

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 4630**

5 (By Delegate Boggs)

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

7  
8  
9  
10 AN ACT to amend and reenact chapter 196 of the Acts of the  
11 Legislature, regular session, 1963, as last amended and  
12 reenacted by chapter 206 of the Acts of the Legislature,  
13 regular session, 1967, all relating to the Braxton County  
14 Recreational Development Authority; modifying the membership  
15 of the Braxton County Recreational Development Authority;  
16 transferring certain authority from the Braxton County Board  
17 of Education to the Braxton County Commission; and requiring  
18 the approval of the Braxton County Commission and the Braxton  
19 County Board of Education on land transactions conducted by  
20 the authority.

21 *Be it enacted by the Legislature of West Virginia:*

22 That chapter 196 of the Acts of the Legislature, regular  
23 session, 1963, as last amended and reenacted by chapter 206 of the  
24 Acts of the Legislature, regular session, 1967, be amended and  
25 reenacted, all to read as follows:

1 **BRAXTON COUNTY RECREATIONAL DEVELOPMENT AUTHORITY.**

2 **§1. Braxton County Recreational Development Authority continued.**

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

5 **§2. Acquisition, construction, maintenance, etc. of the county**

6 **Four-H youth camps and recreational areas and facilities.**

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

17 **§3. Members of the authority.**

18 (a) The management and control of the authority, its property,  
19 operations, business and affairs, is lodged in a board of five  
20 members each of whom shall be appointed for a term of five years.  
21 After June 30, 2012, as terms expire or vacancies are filled,  
22 appointments shall be made by the Braxton County Commission so that  
23 no more than two of these members represent any one magisterial  
24 district located within Braxton County.

25 (b) Effective July 1, 2012, the board shall include two

1 additional members, bringing the total board membership to seven.  
2 One member shall be a member of and appointed by the Braxton County  
3 Commission. One member shall be a member of and appointed by the  
4 Braxton County Board of Education. These members serve for  
5 five-year terms or for as long as the member continues to serve on  
6 the county commission or board of education, respectively,  
7 whichever is shorter.

8 **§4. Removal of members.**

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

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

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

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

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

22 (4) Any member who is removed may petition the Braxton County  
23 Circuit Court to review the removal action.

24 **§5. Substitution of members.**

25 If any member of the authority dies, resigns, or is removed,  
26 or for any other reason ceases to be a member of the authority, the

1 appointing body shall appoint another person to fill the unexpired  
2 portion of the term of the member.

3 **§6. Qualification of members.**

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

6 **§7. Payment of expenses of members.**

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

13 **§8. Public corporation.**

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

18 **§9. Powers generally.**

19 (a) The authority may:

20 (1) Make and adopt all necessary bylaws, rules and regulations  
21 for its organization and operation not inconsistent with law;

22 (2) Elect its own officers, to appoint committees and employ  
23 and fix the compensation for personnel necessary for its operation;

24 (3) Enter into contracts with any person, governmental  
25 department, firm or corporation, including both public and private

1 corporations, and generally to do any and all things necessary or  
2 convenient for the purpose of acquiring, equipping, constructing,  
3 maintaining, improving, extending, financing and operating county  
4 youth camps and general public recreational areas and facilities  
5 and all usual and convenient appurtenant activities and facilities  
6 in Braxton County, West Virginia, including, but not limited to,  
7 those enumerated in section two of this act;

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

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

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

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

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

25       (9) Raise funds by the issuance and sale of revenue bonds in  
26 the manner provided by the applicable provisions of article

1 sixteen, chapter eight of the Code of West Virginia, one thousand  
2 nine hundred thirty-one, as amended, it being expressly provided  
3 that the authority is a "municipal authority" within the definition  
4 of that term as used in article sixteen, chapter eight of the code;  
5 and

6 (10) Expend its funds in the execution of its powers and  
7 authority.

8 (b) The buying, selling and trading of land must have a  
9 majority vote of the Braxton County Commission, the Braxton County  
10 Board of Education, and the five members of the Braxton County  
11 Recreational Development Authority appointed under subsection (a),  
12 section three of this act.

13 **§10. Indebtedness of the authority.**

14 The authority may incur any proper indebtedness and issue any  
15 obligations and give any security which it considers necessary or  
16 advisable in connection with carrying out its purposes. No  
17 statutory limitation with respect to the nature or amount of  
18 indebtedness which may be incurred by municipalities or other  
19 public bodies applies to indebtedness of the authority. No  
20 indebtedness of any nature of the authority is an indebtedness of  
21 the Braxton County Commission, nor of the county nor of the board  
22 of education, or a charge against any property of the county or  
23 board. No obligation incurred by the authority gives any right  
24 against any member or the Braxton County Commission or any member  
25 of the board of education or any member of the board or authority.  
26 The rights of creditors of the authority are solely against the

1 authority as a corporate body and may be satisfied only out of  
2 property held by it in its corporate capacity.

3 **§11. Agreements in connection with obtaining funds.**

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

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

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

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

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

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

4 The authority may lease the property on which the camp or  
5 camps and facilities are situated, in whole or in part, and all the  
6 appurtenances and facilities therewith, to the Braxton County  
7 Commission, to the Braxton County Board of Education or to any  
8 other available lessee or lessees at such rental and upon such  
9 terms and conditions as the authority considers proper. If the  
10 authority determines to lease the property and its appurtenances  
11 and facilities, as a whole, it shall first offer the same to the  
12 Braxton County Commission upon an annual lease and it may not lease  
13 the property and its appurtenances and facilities as a whole to any  
14 other lessee until the Braxton County Commission has notified the  
15 authority that it does not desire to lease said properties, which  
16 notice shall be given within thirty days after notice by the  
17 authority of a desire on its part to lease the property as a whole.  
18 The Braxton County Commission is authorized to enter into a lease  
19 with the authority for the property and appurtenances and  
20 facilities at such rental and upon such terms and conditions as it  
21 considers proper, and the Braxton County Commission may levy taxes  
22 as provided by law for the purpose of paying the rent for the  
23 property, appurtenances and facilities. The authority, however,  
24 may lease one or more portions of its property without first  
25 offering the same to the Braxton County Commission. The lease

1 shall be for some purpose associated with recreational or other  
2 related activities.

3 **§15. Disposition of surplus of authority.**

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

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

20 Contributions may be made to the authority from time to time  
21 by the Braxton County Commission, the Braxton County Board of  
22 Education, the federal government, and by any persons, firms or  
23 corporations that desire to do so. All those funds and all other  
24 funds received by the authority shall be deposited in a bank or  
25 banks as the authority directs and shall be withdrawn as the

1 authority directs. The authority shall keep strict account of all  
2 its receipts and expenditures and shall each quarter make a report  
3 to the Braxton County Commission containing an itemized account of  
4 its receipts and disbursements during the preceding quarter. The  
5 report shall be made within thirty days after the termination of  
6 the quarter. Within thirty days after the end of the fiscal year,  
7 the authority shall make an annual report containing an itemized  
8 statement of its receipts and disbursements for the preceding year  
9 and the annual report shall be published once a week for two  
10 successive weeks in two newspapers or opposite politics published  
11 in Braxton County, West Virginia, if there are two such papers, or  
12 otherwise in any newspaper of general circulation in the county.  
13 The books, records and accounts of the authority are subject to  
14 audit and examination by the West Virginia State Auditor, acting as  
15 the Chief Inspector and by any other proper public official or body  
16 in the manner provided by law.

17 **§17. Employees to be covered by workers' compensation.**

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

20 **§18. Dissolution of authority.**

21 The authority may at any time pay off and discharge in full  
22 all of its indebtedness, obligations and liabilities, convey its  
23 properties, appurtenances and facilities to the Braxton County  
24 Commission and be dissolved. Before making such conveyance of its  
25 properties, the authority shall first publish notice of its  
26 intention so to do and of its intention to be dissolved, once a

1 week for four successive weeks in two newspapers of opposite  
2 politics published in, and of general circulation in Braxton County,  
3 West Virginia, if there are two such papers, or otherwise in any  
4 newspaper of general circulation in the county. Certificates from  
5 the publishers shall be filed with the Braxton County Commission on  
6 or before the deed conveying the properties is delivered. Any  
7 funds remaining in the hands of the authority at the time of the  
8 conveyance of the properties shall be paid over to the Braxton  
9 County Commission to be used by it for purposes in connection with  
10 the properties. Upon the payment of its indebtedness, obligations  
11 and liabilities, the publishing of the notices aforesaid, the  
12 conveyance of its properties and the paying over to the Braxton  
13 County Commission of any funds remaining in its hands, the  
14 authority shall cause a certificate showing its dissolution to be  
15 executed under its name and seal and to be recorded in the office  
16 of the clerk of the Braxton County Commission and thereupon its  
17 dissolution shall be complete.

18 **§19. Construction of act; additional powers of board of education**  
19 **and county commission.**

20 It is the purpose of this act to provide for the acquisition,  
21 construction, improvement, extension, maintenance and operation of  
22 a camp or camps and recreational facilities and appurtenant  
23 facilities in a prudent and economical manner. This act shall be  
24 liberally construed as giving to the authority full and complete  
25 power reasonably required to give effect to its purposes. The  
26 provisions of this act are in addition to and not in derogation of

1 any power existing in the Braxton County Board of Education and the  
2 Braxton County Commission under any constitutional or statutory  
3 provisions which they may now have, or may acquire.

4 **§20. Provisions severable.**

5       The several sections and provisions of this act are severable,  
6 and if any section or provision of this act is held  
7 unconstitutional, all the remaining sections and provisions of this  
8 act shall nevertheless remain valid.