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HOUSE BILL NO. 220

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 9, 2018)

(Patron Prior to Substitute—Delegate Morefield)

A BILL to amend and reenact §§ 15.2-1806, 15.2-1809, and 15.2-1809.1 of the Code of Virginia, relating to local parks; waterway activities; liability.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1806, 15.2-1809, and 15.2-1809.1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1806. Parks, recreation facilities, playgrounds, etc.

A. A locality may establish parks, recreation facilities and playgrounds; set apart for such use any land or buildings owned or leased by it; and acquire land, buildings and other facilities pursuant to § 15.2-1800 for the aforesaid purposes.

In regard to its parks, recreation facilities and playgrounds, a locality may:

1. Fix, prescribe, and provide for the collection of fees for their use;
2. Levy and collect an annual tax upon all property in the locality subject to local taxation to pay, in whole or in part, the expenses incident to their maintenance and operation;
3. Operate their use through a department or bureau of recreation or delegate the operation thereof to a recreation board created by it, to a school board, or any other appropriate existing board or commission.

B. A locality may also establish, conduct, and regulate a system of hiking, biking, and horseback riding trails and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it. A locality may also establish, conduct, and regulate a system of trails for all-terrain vehicles, off-road motorcycles, or both, as those terms are defined in § 46.2-100, and may set apart for such use any land or buildings owned or leased by it and may obtain licenses, easements, leases, or permits for such use on land not owned or leased by it. *A locality may also establish, conduct, and regulate a system of boating, canoeing, kayaking, or tubing activities on waterways and may set apart for such use any land or buildings owned or leased by it and may obtain licenses or permits for such use on land not owned or leased by it.*

In furtherance of the purposes of this subsection, a locality may provide for the protection of persons whose property interests, or personal liability, may be related to or affected by the use of such trails or waterways. *Nothing contained in this subsection shall be construed to interfere with the use and enjoyment of private property.*

§ 15.2-1809. Liability of localities in the operation of parks, recreational facilities, and playgrounds.

A. No city or town ~~which~~ that operates any park, recreational facility, or playground shall be liable in any civil action or proceeding for damages resulting from any injury to the person or from a loss of or damage to the property of any person caused by any act or omission constituting ordinary negligence on the part of any officer or agent of such city or town in the maintenance or operation of any such park, recreational facility, or playground. Every such city or town shall, however, be liable in damages for the gross negligence of any of its officers or agents in the maintenance or operation of any such park, recreational facility, or playground.

B. The immunity created by ~~this section~~ subsection A is hereby conferred upon counties, and park authorities created pursuant to the Park Authorities Act (§ 15.2-5700 et seq.), provided that such park authorities exercise only the powers granted by § 15.2-5704, in addition to, and not limiting on, other immunity existing at common law or by statute.

§ 15.2-1809.1. Liability of localities, park authorities for the site of trails or waterways.

A locality ~~which~~, or park authority created pursuant to the Park Authorities Act (§ 15.2-5700 et seq.), provided that such park authority exercise only the powers granted by § 15.2-5704, that establishes, conducts, and regulates a system of hiking, biking, or horseback riding trails, a system of trails for all-terrain vehicles, off-road motorcycles, or ~~both~~ a system of boating, canoeing, kayaking, or tubing activities on waterways, as provided in subsection B of § 15.2-1806, and the owner or licenser or permit issuer of any property leased or licensed for any such use, shall not be liable for damages resulting from any injury to the person or from a loss of or damage to the property of any person arising from the condition of the property used for such trails or waterways, in the absence of gross negligence or willful misconduct.