

ENROLLED

Senate Bill No. 508

(By Senators Cole (Mr. President) and Kessler,

By Request of the Executive)

[Passed March 2, 2015; in effect ninety days from passage.]

AN ACT to repeal §20-14-6 and §20-14-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-10-3 and §15-10-4 of said code; to amend and reenact §20-7-1 of said code; to amend and reenact §20-14-1, §20-14-2, §20-14-3, §20-14-4, §20-14-5, §20-14-8 and §20-14-9 of said code; to amend said code by adding thereto four new sections, designated §20-14-4a, §20-14-10, §20-14-11 and §20-14-12; to amend and reenact §20-15-2 and §20-15-5 of said code; to amend and reenact §30-29-1 of said code; and to amend and reenact §61-7-6 of said code, all relating to reorganization of Hatfield-McCoy Regional Recreation Authority; removing rangers as law-enforcement officers; providing for law-enforcement services to be provided by natural resources police officers under reimbursement by authority; converting authority to a joint development entity of counties; altering composition of authority's board; removing authorization to issue revenue bonds and create security interests; providing for financial review and oversight of public funds; defining prohibited uses and conduct in recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; creating criminal penalties and civil remedies; and declaring responsibilities of participants to landowners and lessors in the recreation

area.

Be it enacted by the Legislature of West Virginia:

That §20-14-6 and §20-14-7 of the Code of West Virginia, 1931, as amended, be repealed; that §15-10-3 and §15-10-4 of said code be amended and reenacted; that §20-7-1 of said code be amended and reenacted; that §20-14-1, §20-14-2, §20-14-3, §20-14-4, §20-14-5, §20-14-8 and §20-14-9 of said code be amended and reenacted; that said code be amended by adding thereto four new sections, designated §20-14-4a, §20-14-10, §20-14-11 and §20-14-12; that §20-15-2 and §20-15-5 of said code be amended and reenacted; that §30-29-1 of said code be amended and reenacted; and that §61-7-6 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-3. Definitions.

For purposes of this article only, and unless a different meaning plainly is required:

(1) "Criminal justice enforcement personnel" means those persons within the state criminal justice system who are actually employed as members of the State Police, members of the Division of Protective Services, natural resources police officers, chiefs of police and police of incorporated municipalities, and county sheriffs and their deputies and whose primary duties are the investigation of crime and the apprehension of criminals.

(2) "Head of a law-enforcement agency" means the Superintendent of the State Police, the Director of the Division of Protective Services, the chief natural resources police officer of the Division of Natural Resources, a chief of police of an incorporated municipality, a county sheriff or the Director of the Division of Forestry.

(3) "State or local law-enforcement officer" means any duly authorized member of a

1 law-enforcement agency who is authorized to maintain public peace and order, prevent and detect
2 crime, make arrests and enforce the laws of the state or any county or municipality thereof, other than
3 parking ordinances, and includes persons employed as campus police officers at state institutions of
4 higher education in accordance with the provisions of section five, article four, chapter eighteen-b
5 of this code, although those institutions may not be considered law-enforcement agencies.

6 (4) "Head of campus police" means the superintendent or administrative head of state or local
7 law-enforcement officers employed as campus police officers at state institutions of higher education
8 in accordance with the provisions of section five, article four, chapter eighteen-b of this code.

9 **§15-10-4. Cooperation between law-enforcement agencies and other groups of state or local**
10 **law-enforcement officers.**

11 (a) The head of any law-enforcement agency, or the head of any campus police, as those
12 terms are defined in section three of this article, may temporarily provide assistance and cooperation
13 to another agency of the state criminal justice system or to a federal law-enforcement agency in
14 investigating crimes or possible criminal activity if requested to do so in writing by the head of
15 another law-enforcement agency or federal law-enforcement agency. Such assistance may also be
16 provided upon the request of the head of the law-enforcement agency or federal law-enforcement
17 agency without first being reduced to writing in emergency situations involving the imminent risk
18 of loss of life or serious bodily injury. The assistance may include, but is not limited to, entering into
19 a multijurisdictional task force agreement to integrate federal, state, county and municipal
20 law-enforcement agencies or other groups of state or local law-enforcement officers, or any
21 combination thereof, for the purpose of enhancing interagency coordination, intelligence gathering,
22 facilitating multijurisdictional investigations, providing criminal justice enforcement personnel of
23 the law-enforcement agency to work temporarily with personnel of another agency, including in an

1 undercover capacity, and making available equipment, training, technical assistance and information
2 systems for the more efficient investigation, apprehension and adjudication of persons who violate
3 the criminal laws of this state or the United States and to assist the victims of such crimes. When
4 providing the assistance under this article, a head of a law-enforcement agency shall comply with
5 all applicable statutes, ordinances, rules, policies or guidelines officially adopted by the state or the
6 governing body of the city or county by which he or she is employed and any conditions or
7 restrictions included therein.

8 (b) While temporarily assigned to work with another law-enforcement agency or agencies,
9 criminal justice enforcement personnel and other state and local law-enforcement officers shall have
10 the same jurisdiction, powers, privileges and immunities, including those relating to the defense of
11 civil actions, as such criminal justice enforcement personnel would enjoy if actually employed by
12 the agency to which they are assigned, in addition to any corresponding or varying jurisdiction,
13 powers, privileges and immunities conferred by virtue of their continued employment with the
14 assisting agency.

15 (c) While assigned to another agency or to a multijurisdictional task force, criminal justice
16 enforcement personnel and other state and local law-enforcement officers shall be subject to the
17 lawful operational commands of the superior officers of the agency or task force to which they are
18 assigned, but for personnel and administrative purposes, including compensation, they shall remain
19 under the control of the assisting agency. These assigned personnel shall continue to be covered by
20 all employee rights and benefits provided by the assisting agency, including workers' compensation,
21 to the same extent as though such personnel were functioning within the normal scope of their duties.

22 (d) No request or agreement between the heads of law-enforcement agencies, or the heads
23 of campus police, made or entered into pursuant to this article shall remain in force or effect until

1 a copy of said request or agreement is filed with the office of the circuit clerk of the county or
2 counties in which the law-enforcement agencies, or the campus police, involved operate.
3 Agreements made pursuant to this article shall remain in effect unless and until the agreement is
4 changed or withdrawn in writing by the head of one of the law-enforcement agencies. Upon filing,
5 the requests or agreements may be sealed, subject to disclosure pursuant to an order of a circuit court
6 directing disclosure for good cause. Nothing in this article shall be construed to limit the authority
7 of the head of a law-enforcement agency or the head of campus police to withdraw from any
8 agreement at any time.

9 (e) Nothing contained in this article shall be construed so as to grant, increase, decrease or
10 in any manner affect the civil service protection or the applicability of civil service laws as to any
11 criminal justice enforcement personnel, or as to any state or local law-enforcement officer or agency
12 operating under the authority of this article, nor shall this article in any way reduce or increase the
13 jurisdiction or authority of any criminal justice enforcement personnel, or of any state or local
14 law-enforcement officer or agency, except as specifically provided herein.

15 (f) Nothing contained in this article shall be construed so as to authorize the permanent
16 consolidation or merger or the elimination of operations of participating federal, state, county and
17 municipal law-enforcement agencies, or other groups of state and local law-enforcement officers,
18 or campus police.

19 **CHAPTER 20. NATURAL RESOURCES.**

20 **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

21 **§20-7-1. Chief natural resources police officer; natural resources police officers; special and**
22 **emergency natural resources police officers; subsistence allowance; expenses.**

23 (a) The division's law-enforcement policies, practices and programs are under the immediate

1 supervision and direction of the division law-enforcement officer selected by the director and
2 designated as chief natural resources police officer as provided in section thirteen, article one of this
3 chapter.

4 (b) Under the supervision of the director, the chief natural resources police officer shall
5 organize, develop and maintain law-enforcement practices, means and methods geared, timed and
6 adjustable to seasonal, emergency and other needs and requirements of the division's comprehensive
7 natural resources program. All division personnel detailed and assigned to law-enforcement duties
8 and services under this section shall be known and designated as natural resources police officers
9 and are under the immediate supervision and direction of the chief natural resources police officer
10 except as otherwise provided. All natural resources police officers shall be trained, equipped and
11 conditioned for duty and services wherever and whenever required by division law-enforcement
12 needs. The chief natural resources police officer may also assign natural resources police officers
13 to perform law-enforcement duties on any trail, grounds, appurtenant facility or other areas
14 accessible to the public within the Hatfield-McCoy Recreation Area, under agreement that the
15 Hatfield-McCoy Regional Recreation Authority, created pursuant to article fourteen of this chapter,
16 shall reimburse the division for salaries paid to the officers and shall either pay directly or reimburse
17 the division for all other expenses of the officers in accordance with actual or estimated costs
18 determined by the chief natural resources police officer.

19 (c) The chief natural resources police officer, acting under supervision of the director, is
20 authorized to select and appoint emergency natural resources police officers for a limited period for
21 effective enforcement of the provisions of this chapter when considered necessary because of
22 emergency or other unusual circumstances. The emergency natural resources police officers shall
23 be selected from qualified civil service personnel of the division, except in emergency situations and

1 circumstances when the director may designate officers, without regard to civil service requirements
2 and qualifications, to meet law-enforcement needs. Emergency natural resources police officers shall
3 exercise all powers and duties prescribed in section four of this article for full-time salaried natural
4 resources police officers except the provisions of subdivision (8), subsection (b) of said section.

5 (d) The chief natural resources police officer, acting under supervision of the director, is also
6 authorized to select and appoint as special natural resources police officers any full-time civil service
7 employee who is assigned to, and has direct responsibility for management of, an area owned, leased
8 or under the control of the division and who has satisfactorily completed a course of training
9 established and administered by the chief natural resources police officer, when the action is
10 considered necessary because of law-enforcement needs. The powers and duties of a special natural
11 resources police officer, appointed under this provision, is the same within his or her assigned area
12 as prescribed for full-time salaried natural resources police officers. The jurisdiction of the person
13 appointed as a special natural resources police officer, under this provision, shall be limited to the
14 division area or areas to which he or she is assigned and directly manages.

15 (e) The Director of the Division of Forestry is authorized to appoint and revoke Division of
16 Forestry special natural resources police officers who are full-time civil service personnel who have
17 satisfactorily completed a course of training as required by the Director of the Division of Forestry.
18 The jurisdiction, powers and duties of Division of Forestry special natural resources police officers
19 are set forth by the Director of the Division of Forestry pursuant to article three of this chapter and
20 articles one-a and one-b, chapter nineteen of this code.

21 (f) The chief natural resources police officer, with the approval of the director, has the power
22 and authority to revoke any appointment of an emergency natural resources police officer or of a
23 special natural resources police officer at any time.

1 (g) Natural resources police officers are subject to seasonal or other assignment and detail
2 to duty whenever and wherever required by the functions, services and needs of the division.

3 (h) The chief natural resources police officer shall designate the area of primary residence
4 of each natural resources police officer, including himself or herself. Since the area of business
5 activity of the division is actually anywhere within the territorial confines of the state of West
6 Virginia, actual expenses incurred shall be paid whenever the duties are performed outside the area
7 of primary assignment and still within the state.

8 (i) Natural resources police officers shall receive, in addition to their base pay salary, a
9 minimum monthly subsistence allowance for their required telephone service, dry cleaning or
10 required uniforms, and meal expenses while performing their regular duties in their area of primary
11 assignment in the amount of \$130 each month. This subsistence allowance does not apply to special
12 or emergency natural resources police officers appointed under this section.

13 (j) After June 30, 2010, all those full-time law-enforcement officers employed by the
14 Division of Natural Resources as conservation officers shall be titled and known as natural resources
15 police officers. Wherever used in this code the term "conservation officer", or its plural, means
16 "natural resources police officer", or its plural, respectively.

17 (k) Notwithstanding any provision of this code to the contrary, the provisions of subdivision
18 (6), subsection c, section twelve, article twenty-one, chapter eleven of this code are inapplicable to
19 pensions of natural resources police officers paid through the Public Employees Retirement System.

20 **ARTICLE 14. HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY.**

21 **§20-14-1. Legislative findings.**

22 The West Virginia Legislature finds that there is a significant need within the state and
23 throughout the eastern United States for well-managed facilities for trail-oriented recreation for

1 off-highway motor vehicle enthusiasts. The Legislature further finds that under an appropriate
2 contractual and management scheme, well-managed, trail-oriented recreation facilities could exist
3 on private property without diminishing the landowner's interest, control or profitability in the land
4 and without increasing the landowner's exposure to liability.

5 The Legislature further finds that, with the cooperation of private landowners, there is an
6 opportunity to provide trail-oriented recreation facilities primarily on private property in the
7 mountainous terrain of southern West Virginia and that the facilities will provide significant
8 economic and recreational benefits to the state and to the communities in southern West Virginia
9 through increased tourism in the same manner as whitewater rafting and snow skiing benefit the state
10 and communities surrounding those activities.

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

15 The Legislature further finds that it is in the best interests of the state to encourage private
16 landowners to make available for public use through the Hatfield-McCoy Regional Recreation
17 Authority land for these recreational purposes by limiting their liability for injury to persons entering
18 thereon, by limiting their liability for injury to the property of persons entering thereon and by
19 limiting their liability to persons who may be injured or otherwise damaged by the acts or omissions
20 of persons entering thereon.

21 **§20-14-2. Definitions.**

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

- 1 (a) "Authority" means the Hatfield-McCoy Regional Recreational Authority;
- 2 (b) "Board" means the board of the Hatfield-McCoy Regional Recreation Authority;
- 3 (c) "Charge" means, for purposes of limiting liability for recreational purposes set forth in
4 this article, the amount of money asked in return for an invitation to enter or go upon the land,
5 including a one-time fee for a particular event, amusement, occurrence, adventure, incident,
6 experience or occasion as set by the authority: *Provided*, That the authority may set charges in
7 differing amounts for different categories of participants, including, but not limited to, in-state and
8 out-of-state participants, as the authority sees fit;
- 9 (d) "Hatfield-McCoy Recreation Area" means a system of recreational trails and appurtenant
10 facilities, including trail head centers, parking areas, camping facilities, picnic areas, recreational
11 areas, historic or cultural interpretive sites and other facilities that are a part of the system;
- 12 (e) "Land" includes, but is not limited to, roads, water, watercourses, private ways and
13 buildings, structures and machinery or equipment thereon when attached to the realty;
- 14 (f) "Owner" means those vested with title to real estate and those with the ability to exercise
15 control over real estate and includes, but is not limited to, tenant, lessee, licensee, holder of a
16 dominant estate or other lawful occupant;;
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- 18 (g) "Participant" means any person using the land, trails and facilities of the Hatfield-McCoy
19 Recreation Area;
- 20 (h) "Participating county or counties" means the counties of Boone, Kanawha, Lincoln,
21 Logan, McDowell, Mercer, Mingo, Wayne and Wyoming that have agreed to operate the
22 Hatfield-McCoy Regional Recreation Authority as a joint development entity and to participate in
23 its governance; and

1 (i) "Recreational purposes" includes, but is not limited to, any one or any combination of the
2 following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping,
3 picnicking, hiking, pleasure driving, motorcycle or motor vehicle driving and riding, bicycling,
4 horseback riding, nature study, water skiing, winter sports and visiting, viewing or enjoying
5 historical, archaeological, scenic or scientific sites or otherwise using land for purposes of the user.

6 **§20-14-3. Creation; appointment of board; terms.**

7 (a) The public corporation, the Hatfield-McCoy Regional Recreation Authority, previously
8 created by this section is hereby converted to a new public corporation created as a joint development
9 entity of the participating counties for the purpose of enabling and facilitating the development and
10 operation of a system of trail-oriented recreation facilities for use by off-highway motor vehicle
11 enthusiasts.. This recreational trail system shall be located in the counties of Boone, Kanawha,
12 Lincoln, Logan, McDowell, Mercer, Mingo, Wayne and Wyoming with significant portions of the
13 recreational trail system being located on private property made available for use through lease,
14 license, easement or other appropriate legal form by a willing landowner.

15 (b) The authority shall be governed by a board of no more than eighteen members who shall
16 be representative of the various interests involved in the Hatfield-McCoy Recreation Area project
17 in the participating counties and who shall be appointed as follows:

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

20 (A) One member who represents and is associated with a corporation or individual landowner
21 whose land is being used or is expected to be used in the future as part of the Hatfield-McCoy
22 Recreation Area project or their designee. This member shall be appointed to a four-year term.

23 (B) One member who represents and is associated with travel and tourism or economic

1 development efforts within the county or who is associated with a mining, logging, natural gas or
2 other resource-extraction industry or who is a licensed land surveyor or licensed professional
3 engineer. The initial appointment shall be for a two-year term, but all subsequent appointments shall
4 be for a four-year term.

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7 Any appointed member whose term has expired shall serve until his or her successor has been
8 duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the
9 unexpired term. Any appointed member is eligible for reappointment. The terms of the members
10 serving as of the date of enactment of the amendments of this section made during the 2015 regular
11 session of the Legislature shall expire on June 30, 2015, and each participating county shall appoint
12 two members to the board of the newly converted public corporation with terms to commence on
13 July 1, 2015. Members of the board are not entitled to compensation for services performed as
14 members but are entitled to reimbursement for all reasonable and necessary expenses actually
15 incurred in the performance of their duties.

16 (c) The conversion of the Hatfield-McCoy Regional Recreation Authority to a joint
17 development entity does not terminate or interrupt its status as a public corporation. The amendments
18 to this article made during the 2015 regular session of the Legislature do not alter the debts,
19 liabilities, responsibilities or other obligations of any party with regard to this public corporation.

20 (d) The Hatfield-McCoy Regional Recreation Authority is a "public body" for purposes of
21 the West Virginia Freedom of Information Act, as provided in article one, chapter twenty-nine-b of
22 this code.

23 **§20-14-4. Board; quorum; executive director; expenses.**

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

3 The board shall meet quarterly, unless a special meeting is called by its chairman: *Provided,*
4 That at the first meeting of each fiscal year beginning in an odd-numbered year, or as soon thereafter
5 as feasible, the board shall elect a chairman, secretary and treasurer from among its own members.

6 A majority of the members of the board constitutes a quorum and a quorum shall be present
7 for the board to conduct business.

8 The board may prescribe, amend and repeal bylaws and rules governing the manner in which
9 the business of the authority is conducted, rules governing the use of the trail system and the safety
10 of participants and shall review and approve an annual budget. The fiscal year for the authority
11 begins on July 1 and ends on the thirtieth day of the following June.

12 The board shall appoint an executive director to act as its chief executive officer, to serve at
13 the will and pleasure of the board. The board, acting through its executive director, may employ any
14 other personnel considered necessary and may appoint counsel and legal staff for the authority and
15 retain such temporary engineering, financial and other consultants or technicians as may be required
16 for any special study or survey consistent with the provisions of this article. The executive director
17 shall carry out plans to implement the provisions of this article and to exercise those powers
18 enumerated in the bylaws. The executive director shall prepare annually a budget to be submitted
19 to the board for its review and approval prior to the commencement of each fiscal year. The budget
20 shall contain a detailed account of all planned and proposed revenue and expenditures for the
21 authority for the upcoming fiscal year, including a detailed list of employees by title, salary, cost of
22 projected benefits and total compensation. Before August 15 the executive director shall provide
23 to the board and the county commission for each participating county a detailed list of actual

1 expenditures and revenue by account and recipient name for the previous fiscal year and a copy of
2 the approved budget for the current fiscal year.

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

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

10 **§20-14-4a. Financial review and oversight.**

11 (a) The authority shall contract for and obtain an annual financial audit to be conducted by
12 a private accounting firm in compliance with generally accepted government auditing standards.
13 When complete, the audit shall be transmitted to the board, the president of the county commission
14 of each participating county and the Legislative Auditor. The cost of the audit shall be paid by the
15 authority.

16 (b) If the authority receives any funds from the Legislature by appropriation or grant, the
17 Legislative Auditor shall have the power and authority to examine the revenues, expenditures and
18 performance of the Hatfield-McCoy Regional Recreation Authority and for these purposes shall have
19 the power to inspect the properties, equipment, facilities of the authority and to request, inspect and
20 obtain copies of any records of the authority. For each fiscal year in which the authority receives any
21 funds from the Legislature by appropriation or grant, the executive director shall provide to the
22 Legislative Auditor and Secretary of Revenue a detailed list of actual expenditures and revenue by
23 account and recipient name for the previous fiscal year within forty-five days of the close of that

1 fiscal year.

2 **§20-14-5. Powers of authority.**

3 The authority, as a public corporation and joint development entity, may exercise all powers
4 necessary or appropriate to carry out the purposes of this article, including, but not limited to, the
5 power:

6 (1) To acquire, own, hold and dispose of property, real and personal, tangible and intangible;

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

10 (3) To mortgage or otherwise grant security interests in its property;

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

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

16 (6) To sue and be sued, implead and be impleaded and complain and defend in any court;

17 (7) To contract for the provision of legal services by private counsel and, notwithstanding
18 the provisions of article three, chapter five of this code, the counsel may, in addition to the
19 provisions of other legal services, represent the authority in court, negotiate contracts and other
20 agreements on behalf of the authority, render advice to the authority on any matter relating to the
21 authority, prepare contracts and other agreements and provide such other legal services as may be
22 requested by the authority;

23 (8) To adopt, use and alter at will a corporate seal;

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

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

5 (11) To make contracts of every kind and nature and to execute all instruments necessary or
6 convenient for carrying on its business, including contracts with any other governmental agency of
7 this state or of the federal government or with any person, individual, partnership or corporation to
8 effect any or all of the purposes of this article;

9 (12) Without in any way limiting any other subdivision of this section, to accept grants and
10 loans from, and enter into contracts and other transactions with, any federal agency;

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

12 (14) To borrow money and to issue notes and to provide for the payment of notes and to
13 provide for the rights of the holders of the notes and to purchase, hold and dispose of any of its notes;

14 (15)

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

18 (A) The payment, funding or refunding of the principal of, interest on or redemption
19 premiums on notes issued by it whether the notes or interest to be funded or refunded have or have
20 not become due;

21 (B) The establishment or increase of reserves to secure or to pay notes or the interest on the
22 notes and all other costs or expenses of the authority incident to and necessary or convenient to carry
23 out its corporate purposes and powers. Notes may be additionally secured by a pledge of any

1 revenues, funds, assets or moneys of the authority from any source whatsoever;

2 (16) To issue renewal notes, except that no renewal notes may be issued to mature more than
3 ten years from the date of issuance of the notes renewed;

4 (17) To apply the proceeds from the sale of renewal notes to the purchase, redemption or
5 payment of the notes to be refunded;

6 (18) To accept gifts or grants of property, funds, security interests, money, materials, labor,
7 supplies or services from the federal government or from any governmental unit or any person, firm
8 or corporation and to carry out the terms or provisions of or make agreements with respect to or
9 pledge any gifts or grants and to do any and all things necessary, useful, desirable or convenient in
10 connection with the procuring, acceptance or disposition of gifts or grants;

11 (19) To the extent permitted under its contracts with the holders of notes of the authority, to
12 consent to any modification of the rate of interest, time of payment of any installment of principal
13 or interest, security or any other term of any note, contract or agreement of any kind to which the
14 authority is a party;

15 (20) To construct, reconstruct, improve, maintain, repair, operate and manage the
16 Hatfield-McCoy Recreation Area at the locations within the participating counties as may be
17 determined by the authority;

18 (21) To enter into an agreement with the West Virginia Division of Natural Resources for
19 natural resources police officers to provide law-enforcement services within the Hatfield-McCoy
20 Recreation Area and to reimburse the Division of Natural Resources for its costs therefor;

21 (22) To exercise all power and authority provided in this article necessary and convenient to
22 plan, finance, construct, renovate, maintain and operate or oversee the operation of the
23 Hatfield-McCoy Recreation Area at such locations within the participating counties as may be

1 determined by the authority;

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

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

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7 (25) To develop, maintain and operate or to contract for the development, maintenance and
8 operation of the Hatfield-McCoy Recreation Area;

9 (26) To enter into contract with landowners and other persons holding an interest in the land
10 being used for its recreational facilities to hold those landowners and other persons harmless with
11 respect to any claim in tort growing out of the use of the land for recreational purposes or growing
12 out of the recreational activities operated or managed by the authority from any claim except a claim
13 for damages proximately caused by the willful or malicious conduct of the landowner or other person
14 or any of his or her agents or employees;

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

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19 (28) To enter into contracts or other appropriate legal arrangements with landowners under
20 which their land is made available for use as part of the Hatfield-McCoy Recreation Area; and

21 (29) To directly operate and manage recreation activities and facilities within the
22 Hatfield-McCoy Recreation Area.

23 **§20-14-8. Prohibited acts, penalty.**

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(a) A person may not enter or remain upon the Hatfield-McCoy Recreation Area without a valid, nontransferable user permit issued by the authority and properly displayed, except properly identified landowners or leaseholders or their officers, employees or agents while on the land that the person owns or leases for purposes related to the ownership or lease of the land and not for recreational purposes;

(b) A person may not consume or possess any alcoholic liquor at any time or any location within the Hatfield-McCoy Recreation Area.

(c) The operator or passenger of a motor vehicle within the Hatfield-McCoy Recreation Area shall wear size-appropriate protective helmets at all times. All operators and passengers shall wear helmets that meet the current performance specifications established by the American National Standards Institute standard, z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard no. 218 or Snell Memorial Foundation safety standards for protective headgear for vehicle users.

(d) Each trail user shall obey all traffic laws, traffic-control devices and signs within the Hatfield-McCoy Recreation Area, including those which restrict trails to certain types of motor vehicles, motorcycles or those equipped with roll cages.

(e) Each trail user shall at all times remain within and on a designated and marked trail while within the Hatfield-McCoy Recreation Area.

(f) A person may not be on any trail within the Hatfield-McCoy Recreation Area at any time from one-half hour after sunset until one-half hour before sunrise, except in an emergency.

1 (g) Every person within the Hatfield-McCoy Recreation Area who is under sixteen years of
2 age shall at all times be under the immediate supervision of, and within sight of, a person who is at
3 least eighteen years of age and who either is a parent or guardian of the youth or has the express
4 permission of a parent or guardian to supervise the youth. No parent, guardian or supervising adult
5 may allow a child under the age of sixteen years to leave that person's sight and supervision within
6 the Hatfield-McCoy Recreation Area.

7 (h) A person may not ignite or maintain any fire within the Hatfield-McCoy Recreation Area
8 except at a clearly marked location at a trailhead center.

9 (i) A person within the Hatfield-McCoy Recreation Area may not operate a motor vehicle
10 in any competition or exhibition of speed, acceleration, racing, test of physical endurance or climbing
11 ability unless in an event sanctioned by the authority.

12 (j) Every person operating a motor vehicle within the Hatfield-McCoy Recreation Area shall
13 be subject to all of the duties applicable to the driver of a motor vehicle by the provisions of chapter
14 seventeen-c of this code except where inconsistent with the provisions of this article and except as
15 to those provisions of chapter seventeen-c of this code which by their nature can have no application
16 and may not operate a motor vehicle in violation of those duties.

17 (k) A person may not possess a glass container while riding on a motor vehicle within the
18 Hatfield-McCoy Recreation Area.

19 (l) A person may not operate or ride in a utility terrain vehicle, as defined in article one,
20 chapter seventeen-f of this code, or any other motor vehicle with bench or bucket seating and a
21 steering wheel for control unless equipped with seat belts meeting at a minimum federal motor
22 vehicle safety standards and properly worn by the driver and all passengers.

23 (m) A person who violates any provision of this section is guilty of a misdemeanor and, upon

1 conviction thereof, shall be fined not more than \$100. Prosecution or conviction for the misdemeanor
2 described in this subsection shall not prevent or disqualify any other civil or criminal remedies for
3 the conduct prohibited by this section.

4 **§20-14-9. Limiting liability.**

5 (a) An owner of land used by, or for the stated purposes of, the Hatfield-McCoy Regional
6 Recreation Authority, whether with or without charge, owes no duty of care to keep the premises safe
7 for entry or use by others for recreational purposes or to give any warning of a dangerous or
8 hazardous condition, use, structure or activity on the premises to persons entering for those purposes.

9

10 (b) Unless otherwise agreed in writing, an owner who grants a lease, easement or license of
11 land to the authority for recreational purposes, whether with or without charge, owes no duty of care
12 to keep that land safe for entry or use by others or to give warning to persons entering or going upon
13 the land of any dangerous or hazardous conditions, uses, structures or activities thereon. An owner
14 who grants a lease, easement or license of land to the authority for recreational purposes does not
15 by giving a lease, easement or license: (1) Extend any assurance to any person using the land that
16 the premises are safe for any purpose; (2) confer upon those persons the legal status of an invitee or
17 licensee to whom a duty of care is owed; or (3) assume responsibility for or incur liability for any
18 injury to person or property caused by an act or omission of a person who enters upon the leased
19 land. The provisions of this section apply whether the person entering upon the land is an invitee,
20 licensee, trespasser or otherwise.

21 (c) Nothing herein limits in any way any liability which otherwise exists for deliberate,
22 willful or malicious infliction of injury to persons or property: *Provided*, That nothing herein limits
23 in any way the obligation of a person entering upon or using the land of another for recreational

1 purposes to exercise due care in his or her use of the land and in his or her activities thereon, so as
2 to prevent the creation of hazards or the commission of waste by himself or herself.

3 **§20-14-10. Purchasing and bidding procedures.**

4 (a) Whenever the authority proposes to purchase or contract for commodities or services
5 reasonably anticipated to equal or exceed \$2,500 in cost, the purchase or contract shall be based on
6 competitive bids. Where the purchase of particular commodities or services is reasonably anticipated
7 to be \$25,000 or less, the executive director may, on behalf of the authority, solicit bids or price
8 quotes in any manner that the executive director deems appropriate and the authority shall obtain its
9 commodities or services by the lowest bid. In lieu of seeking bids or quotes for commodities or
10 services in this price range, the authority may purchase those commodities and services pursuant to
11 state master contracts as provided in section ten-e, article three, chapter five-a of this code.

12 (b) Where the cost for the purchase of commodities or services is reasonably anticipated to
13 exceed \$25,000, the executive director shall solicit sealed bids for the commodities or services to
14 be provided: *Provided*, That the executive director may permit bids by electronic transmission be
15 accepted in lieu of sealed bids. Bids shall be solicited by public notice. The notice shall be
16 published as a Class II legal advertisement in all participating counties in compliance with the
17 provisions of article three, chapter fifty-nine of this code and by such other means as the executive
18 director deems appropriate. The notice shall state the general character of the work and general
19 character of the materials to be furnished, the place where plans and specifications therefor may be
20 examined and the time and place of receiving bids. After all bids are received, the authority shall
21 enter into a written contract with the lowest responsible bidder; however, the authority may reject
22 any or all bids that fail to meet the specifications required by the authority or that exceed the
23 authority's budget estimation for those commodities or services. If the executive director determines

1 in writing that there is only one responsive and responsible bidder and that there has been sufficient
2 public notice to attract competitive bids, he or she may negotiate the price for a noncompetitive
3 award or the specifications for a noncompetitive award based solely on the original purpose of the
4 solicitation.

5 (c) For any contract that exceeds \$25,000 in total cost, the authority shall require the vendors
6 to post a bond, with form and surety to be approved by the authority, in an amount equal to at least
7 fifty percent of the contract price conditioned upon faithful performance and completion of the
8 contract.

9 (d) The bidding requirements specified in this section do not apply to any leases for real
10 property upon which the authority makes improvements for public access to the recreation area,
11 information distribution and welcome centers. This exemption does not apply to leases for offices,
12 vehicle and heavy equipment storage or administrative facilities.

13 (e) Any person who violates a provision of this section is guilty of a misdemeanor and, upon
14 conviction thereof, shall be confined in jail not less than ten days nor more than one year, or fined
15 not less than \$10 nor more than \$1000, or both confined and fined.

16 **§20-14-11. Conflicts of interest prohibiting certain contracts.**

17 (a) No contract, change order to a prior contract or renewal of any contract may be awarded
18 or entered by the authority to any vendor or prospective vendor when the vendor or prospective
19 vendor is a member of the board or an employee of the authority, or a spouse, sibling, child or parent
20 of a member of the board or an employee of the authority or to any vendor or prospective vendor in
21 which a member of the board or employee of the authority, or a spouse, sibling, child or parent of
22 a member of the board or an employee of the authority has an ownership interest of greater than five
23 percent.

1 (b) No contract, change order to a prior contract or renewal of any contract may be awarded
2 or entered by the authority to any vendor or prospective vendor when the vendor or prospective
3 vendor is a member of the West Virginia Legislature, or a spouse, sibling, child or parent of a
4 member of the Legislature, or to any vendor or prospective vendor in which a member of the
5 Legislature or a spouse, sibling, child or parent of a member of the Legislature, has an ownership
6 interest of greater than five percent.

7 (c) All responses to bid solicitations, requests for quotation, requests for proposal, contracts,
8 change orders and contract renewals with the authority submitted or approved under the provisions
9 of this article shall include an affidavit that the vendor or prospective vendor is not in violation of
10 this section.

11 (d) Any person who violates a provision of this section is guilty of a misdemeanor and, upon
12 conviction thereof, shall be confined in jail not less than ten days nor more than one year, or fined
13 not less than \$10 nor more than \$1000, or both confined and fined.

14 **§20-14-12. Civil remedies for unlawful purchasing and contracts.**

15 The county commission of any participating county may challenge the validity of any contract
16 or purchase entered, solicited or proposed by the authority in violation of section ten or eleven of this
17 article by seeking declaratory or injunctive relief in the circuit court of the county of the challenging
18 party. If the court finds by a preponderance of evidence that the provisions of section ten or eleven
19 of this article have been violated, the court may declare the contract or purchase to be void and may
20 grant any injunctive relief necessary to correct the violations and protect the funds of the authority
21 as a joint development entity.

22 **ARTICLE 15. ATV RESPONSIBILITY ACT.**

23 **§20-15-2. Definitions.**

1 The terms in this article have the following meaning, unless the context clearly requires a
2 different meaning:

3 (1) "All-terrain vehicle" or "ATV" means any motor vehicle designed for off-highway use
4 and designed to travel on not less than three low-pressure tires, having a seat designed to be straddled
5 by the operator and handlebars for steering control and intended by the manufacturer to be used by
6 a single operator or by an operator and no more than one passenger.

7 (2) "Authorized outfitter" or "licensee" means a commercial outfitter, which is a person,
8 partnership, limited liability company (LLC), corporation, other organization, or any combination
9 thereof, licensed by the Hatfield-McCoy Regional Recreation Authority, who operates from any
10 temporary or permanent camp, private or public lodge, or private home, who provides guided tours
11 or the rental of all-terrain vehicles, utility-terrain vehicles or motorcycles for use on assigned lands
12 for monetary profit or gain.

13 (3) "Low-pressure tire" means every tire in which twenty pounds per square inch or less of
14 compressed air is designed to support the load.

15 (4) "Motorcycle" means any motor vehicle manufactured with no more than two wheels and
16 having a seat or saddle for the use of the operator.

17 (5) "Participant" means any person using the land, trails and facilities of the Hatfield-McCoy
18 Regional Recreation Authority.

19 (6) "Utility-terrain vehicle" or "UTV" means any motor vehicle with four or more
20 low-pressure tires designed for off-highway use, having bench or bucket seating for each occupant
21 and a steering wheel for control.

22 **§20-15-5. Duties of participants.**

23 (a) All participants:

1 (1) Shall comply with any requirements established by law, including those in section one,
2 article one, chapter seventeen-f of this code, which defines those acts prohibited by operators of
3 all-terrain vehicles;

4 (2) Shall comply with the rules or regulations established for use of the Hatfield-McCoy
5 Recreation Area;

6 (3) Shall, as to the Hatfield-McCoy Regional Recreation Authority or to any recreation area
7 landowner, lessor, authorized outfitter or licensee, expressly assume the risk of and legal
8 responsibility for any injury, loss or damage to person or property which results from participation
9 in operating an all-terrain vehicle, utility-terrain vehicle or motorcycle, and caused by any of the
10 following:

11 (A) Variations in terrain, slope or angle of terrain;

12 (B) Surface or subsurface conditions, including rocks, trees or other forms of forest growth
13 or debris;

14 (C) Collisions with signs, markers, width restrictors, culverts, bridges, pipes, equipment,
15 vehicles or any other objects or fixtures used in trail management, maintenance, construction or
16 development;

17 (D) Collisions with signs, markers, pipes, equipment, vehicles or any component thereof used
18 in natural resource maintenance, development or extraction;

19 (E) Collisions with electrical transmission poles, towers, lines, guy wires or any component
20 thereof;

21 (4) Shall obey all rules or instructions announced by the Hatfield-McCoy Regional
22 Recreation Authority, authorized outfitter or licensee with regard to the operation of the all-terrain
23 vehicle or motorcycle he or she is operating; and

1 (5) Shall wear all safety equipment provided by the authorized outfitter or licensee, or which
2 might otherwise be required by law.

3 (b) Each participant shall have the sole individual responsibility for:

4 (1) Knowing the range of his or her own ability to negotiate any slope or trail;

5 (2) Operating the ATV, UTV or motorcycle within the limits of the participant's own ability;

6 (3) Maintaining reasonable control of speed and course at all times;

7 (4) Heeding all posted warnings;

8 (5) Operating only on trails designated by the Hatfield-McCoy Regional Recreation
9 Authority; and

10 (6) Refraining from acting in a manner which a reasonable person would believe to be likely
11 to cause or contribute to the injury of any person.

12 (c) If while riding an ATV, UTV or motorcycle any participant collides with any object or
13 person, the responsibility for the collision shall be solely that of the participant or participants
14 involved and not that of the Hatfield-McCoy Regional Recreation Authority, any recreation area
15 landowner, lessor, authorized outfitter or licensee unless the Hatfield-McCoy Regional Recreation
16 Authority, recreation area landowner, lessor, authorized outfitter or licensee or their agent caused
17 the collision in a tortious manner.

18 (d) After an accident, a participant may not leave the area where the accident took place
19 without:

20 (1) Leaving personal identification, including his or her name and address;

21 (2) Notifying the proper authorities; and

22 (3) Obtaining assistance when he or she knows or reasonably should know that any other
23 person involved in the accident is in need of medical or other assistance.

1 (e) Where a participant is a lawful passenger, that participant may not distract or perform any
2 act which might interfere with the safe operation of the all-terrain vehicle, utility-terrain vehicle or
3 motorcycle of which he or she is a passenger.

4 (f) Any person under the age of sixteen years shall remain under the direct supervision and
5 within sight of a parent or guardian both of whom must otherwise comply with state or federal laws
6 and any rules or regulations promulgated thereunder.

7 (g) A participant may not make any alterations or tamper with the all-terrain vehicle,
8 utility-terrain vehicle or motorcycle he or she is operating or of which he or she is a passenger in any
9 way which would interfere with the continued safe operation of that machine.

10 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

11 **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

12 **§30-29-1. Definitions.**

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

14 (1) "Approved law-enforcement training academy" means any training facility which is
15 approved and authorized to conduct law-enforcement training as provided in this article;

16 (2) "Chief executive" means the Superintendent of the State Police; the chief natural
17 resources police officer of the Division of Natural Resources; the sheriff of any West Virginia
18 county; any administrative deputy appointed by the chief natural resources police officer of the
19 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement agency;

20 (3) "County" means the fifty-five major political subdivisions of the state;

21 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or above;

22 (5) "Governor's Committee on Crime, Delinquency and Correction" or "Governor's
23 committee" means the Governor's Committee on Crime, Delinquency and Correction established as

1 a state planning agency pursuant to section one, article nine, chapter fifteen of this code;

2 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement
3 agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests
4 and enforce the laws of the state or any county or municipality thereof, other than parking
5 ordinances, and includes those persons employed as campus police officers at state institutions of
6 higher education in accordance with the provisions of section five, article four, chapter eighteen-b
7 of this code, and persons employed by the Public Service Commission as motor carrier inspectors
8 and weight enforcement officers charged with enforcing commercial motor vehicle safety and weight
9 restriction laws although those institutions and agencies may not be considered law-enforcement
10 agencies. The term also includes those persons employed as rangers by resort area districts in
11 accordance with the provisions of section twenty-three, article twenty-five, chapter seven of this
12 code, although no resort area district may be considered a law-enforcement agency: *Provided*, That
13 the subject rangers shall pay the tuition and costs of training. As used in this article, the term
14 "law-enforcement officer" does not apply to the chief executive of any West Virginia
15 law-enforcement agency or any watchman or special natural resources police officer;

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

18 (8) "Municipality" means any incorporated town or city whose boundaries lie within the
19 geographic boundaries of the state;

20 (9) "Subcommittee" or "law-enforcement professional standards subcommittee" means the
21 subcommittee of the Governor's Committee on Crime, Delinquency and Correction created by
22 section two of this article; and

23 (10) "West Virginia law-enforcement agency" means any duly authorized state, county or

1 municipal organization employing one or more persons whose responsibility is the enforcement of
2 laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service
3 Commission nor any state institution of higher education nor any resort area district is a
4 law-enforcement agency.

5 **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

6 **ARTICLE 7. DANGEROUS WEAPONS.**

7 **§61-7-6. Exceptions as to prohibitions against carrying concealed handguns; exemptions from**
8 **licensing fees.**

9 (a) The licensure provisions set forth in this article do not apply to:

10 (1) Any person:

11 (A) Carrying a deadly weapon upon his or her own premises;

12 (B) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence
13 or place of business or to a place of repair and back to his or her home, residence or place of
14 business; or

15 (C) Possessing a firearm while hunting in a lawful manner or while traveling from his or her
16 home, residence or place of business to a hunting site and returning to his or her home, residence or
17 place of business;

18 (2) Any person who is a member of a properly organized target-shooting club authorized by
19 law to obtain firearms by purchase or requisition from this state or from the United States for the
20 purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or
21 her home, residence or place of business to a place of target practice and from any place of target
22 practice back to his or her home, residence or place of business, for using any such weapon at a place
23 of target practice in training and improving his or her skill in the use of the weapons;

1 (3) Any law-enforcement officer or law-enforcement official as defined in section one, article
2 twenty-nine, chapter thirty of this code;

3 (4) Any employee of the West Virginia Division of Corrections duly appointed pursuant to
4 the provisions of section eleven-c, article one, chapter twenty-five of this code while the employee
5 is on duty;

6 (5) Any member of the armed forces of the United States or the militia of this state while the
7 member is on duty;

8 (6) Any resident of another state who holds a valid permit or license to possess or carry a
9 handgun issued by a state or a political subdivision subject to the provisions and limitations set forth
10 in section six-a of this article;

11 (7) Any federal law-enforcement officer or federal police officer authorized to carry a weapon
12 in the performance of the officer's duty; and

13

14 (8) Any parole officer appointed pursuant to section fourteen, article twelve, chapter
15 sixty-two of this code in the performance of their duties.

16 (b) On and after July 1, 2013, the following judicial officers and prosecutors and staff shall
17 be exempted from paying any application fees or licensure fees required under this article. However,
18 on and after that same date, they shall be required to make application and satisfy all licensure and
19 handgun safety and training requirements set forth in section four of this article before carrying a
20 concealed handgun in this state:

21 (1) Any justice of the Supreme Court of Appeals of West Virginia;

22 (2) Any circuit judge;

23 (3) Any retired justice or retired circuit judge designated senior status by the Supreme Court

1 of Appeals of West Virginia;

2 (4) Any family court judge;

3 (5) Any magistrate;

4 (6) Any prosecuting attorney;

5 (7) Any assistant prosecuting attorney; or

6 (8) Any duly appointed investigator employed by a prosecuting attorney.