WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

HOUSE BILL No. 4737

(By Delegate Mr. Sprouse, Mr. Chambers, and Delegate Manuel, Kuhn, Jenkins, Johnson, Yinga and Smirl)

Passed March 9, 1996

In Effect Ninety Day From Passage
AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen; and to amend and reenact section one, article twenty-nine, chapter thirty of said code, all relating to establishing the Hatfield-McCoy regional recreation authority and the powers, goals and duties associated therewith; providing a statement of legislative purpose and findings; providing definitions; establishing the Hatfield-McCoy regional recreation authority; providing for a method of appointment to the board of the authority; prescribing the terms of appointment; required surety bonds; setting forth the powers and duties of the authority; providing for meetings of the board and payments of expenses; appointment of an executive director; authorizing rangers and describing the duties, powers and limitations of rangers and prescribing certain law-enforcement authority; limiting the liability of the state; and providing criminal penalties for a violation of the rules promulgated by the board.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen; and that section one, article twenty-nine, chapter thirty of said code be amended and reenacted, all to read as follows:
CHAPTER 20. NATURAL RESOURCES.

ARTICLE 13. HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY.

§20-13-1. Legislative findings.

1 The West Virginia Legislature finds that there is a significant need within the state and throughout the eastern United States for well-managed facilities for trail-oriented recreation for off-highway vehicle enthusiasts, mountain bicyclists and others. The Legislature further finds that under an appropriate contractual and management scheme, well-managed, trail-oriented, recreation facilities could exist on private property without diminishing the landowner's interest, control or profitability in the land.

1 The Legislature further finds that, with the cooperation of private landowners who hold large tracts of land, there is an opportunity to provide trail-oriented recreation facilities primarily on private property in the mountainous terrain of southern West Virginia and that the facilities will provide significant benefit to the state and to the communities in southern West Virginia through increased tourism in the same manner as white water rafting and snow skiing benefit the state and communities surrounding those activities.

1 The Legislature further finds that the creation and empowering of a statutory corporation to work with the landowners, county officials and community leaders, state and federal government agencies, recreational user groups and other interested parties to enable and facilitate the implementation of the facilities will greatly assist in the realization of these potential benefits.


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

1 (a) "Authority" means the Hatfield-McCoy regional recreational authority;

1 (b) "Board" means the board of the Hatfield-McCoy regional recreation authority; and
(c) "Hatfield-McCoy recreation area" means a system of recreational trails and appurtenant facilities, including trail head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites and other facilities that are a part of the system;

(d) "Participating county" means the counties of Boone, Lincoln, Logan, McDowell, Mingo, Wayne and Wyoming, and, with the approval of the board, any other county or counties where trails and other recreational facilities relating to the Hatfield-McCoy recreation area are developed in the future with the cooperation of the county commission.

§20-13-3. Creation; appointment of board; terms.

(a) There is hereby created the "Hatfield-McCoy regional recreation authority" which is a public corporation and a government instrumentality existing for the purpose of enabling and facilitating the development and operation of a system of trail-oriented recreation facilities for use by off-highway vehicle enthusiasts, equestrians, mountain bicyclists and others. This recreational trail system shall be located in southern West Virginia with significant portions of the recreational trail system being located on private property made available for use through lease, license, easement or other appropriate legal form by a willing landowner.

(b) The authority shall be governed by a board of at least seventeen members who shall be representative of the various interests involved in the Hatfield-McCoy recreation area project in the southern region of the state and who shall be appointed as follows:

(1) The county commission of each participating county, as defined in section two of this article, shall appoint two members of the board as follows:

(A) One member who represents and is associated with a corporation or individual landowner whose land is being used or is expected to be used in the future as part of the Hatfield-McCoy recreation area project. This member shall be appointed to a four-year term.
(B) One member who represents and is associated with travel and tourism or economic development efforts within the county. The initial appointment shall be for a two-year term, but all subsequent appointments shall be for a four-year term.

(2) The members of the board appointed under subdivision one, subsection (b) of this section by the county commissions shall appoint three additional board members, at least two of whom represent and are associated with recreational users of the Hatfield-McCoy recreation area project. These members shall serve three-year terms.

(3) The following three persons shall serve as nonvoting members representing the state: The director of the division of travel and tourism, the director of the division of natural resources, and the director of the division of forestry, or their respective designees.

Any appointed member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the board are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

(c) Before the authority issues any revenue bonds or revenue refunding bonds under the authority of this article, each appointed voting member of the board shall execute a surety bond in the penal sum of twenty-five thousand dollars and the officers and executive director of the board shall each execute a surety bond in the penal sum of fifty thousand dollars. Each surety bond shall be conditioned upon the faithful performance of the duties of the member, officer or director, shall be executed by a surety company authorized to transact business in this state as surety and shall be approved by the governor and filed in the office of the secretary of state. The authority shall pay premiums on the surety bonds from funds accruing to the authority.
§20-13-4. Board; quorum; executive director; expenses.

The board is the governing body of the authority and the board shall exercise all the powers given the authority in this article.

The board shall meet quarterly, unless a special meeting is called by its chairman: Provided, That on the second Monday of July of each even-numbered year, or as soon thereafter as feasible, the board shall meet to elect a chairman, secretary and treasurer from among its own members.

A majority of the members of the board constitutes a quorum, and a quorum shall be present for the board to conduct business. Unless the bylaws require a larger number, action may be taken by majority vote of the members present.

The board shall prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the authority is conducted and shall review and approve an annual budget.

The board shall appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board. The board, acting through its executive director, may employ any other personnel considered necessary and may appoint counsel and legal staff for the authority and retain such temporary engineering, financial and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this article. The executive director shall carry out plans to implement the provisions of this article and to exercise those powers enumerated in the bylaws. The executive director shall prepare annually a budget to be submitted to the board for its review and approval.

All costs incidental to the administration of the authority, including office expenses, personal services expense and current expense, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

All expenses incurred in carrying out the provisions of
this article shall be payable solely from funds provided under the authority of this article and no liability or obligation may be incurred by the authority under this article beyond the extent to which moneys have been provided under the authority of this article.


The authority, as a public corporation and governmental instrumentality exercising public powers of the state, may exercise all powers necessary or appropriate to carry out the purposes of this article, including, but not limited to, the power:

1. To acquire, own, hold and dispose of property, real and personal, tangible and intangible;

2. To lease property, whether as lessee or lessor, and to acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the use of the public;

3. To mortgage or otherwise grant security interests in its property;

4. To procure insurance against any losses in connection with its property, license or easements, contracts, including hold-harmless agreements, operations or assets in such amounts and from such insurers as the authority considers desirable;

5. To maintain such sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority;

6. To sue and be sued, implead and be impleaded, and complain and defend in any court;

7. To contract for the provision of legal services by private counsel, and notwithstanding the provisions of article three, chapter five of this code, the counsel may, in addition to the provisions of other legal services, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating to the authority, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority;
(8) To adopt, use and alter at will a corporate seal;

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

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

(11) To make contracts of every kind and nature and to execute all instruments 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;

(12) 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;

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

(14) To borrow money and to issue its bonds, security interests or notes and to provide for and secure the payment of the bonds, security interests or notes, and to provide for the rights of the holders of the bonds, security interests or notes, and to purchase, hold and dispose of any of its bonds, security interests or notes;

(15) To sell, at public or private sale, any bond or other negotiable instrument, security interest, or obligation of the authority in such manner and upon such terms as the authority considers would best serve the purposes of this article;

(16) To issue its bonds, security interests and notes payable solely from the revenues or other funds available to the authority, and the authority may issue its bonds, security interests or notes in such principal amounts as it considers necessary to provide funds for any purpose under this article, including:

(A) The payment, funding or refunding of the principal of, interest on or redemption premiums on, any bonds, security interests or notes issued by it whether the bonds,
security interests, notes or interest to be funded or refund-
ed have or have not become due;

(B) The establishment or increase of reserves to secure
or to pay bonds, security interests, notes or the interest on
the bonds, security interest or notes, and all other costs or
expenses of the authority incident to and necessary or
convenient to carry out its corporate purposes and powers.
Any bonds, security interests or notes may be additionally
secured by a pledge of any revenues, funds, assets, or
moneys of the authority from any source whatsoever;

(17) To issue renewal notes or security interests, to
issue bonds to pay notes or security interests and, whenev-
er it considers refunding expedient, to refund any bonds
by the issuance of new bonds, whether the bonds to be
refunded have or have not matured except that no renewal
notes may be issued to mature more than ten years from
the date of issuance of the notes renewed and no refund-
ing bonds may be issued to mature more than twenty-five
years from the date of issuance;

(18) To apply the proceeds from the sale of renewal
notes, security interests of refunding bonds to the pur-
chase, redemption or payment of the notes, security inter-
ests or bonds to be refunded;

(19) To accept gifts or grants of property, funds, secu-
urity interests, money, materials, labor, supplies or services
from the federal government or from any governmental
unit or any person, firm or corporation, and to carry out
the terms or provisions of, or make agreements with re-
spect to, or pledge any gifts or grants, and to do any and
all things necessary, useful, desirable or convenient in
connection with the procuring, acceptance or disposition
of gifts or grants;

(20) To the extent permitted under its contracts with
the holders of bonds, security interests or notes of the
authority, to consent to any modification of the rate of
interest, time of payment of any installment of principal or
interest, security or any other term of any bond, security
interest, note, contract or agreement of any kind to which
the authority is a party;
(21) To sell security interests in the loan portfolio of the authority. The security interests shall be evidenced by instruments issued by the authority. Proceeds from the sale of security interests may be issued in the same manner and for the same purposes as bond and note venues;

(22) To promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code, as necessary to implement and make effective the powers, duties and responsibilities invested in the authority by the provisions of this article and otherwise by law, including regulation of the conduct of persons using the Hatfield-McCoy recreation area;

(23) To construct, reconstruct, improve, maintain, repair, operate and manage the Hatfield-McCoy recreation area at the locations within the state as may be determined by the authority;

(24) To exercise all power and authority provided in this article necessary and convenient to plan, finance, construct, renovate, maintain and operate or oversee the operation of the Hatfield-McCoy recreation area at such locations within the state as may be determined by the authority;

(25) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers conferred in this section;

(26) To exercise all of the powers which a corporation may lawfully exercise under the laws of this state;

(27) To provide for law enforcement within the Hatfield-McCoy recreational area by appointing rangers as provided in section six of this article;

(28) To develop, maintain and operate or to contract for the development, maintenance and operation of the Hatfield-McCoy recreation area;

(29) 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 recreational activities operated or managed by the authority 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;

(30) To assess and collect a reasonable fee from those persons who use the trails, parking facilities, visitor centers or other facilities which are part of the Hatfield-McCoy recreation area, and to retain and utilize that revenue for any purposes consistent with this article;

(31) To cooperate with the states of Kentucky and Virginia and appropriate state and local officials and community leaders in those states to connect the trails of the West Virginia portion of the Hatfield-McCoy recreation area with similar recreation facilities in those states;

(32) To enter into contracts or other appropriate legal arrangements with landowners under which their land is made available for use as part of the Hatfield-McCoy recreation area; and

(33) To directly operate and manage recreation activities and facilities within the Hatfield-McCoy recreation area.

§20-13-6. Hatfield-McCoy recreation area rangers.

The board is hereby authorized to appoint bona fide residents of this state to act as Hatfield-McCoy recreation area rangers upon any premises which are part of the Hatfield-McCoy recreation area, subject to the conditions and restrictions imposed by this section. Before performing the duties of ranger, each appointed person shall qualify for the position of ranger in the same manner as is required of county officers by the taking and filing of an oath of office as required by section one, article one, chapter six of this code and by posting an official bond as required by section one, article two, chapter six of this code. No ranger may carry a gun or other dangerous weapon.

It is the duty of any person appointed and qualified to preserve law and order on any premises which are part of
the Hatfield-McCoy recreation area, the immediately adjacent property of landowners who are making land available for public use under agreement with the authority, and on streets, highways or other public lands utilized by the trails, parking areas or related recreational facilities, and other immediately adjacent public lands. For this purpose, the ranger shall be considered to be a law-enforcement officer in accordance with the provisions of section one, article twenty-nine, chapter thirty of this code, and, as to offenses committed within those areas, have and may exercise all the powers and authority and are subject to all the requirements and responsibilities of a law-enforcement officer. The assignment of rangers to the duties authorized by this section may not supersede in any way the authority or duty of other peace officers to preserve law and order on those premises.

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

The board may at its pleasure revoke the authority of any ranger. The executive director shall report the termination of employment of a ranger by filing a notice to that effect in the office of the clerk of each county in which the rangers' oath of office was filed, and in the case of a ranger licensed to carry a gun or other dangerous weapon, by notifying the clerk of the circuit court of the county in which the license for the gun or other dangerous weapon was granted.


Revenue bonds and revenue refunding bonds of the Hatfield-McCoy regional recreation authority issued under the provisions of this article do not constitute a debt of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of any political subdivision, but the bonds shall be payable solely from the funds provided for in this article from revenues resulting from the issuance of bonds. All bonds shall contain on
the face of the statement to the effect that neither the state
nor any political subdivision of the state is obligated to
pay the bond or the interest on the bond except from
revenues of the recreational project or projects for which
they are issued and that neither the faith or credit nor the
taxing power of the state or any political subdivision of
the state is pledged to the payment of the principal or the
interest on the bonds.


Any person who violates any of the rules promulgated
by the board under authority of this article is guilty of a
misdemeanor, and, upon conviction thereof, shall for each
offense be fined not more than five hundred dollars.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICA-
TION.

§30-29-1. Definitions.

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

"Approved law-enforcement training academy" means
any training facility which is approved and authorized to
conduct law-enforcement training as provided in this arti-
cle;

"Chief executive" means the superintendent of the state
police; the chief conservation officer of the division of
natural resources; the sheriff of any West Virginia county;
or the chief of any West Virginia municipal
law-enforcement agency;

"County" means the fifty-five major political subdivi-
sions of the state;

"Exempt rank" means any noncommissioned or com-
misioned rank of sergeant or above;

"Governor's committee on crime, delinquency and
correction" or "governor's committee" means the gover-
nor's committee on crime, delinquency and correction
established as a state planning agency pursuant to section
one, article nine, chapter fifteen of this code;
"Law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and shall include those persons employed as security officers at state institutions of higher education in accordance with the provisions of section five, article four, chapter eighteen-b of this code, although those institutions may not be considered law-enforcement agencies. The term also includes those persons employed as rangers by the Hatfield-McCoy regional recreation authority in accordance with the provisions of section six, article thirteen, chapter twenty of this code, although the authority may not be considered a law-enforcement agency: Provided, That the subject rangers shall pay the tuition and costs of training. As used in this article, the term "law-enforcement officer" does not apply to the chief executive of any West Virginia law-enforcement agency or any watchman or special conservation officer;

"Law-enforcement official" means the duly appointed chief administrator of a designated law-enforcement agency or a duly authorized designee;

"Municipality" means any incorporated town or city whose boundaries lie within the geographic boundaries of the state;

"Subcommittee" or "law-enforcement training subcommittee" means the subcommittee of the governor's committee on crime, delinquency and correction created by section two of this article; and

"West Virginia law-enforcement agency" means any duly authorized state, county or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof: Provided, That neither the Hatfield-McCoy regional recreation authority nor any state institution of higher education may be deemed a law-enforcement agency.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st day of April, 1996.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/8/46
Time 10:12am