

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

E N R O L L E D

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.

9 (b) Effective July 1, 2012, the board shall include two
10 additional members, bringing the total board membership to
11 seven. One member shall be a member of and appointed by
12 the Braxton County Commission. One member shall be a
13 member of and appointed by the Braxton County Board of
14 Education. These members serve for five-year terms or for
15 as long as the member continues to serve on the county
16 commission or board of education, respectively, whichever
17 is shorter.

§4. Removal of members.

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

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

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

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

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

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

§5. Substitution of members.

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

§6. Qualification of members.

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

§7. Payment of expenses of members.

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

§8. Public corporation.

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

§9. Powers generally.

1 (a) The authority may:

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

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

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

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

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

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

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

30 (8) Borrow money and execute and deliver negotiable
31 notes, mortgage bonds, other bonds, debentures, and other
32 evidences of indebtedness therefor, and give security therefor
33 as is requisite, including giving a mortgage or deed of trust
34 on its property and facilities in connection with the issuance
35 of mortgage bonds;

36 (9) Raise funds by the issuance and sale of revenue bonds
37 in the manner provided by the applicable provisions of article
38 sixteen, chapter eight of the Code of West Virginia, one
39 thousand nine hundred thirty-one, as amended, it being
40 expressly provided that the authority is a “municipal
41 authority” within the definition of that term as used in article
42 sixteen, chapter eight of the code; and

43 (10) Expend its funds in the execution of its powers and
44 authority.

45 (b) The buying, selling and trading of land must have a
46 majority vote of the Braxton County Commission, the
47 Braxton County Board of Education, and the five members of
48 the Braxton County Recreational Development Authority
49 appointed under subsection (a), section three of this act.

§10. Indebtedness of the authority.

1 The authority may incur any proper indebtedness and
2 issue any obligations and give any security which it considers
3 necessary or advisable in connection with carrying out its
4 purposes. No statutory limitation with respect to the nature
5 or amount of indebtedness which may be incurred by
6 municipalities or other public bodies applies to indebtedness
7 of the authority. No indebtedness of any nature of the
8 authority is an indebtedness of the Braxton County
9 Commission, nor of the county nor of the board of education,
10 or a charge against any property of the county or board. No
11 obligation incurred by the authority gives any right against
12 any member or the Braxton County Commission or any
13 member of the board of education or any member of the
14 board or authority. The rights of creditors of the authority are
15 solely against the authority as a corporate body and may be
16 satisfied only out of property held by it in its corporate
17 capacity.

§11. Agreements in connection with obtaining funds.

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

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

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

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

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

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

1 The authority may lease the property on which the camp
2 or camps and facilities are situated, in whole or in part, and

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

§15. Disposition of surplus of authority.

1 If the authority should realize a surplus, whether from
2 operating the property or leasing it for operation, over and
3 above the amount required for the maintenance, improvement
4 and operation thereof and for meeting all required payments
5 on its obligations, it shall set aside a reserve for future
6 operations, improvements and contingencies as it considers
7 proper and then apply the residue of the surplus, if any, to the
8 payment of any recognized and established obligations not
9 then due; and after all its recognized and established

10 obligations have been paid off and discharged in full, the
11 authority shall, at the end of each fiscal year, set aside the
12 reserve for future operations, improvements and
13 contingencies, and then pay the residue of the surplus, if any,
14 to the Braxton County Commission to be used by the county
15 commission for general county purposes.

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

1 Contributions may be made to the authority from time to
2 time by the Braxton County Commission, the Braxton County
3 Board of Education, the federal government, and by any
4 persons, firms or corporations that desire to do so. All those
5 funds and all other funds received by the authority shall be
6 deposited in a bank or banks as the authority directs and shall
7 be withdrawn as the authority directs. The authority shall keep
8 strict account of all its receipts and expenditures and shall each
9 quarter make a report to the Braxton County Commission
10 containing an itemized account of its receipts and
11 disbursements during the preceding quarter. The report shall
12 be made within thirty days after the termination of the quarter.
13 Within thirty days after the end of the fiscal year, the authority
14 shall make an annual report containing an itemized statement
15 of its receipts and disbursements for the preceding year and the
16 annual report shall be published once a week for two
17 successive weeks in two newspapers or opposite politics
18 published in Braxton County, West Virginia, if there are two
19 such papers, or otherwise in any newspaper of general
20 circulation in the county. The books, records and accounts of
21 the authority are subject to audit and examination by the West
22 Virginia State Auditor, acting as the Chief Inspector and by
23 any other proper public official or body in the manner
24 provided by law.

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

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

§18. Dissolution of authority.

1 The authority may at any time pay off and discharge in
2 full all of its indebtedness, obligations and liabilities, convey
3 its properties, appurtenances and facilities to the Braxton
4 County Commission and be dissolved. Before making such
5 conveyance of its properties, the authority shall first publish
6 notice of its intention so to do and of its intention to be
7 dissolved, once a week for four successive weeks in two
8 newspapers of opposite politics published in, and of general
9 circulation in Braxton County, West Virginia, if there are two
10 such papers, or otherwise in any newspaper of general
11 circulation in the county. Certificates from the publishers
12 shall be filed with the Braxton County Commission on or
13 before the deed conveying the properties is delivered. Any
14 funds remaining in the hands of the authority at the time of
15 the conveyance of the properties shall be paid over to the
16 Braxton County Commission to be used by it for purposes in
17 connection with the properties. Upon the payment of its
18 indebtedness, obligations and liabilities, the publishing of the
19 notices aforesaid, the conveyance of its properties and the
20 paying over to the Braxton County Commission of any funds
21 remaining in its hands, the authority shall cause a certificate
22 showing its dissolution to be executed under its name and
23 seal and to be recorded in the office of the clerk of the
24 Braxton County Commission and thereupon its dissolution
25 shall be complete.

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

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

§20. Provisions severable.

1 The several sections and provisions of this act are
2 severable, and if any section or provision of this act is held
3 unconstitutional, all the remaining sections and provisions of
4 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 House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2012.

Governor