.
82 If any signatures on the petition are so withdrawn, the governing
83 body may adopt the proposed order only upon certification by
84 the petitioners that the petition otherwise continues to meet the
85 requirements of this article. If all petitioning owners of real
86 property waive the right to withdraw their signatures from the
87 petition, then the governing body may immediately adopt the
88 order.

89 (g) For purposes of the mailing of each notice to owners of
90 real property required by this section, reasonable efforts shall be
91 made to mail such notice to all owners of real property proposed
92 to be included within such resort area district using the real
93 property tax records and land books of the county in which such
94 proposed district is located and any lists maintained by a resort
95 operator or homeowners association within such proposed
96 district. Such notice shall be also mailed to each president of a
97 homeowners association, if any, located within a proposed

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

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

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

3 (b) From and after the date of the adoption of the order
4 creating a resort area district, it shall thereafter be a public
5 corporation, but without any power to levy or collect ad valorem
6 taxes.

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

1 Each resort area district may:

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

3 (b) Sue and be sued, and be a party to suits, actions and
4 proceedings;

5 (c) Purchase insurance;

6 (d) Enter into agreements, contracts or other transactions
7 with any person or governmental agency necessary or incident
8 to the provision of services or the development, planning,
9 construction, acquisition or improvement of a project or for the

10 operation, maintenance or disposition of a project or for any
11 other services required by a project, or to carry out any purposes
12 of the district;

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

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

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

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

24 (I) Expend funds to pay the costs of providing services
25 within the district and to acquire, or construct part of a project on
26 property located within or outside of a district, and for any work
27 undertaken thereon, as may be necessary or incident to the
28 completion of a project;

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

32 (k) Borrow money and incur indebtedness and other
33 obligations and evidence the same by certificates, notes or
34 debentures: *Provided*, That such indebtedness shall not exceed
35 the annual budget for the Resort area district without the
36 approval of the property owners at a meeting called for such
37 purpose, a majority of those voting shall constitute approval.
38 Voting may be in person, by mailed ballot, by proxy or by
39 electronic means;

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

46 (m) Annually, on or before June 7, certify to the sheriff of
47 the county in which the property is located the assessments
48 granted against all property in the district for inclusion in the tax
49 ticket;

50 (n) Charge interest and levy fines and penalties on unpaid
51 assessments;

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

53 (p) Adopt bylaws not inconsistent with law;

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

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

64 (s) Provide services necessary to protect the health and
65 welfare of residents in a resort area district and the value of
66 property therein and to enter into agreements with any
67 governmental agency, public or private agency, institution or
68 person for the furnishing of such services;

69 (t) Provide for fire protection service;

70 (u) Provide for the public safety, including the appointment
71 of resort area rangers;

72 (v) Provide for public recreation by means of parks,
73 including, but not limited to, playgrounds, golf courses,
74 swimming pools, skating rinks or recreation buildings;

75 (w) Provide for the opening, widening, extending,
76 straightening and surfacing in whole, or in part of, any street and
77 snow removal or clearance for the same or other roads or streets;

78 (x) Provide for the construction and improvement of street
79 lights, bridges, culverts, curbs, gutters, drains and works
80 incidental to any street improvement; and

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

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

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

§7-25-10. Resort area boards.

1 (a) The powers of each resort area district shall be vested in
2 and exercised by a resort area board which shall be composed of
3 seven members, the composition of which shall be as set forth in
4 subsection (b) of this section. Board members need not be
5 residents of the district or landowners, except where specifically
6 required otherwise. For purposes of this section, “residential,
7 improved real property” includes, but is not limited to,
8 condominium units, townhouses and single-family residences.

9 (b) The composition of a resort area board shall be as
10 follows:

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

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

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

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

22 (c) For purposes of this section, if a parcel of real property
23 is owned by one or more entities (such as a corporation, limited
24 liability companies, or other entity), then the following are also
25 eligible to serve on the board as an owner with respect to such
26 parcel: (1) Any person having an ultimate beneficial interest in
27 the parcel, whether directly or indirectly and regardless of the
28 number of intermediate ownership entities; and (2) any person
29 designated at the outset of the election as authorized, by an
30 owning entity, to serve on the board as an owner for that
31 particular parcel. Nothing in this provision, however, creates any
32 additional voting rights to the owners of a single parcel of real
33 property, and each parcel of real property shall be entitled to
34 only one vote, regardless of the number of owners participating
35 in ownership of the parcel. Furthermore, nothing in this
36 provision authorizes the owners of real property of one type
37 (such as the resort operator, owners of residential improved real
38 estate, or owners of unimproved, developable real estate) to vote

39 regarding a board position reserved to another ownership
40 category.

41 (d) The board members shall be elected for terms of four
42 years each and thereafter until their respective successors have
43 been elected and have been qualified, except, that of the board
44 members elected at the initial election meeting, two shall serve
45 for a term of two years, two shall serve for a term of three years
46 and three shall serve for a term of four years. At the first meeting
47 of the board, the board members shall determine by lot which of
48 them shall serve the terms less than four years. Each succeeding
49 term is four years. Board members may be reelected for any
50 number of terms. In the event a board member who is required
51 to own real property within the district to be eligible for such
52 board position no longer owns real property within the district,
53 such member may serve out the remainder of his or her term.

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

57 (f) Elections for board members shall be held in accordance
58 with bylaws adopted by the board, but section eleven of this

59 article shall govern the initial election of board members. Voting
60 shall be in person, by mailed ballot, by proxy or by electronic
61 means. The voting restrictions set forth in subsections (d) and (e)
62 of section eleven of this article shall apply to all board elections
63 and may not be altered.

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

67 (h) In the event that a board vacancy arises before the
68 scheduled end of a board member's term, vacancies on the board
69 shall be filled for the remainder of the unexpired term of the
70 member whose office shall be vacant and such appointment,
71 pursuant to the procedures set forth in subsection (q) of this
72 section. Any board member may be removed by the board in
73 case of incompetency, neglect of duty, gross immorality or
74 malfeasance in office, upon a unanimous vote of the remaining
75 six board members. A vote of four board members is sufficient
76 to schedule and conduct an election to fill an unexpired board
77 member's term. Any other action of the board taken while one
78 or more board positions are vacant must be unanimously

79 approved by a board which is comprised of at least six active
80 servicing board members.

81 (I) The board shall organize within thirty days following the
82 first election of board members and annually thereafter at its first
83 meeting after January 1, of each year by selecting one of its
84 members to serve as chairman, one to serve as treasurer and one
85 to serve as secretary. The secretary, or his or her designee, shall
86 keep a record of all proceedings of the board which shall be
87 available for inspection as other public records and the
88 Treasurer, or his or her designee, shall maintain records of all
89 financial matters relating to the resort area district, which shall
90 also be made available for inspection as other public records.
91 The secretary and treasurer shall perform such other duties
92 pertaining to the affairs of the resort area district as shall be
93 prescribed by the board.

94 (j) The initial board shall adopt bylaws for the district;
95 Provided, That the adoption of such bylaws and any subsequent
96 amendments thereto shall require approval by six sevenths of the
97 board.

98 (k) The members of the board, and the chairman, secretary
99 and treasurer thereof, shall make available, at all reasonable

100 times and upon reasonable notice, all of its books and records
101 pertaining to the resort area district's operation, finances and
102 affairs for inspection and audit. The board shall meet at least
103 semiannually.

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

108 (l) Staff, office facilities and costs of operation of the board
109 may be provided by the county which created the resort area
110 district or by contract and said costs of operations shall be
111 funded from resort service fees collected within the district or
112 any other source.

113 (m) The chairman shall preside at all meetings of the board
114 and shall vote as any other members of the board, but if he or she
115 should be absent from any meeting the remaining members may
116 select a temporary chairman, and if the member selected as
117 chairman resigns as chairman or ceases for any reason to be a
118 member of the board, the board shall select one of its members
119 to serve as chairman until the next annual organizational
120 meeting.

121 (n) The board shall, by resolution, determine its own rules of
122 procedure, fix the time and place of its meetings and the manner
123 in which special meeting may be called. The members of the
124 board shall not be personally liable or responsible for any
125 obligations of the resort area district or the board but are
126 answerable only for willful misconduct in the performance of
127 their duties.

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

132 (p) Every board member who handles public funds or
133 property, and every other officer or employee of a resort area
134 district of whom it shall be required, shall, unless otherwise
135 provided by law, give bond, with good security, to be approved
136 by the board, and in such penalty as such board, conditioned
137 upon the faithful discharge of the duties of his or her office or
138 employment and the faithful accounting for and paying over, as
139 required by law, of any funds or property coming into his or her
140 possession.

141 (q) Vacancies on the board shall be filled by a special
142 election within 120 days of the vacancy, on a date specified by
143 the board, which shall not be less than 45 days sooner than
144 publication of notice of the election. The publication process for
145 an election to fill a vacancy shall be the same as set forth in
146 subsections (c), (d) and (e) of section 11 of this article, and only
147 those owners eligible to vote for the board member whose
148 departure from office caused the vacancy shall be eligible to vote
149 to replace the member. Without limiting the foregoing, and by
150 way of example, only owners of improved residential property
151 may vote to fill a vacancy created by the departure from office
152 of a board member elected by that class of owner.
153 Notwithstanding the provisions of this subsection, a vacancy in
154 the office of board as to a board member elected or appointed as
155 a resort operator representative, may be filled by direct
156 appointment of the resort operator, rather than by election, if
157 only one resort operator exists in the district.

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

1 (a) Within ninety days of the adoption of the order creating
2 the resort area district, a public meeting shall be held at which

3 elections for the initial members of the board shall be held. Such
4 meeting shall be held at a location within the district not less
5 than twenty days after the publication of the notice required by
6 subsection (b) of this section.

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

21 (1) The purpose of the meeting;

22 (2) Descriptions of the board positions;

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

26 (4) The location of the meeting; and

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

28 (c) At the meeting required by this section, nominations shall
29 be made for each board position. Persons nominated for board
30 positions shall meet the criteria provided for each board position
31 as set forth in subsection (b), section ten of this article.
32 Nominations shall be made for each board position in the
33 following manner:

34 (1) Only owners of residential, improved real property
35 located within the resort area district may nominate persons for
36 the three board positions provided for owners of or
37 representatives of owners of residential, improved real property
38 located within the resort area district;

39 (2) Only representatives of the resort operator or resort
40 operators may nominate persons for the two board positions
41 provided for representatives of the resort operator or resort
42 operators located within the resort area district;

43 (3) Only owners of commercial business property located
44 within the resort area district may nominate persons for the
45 board position provided for an owner of or a representative of
46 owners of commercial business property located within the
47 resort area district; and

48 (4) Only owners of unimproved, developable real property
49 located within the resort area district may nominate persons for
50 the board position provided for an owner of or a representative
51 of owners of unimproved, developable real property located
52 within the resort area district.

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

58 (1) Only owners of residential, improved real property
59 located within the resort area district may vote for the three
60 board positions provided for owners of or representatives of
61 owners of residential, improved real property located within the
62 resort area district. Each owner is entitled to one vote per unit or
63 parcel of residential, improved real property he or she owns;

64 (2) Only a representative of each resort operator may vote
65 for the two board positions provided for representatives of the
66 resort operator or resort operators located within the resort area
67 district;

68 (3) Only owners of commercial business property located
69 within the resort area district may vote for the board position
70 provided for an owner of or a representative of owners of
71 commercial business property located within the resort area
72 district. Each owner is entitled to one vote per unit of
73 commercial business property he or she owns; and

74 (4) Only owners of unimproved, developable real property
75 located within the resort area may vote for the board position
76 provided for an owner of or a representative of owners of
77 unimproved, developable real property located within the resort
78 area district. Each owner is entitled to one vote per parcel of
79 unimproved, developable real property that he or she owns.

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

82 (1) The owners of each parcel or unit of real property are
83 entitled one vote, irrespective of the number of owners of such
84 parcel or unity;

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

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

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

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

95 (h) For purposes of the mailing of notice to owners of real
96 property required by this section, reasonable efforts shall be
97 made to mail such notice to all owners of real property included
98 within such resort area district using the real property tax records
99 and land books of the county in which such district is located and
100 any lists maintained by a resort operator or homeowners
101 association within such district. Such notice shall be also mailed
102 to each president of a homeowners association, if any, located
103 within a district which has registered with a resort operator to
104 receive such information. Immaterial defects in the mailing of
105 such notices shall not affect the validity of such notices.

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

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

4 (b) No resort service fee shall be implemented within a
5 resort area district without approval by six sevenths of the board.
6 If six sevenths of the board has approved the implementation of
7 a resort service fee, the board shall adopt a resolution specifying
8 the following:

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

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

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

16 (c) A board may repeal the resolution authorizing
17 implementation of a resort service fee upon approval by six

18 sevenths of the board: *Provided*, That such resolution may not be
19 repealed if a district has outstanding resort service fee bonds and
20 the terms of such bonds restrict the repeal of such resolution.

21 (d) After the adoption of a resolution regarding
22 implementation of a resort service fee, an abstract of such
23 resolution, determined by the board to contain sufficient
24 information as to give notice of the contents of such resolution,
25 and notice that such resolution has been adopted shall be posted
26 in multiple, conspicuous public locations within such district and
27 published as a Class II legal advertisement in compliance with
28 the provisions of article three, chapter fifty-nine of this code and
29 the publication area for such publication shall be the resort area
30 district.

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

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

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

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

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

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

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

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

1 (a) Not less than thirty days prior to the date that the resort
2 service fee becomes effective, the board shall adopt an
3 administrative resolution governing the collection and reporting
4 of the resort service fee. This administrative resolution may be
5 amended at any time as may be necessary to effectively
6 administer the resort service fee.

7 (b) The administrative resolution shall specify:

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

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

12 (3) The office, officer or employee of the district responsible
13 for enforcing collection of resort service fees and the methods
14 and procedures to be used in enforcing the collection of resort
15 service fees due; and

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

19 (c) The administrative resolution may include:

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

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

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

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

4 (b) A resolution providing for the provision of services shall
5 set forth:

6 (1) The services to be offered;

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

8 (3) All other information necessary for the administration of
9 providing such services.

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

13 (d) Services to be offered by a resort area district shall not be
14 inconsistent with those permitted under the bylaws of the district
15 or this article and shall not include a service for which the resort
16 operator charges a fee or obtains revenue, such as operation or
17 maintenance of a ski slope or ski lift.

18 (e) The board shall adopt an annual budget for the district
19 each year. Such budget shall require approval by six sevenths of
20 the board to be adopted. Funds of the resort area district may not
21 be expended on any service or project in excess of the amounts
22 specified in the budget, and no material expenditures may occur
23 on services or projects not authorized by the budget, except upon
24 approval of at least six sevenths of the board.

25 (f) In setting the budget or any amendment to it, and in
26 approving any anticipated obligation, undertaking and related
27 expenditure of any funds received from any resort service fee or
28 from any assessment, the Board shall be empowered to condition
29 the an expenditure or undertaking, in whole or part, upon the
30 receipt of grants, loans or contribution of funds by or from other
31 sources or parties, including the resort operator, any commercial
32 interests, and any governmental entity, In the event that any
33 such conditions established by the Board are not met, the
34 expenditure and any related conditionally approved undertaking
35 shall not be required.

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

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

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

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

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

19 (d) Upon following the procedures provided in this section
20 and a resort area district's bylaws for the implementation of an
21 assessment to pay the costs of a project, the board may, after
22 giving notice to all real property owners and holding a public
23 meeting as required by this section, adopt a resolution
24 authorizing such assessment to pay the costs of a project upon
25 approval by six sevenths of the board.

26 (e) Before the adoption of a resolution authorizing an
27 assessment to pay the costs of a project, the board shall cause
28 notice to be given to the owners of real property located within
29 the resort area district that such resolution will be considered for
30 adoption at a public meeting of the board at a date, time and
31 place named in the notice and that all persons at that meeting, or
32 any adjournment thereof, shall be given an opportunity to protest
33 or be heard concerning the adoption or rejection of the
34 resolution.

35 (f) An assessment shall not be authorized by the board if at
36 the public meeting required by this section written protest is filed
37 by at least twenty-five percent of the owners of the real property
38 within the district to be benefitted by the proposed project and
39 subject to the assessment. In the event of such protest, the
40 proposed assessment in the same form may not be reconsidered
41 by a board for a period of at least one year from the date of the
42 public meeting.

43 (g) At least thirty days prior to the date of the public
44 meeting, the notice required by this section shall, using
45 reasonable efforts, be mailed to the owners of real property to be

46 assessed for a proposed project as provided in subsection (k) of
47 this section, posted in multiple, conspicuous public locations
48 within such district and published as a Class II legal
49 advertisement in compliance with the provisions of article three,
50 chapter fifty-nine of this code. The publication area for such
51 publication shall be the resort area district.

52 (h) An affidavit of publication of the notice made by
53 newspaper publisher, or a person authorized to do so on behalf
54 of such publisher, and a copy of the notice shall be made part of
55 the minutes of the board and spread on its records of the meeting
56 described in the notice. The service of said notice upon all
57 persons owning any interest in any real property located within
58 the resort area district shall conclusively be deemed to have been
59 given upon completion of mailing as provided in subsection (k)
60 of this section and such newspaper publication.

61 (i) After the public meeting and before the board may adopt
62 a resolution authorizing implementation of assessments, the
63 board shall, using reasonable efforts, mail a true copy of the
64 proposed resolution authorizing implementation of an
65 assessment to the owners of real property in the resort area
66 district as provided in subsection (k) of this section.

67 (j) A board shall make available to the owners of real
68 property within the district a list of all owners of real property
69 within the district for the purposes of enabling such owners of
70 real property to solicit support for a petition proposing or a
71 protest against an assessment.

72 (k) For purposes of the mailing of each notice to owners of
73 real property required by this section, reasonable efforts shall be
74 made to mail such notice to all owners of real property required
75 to receive notice under this section using the real property tax
76 records and land books of the county in which such district is
77 located and any lists maintained by a resort operator or
78 homeowners association within such district. Such notice shall
79 be also mailed to each president of a homeowners association, if
80 any, located within a district which has registered with a resort
81 operator to receive such information. Immaterial defects in the
82 mailing of such notices shall not affect the validity of such
83 notices.

§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,
5 governmental agency or any other person designated by the
6 board. The board may provide for the construction of the project
7 by one of the two following methods or any combination thereof:

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

23 sufficient performance and payment bond. The board may reject
24 any and all bids and if it rejects all bids, notices shall be
25 published as original required before any other bids may be
26 received. The board may let portions of the work necessary to
27 complete a project under different contracts.

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

30 (c) Prior to the construction of the project, the board shall
31 obtain such permits and licenses required by law for the
32 construction and operation of the project.

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

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

1 (a) Prior to the issuance of assessment bonds or the levying
2 of any assessments, the board shall cause a report to be prepared
3 describing each lot or parcel of land located within the resort
4 area district to be assessed for the project and setting forth the
5 total cost of the project based on the contract with the
6 governmental agency, the accepted bid or bids, or a cost estimate

7 certified by a professional engineer, and all other costs incurred
8 prior to the commencement of construction and the future
9 administrative costs, and the respective amounts chargeable
10 upon each lot or parcel of land and the proper amount to be
11 assessed against the respective lots or parcels of land with a
12 description of the lots and parcels of land as to ownership and
13 location. If two or more different kinds of projects are involved,
14 the report shall set forth the portion of the assessment
15 attributable to each respective project. The board shall thereupon
16 give notice as specified below to the owners of real property to
17 be assessed that on or after a date specified in the notice an
18 assessment will be deemed granted against the property. The
19 notice shall state that the owner of assessed property, or other
20 interested party, may on said date appear before the board to
21 move the revision or correction of the proposed assessment and
22 shall show the total cost of the project, whether the assessments
23 will pay for all, or a part of, the total cost of the project and the
24 lots or parcels of property to be assessed and the respective
25 amounts to be assessed against such lots or parcels, with a
26 description of the respective lots and parcels of land as to

27 ownership and location. The notice shall be mailed, using
28 reasonable efforts, to the owners of real property to be assessed
29 for a proposed project as provided in subsection (c) of this
30 section, posted in multiple, conspicuous public locations within
31 such district and published as a Class II legal advertisement in
32 compliance with the provisions of article three, chapter fifty-nine
33 of this code, and the publication area for such publication is the
34 resort area district. On or after the date so advertised, the board
35 may revise, amend, correct and verify the report and proceed by
36 resolution to establish the assessments as corrected and verified
37 and shall certify the same to the governing body which created
38 the district.

39 (b) Upon completion of a project, the board shall prepare a
40 final report certifying the completion of the project and showing
41 the total cost of the project and whether the cost is greater or less
42 than the cost originally estimated. If the total cost of the project
43 is greater or less than the cost shown in the report prepared prior
44 to construction, the board may revise the assessment charged on
45 each lot or parcel of property pursuant to subsection (a) of this
46 section to reflect the total cost of the project as completed, and

47 in doing so shall, in the case of an assessment increase only,
48 follow the same procedure with regard to notice and providing
49 each owner of assessed property the right to appear before the
50 board to move for the revision or correction of such proposed
51 reassessment as required for the original assessment. If the
52 assessment is decreased, the board shall, by resolution and
53 written notice to the sheriff of the county in which the resort area
54 district is located, cause the next installment or installments or
55 assessments then due and payable by each affected property
56 owner to be reduced pro rata, and shall provide written notice to
57 such property owners of the amount of such decrease by the
58 deposit of such notice in the United States mail, postage prepaid.

59 (c) For purposes of the mailing of each notice to owners of
60 real property required by this section, reasonable efforts shall be
61 made to mail such notice to all owners of real property required
62 to receive notice under this section using the real property tax
63 records and land books of the county in which such district is
64 located and any lists maintained by a resort operator or
65 homeowners association within such district. Such notice shall
66 be also mailed to each president of a homeowners association, if

67 any, located within a district which has registered with a resort
68 operator to receive such information. Immaterial defects in the
69 mailing of such notices shall not affect the validity of such
70 notices.

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

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

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

1 (a) For constructing and acquiring any project authorized by
2 this article the board of any such district is hereby authorized to
3 borrow money, from time to time, and in evidence thereof issue
4 the bonds of such district, payable from the proceeds of the
5 assessments or resort service fees granted under this article. Such
6 bonds shall be issued in one or more series, may bear such date
7 or dates, may mature at such time or times not exceeding thirty
8 years from their respective dates, shall be fully registered as to
9 principal and interest in the name of the bondholder with a

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

30 thereafter as may be deemed necessary or advisable for the
31 assurance of the payment of the bonds thereby authorized.

32 (b) At or before the time of issuance of any bonds under this
33 article, the board shall by resolution provide for the creation of
34 a sinking fund and for payments into such fund from the
35 assessments or resort service fees granted under this article in
36 such amount as may be sufficient to pay the accruing interest and
37 retire the bonds at or before the time each will respectively
38 become due and to establish or maintain reserves therefor. All
39 sums which are or should be, in accordance with such
40 provisions, paid into such sinking fund shall be used solely for
41 the payment of interest and for the retirement of such bonds at or
42 prior to maturity as may be provided or required by such
43 resolution.

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

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

1 No constitutional or statutory limitation with respect to the
2 nature or amount of or rate of interest on indebtedness which

3 may be incurred by municipalities, counties or other public or
4 governmental bodies shall apply to the indebtedness of a resort
5 area district. No indebtedness of any nature of a resort area
6 district shall constitute an indebtedness of any county creating
7 and establishing such district or a charge against any property of
8 said counties but shall be paid solely from the resort service fee
9 or assessments which the resort area district is authorized to
10 impose on the owners of the property within the district by this
11 article. No indebtedness or obligation incurred by a resort area
12 district shall give any right against any member of the governing
13 body or any member of the board of a resort area district.

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

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

10 That any property subject to assessments may not be sold to
11 satisfy such lien.

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

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

24 (d) For each tax year, the sheriff will prepare and deliver to
25 the board of each resort area district located in the county, a
26 statement setting forth the aggregate amount of assessments
27 received for such district and the name of any property owner
28 who failed to pay the assessments due and payable for the period
29 in question. The report shall be due on or before August 1, of the
30 following year.

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

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

1 (a) With the exception of property exempt from assessment
2 pursuant to section eighteen of this article, there shall be a lien
3 on all real property located within the resort area district for the
4 assessments imposed by section seventeen of this article, which
5 lien shall attach to those parcels made subject to the assessment
6 on the date specified in the notice to property owners. A notice
7 of the liens of said assessments referring to the assessing
8 resolution and setting forth a list of the property assessed,
9 described respectively as to amounts of assessment, ownership
10 and location of the property, shall be certified, by the chairman
11 and secretary of the board, to the clerk of the county commission
12 of the county wherein the project is located. The county clerk
13 shall record the notice of such lien in the appropriate trust deed
14 book or other appropriate county lien book and index the same

15 in the name of each owner of real property assessed. From the
16 date of an assessment, the trustee, for the benefit of bondholders
17 if assessment bonds are issued by the resort area district, and/or
18 the district shall have such lien and shall be entitled to enforce
19 the same in its, his, her or their name to the extent of the amount,
20 including principal and interest and any penalty due for any
21 failure to pay an installment when due, of such assessments and
22 against the property to which the assessment applies, as to any
23 assessment not paid as and when due. The trustee or the district,
24 as an alternative to the enforcement provision set forth in section
25 twenty-one of this article, are granted all legal remedies as are
26 necessary to collect the assessment. Such assessments shall be
27 and constitute liens for the benefit of the resort area district or
28 the trustee, for the benefit of bondholders if assessment bonds
29 are issued by the resort area district, upon the respective lots and
30 parcels of land assessed and shall have priority over all other
31 liens except to those for land taxes due the state, county and
32 municipality and except any liens for preexisting special
33 assessments provided under this code. If any assessment is
34 revised in accordance with this article, the lien created by this
35 section shall extend to the assessment so revised and shall have

36 the same priority as the priority of the lien created upon the
37 laying of the original assessment. Such assessments and interest
38 thereon shall be paid by the owners of the property assessed as
39 and when the installments are due. Following the payment in full
40 of any assessment bonds including any interest thereon, the
41 chairman and secretary of the board shall execute a release of all
42 liens and shall certify the same to county clerk for recondition.

43 (b) Following the grant of any assessment on property as
44 provided in this article, the seller of such property shall provide
45 reasonable disclosure to the buyer in the real estate contract that
46 an assessment has been granted on the property, the amount of
47 the assessment and the duration of the assessment.

§7-25-23. Resort Area Rangers.

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

6 (b) Before performing the duties of ranger, each appointed
7 person shall qualify for the position of ranger in the same
8 manner as is required of county officers by the taking and filing

9 of an oath of office as required by section three, article one,
10 chapter six of this code and by posting an official bond as
11 required by section one, article two, chapter six of this code. To
12 facilitate the performance of the duties of a ranger, a ranger may
13 carry a firearm or other dangerous weapon while the ranger is on
14 duty.

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

27 (d) The salary of all rangers shall be paid by the board. The
28 board shall furnish each ranger with an official uniform to be
29 worn while on duty and shall furnish and require each ranger

30 while on duty to wear a shield with an appropriate inscription
31 and to carry credentials certifying the person's identity and
32 authority as a ranger.

33 (e) The board at its pleasure may revoke the authority of any
34 ranger. The chairman of the board shall report the termination of
35 employment of a ranger by filing a notice to that effect in the
36 office of the clerk of the county in which the ranger's oath of
37 office was filed and in the case of a ranger licensed to carry a
38 firearm or other dangerous weapon, by notifying the clerk of the
39 circuit court of the county in which the license for the firearm or
40 other dangerous weapon was granted.

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

1 Each resort area district shall cause an audit of its books and
2 accounts to be made at least once each fiscal year by an
3 independent certified public accountants, and the cost thereof
4 may be defrayed as an administrative cost. All books and records
5 of the resort area district shall be available for inspection by any
6 property owner during reasonable business hours.

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

1 After the resort area district has been formed and organized,
2 as a part of any bylaws, the district's board shall promulgate

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

§7-25-26. Liberal construction.

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

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

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

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

13 (3) “County” means the fifty-five major political
14 subdivisions of the state;

15 (4) “Exempt rank” means any noncommissioned or
16 commissioned rank of sergeant or above;

17 (5) “Governor’s committee on crime, delinquency and
18 correction” or “Governor’s committee” means the Governor’s
19 committee on crime, delinquency and correction established as
20 a state planning agency pursuant to section one, article nine,
21 chapter fifteen of this code;

22 (6) “Law-enforcement officer” means any duly authorized
23 member of a law-enforcement agency who is authorized to
24 maintain public peace and order, prevent and detect crime, make
25 arrests and enforce the laws of the state or any county or

26 municipality thereof, other than parking ordinances, and includes
27 those persons employed as campus police officers at state
28 institutions of higher education in accordance with the
29 provisions of section five, article four, chapter eighteen-b of this
30 code, and persons employed by the Public Service Commission
31 as motor carrier inspectors and weight enforcement officers
32 charged with enforcing commercial motor vehicle safety and
33 weight restriction laws although those institutions and agencies
34 may not be considered law-enforcement agencies. The term also
35 includes those persons employed as rangers by the Hatfield-
36 McCoy Regional Recreation Authority in accordance with the
37 provisions of section six, article fourteen, chapter twenty of this
38 code, or by resort area districts in accordance with the provisions
39 of section twenty-three, article twenty-five, chapter seven of this
40 code, although neither the authority nor any resort area district
41 may **not** be considered a law-enforcement agency: *Provided*,
42 That the subject rangers shall pay the tuition and costs of
43 training. As used in this article, the term “law-enforcement
44 officer” does not apply to the chief executive of any West
45 Virginia law-enforcement agency or any watchman or special
46 natural resources police officer;

47 (7) “Law-enforcement official” means the duly appointed
48 chief administrator of a designated law-enforcement agency or
49 a duly authorized designee;

50 (8) “Municipality” means any incorporated town or city
51 whose boundaries lie within the geographic boundaries of the
52 state;

53 (9) “Subcommittee” or “law-enforcement professional
54 standards subcommittee” means the subcommittee of the
55 Governor’s committee on crime, delinquency and correction
56 created by section two of this article; and

57 (10) “West Virginia law-enforcement agency” means any
58 duly authorized state, county or municipal organization
59 employing one or more persons whose responsibility is the
60 enforcement of laws of the state or any county or municipality
61 thereof: *Provided*, That neither the Hatfield-McCoy Regional
62 Recreation Authority, the Public Service Commission nor any
63 state institution of higher education nor any resort area district
64 is a law-enforcement agency.