WEST VIRGINIA CODE: §29-1-8D

§29-1-8d. National Coal Heritage Area Commission.

(a)(1) The National Coal Heritage Area originally was a partnership project of the National Park Service and the State of West Virginia as represented by the Division of Tourism and the Division of Culture and History. In January 1999, the Governor of West Virginia appointed 28 experts from the state and the region to the National Coal Heritage Area Steering Committee to provide guidance in the development of the National Coal Heritage Area, and in 2002 the West Virginia Legislature created the National Coal Heritage Area Authority, a state agency with an independent board, to serve as the management entity for the National Coal Heritage Area.

(2) The West Virginia Legislature finds that there continues to be a significant need for a public body to promote and enhance historic preservation, tourism, and economic development activities that relate to the state's history as a coal-producing state within the counties of Boone, Cabell, Fayette, Lincoln, Logan, Kanawha, Marion, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and Wyoming.

(3) The Legislature additionally finds that the state entity previously known as the National Coal Heritage Area Authority may more effectively serve the people of West Virginia through the Department of Arts, Culture, and History as the National Coal Heritage Area Commission, where it will continue to work with the landowners, county officials, and community leaders, state and federal government agencies, and other interested parties to enable and facilitate the development of the National Coal Heritage Area will greatly assist in the realization of these potential benefits.

(b) Unless the context clearly requires a different meaning, the terms used in this section have the following meanings:

(1) "Commission" means the National Coal Heritage Area Commission;

(2) "Department" means the Department of Tourism; and

(3) "National Coal Heritage Area" means and comprises the counties of Boone, Cabell, Fayette, Lincoln, Logan, Kanawha, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and Wyoming.

(c) Creation; appointment of commission; terms; expenses; executive director:

(1) There is hereby created the National Coal Heritage Area Commission which is a section of the Department of Tourism, existing for the purposes of providing direction to and assistance with state and federal historic preservation, economic development, and tourism projects in the National Coal Heritage Area and aiding in the development and

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implementation of integrated cultural, historical, and land resource management policies and programs in order to retain, enhance, and interpret the significant values of the lands, waters, and structures in the National Coal Heritage Area.

(2) The commission shall be composed of, at a minimum, 19 members as follows:

(A) The following six persons shall be nonvoting members, and shall serve by virtue of their offices, and may be represented at meetings of the commission by designees:

(i) The secretary, or his or her designee;

(ii) The Secretary of the Department of Environmental Protection, or his or her designee;

(iii) The Executive Director of the Division of Economic Development, or his or her designee;

(iv) The State Superintendent of Schools, or his or her designee; and

(v) The Director of the Division of Natural Resources, or his or her designee;

(B) The remaining 13 members shall be appointed for terms of four years by the Governor with the advice and consent of the Senate. The county commission of each county within the National Coal Heritage Area may submit to the Governor a list of three candidates to be considered for board appointment. Of the 13 members appointed by the Governor, each candidate must live or work within the subject county and the appointees shall be representative of the tourism industry, the coal industry, the United Mine Workers of America, economic development activity, historic preservation activity, or higher education. Additional counties may submit names of individuals fitting the above criteria for consideration as ex-officio, non-voting, board membership;

(C) The terms of office shall be four years and shall expire on June 30. No appointed member may serve more than two consecutive full terms. A member shall continue to serve until his or her successor has been appointed and qualified;

(D) If an appointed member is unable to complete a term, the Governor shall appoint a person to complete the unexpired term. Each vacancy occurring on the board must be filled within 60 days after the vacancy is created;

(E) Any appointed member of the board shall immediately and automatically forfeit his or her membership on the board if he or she becomes a nonresident of the county, or ceases to be employed in the county, from which he or she was appointed;

(F) Each member of the board shall serve without compensation, but shall receive expense reimbursement for all reasonable and necessary expenses actually incurred in the performance of the duties of the office, in the same amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law: *Provided*, That no member may be

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reimbursed for expenses paid by a third party.

(3) The secretary shall appoint a director to carry out the actions of the board, which appointment may be in addition to other duties, to serve at the will and pleasure of the secretary. The director may employ necessary personnel and retain such temporary consultants or technicians as may be necessary for any special study or survey consistent with the provisions of this section. The director shall carry out plans to implement the provisions of this section and to exercise those powers. The director shall prepare annually, in consultation with the board, a budget for the commission.

(d) Board; quorum; chairperson; bylaws. —

(1) The board is the governing body of the National Coal Heritage Area Commission, and may exercise all the powers given the commission in this section.

(2) The director shall serve as the board chairperson. The board shall meet at such times as shall be specified by the chairperson, but in no case less than quarterly. A majority of seven appointed members shall constitute a quorum for the transaction of business.

(3) There shall be a standing committee of the National Coal Heritage Area Commission known as the Coal Heritage Trail Committee composed of the chairperson and members of the National Coal Heritage Area from the counties through which the Coal Heritage Trail passes. These counties are Mercer, McDowell, Wyoming, Raleigh, and Fayette. This standing committee shall be responsible for making recommendations to the full board regarding development and promotion of the Coal Heritage Trail, a national scenic byway.

(4) The board shall keep a record of its proceedings,

(e) Powers of commission. —

The commission may exercise all powers necessary or appropriate to carry out the purposes of this section, including, but not limited to, the power:

(1) To assist in the development and implementation of integrated cultural, historical, and land resource management policies and programs in the National Coal Heritage Area;

(2) To advise the executive director of the National Coal Heritage Commission in retaining, enhancing, and interpreting the significant values of the lands, waters, and structures of the area;

(3) To enter into partnerships with various preservation groups, landmark commissions, certified local governments, county commissions, and other entities to undertake the preservation, restoration, maintenance, operation, development, interpretation, and promotion of lands and structures that possess unique and significant historic, architectural, and cultural value associated with the coal mining heritage of the national coal heritage area;

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(4) To make, amend, repeal, and adopt bylaws for the management and regulation of its affairs;

(5) To appoint officers, agents, and employees, and to contract for and engage the services of consultants;

(6) To execute contracts necessary or convenient for carrying on its business, including contracts with any other governmental agency of this state or of the federal government, or with any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

(7) Without in any way limiting any other subdivision of this section, to accept grants and loans from and enter into contracts and other transactions with any federal agency;

(8) To maintain an office at such places within the state as it may designate;

(9) To accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the federal government or from any governmental unit, or any person, firm, or corporation;

(10) To construct, reconstruct, improve, maintain, repair, operate, and manage certain facilities in the National Coal Heritage Area as may be determined by the commission;

(11) To enter into contract with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for public recreation or growing out of the public activities operated or managed by the commission from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or other person or any of his or her agents or employees; and

(12) To assess and collect a reasonable fee from those persons who use the designated facilities which are part of the national coal heritage area, and to retain and utilize that revenue for any purposes consistent with this article.

(f) Continuation of legal obligations. —

Nothing in this section may be considered as superseding, amending, modifying, or repealing any contract or agreement entered into for the benefit of the National Coal Heritage Area prior to the date of enactment of this section. All obligations, contracts, grants, and assets currently belonging to the Coal Heritage Highway Authority and the National Coal Heritage Area Authority shall be transferred to and become the responsibility and property of the National Coal Heritage Area Commission.

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