WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4630

(By Delegate Boggs)

Passed March 6, 2012
To Take Effect From Passage
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COMMITTEE SUBSTITUTE
FOR

H. B. 4630

(BY DELEGATE BOGGS)

[Passed March 6, 2012; to take effect from passage.]

AN ACT to amend and reenact chapter 196 of the Acts of the Legislature, regular session, 1963, as last amended and reenacted by chapter 206 of the Acts of the Legislature, regular session, 1967, all relating to the Braxton County Recreational Development Authority; modifying the membership of the Braxton County Recreational Development Authority; transferring certain authority from the Braxton County Board of Education to the Braxton County Commission; and requiring the approval of the Braxton County Commission and the Braxton County Board of Education on land transactions conducted by the authority.

Be it enacted by the Legislature of West Virginia:

That chapter 196 of the Acts of the Legislature, regular session, 1963, as last amended and reenacted by chapter 206 of the Acts of the Legislature, regular session, 1967, be amended and reenacted, all to read as follows:
BRAXTON COUNTY RECREATIONAL DEVELOPMENT AUTHORITY.

§1. Braxton County Recreational Development Authority continued.

1 The Braxton County Recreational Development
2 Authority is continued for the purposes and in the manner
3 provided in this act.

§2. Acquisition, construction, maintenance, etc. of the county
Four-H youth camps and recreational areas and
facilities.

1 The authority is authorized to acquire, equip, construct,
2 improve, maintain and operate county Four-H youth camps
3 and general public recreational areas and facilities in Braxton
4 County with all usual and convenient appurtenances,
5 including, but not limited to, recreational facilities, such as
6 swimming pools, tennis courts, golf courses and horse riding
7 stables; and to operate, either directly or on a concession
8 basis, any activity that is necessary or convenient, customary
9 or desirable, and related or incidental to the above-mentioned
10 camps and recreational areas and facilities, including, but not
11 limited to, hotels, restaurants and gift shops.

§3. Members of the authority.

1 (a) The management and control of the authority, its
2 property, operations, business and affairs, is lodged in a
3 board of five members each of whom shall be appointed for
4 a term of five years. After June 30, 2012, as terms expire or
5 vacancies are filled, appointments shall be made by the
6 Braxton County Commission so that no more than two of
7 these members represent any one magisterial district located
8 within Braxton County.
(b) Effective July 1, 2012, the board shall include two additional members, bringing the total board membership to seven. One member shall be a member of and appointed by the Braxton County Commission. One member shall be a member of and appointed by the Braxton County Board of Education. These members serve for five-year terms or for as long as the member continues to serve on the county commission or board of education, respectively, whichever is shorter.

§4. Removal of members.

(a) The Braxton County Commission may remove a member of the authority whom it appointed in the manner set forth in subsection (c) of this section.

(b) The Braxton County Board of Education may remove a member of the authority whom it appointed in the manner set forth in subsection (c) of this section.

(c) (1) The appointing body shall notify the member whom it desires to remove in writing, stating the reasons for the removal.

(2) Within ten days of the receipt of the written notice of removal, the member may request a hearing before the appointing body.

(3) The appointing body shall hold a hearing within ten days of the receipt of the member’s request.

(4) Any member who is removed may petition the Braxton County Circuit Court to review the removal action.
§5. Substitution of members.

If any member of the authority dies, resigns, or is removed, or for any other reason ceases to be a member of the authority, the appointing body shall appoint another person to fill the unexpired portion of the term of the member.

§6. Qualification of members.

All members must be residents of Braxton County and of legal voting age.

§7. Payment of expenses of members.

No member may receive any compensation, whether in form of salary, per diem allowances or otherwise, for or in connection with his or her service as a member. Each member is entitled to reimbursement by the authority for any necessary expenditures in connection with the performance of his or her general duties as a member.


The authority is a public corporation with the name of "Braxton County Recreational Development Authority" and as such has perpetual succession, may contract and be contracted with, sue and be sued, plead and be impleaded and have and use a common seal.


(a) The authority may:

(1) Make and adopt all necessary bylaws, rules and regulations for its organization and operation not inconsistent with law;
(2) Elect its own officers, to appoint committees and employ and fix the compensation for personnel necessary for its operation;

(3) Enter into contracts with any person, governmental department, firm or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of acquiring, equipping, constructing, maintaining, improving, extending, financing and operating county youth camps and general public recreational areas and facilities and all usual and convenient appurtenant activities and facilities in Braxton County, West Virginia, including, but not limited to, those enumerated in section two of this act;

(4) Delegate any authority given to it by law to any of its officers, committees, agents or employees;

(5) Apply from, receive and use grants-in-aid, donations and contributions from any source or sources, including, but not limited to, the federal government and any agency of the federal government, and the State of West Virginia, and to accept and use bequests, devises, gifts and donations from any person, firm or corporation;

(6) Acquire lands and hold title thereto in its own name;

(7) Purchase, own, hold, sell and dispose of personal property and to sell, lease or otherwise dispose of any real estate which it may own;

(8) Borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefor, and give security therefor as is requisite, including giving a mortgage or deed of trust on its property and facilities in connection with the issuance of mortgage bonds;
§10. Indebtedness of the authority.

The authority may incur any proper indebtedness and issue any obligations and give any security which it considers necessary or advisable in connection with carrying out its purposes. No statutory limitation with respect to the nature or amount of indebtedness which may be incurred by municipalities or other public bodies applies to indebtedness of the authority. No indebtedness of any nature of the authority is an indebtedness of the Braxton County Commission, nor of the county nor of the board of education, or a charge against any property of the county or board. No obligation incurred by the authority gives any right against any member or the Braxton County Commission or any member of the board of education or any member of the board or authority. The rights of creditors of the authority are solely against the authority as a corporate body and may be satisfied only out of property held by it in its corporate capacity.
§11. Agreements in connection with obtaining funds.

The authority may, in connection with obtaining funds for its purpose, enter into any agreement with any person, firm or corporation, including the federal government, or any agency or subdivision of the federal government, containing provisions, covenants, terms and conditions as it considers advisable.

§12. Property, bonds and obligations of authority exempt from taxation.

The authority is exempt from the payment of any taxes or fees to the state or any subdivisions of the state or to any officer or employee of the state or of any subdivisions of the state. The property of the authority is exempt from all local and municipal taxes. Bonds, notes, debentures and other evidence of indebtedness of the authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, are exempt from taxes.

§13. County commission authorized to convey properties and facilities to authority.

The Braxton County Commission is authorized to convey to the authority property owned by Braxton County, together with all the appurtenances and facilities therewith, the conveyance to be without consideration or for a price and with terms and conditions as the Braxton County Commission considers proper.

§14. Property and facilities may be leased to the Braxton County Commission, the Braxton County Board of Education or others.

The authority may lease the property on which the camp or camps and facilities are situated, in whole or in part, and
all the appurtenances and facilities therewith, to the Braxton County Commission, to the Braxton County Board of Education or to any other available lessee or lessees at such rental and upon such terms and conditions as the authority considers proper. If the authority determines to lease the property and its appurtenances and facilities, as a whole, it shall first offer the same to the Braxton County Commission upon an annual lease and it may not lease the property and its appurtenances and facilities as a whole to any other lessee until the Braxton County Commission has notified the authority that it does not desire to lease said properties, which notice shall be given within thirty days after notice by the authority of a desire on its part to lease the property as a whole. The Braxton County Commission is authorized to enter into a lease with the authority for the property and appurtenances and facilities at such rental and upon such terms and conditions as it considers proper, and the Braxton County Commission may levy taxes as provided by law for the purpose of paying the rent for the property, appurtenances and facilities. The authority, however, may lease one or more portions of its property without first offering the same to the Braxton County Commission. The lease shall be for some purpose associated with recreational or other related activities.

§15. Disposition of surplus of authority.

If the authority should realize a surplus, whether from operating the property or leasing it for operation, over and above the amount required for the maintenance, improvement and operation thereof and for meeting all required payments on its obligations, it shall set aside a reserve for future operations, improvements and contingencies as it considers proper and then apply the residue of the surplus, if any, to the payment of any recognized and established obligations not then due; and after all its recognized and established
obligations have been paid off and discharged in full, the
authority shall, at the end of each fiscal year, set aside the
reserve for future operations, improvements and
contingencies, and then pay the residue of the surplus, if any,
to the Braxton County Commission to be used by the county
commission for general county purposes.

§16. Contributions; funds and accounts; publication of annual
report.

Contributions may be made to the authority from time to
time by the Braxton County Commission, the Braxton County
Board of Education, the federal government, and by any
persons, firms or corporations that desire to do so. All those
funds and all other funds received by the authority shall be
deposited in a bank or banks as the authority directs and shall
be withdrawn as the authority directs. The authority shall keep
strict account of all its receipts and expenditures and shall each
quarter make a report to the Braxton County Commission
containing an itemized account of its receipts and
disbursements during the preceding quarter. The report shall
be made within thirty days after the termination of the quarter.
Within thirty days after the end of the fiscal year, the authority
shall make an annual report containing an itemized statement
of its receipts and disbursements for the preceding year and the
annual report shall be published once a week for two
successive weeks in two newspapers or opposite politics
published in Braxton County, West Virginia, if there are two
such papers, or otherwise in any newspaper of general
circulation in the county. The books, records and accounts of
the authority are subject to audit and examination by the West
Virginia State Auditor, acting as the Chief Inspector and by
any other proper public official or body in the manner
provided by law.
§17. Employees to be covered by workers’ compensation.

The authority is an employer subject to the requirements of chapter twenty-three of the Code of West Virginia.

§18. Dissolution of authority.

The authority may at any time pay off and discharge in full all of its indebtedness, obligations and liabilities, convey its properties, appurtenances and facilities to the Braxton County Commission and be dissolved. Before making such conveyance of its properties, the authority shall first publish notice of its intention so to do and of its intention to be dissolved, once a week for four successive weeks in two newspapers of opposite politics published in, and of general circulation in Braxton County, West Virginia, if there are two such papers, or otherwise in any newspaper of general circulation in the county. Certificates from the publishers shall be filed with the Braxton County Commission on or before the deed conveying the properties is delivered. Any funds remaining in the hands of the authority at the time of the conveyance of the properties shall be paid over to the Braxton County Commission to be used by it for purposes in connection with the properties. Upon the payment of its indebtedness, obligations and liabilities, the publishing of the notices aforesaid, the conveyance of its properties and the paying over to the Braxton County Commission of any funds remaining in its hands, the authority shall cause a certificate showing its dissolution to be executed under its name and seal and to be recorded in the office of the clerk of the Braxton County Commission and thereupon its dissolution shall be complete.
§19. Construction of act; additional powers of board of education and county commission.

It is the purpose of this act to provide for the acquisition, construction, improvement, extension, maintenance and operation of a camp or camps and recreational facilities and appurtenant facilities in a prudent and economical manner. This act shall be liberally construed as giving to the authority full and complete power reasonably required to give effect to its purposes. The provisions of this act are in addition to and not in derogation of any power existing in the Braxton County Board of Education and the Braxton County Commission under any constitutional or statutory provisions which they may now have, or may acquire.


The several sections and provisions of this act are severable, and if any section or provision of this act is held unconstitutional, all the remaining sections and provisions of this act shall nevertheless remain valid.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within bill approved this the 15th day of March, 2012.

Governor
PRESENTED TO THE GOVERNOR

MAR 10 2012

Time 9:24 am