

SB 719

FILED

2002 APR -1 A 10: 10

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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SECRETARY OF STATE~~

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2002



ENROLLED

COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 719

(By Senator BOWMAN, ET AL)



PASSED MARCH 9, 2002

In Effect NINETY Days From Passage

FILED

2002 APR -1 A 10: 10

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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SECRETARY OF STATE~~

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 719

(SENATORS BOWMAN, BAILEY, BURNETTE, KESSLER, MINARD,
REDD, ROWE, SNYDER, BOLEY AND SPROUSE, *original sponsors*)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-seven, relating to the creation of the national coal heritage area authority and board; appointment, composition, terms and expenses of board; appointment of executive director; powers and duties of authority, board and executive director; rulemaking authority; authority to assess fees; and continuation of legal obligations.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by

adding thereto a new article, designated article twenty-seven, to read as follows:

ARTICLE 27. NATIONAL COAL HERITAGE AREA AUTHORITY.

§29-27-1. Legislative findings.

1 The West Virginia Legislature finds that there is a
2 significant need for a public body to promote and enhance
3 historic preservation, tourism, and economic development
4 activities that relate to the state's history as a coal produc-
5 ing state within the counties of Boone, Cabell, Fayette,
6 Logan, McDowell, Mercer, Mingo, Raleigh, Summers,
7 Wayne, and Wyoming.

8 The Legislature further finds that the creation and
9 empowering of a statutory corporation to work with the
10 landowners, county officials and community leaders, state
11 and federal government agencies, and other interested
12 parties to enable and facilitate the development of the
13 national coal heritage area will greatly assist in the
14 realization of these potential benefits.

§29-27-2. Definitions.

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

3 (a) "Authority" means the national coal heritage area
4 authority;

5 (b) "Board" means the board of the national coal heri-
6 tage area authority; and

7 (c) "National coal heritage area" means and is comprised
8 of the counties of Boone, Cabell, Fayette, Logan,
9 McDowell, Mercer, Mingo, Raleigh, Summers, Wayne and
10 Wyoming.

**§29-27-3. Creation; appointment of board; terms; expenses;
executive director.**

1 (a) There is hereby created the “national coal heritage
2 area authority” which is a public corporation and a
3 government instrumentality existing for the purposes of
4 providing direction to and assistance with state and
5 federal historic preservation, economic development, and
6 tourism projects in the national coal heritage area and
7 aiding in the development and implementation of inte-
8 grated cultural, historical, and land resource management
9 policies and programs in order to retain, enhance, and
10 interpret the significant values of the lands, waters and
11 structures in the national coal heritage area.

12 (b) The authority board shall be comprised of seventeen
13 members. The following six persons shall be non-voting
14 members and shall serve by virtue of their offices and may
15 be represented at meetings of the board by designees: the
16 secretary of the department of education and the arts, the
17 commissioner of the bureau of the environment, the
18 commissioner of the division of tourism, the commissioner
19 of the division of culture and history, the director of the
20 division of natural resources and the executive director of
21 the West Virginia development office. The remaining
22 eleven members shall be appointed for terms of four years
23 by the governor with the advice and consent of the Senate.
24 Of the eleven members appointed by the governor, one
25 member must reside in Boone county; one member must
26 reside in Cabell county; one member must reside in Fayette
27 county; one member must reside in Logan county; one
28 member must reside in McDowell county; one member
29 must reside in Mercer county; one member must reside in
30 Mingo county; one member must reside in Raleigh county;
31 one member must reside in Summers county; one member
32 must reside in Wayne county; one member must reside in
33 Wyoming county; and the appointees must be representa-
34 tive of the tourism industry, the coal industry, the united
35 mine workers of America, economic development activity,
36 historic preservation activity and higher education.

37 (c) Of the eleven members first appointed to the board,
38 two shall be appointed for a term ending the thirtieth day
39 of June, two thousand three, and three members for terms
40 ending one, two and three years thereafter as the governor
41 shall designate at the time of the appointments. Thereaf-
42 ter, the terms of office shall be four years. No appointed
43 member may serve more than two consecutive full terms.
44 A member shall continue to serve until his or her successor
45 has been appointed and qualified.

46 (d) If an appointed member is unable to complete a term,
47 the governor shall appoint a person to complete the
48 unexpired term. Each vacancy occurring on the board
49 must be filled within sixty days after the vacancy is
50 created.

51 (e) Any appointed member of the board shall immedi-
52 ately and automatically forfeit his or her membership on
53 the board if he or she becomes a nonresident of the county
54 from which he or she was appointed.

55 (f) Each member of the board shall serve without
56 compensation, but shall receive expense reimbursement
57 for all reasonable and necessary expenses actually in-
58 curred in the performance of the duties of the office, in the
59 same amount paid to members of the Legislature for their
60 interim duties as recommended by the citizens legislative
61 compensation commission and authorized by law: *Pro-*
62 *vided*, That no member shall be reimbursed for expenses
63 paid by a third party.

64 (g) The board shall appoint an executive director to act
65 as its chief executive officer, to serve at the will and
66 pleasure of the board. The board, acting through its
67 executive director, may employ any other personnel
68 considered necessary and may appoint staff for the
69 authority and retain such temporary consultants or
70 technicians as may be required for any special study or
71 survey consistent with the provisions of this article. The
72 executive director shall carry out plans to implement the

73 provisions of this article and to exercise those powers. The
74 executive director shall prepare annually a budget to be
75 submitted to the board for its review and approval.

§29-27-4. Board; quorum; chairperson; bylaws.

1 (a) The board is the governing body of the authority and
2 the board shall exercise all the powers given the authority
3 in this article.

4 (b) A chairperson shall be appointed by and shall serve
5 at the will and pleasure of the governor, with the advice
6 and consent of the Senate. The authority shall meet at
7 such times as shall be specified by the chairperson, but in
8 no case less than once each three months. Notice of the
9 meeting must be given in accordance with the provisions
10 of section three, article nine-a, chapter six of this code. A
11 majority of the members may also call a meeting upon
12 such notice as provided in this section. Six appointed
13 members shall constitute a quorum for the transaction of
14 business. The chairperson of the board shall appoint from
15 the membership of the authority certain members to serve
16 as secretary and as treasurer.

17 (c) The board shall prescribe, amend and repeal bylaws
18 and rules governing the manner in which the business of
19 the authority is conducted, shall keep a record of its
20 proceedings, and shall review and approve an annual
21 budget.

§29-27-5. Powers of authority.

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

6 (1) To assist in the development and implementation of
7 integrated cultural, historical and land resource manage-

8 ment policies and programs in the national coal heritage
9 area;

10 (2) To advise the executive director of the national coal
11 heritage authority in retaining, enhancing and interpreting
12 the significant values of the lands, waters and structures
13 of the area;

14 (3) To enter into partnerships with various preservation
15 groups, landmark commissions, certified local govern-
16 ments, county commissions and other entities to undertake
17 the preservation, restoration, maintenance, operation,
18 development, interpretation and promotion of lands and
19 structures that possess unique and significant historic,
20 architectural and cultural value associated with the coal
21 mining heritage of the national coal heritage area;

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

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

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

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

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

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

41 (10) To construct, reconstruct, improve, maintain, repair,
42 operate and manage certain facilities in the national coal
43 heritage area as may be determined by the authority;

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

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

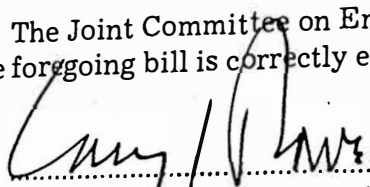
59 (13) To propose rules for legislative approval in accor-
60 dance with the provisions of article three, chapter twenty-
61 nine-a of this code, as are necessary to effectuate the
62 provisions of this article.

§29-27-6. Continuation of legal obligations.

1 Nothing in this article shall be considered as supersed-
2 ing, amending, modifying or repealing any contract or
3 agreement entered into for the benefit of the national coal
4 heritage area prior to the date of enactment of this article.

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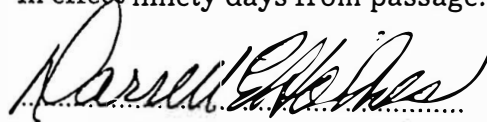
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

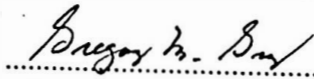

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Chairman Senate Committee

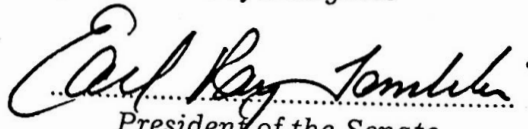

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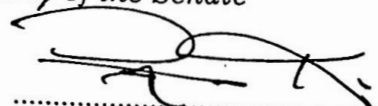
Originated in the Senate.

In effect ninety days from passage.



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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 29th
Day of March, 2002.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/02

Time 9:10 am