

H. B. 2835

(BY MR. SPEAKER, (MR. ARMSTEAD)
AND DELEGATE(S) MILEY AND MARCUM)

[BY REQUEST OF THE EXECUTIVE]

[Introduced February 20, 2015; referred to the
Committee on Government Organization.]

A BILL 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; 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

the 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 the authority; converting the authority to a joint development entity of counties; altering the composition of the 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 the 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That §20-14-6 and §20-14-7 of the Code of West Virginia, 1931, as amended, be repealed; that §15-10-3 and §15-10-4 of said code be amended and reenacted; that §20-7-1 of said code be amended and reenacted; that §20-14-1, §20-14-2, §20-14-3,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.

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

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

10 (2) “Head of a law-enforcement agency” means the
11 Superintendent of the State Police, the Director of the Division
12 of Protective Services, the chief natural resources police officer

13 of the Division of Natural Resources, a chief of police of an
14 incorporated municipality, a county sheriff or the Director of the
15 Division of Forestry.

16 (3) “State or local law-enforcement officer” means any duly
17 authorized member of a law-enforcement agency who is
18 authorized to maintain public peace and order, prevent and
19 detect crime, make arrests and enforce the laws of the state or
20 any county or municipality thereof, other than parking
21 ordinances, and includes persons employed as campus police
22 officers at state institutions of higher education in accordance
23 with the provisions of section five, article four, chapter
24 eighteen-b of this code, although those institutions may not be
25 considered law-enforcement agencies. ~~The term includes persons
26 employed as rangers by the Hatfield-McCoy Regional
27 Recreation Authority in accordance with the provisions of
28 section six, article fourteen, chapter twenty of this code,
29 although the authority is not a law-enforcement agency.~~

30 (4) “Head of campus police” means the superintendent or
31 administrative head of state or local law-enforcement officers
32 employed as campus police officers at state institutions of higher

33 education in accordance with the provisions of section five,
34 article four, chapter eighteen-b of this code.

35 (5) ~~“Head of the rangers of the Hatfield-McCoy Regional~~
36 ~~Recreation Authority” means the superintendent or~~
37 ~~administrative head of state or local law-enforcement officers~~
38 ~~employed as rangers by the Hatfield-McCoy Regional~~
39 ~~Recreation Authority in accordance with the provisions of~~
40 ~~section six, article fourteen, chapter twenty of this code.~~

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

1 (a) The head of any law-enforcement agency, or the head of
2 any campus police ~~or the head of the rangers of the~~
3 ~~Hatfield-McCoy regional recreational authority~~, as those terms
4 are defined in section three of this article, may temporarily
5 provide assistance and cooperation to another agency of the state
6 criminal justice system or to a federal law-enforcement agency
7 in investigating crimes or possible criminal activity if requested
8 to do so in writing by the head of another law-enforcement
9 agency or federal law-enforcement agency. Such assistance may
10 also be provided upon the request of the head of the

11 law-enforcement agency or federal law-enforcement agency
12 without first being reduced to writing in emergency situations
13 involving the imminent risk of loss of life or serious bodily
14 injury. The assistance may include, but is not limited to, entering
15 into a multijurisdictional task force agreement to integrate
16 federal, state, county and municipal law-enforcement agencies
17 or other groups of state or local law-enforcement officers, or any
18 combination thereof, for the purpose of enhancing interagency
19 coordination, intelligence gathering, facilitating
20 multijurisdictional investigations, providing criminal justice
21 enforcement personnel of the law-enforcement agency to work
22 temporarily with personnel of another agency, including in an
23 undercover capacity, and making available equipment, training,
24 technical assistance and information systems for the more
25 efficient investigation, apprehension and adjudication of persons
26 who violate the criminal laws of this state or the United States,
27 and to assist the victims of such crimes. When providing the
28 assistance under this article, a head of a law-enforcement agency
29 shall comply with all applicable statutes, ordinances, rules,
30 policies or guidelines officially adopted by the state or the

31 governing body of the city or county by which he or she is
32 employed, and any conditions or restrictions included therein.

33 (b) While temporarily assigned to work with another
34 law-enforcement agency or agencies, criminal justice
35 enforcement personnel and other state and local law-enforcement
36 officers shall have the same jurisdiction, powers, privileges and
37 immunities, including those relating to the defense of civil
38 actions, as such criminal justice enforcement personnel would
39 enjoy if actually employed by the agency to which they are
40 assigned, in addition to any corresponding or varying
41 jurisdiction, powers, privileges and immunities conferred by
42 virtue of their continued employment with the assisting agency.

43 (c) While assigned to another agency or to a
44 multijurisdictional task force, criminal justice enforcement
45 personnel and other state and local law-enforcement officers
46 shall be subject to the lawful operational commands of the
47 superior officers of the agency or task force to which they are
48 assigned, but for personnel and administrative purposes,
49 including compensation, they shall remain under the control of
50 the assisting agency. These assigned personnel shall continue to

51 be covered by all employee rights and benefits provided by the
52 assisting agency, including workers' compensation, to the same
53 extent as though such personnel were functioning within the
54 normal scope of their duties.

55 (d) No request or agreement between the heads of
56 law-enforcement agencies, or the heads of campus police ~~or the~~
57 ~~head of the rangers of the Hatfield-McCoy regional recreation~~
58 ~~authority~~, made or entered into pursuant to this article shall
59 remain in force or effect until a copy of said request or
60 agreement is filed with the office of the circuit clerk of the
61 county or counties in which the law-enforcement agencies, or the
62 campus police, ~~or the Hatfield-McCoy regional recreation~~
63 ~~authority rangers~~ involved operate. Agreements made pursuant
64 to this article shall remain in effect unless and until the
65 agreement is changed or withdrawn in writing by the head of one
66 of the law-enforcement agencies. Upon filing, the requests or
67 agreements may be sealed, subject to disclosure pursuant to an
68 order of a circuit court directing disclosure for good cause.
69 Nothing in this article shall be construed to limit the authority of

70 the head of a law-enforcement agency or the head of campus
71 police ~~or the head of the rangers of the Hatfield-McCoy regional~~
72 ~~recreation authority~~ to withdraw from any agreement at any
73 time.

74 (e) Nothing contained in this article shall be construed so as
75 to grant, increase, decrease or in any manner affect the civil
76 service protection or the applicability of civil service laws as to
77 any criminal justice enforcement personnel, or as to any state or
78 local law-enforcement officer or agency operating under the
79 authority of this article, nor shall this article in any way reduce
80 or increase the jurisdiction or authority of any criminal justice
81 enforcement personnel, or of any state or local law-enforcement
82 officer or agency, except as specifically provided herein.

83 (f) Nothing contained in this article shall be construed so as
84 to authorize the permanent consolidation or merger or the
85 elimination of operations of participating federal, state, county
86 municipal law-enforcement agencies, or other groups of state
87 and local law-enforcement officers, ~~the head~~ or campus police.
88 ~~or the head of the rangers of the Hatfield-McCoy regional~~
89 ~~recreation authority.~~

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 7. LAW-ENFORCEMENT, MOTORBOATING, LITTER.

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

1 (a) The division's law-enforcement policies, practices and
2 programs are under the immediate supervision and direction of
3 the division law-enforcement officer selected by the director and
4 designated as chief natural resources police officer as provided
5 in section thirteen, article one of this chapter.

6 (b) Under the supervision of the director, the chief natural
7 resources police officer shall organize, develop and maintain
8 law-enforcement practices, means and methods geared, timed
9 and adjustable to seasonal, emergency and other needs and
10 requirements of the division's comprehensive natural resources
11 program. All division personnel detailed and assigned to
12 law-enforcement duties and services under this section shall be
13 known and designated as natural resources police officers and
14 are under the immediate supervision and direction of the chief
15 natural resources police officer except as otherwise provided. All

16 natural resources police officers shall be trained, equipped and
17 conditioned for duty and services wherever and whenever
18 required by division law-enforcement needs. The chief natural
19 resources police officer may also assign natural resources police
20 officers to perform law-enforcement duties on any trail, grounds,
21 appurtenant facility or other areas accessible to the public within
22 the Hatfield-McCoy Recreation Area, under agreement that the
23 Hatfield-McCoy Regional Recreation Authority, created
24 pursuant to article fourteen of this chapter, shall reimburse the
25 division for salaries paid to the officers and shall either pay
26 directly or reimburse the division for all other expenses of the
27 officers in accordance with actual or estimated costs determined
28 by the chief natural resources police officer.

29 (c) The chief natural resources police officer, acting under
30 supervision of the director, is authorized to select and appoint
31 emergency natural resources police officers for a limited period
32 for effective enforcement of the provisions of this chapter when
33 considered necessary because of emergency or other unusual
34 circumstances. The emergency natural resources police officers
35 shall be selected from qualified civil service personnel of the

36 division, except in emergency situations and circumstances when
37 the director may designate officers, without regard to civil
38 service requirements and qualifications, to meet
39 law-enforcement needs. Emergency natural resources police
40 officers shall exercise all powers and duties prescribed in section
41 four of this article for full-time salaried natural resources police
42 officers except the provisions of subdivision (8) of said section.

43 (d) The chief natural resources police officer, acting under
44 supervision of the director, is also authorized to select and
45 appoint as special natural resources police officers any full-time
46 civil service employee who is assigned to, and has direct
47 responsibility for management of, an area owned, leased or
48 under the control of the division and who has satisfactorily
49 completed a course of training established and administered by
50 the chief natural resources police officer, when the action is
51 considered necessary because of law-enforcement needs. The
52 powers and duties of a special natural resources police officer,
53 appointed under this provision, is the same within his or her
54 assigned area as prescribed for full-time salaried natural
55 resources police officers. The jurisdiction of the person

56 appointed as a special natural resources police officer, under this
57 provision, shall be limited to the division area or areas to which
58 he or she is assigned and directly manages.

59 (e) The Director of the Division of Forestry is authorized to
60 appoint and revoke Division of Forestry special natural resources
61 police officers who are full-time civil service personnel who
62 have satisfactorily completed a course of training as required by
63 the Director of the Division of Forestry. The jurisdiction, powers
64 and duties of Division of Forestry special natural resources
65 police officers are set forth by the Director of the Division of
66 Forestry pursuant to article three of this chapter, and articles
67 one-a and one-b, chapter nineteen of this code.

68 (f) The chief natural resources police officer, with the
69 approval of the director, has the power and authority to revoke
70 any appointment of an emergency natural resources police
71 officer or of a special natural resources police officer at any
72 time.

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

76 (h) The chief natural resources police officer shall designate
77 the area of primary residence of each natural resources police
78 officer, including himself or herself. Since the area of business
79 activity of the division is actually anywhere within the territorial
80 confines of the State of West Virginia, actual expenses incurred
81 shall be paid whenever the duties are performed outside the area
82 of primary assignment and still within the state.

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

91 (j) After June 30, 2010, all those full time law-enforcement
92 officers employed by the Division of Natural Resources as
93 conservation officers shall be titled and known as natural
94 resources police officers. Wherever used in this code the term

95 “conservation officer”, or its plural, means “natural resources
96 police officer”, or its plural, respectively.

97 (k) Notwithstanding any provision of this code to the
98 contrary, the provisions of subdivision six, subsection c, section
99 twelve, article twenty-one, chapter eleven of this code are
100 inapplicable to pensions of natural resources police officers paid
101 through the Public Employees Retirement System.

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

§20-14-1. Legislative findings.

1 The West Virginia Legislature finds that there is a
2 significant need within the state and throughout the eastern
3 United States for well-managed facilities for trail-oriented
4 recreation for off-highway motor vehicle enthusiasts. ~~mountain~~
5 ~~bicyclists, equestrians and others.~~ The Legislature further finds
6 that under an appropriate contractual and management scheme,
7 well-managed, trail-oriented, recreation facilities could exist on
8 private property without diminishing the landowner’s interest,
9 control or profitability in the land and without increasing the
10 landowner’s exposure to liability.

11 The Legislature further finds that, with the cooperation of
12 private landowners, there is an opportunity to provide
13 trail-oriented recreation facilities primarily on private property
14 in the mountainous terrain of southern West Virginia and that the
15 facilities will provide significant economic and recreational
16 benefits to the state and to the communities in southern West
17 Virginia through increased tourism in the same manner as
18 whitewater rafting and snow skiing benefit the state and
19 communities surrounding those activities.

20 The Legislature further finds that the creation and
21 empowering of a ~~statutory corporation~~ joint development entity
22 to work with the landowners, county officials and community
23 leaders, state and federal government agencies, recreational user
24 groups and other interested parties to enable and facilitate the
25 implementation of the facilities will greatly assist in the
26 realization of these potential benefits.

27 The Legislature further finds that it is in the best interests of
28 the state to encourage private landowners to make available for
29 public use through the Hatfield-McCoy Regional Recreation
30 Authority land for these recreational purposes by limiting their

31 liability for injury to persons entering thereon, by limiting their
32 liability for injury to the property of persons entering thereon
33 and by limiting their liability to persons who may be injured or
34 otherwise damaged by the acts or omissions of persons entering
35 thereon.

§20-14-2. Definitions.

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

3 (a) “Authority” means the Hatfield-McCoy Regional
4 Recreational Authority;

5 (b) “Board” means the board of the Hatfield-McCoy
6 Regional Recreation Authority;

7 (c) “Charge” means, for purposes of limiting liability for
8 recreational purposes set forth in this article, the amount of
9 money asked in return for an invitation to enter or go upon the
10 land, including a one-time fee for a particular event, amusement,
11 occurrence, adventure, incident, experience or occasion as set by
12 the authority: *Provided*, That the authority may set charges in
13 differing amounts for different categories of participants,

14 including, but not limited to, in-state and out-of-state
15 participants, as the authority sees fit;

16 (d) “Hatfield-McCoy Recreation Area” means a system of
17 recreational trails and appurtenant facilities, including trail head
18 centers, parking areas, camping facilities, picnic areas,
19 recreational areas, historic or cultural interpretive sites and other
20 facilities that are a part of the system;

21 (e) “Land” includes, but is not limited to, roads, water,
22 watercourses, private ways and buildings, structures and
23 machinery or equipment thereon when attached to the realty;

24 (f) “Owner” means those vested with title to real estate and
25 those with the ability to exercise control over real estate and
26 includes, but is not limited to, tenant, lessee, licensee, holder of
27 a dominant estate or other lawful occupant; ~~or person in control~~
28 ~~of the premises;~~

29 (g) ~~“Recreational purposes” includes, but is not limited to,~~
30 ~~any one or any combination of the following noncommercial~~
31 ~~recreational activities: Hunting, fishing, swimming, boating,~~
32 ~~camping, picnicking, hiking, pleasure driving, motorcycle or~~
33 ~~all-terrain vehicle riding, bicycling, horseback riding, nature~~

34 ~~study, water skiing, winter sports and visiting, viewing or~~
35 ~~enjoying historical, archaeological, scenic or scientific sites or~~
36 ~~otherwise using land for purposes of the user;~~

37 (g) “Participant” means any person using the land, trails and
38 facilities of the Hatfield-McCoy Recreation Area;

39 (h) “Participating county or counties” means the counties of
40 Boone, Kanawha, Lincoln, Logan, McDowell, Mercer, Mingo,
41 Wayne and Wyoming ~~and with the approval of the board, any~~
42 ~~other county or counties where trails and other recreational~~
43 ~~facilities relating to the Hatfield-McCoy recreation area are~~
44 ~~developed in the future with the cooperation of the county~~
45 ~~commission~~ that have agreed to operate the Hatfield-McCoy
46 Regional Recreation Authority as a joint development entity and
47 to participate in its governance; and

48 (i) “Recreational purposes” includes, but is not limited to,
49 any one or any combination of the following noncommercial
50 recreational activities: Hunting, fishing, swimming, boating,
51 camping, picnicking, hiking, pleasure driving, motorcycle or
52 motor vehicle driving and riding, bicycling, horseback riding,
53 nature study, water skiing, winter sports and visiting, viewing or

54 enjoying historical, archaeological, scenic or scientific sites or
55 otherwise using land for purposes of the user.

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

1 (a) ~~There is hereby created the “Hatfield-McCoy Regional~~
2 ~~Recreation Authority” which is a public corporation and a~~
3 ~~government instrumentality existing~~ The public corporation, the
4 Hatfield-McCoy Regional Recreation Authority, previously
5 created by this section is hereby converted to a new public
6 corporation created as a joint development entity of the
7 participating counties ~~This joint development entity is created~~
8 for the purpose of enabling and facilitating the development and
9 operation of a system of trail-oriented recreation facilities for use
10 by off-highway motor vehicle enthusiasts. ~~equestrians, mountain~~
11 ~~bicyclists and others.~~ This recreational trail system shall be
12 located in ~~southern West Virginia~~ the counties of Boone,
13 Kanawha, Lincoln, Logan, McDowell, Mercer, Mingo, Wayne
14 and Wyoming with significant portions of the recreational trail
15 system being located on private property made available for use
16 through lease, license, easement or other appropriate legal form
17 by a willing landowner.

18 (b) The authority shall be governed by a board of ~~at least~~
19 ~~seventeen~~ no more than eighteen members who shall be
20 representative of the various interests involved in the
21 Hatfield-McCoy Recreation Area project in the ~~southern region~~
22 ~~of the state~~ participating counties and who shall be appointed as
23 follows:

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

27 (A) One member who represents and is associated with a
28 corporation or individual landowner whose land is being used or
29 is expected to be used in the future as part of the
30 Hatfield-McCoy Recreation Area project or who is associated
31 with a mining, logging, natural gas or other resource-extraction
32 industry or who is a licensed land surveyor or licensed
33 professional engineer. This member shall be appointed to a
34 four-year term.

35 (B) One member who represents and is associated with
36 travel and tourism or economic development efforts within the

37 county. The initial appointment shall be for a two-year term, but
38 all subsequent appointments shall be for a four-year term.

39 ~~(2) The members of the board appointed under subdivision~~
40 ~~(1), subsection (b) of this section by the county commissions~~
41 ~~shall appoint three additional board members, at least two of~~
42 ~~whom represent and are associated with recreational users of the~~
43 ~~Hatfield-McCoy recreation area project. These members shall~~
44 ~~serve three-year terms.~~

45 ~~(3) The following three persons shall serve as nonvoting~~
46 ~~members representing the state: The director of the division of~~
47 ~~travel and tourism, the director of the Division of Natural~~
48 ~~Resources, and the director of the Division of Forestry, or their~~
49 ~~respective designees.~~

50 Any appointed member whose term has expired shall serve
51 until his or her successor has been duly appointed and qualified.

52 Any person appointed to fill a vacancy shall serve only for the
53 unexpired term. Any appointed member is eligible for
54 reappointment. The terms of the members serving as of the date
55 of enactment the amendments of this section made during the
56 2015 regular session of the Legislature shall expire on June 30,

57 2015, and each participating county shall appoint two members
58 to the board of the newly converted public corporation with
59 terms to commence on July 1, 2015. Members of the board are
60 not entitled to compensation for services performed as members
61 but are entitled to reimbursement for all reasonable and
62 necessary expenses actually incurred in the performance of their
63 duties.

64 (c) ~~Before the authority issues any revenue bonds or revenue~~
65 ~~refunding bonds under the authority of this article, each~~
66 ~~appointed voting member of the board shall execute a surety~~
67 ~~bond in the penal sum of \$25,000 and the officers and executive~~
68 ~~director of the board shall each execute a surety bond in the~~
69 ~~penal sum of \$50,000. Each surety bond shall be conditioned~~
70 ~~upon the faithful performance of the duties of the member,~~
71 ~~officer or director, shall be executed by a surety company~~
72 ~~authorized to transact business in this state as surety and shall be~~
73 ~~approved by the Governor and filed in the office of the Secretary~~
74 ~~of State. The authority shall pay premiums on the surety bonds~~
75 ~~from funds accruing to the authority.~~

76 The conversion of the Hatfield-McCoy Regional Recreation
77 Authority to a joint development entity does not terminate or
78 interrupt its status as a public corporation. The amendments to
79 this article made during the 2015 regular session of the
80 Legislature do not alter the debts, liabilities, responsibilities or
81 other obligations of any party with regard to this public
82 corporation.

83 (d) The Hatfield-McCoy Regional Recreation Authority is
84 a “public body” for purposes of the West Virginia Freedom of
85 Information Act, as provided in article one, chapter twenty-nine-
86 b of this code.

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

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

4 The board shall meet quarterly, unless a special meeting is
5 called by its chairman: *Provided*, That ~~on the second Monday of~~
6 ~~July of each even-numbered~~ at the first meeting of each fiscal
7 year beginning in an odd-numbered year, or as soon thereafter as

8 feasible, the board shall ~~meet to~~ elect a chairman, secretary and
9 treasurer from among its own members.

10 A majority of the members of the board constitutes a
11 quorum, and a quorum shall be present for the board to conduct
12 business. ~~Unless the bylaws require a larger number, action may
13 be taken by majority vote of the members present.~~

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

20 The board shall appoint an executive director to act as its
21 chief executive officer, to serve at the will and pleasure of the
22 board. The board, acting through its executive director, may
23 employ any other personnel considered necessary and may
24 appoint counsel and legal staff for the authority and retain such
25 temporary engineering, financial and other consultants or
26 technicians as may be required for any special study or survey
27 consistent with the provisions of this article. The executive

28 director shall carry out plans to implement the provisions of this
29 article and to exercise those powers enumerated in the bylaws.
30 The executive director shall prepare annually a budget to be
31 submitted to the board for its review and approval prior to the
32 commencement of each fiscal year. The budget shall contain a
33 detailed account of all planned and proposed revenue and
34 expenditures for the authority for the upcoming fiscal year,
35 including a detailed list of employees by title, salary, cost of
36 projected benefits and total compensation. Before August 15, the
37 executive director shall provide to the board and the county
38 commission for each participating county a detailed list of actual
39 expenditures and revenue by account and recipient name for the
40 previous fiscal year and a copy of the approved budget for the
41 current fiscal year.

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

46 All expenses incurred in carrying out the provisions of this
47 article shall be payable solely from funds provided under the

48 authority of this article and no liability or obligation may be
49 incurred by the authority under this article beyond the extent to
50 which moneys have been provided under the authority of this
51 article.

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

1 (a) The authority shall contract for and obtain an annual
2 financial audit to be conducted by a private accounting firm in
3 compliance with generally accepted government auditing
4 standards. When complete, the audit shall be transmitted to the
5 board, the president of the county commission of each
6 participating county and the Legislative Auditor. The cost of the
7 audit shall be paid by the authority.

8 (b) If the authority receives any funds from the Legislature
9 by appropriation or grant, the Legislative Auditor shall have the
10 power and authority to examine the revenues, expenditures and
11 performance of the Hatfield-McCoy Regional Recreation
12 Authority and for these purposes shall have the power to inspect
13 the properties, equipment, facilities of the authority and to
14 request, inspect and obtain copies of any records of the authority.
15 For each fiscal year in which the authority receives any funds

16 from the Legislature by appropriation or grant, the executive
17 director shall provide to the Legislative Auditor and Secretary of
18 Revenue a detailed list of actual expenditures and revenue by
19 account and recipient name for the previous fiscal year within
20 forty-five days of the close of that fiscal year.

§20-14-5. Powers of authority.

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

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

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

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

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

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

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

23 (7) To contract for the provision of legal services by private
24 counsel and, notwithstanding the provisions of article three,
25 chapter five of this code, the counsel may, in addition to the
26 provisions of other legal services, represent the authority in
27 court, negotiate contracts and other agreements on behalf of the
28 authority, render advice to the authority on any matter relating
29 to the authority, prepare contracts and other agreements and
30 provide such other legal services as may be requested by the
31 authority;

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

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

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

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

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

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

48 (14) To borrow money and to issue ~~its bonds, security~~
49 ~~interests or notes~~ and to provide for ~~and secure~~ the payment of
50 ~~the bonds, security interests or notes~~ and to provide for the rights
51 of the holders of the ~~bonds, security interests or notes~~ and to

52 purchase, hold and dispose of any of its ~~bonds, security interests~~
53 ~~or~~ notes;

54 (15) ~~To sell, at public or private sale, any bond or other~~
55 ~~negotiable instrument, security interest or obligation of the~~
56 ~~authority in such manner and upon such terms as the authority~~
57 ~~considers would best serve the purposes of this article;~~

58 (16) ~~To issue its bonds, security interests and notes payable~~
59 solely from the revenues or other funds available to the
60 authority, and the authority may issue its ~~bonds, security~~
61 ~~interests or~~ notes in such principal amounts as it considers
62 necessary to provide funds for any purpose under this article,
63 including:

64 (A) The payment, funding or refunding of the principal of,
65 interest on or redemption premiums on ~~any bonds, security~~
66 ~~interests or~~ notes issued by it whether the ~~bonds, security~~
67 ~~interests,~~ notes or interest to be funded or refunded have or have
68 not become due;

69 (B) The establishment or increase of reserves to secure or to
70 pay ~~bonds, security interests,~~ notes or the interest on the ~~bonds,~~
71 ~~security interest or~~ notes and all other costs or expenses of the

72 authority incident to and necessary or convenient to carry out its
73 corporate purposes and powers. ~~Any bonds, security interests or~~
74 Notes may be additionally secured by a pledge of any revenues,
75 funds, assets or moneys of the authority from any source
76 whatsoever;

77 ~~(17)~~ (16) To issue renewal notes ~~or security interests, to~~
78 ~~issue bonds to pay notes or security interests and, whenever it~~
79 ~~considers refunding expedient, to refund any bonds by the~~
80 ~~issuance of new bonds, whether the bonds to be refunded have~~
81 ~~or have not matured~~ except that no renewal notes may be issued
82 to mature more than ten years from the date of issuance of the
83 notes renewed ~~and no refunding bonds may be issued to mature~~
84 ~~more than twenty-five years from the date of issuance;~~

85 ~~(18)~~ (17) To apply the proceeds from the sale of renewal
86 notes, ~~security interests of refunding bonds~~ to the purchase,
87 redemption or payment of the notes ~~security interests or bonds~~
88 to be refunded;

89 ~~(19)~~ (18) To accept gifts or grants of property, funds,
90 security interests, money, materials, labor, supplies or services
91 from the federal government or from any governmental unit or

92 any person, firm or corporation and to carry out the terms or
93 provisions of or make agreements with respect to or pledge any
94 gifts or grants and to do any and all things necessary, useful,
95 desirable or convenient in connection with the procuring,
96 acceptance or disposition of gifts or grants;

97 ~~(20)~~ (19) To the extent permitted under its contracts with the
98 holders of ~~bonds, security interests or~~ notes of the authority, to
99 consent to any modification of the rate of interest, time of
100 payment of any installment of principal or interest, security or
101 any other term of any ~~bond, security interest,~~ note, contract or
102 agreement of any kind to which the authority is a party;

103 ~~(21) To sell security interests in the loan portfolio of the~~
104 ~~authority. The security interests shall be evidenced by~~
105 ~~instruments issued by the authority. Proceeds from the sale of~~
106 ~~security interests may be issued in the same manner and for the~~
107 ~~same purposes as bond and note venues;~~

108 ~~(22) To promulgate legislative rules in accordance with the~~
109 ~~provisions of article three, chapter twenty-nine-a of this code as~~
110 ~~necessary to implement and make effective the powers, duties~~
111 ~~and responsibilities invested in the authority by the provisions of~~

112 ~~this article and otherwise by law, including regulation of the~~
113 ~~conduct of persons using the Hatfield-McCoy recreation area.~~
114 ~~Notwithstanding any other provisions of this code to the~~
115 ~~contrary, until the Legislature has authorized the rules, the~~
116 ~~authority may promulgate emergency rules for those purposes~~
117 ~~pursuant to section fifteen, article three, chapter twenty-nine-a~~
118 ~~of this code;~~

119 ~~(23)~~ (20) To construct, reconstruct, improve, maintain,
120 repair, operate and manage the Hatfield-McCoy Recreation Area
121 at the locations within the ~~state~~ participating counties as may be
122 determined by the authority;

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

128 ~~(24)~~ (22) To exercise all power and authority provided in
129 this article necessary and convenient to plan, finance, construct,
130 renovate, maintain and operate or oversee the operation of the
131 Hatfield-McCoy Recreation Area at such locations within the

132 ~~state participating counties~~ as may be determined by the
133 authority;

134 ~~(25)~~ (23) To exercise such other and additional powers as
135 may be necessary or appropriate for the exercise of the powers
136 conferred in this section;

137 ~~(26)~~ (24) To exercise all of the powers which a corporation
138 may lawfully exercise under the laws of this state;

139 ~~(27) To provide for law enforcement within the~~
140 ~~Hatfield-McCoy recreational area by appointing rangers as~~
141 ~~provided in section six of this article;~~

142 ~~(28)~~ (25) To develop, maintain and operate or to contract for
143 the development, maintenance and operation of the
144 Hatfield-McCoy Recreation Area;

145 ~~(29)~~ (26) To enter into contract with landowners and other
146 persons holding an interest in the land being used for its
147 recreational facilities to hold those landowners and other persons
148 harmless with respect to any claim in tort growing out of the use
149 of the land for ~~public recreation~~ recreational purposes or growing
150 out of the recreational activities operated or managed by the
151 authority from any claim except a claim for damages

152 proximately caused by the willful or malicious conduct of the
153 landowner or other person or any of his or her agents or
154 employees;

155 ~~(30)~~ (27) To assess and collect a reasonable fee from those
156 persons who use the trails, parking facilities, visitor centers or
157 other facilities which are part of the Hatfield-McCoy Recreation
158 Area and to retain and utilize that revenue for any purposes
159 consistent with this article;

160 ~~(31) To cooperate with the states of Kentucky and Virginia~~
161 ~~and appropriate state and local officials and community leaders~~
162 ~~in those states to connect the trails of the West Virginia portion~~
163 ~~of the Hatfield-McCoy recreation area with similar recreation~~
164 ~~facilities in those states;~~

165 ~~(32)~~ (28) To enter into contracts or other appropriate legal
166 arrangements with landowners under which their land is made
167 available for use as part of the Hatfield-McCoy Recreation Area;
168 and

169 ~~(33)~~ (29) To directly operate and manage recreation
170 activities and facilities within the Hatfield-McCoy Recreation
171 Area.

§20-14-8. Prohibited acts, penalty.

1 (a) Any person who violates any of the rules promulgated by
2 the board pursuant to this article is guilty of a misdemeanor and,
3 upon conviction thereof, shall be fined not more than \$500 for
4 each offense.

5 (b) Any person who violates any of the rules promulgated by
6 the board pursuant of this article relating to permits or failure to
7 purchase a permit, safety violations or other civil violations is
8 subject to a civil penalty of \$100. Authority rangers shall issue
9 citations for civil violations.

10 (c) All civil penalties for civil violations received pursuant
11 to this section shall be remitted to the Hatfield-McCoy Regional
12 Recreation Authority for use by the board in its discretion for the
13 benefit of the Hatfield-McCoy Recreation Area. Effective July
14 1, 2008, the special revenue fund known as the Hatfield-McCoy
15 Recreation Fund shall be terminated, and any and all funds
16 remaining in the fund shall be transferred from the fund and
17 remitted to the Hatfield-McCoy Regional Recreation Authority
18 for use by the board in its discretion for the benefit of the
19 Hatfield-McCoy Recreation Area.

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

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

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

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

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

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

50 (g) Every person within the Hatfield-McCoy Recreation
51 Area who is under sixteen years of age shall at all times be under
52 the immediate supervision of and within sight of a person who
53 is at least eighteen years of age and who either is a parent or
54 guardian of the youth or has the express permission of a parent
55 or guardian to supervise the youth. No parent, guardian or
56 supervising adult may allow a child under the age of sixteen
57 years to leave that person's sight and supervision within the
58 Hatfield-McCoy Recreation Area.

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

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

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

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

76 (l) A person may not operate or ride in a utility terrain
77 vehicle, as defined in article one, chapter seventeen-f of this
78 code, or any other motor vehicle with bench or bucket seating

79 and a steering wheel for control unless equipped with seat belts
80 meeting at a minimum federal motor vehicle safety standards
81 and properly worn by the driver and all passengers.

82 (m) A person who violates any provision of this section is
83 guilty of a misdemeanor and, upon conviction thereof, shall be
84 fined not more than \$100. Prosecution or conviction for the
85 misdemeanor described in this subsection shall not prevent or
86 disqualify any other civil or criminal remedies for the conduct
87 prohibited by this section.

§20-14-9. Limiting liability.

1 (a) ~~Notwithstanding the provisions of section three, article~~
2 ~~twenty-five, chapter nineteen,~~ An owner of land used by or for
3 the stated purposes of the Hatfield-McCoy Regional Recreation
4 Authority, whether with or without charge, owes no duty of care
5 to keep the premises safe for entry or use by others for
6 recreational purposes or to give any warning of a dangerous or
7 hazardous condition, use, structure or activity on the premises to
8 persons entering for those purposes.

9 (b) ~~Notwithstanding the provisions of section three, article~~
10 ~~twenty-five, chapter nineteen of this code, the landowner or~~

11 ~~lessor of the property for recreational purposes does not thereby:~~
12 ~~(a) Extend any assurance that the premises are safe for any~~
13 ~~purpose; or (b) confer upon such persons the legal status of an~~
14 ~~invitee or licensee to whom a duty of care is owed; or (c) assume~~
15 ~~responsibility for or incur liability for any injury to person or~~
16 ~~property caused by an act or omission of these persons.~~

17 ~~(c)~~ (b) Unless otherwise agreed in writing, an owner who
18 grants a lease, easement or license of land to the authority for
19 recreational purposes, whether with or without charge, owes no
20 duty of care to keep that land safe for entry or use by others or
21 to give warning to persons entering or going upon the land of
22 any dangerous or hazardous conditions, uses, structures or
23 activities thereon. An owner who grants a lease, easement or
24 license of land to the authority for recreational purposes does not
25 by giving a lease, easement or license: (1) Extend any assurance
26 to any person using the land that the premises are safe for any
27 purpose; (2) confer upon those persons the legal status of an
28 invitee or licensee to whom a duty of care is owed; or (3) assume
29 responsibility for or incur liability for any injury to person or
30 property caused by an act or omission of a person who enters

31 upon the leased land. The provisions of this section apply
32 whether the person entering upon the land is an invitee, licensee,
33 trespasser or otherwise.

34 (†) (c) Nothing herein limits in any way any liability which
35 otherwise exists for deliberate, willful or malicious infliction of
36 injury to persons or property: *Provided*, That nothing herein
37 limits in any way the obligation of a person entering upon or
38 using the land of another for recreational purposes to exercise
39 due care in his or her use of the land and in his or her activities
40 thereon, so as to prevent the creation of hazards or the
41 commission of waste by himself or herself. ~~*Provided, however,*~~
42 ~~That equestrians who are using the land upon which the~~
43 ~~Hatfield-McCoy recreation area is located but who are not~~
44 ~~engaged in a commercial profit-making venture are exempt from~~
45 ~~the provisions of subsection (d), section five, article four, chapter~~
46 ~~twenty of this code.~~

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

1 (a) Whenever the authority proposes to purchase or contract
2 for commodities or services reasonably anticipated to equal or
3 exceed \$2,500 in cost, the purchase or contract shall be based on

4 competitive bids. Where the purchase of particular commodities
5 or services within a fiscal year is \$25,000 or less, the executive
6 director may, on behalf of the authority, solicit bids or price
7 quotes in any manner that the executive director deems
8 appropriate and the authority shall obtain its commodities or
9 services by the lowest bid. In lieu of seeking bids or quotes for
10 commodities or services in this price range, the authority may
11 purchase those commodities and services pursuant to state
12 master contracts as provided in section ten-e, article three,
13 chapter five-a of this code.

14 (b) Where the cost for the purchase of commodities or
15 services is reasonably anticipated to exceed \$25,000, the
16 executive director shall solicit sealed bids for the commodities
17 or services to be provided. Bids shall be solicited by public
18 notice. The notice shall be published as a Class II legal
19 advertisement in all participating counties in compliance with
20 the provisions of article three, chapter fifty-nine of this code, and
21 by such other means as the executive director deems appropriate.
22 The notice shall state the general character of the work and
23 general character of the materials to be furnished, the place

24 where plans and specifications therefor may be examined and the
25 time and place of receiving bids. The executive director may
26 permit bids by electronic transmission to be accepted in lieu of
27 sealed bids. After all bids are received, the authority shall enter
28 into a written contract with the lowest responsible bidder;
29 however, the authority may reject any or all bids that fail to meet
30 the specifications required by the authority or that exceed the
31 authority's budget estimation for those commodities or services.
32 If the executive director determines in writing that there is only
33 one responsive and responsible bidder and that there has been
34 sufficient public notice to attract competitive bids, he or she may
35 negotiate the price for a noncompetitive award or the
36 specifications for a noncompetitive award based solely on the
37 original purpose of the solicitation.

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

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

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

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

1 (a) No contract, change order to a prior contract or renewal
2 of any contract may be awarded or entered by the authority to
3 any vendor or prospective vendor when the vendor or
4 prospective vendor is a member of the board or an employee of
5 the authority, or a spouse, sibling, child or parent of a member
6 of the board or an employee of the authority or to any vendor or
7 prospective vendor in which a member of the board or employee
8 of the authority, or a spouse, sibling, child or parent of a member

9 of the board or an employee of the authority has an ownership
10 interest of greater than five percent.

11 (b) No contract, change order to a prior contract or renewal
12 of any contract may be awarded or entered by the authority to
13 any vendor or prospective vendor when the vendor or
14 prospective vendor is a member of the West Virginia
15 Legislature, or a spouse, sibling, child or parent of a member of
16 the Legislature, or to any vendor or prospective vendor in which
17 a member of the Legislature or a spouse, sibling, child or parent
18 of a member of the Legislature, has an ownership interest of
19 greater than five percent.

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

25 (d) Any person who violates a provision of this section is
26 guilty of a misdemeanor and, upon conviction thereof, shall be
27 confined in jail not less than ten days nor more than one year, or

28 fined not less than \$10 nor more than \$1000, or both confined
29 and fined.

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

1 The county commission of any participating county may
2 challenge the validity of any contract or purchase entered,
3 solicited or proposed by the authority in violation of sections ten
4 or eleven of this article by seeking declaratory or injunctive
5 relief in the circuit court of the county of the challenging party.
6 If the court finds by a preponderance of evidence that the
7 provisions of sections ten or eleven of this article have been
8 violated, the court may declare the contract or purchase to be
9 void and may grant any injunctive relief necessary to correct the
10 violations and protect the funds of the authority as a joint
11 development entity.

ARTICLE 15. ATV RESPONSIBILITY ACT.

§20-15-2. Definitions.

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

3 (1) “All-terrain vehicle” or “ATV” means any motor vehicle
4 designed for off-highway use and designed to travel on not less

5 than three low-pressure tires, having a seat designed to be
6 straddled by the operator and handlebars for steering control and
7 intended by the manufacturer to be used by a single operator or
8 by an operator and no more than one passenger.

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

18 (3) “Low-pressure tire” means every tire in which twenty
19 pounds per square inch or less of compressed air is designed to
20 support the load.

21 (4) “Motorcycle” means any motor vehicle manufactured
22 with no more than two wheels and having a seat or saddle for the
23 use of the operator.

24 (5) “Participant” means any person using the land, trails and
25 facilities of the Hatfield-McCoy Regional Recreation Authority.

26 (6) “Utility-terrain vehicle” or “UTV” means any motor
27 vehicle with four or more low-pressure tires designed for
28 off-highway use having bench or bucket seating for each
29 occupant and a steering wheel for control.

§20-15-5. Duties of participants.

1 (a) All participants:

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

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

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

- 15 (A) Variations in terrain, slope or angle of terrain;
- 16 (B) Surface or subsurface conditions including: Rocks, trees
17 or other forms of forest growth or debris;
- 18 (C) Collisions with signs, markers, width restrictors,
19 culverts, bridges, pipes, equipment, vehicles or any other objects
20 or fixtures used in trail management, maintenance, construction
21 or development;
- 22 (D) Collisions with signs, markers, pipes, equipment,
23 vehicles or any component thereof used in natural resource
24 maintenance, development or extraction;
- 25 (E) Collisions with electrical transmission poles, towers,
26 lines, guy wires or any component thereof;
- 27 (4) Shall obey all rules or instructions announced by the
28 Hatfield-McCoy Regional Recreation Authority, authorized
29 outfitter or licensee, with regard to the operation of the
30 all-terrain vehicle or motorcycle he or she is operating; and
- 31 (5) Shall wear all safety equipment provided by the
32 authorized outfitter or licensee, or which might otherwise be
33 required by law.

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

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

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

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

42 (4) Heeding all posted warnings;

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

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

48 (c) If while riding an ATV, UTV or motorcycle any
49 participant collides with any object or person, the responsibility
50 for the collision shall be solely that of the participant or
51 participants involved and not that of the Hatfield-McCoy
52 Regional Recreation Authority, any recreation area landowner,
53 lessor, authorized outfitter or licensee unless the

54 Hatfield-McCoy Regional Recreation Authority, recreation area
55 landowner, lessor, authorized outfitter or licensee or their agent
56 caused the collision in a tortious manner.

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

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

61 (2) Notifying the proper authorities; and

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

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

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

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

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

3 (1) “Approved law-enforcement training academy” means
4 any training facility which is approved and authorized to conduct
5 law-enforcement training as provided in this article;

6 (2) “Chief executive” means the superintendent of the State
7 Police; the chief natural resources police officer of the Division
8 of Natural Resources; the sheriff of any West Virginia county;
9 any administrative deputy appointed by the chief natural
10 resources police officer of the Division of Natural Resources; or
11 the chief of any West Virginia municipal law-enforcement
12 agency;

13 (3) “County” means the fifty-five major political
14 subdivisions of the state;

15 (4) “Exempt rank” means any noncommissioned or
16 commissioned rank of sergeant or above;

17 (5) “Governor’s committee on crime, delinquency and
18 correction” or “Governor’s committee” means the Governor’s
19 committee on crime, delinquency and correction established as
20 a state planning agency pursuant to section one, article nine,
21 chapter fifteen of this code;

22 (6) “Law-enforcement officer” means any duly authorized
23 member of a law-enforcement agency who is authorized to
24 maintain public peace and order, prevent and detect crime, make
25 arrests and enforce the laws of the state or any county or
26 municipality thereof, other than parking ordinances, and includes
27 those persons employed as campus police officers at state
28 institutions of higher education in accordance with the
29 provisions of section five, article four, chapter eighteen-b of this
30 code, and persons employed by the Public Service Commission
31 as motor carrier inspectors and weight enforcement officers
32 charged with enforcing commercial motor vehicle safety and

33 weight restriction laws although those institutions and agencies
34 may not be considered law-enforcement agencies. The term also
35 includes those persons employed as rangers ~~by the~~
36 ~~Hatfield-McCoy Regional Recreation Authority in accordance~~
37 ~~with the provisions of section six, article fourteen, chapter~~
38 ~~twenty of this code, or by resort area districts in accordance with~~
39 the provisions of section twenty-three, article twenty-five,
40 chapter seven of this code, although ~~neither the authority nor any~~
41 no resort area district may be considered a law-enforcement
42 agency: *Provided*, That the subject rangers shall pay the tuition
43 and costs of training. As used in this article, the term
44 “law-enforcement officer” does not apply to the chief executive
45 of any West Virginia law-enforcement agency or any watchman
46 or special natural resources police officer;

47 (7) “Law-enforcement official” means the duly appointed
48 chief administrator of a designated law-enforcement agency or
49 a duly authorized designee;

50 (8) “Municipality” means any incorporated town or city
51 whose boundaries lie within the geographic boundaries of the
52 state;

53 (9) “Subcommittee” or “law-enforcement professional
54 standards subcommittee” means the subcommittee of the
55 Governor’s committee on crime, delinquency and correction
56 created by section two of this article; and

57 (10) “West Virginia law-enforcement agency” means any
58 duly authorized state, county or municipal organization
59 employing one or more persons whose responsibility is the
60 enforcement of laws of the state or any county or municipality
61 thereof: *Provided*, That neither the ~~Hatfield-McCoy Regional~~
62 ~~Recreation Authority~~, the Public Service Commission nor any
63 state institution of higher education nor any resort area district
64 is a law-enforcement agency.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

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

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

3 (1) Any person:

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

5 (B) Carrying a firearm, unloaded, from the place of purchase
6 to his or her home, residence or place of business or to a place of
7 repair and back to his or her home, residence or place of
8 business; or

9 (C) Possessing a firearm while hunting in a lawful manner
10 or while traveling from his or her home, residence or place of
11 business to a hunting site and returning to his or her home,
12 residence or place of business;

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

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

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

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

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

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

39 ~~(8) Any Hatfield-McCoy Regional Recreation Authority~~
40 ~~Ranger while the ranger is on duty; and~~

41 ~~(9)~~ (8) Any parole officer appointed pursuant to section
42 fourteen, article twelve, chapter sixty-two of this code in the
43 performance of their duties.

44 (b) On and after July 1, 2013, the following judicial officers
45 and prosecutors and staff shall be exempted from paying any
46 application fees or licensure fees required under this article.

47 However, on and after that same date, they shall be required to
48 make application and satisfy all licensure and handgun safety
49 and training requirements set forth in section four of this article
50 before carrying a concealed handgun in this state:

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

53 (2) Any circuit judge;

54 (3) Any retired justice or retired circuit judge designated
55 senior status by the Supreme Court of Appeals of West Virginia;

56 (4) Any family court judge;

57 (5) Any magistrate;

58 (6) Any prosecuting attorney;

59 (7) Any assistant prosecuting attorney; or

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

NOTE: The purpose of this bill is to reorganize the Hatfield-McCoy Regional Recreation Authority as a multicounty joint development entity and to provide for an orderly conversion of the powers, responsibilities and legal relationships for that entity.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§20-14-4a, §20-14-10, §20-14-11 and §20-14-12 are new; therefore, they have been completely underscored.