

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Committee Substitute

for

Senate Bill 317

SENATORS MAYNARD, CLINE, AND SYPOLT, *original sponsors*

[Passed March 9, 2019; in effect 90 days from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §20-17-1, §20-17-2, §20-17-3, §20-17-4, §20-17-5, §20-17-6, §20-17-7,
3 §20-17-8, and §20-17-9; and to amend said code by adding thereto a new article,
4 designated §20-17A-1, §20-17A-2, §20-17A-3, §20-17A-4, and §20-17A-5, all relating
5 generally to forming multicounty trail network authorities; creating a framework for
6 establishment of multicounty trail network authorities and authorizing the formation of the
7 Mountaineer Trail Network Recreation Authority; providing legislative findings; defining
8 terms; providing that an authority is a public corporation and joint development entity;
9 providing procedures for counties to join a trail network authority as a participating county
10 and providing for the merger of two established authorities; providing for appointment of
11 individuals to the board of an authority and for the filling of vacancies on the board;
12 establishing the terms of appointment to a board; requiring quarterly meetings of a board;
13 describing how a quorum is established; authorizing a board to promulgate bylaws and
14 rules; providing that an authority is subject to Freedom of Information Act laws; describing
15 the powers and duties of an authority and its board; requiring a board to appoint an
16 executive director; describing powers and duties of an executive director; authorizing
17 employment of authority staff; requiring creation of an annual budget; providing for
18 payment of an authority's expenses; allowing reimbursement of board member expenses;
19 establishing financial audit requirements; requiring reporting and oversight of state funds;
20 prohibiting certain actions by users of recreational area land and providing criminal
21 penalties; limiting the liability of owners of land used by an authority; setting forth
22 purchasing and bidding procedures for authority contracts and purchases; providing
23 criminal penalties for violation of purchasing and bidding requirements; clarifying that
24 certain provisions of the code prohibiting certain officers from having a pecuniary interest
25 in contracts applies to board members, officers, personnel, and agents of an authority;
26 providing civil remedies for participating counties challenging purchasing contracts

27 violating certain requirements; establishing the Mountaineer Trail Network Recreation
28 Authority and authorizing the creation of the Mountaineer Trail Network Recreation Area;
29 identifying participating counties; authorizing counties to join the Mountaineer Trail
30 Network Recreation Authority through certain procedures; authorizing the Mountaineer
31 Trail Network Recreation Authority to merge with other multicounty trail network authorities
32 through certain procedures; providing legislative findings and purposes for this authority;
33 listing the recreational purposes for the recreation area; specifying manner of governance
34 and payment of expenses; and ensuring liability protections for cooperating land owners.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. MULTICOUNTY TRAIL NETWORK AUTHORITIES.

§20-17-1. Legislative findings.

1 The West Virginia Legislature finds that outdoor recreation is an increasingly vital part of
2 the state's economy and that outdoor recreation participants spend billions of dollars annually in
3 the state and support a significant number of local jobs.

4 The Legislature further finds that well-managed areas for trail-oriented recreation in the
5 state will increase outdoor recreational tourism, increasing revenue to the state and creating more
6 jobs for West Virginia citizens.

7 The Legislature further finds that, with the cooperation of private landowners, there is an
8 opportunity to provide citizens and recreational tourists with greater access to trail-oriented
9 recreation by incorporating private property into recreational trail systems and areas throughout
10 West Virginia to provide significant economic and recreational benefits to communities in the
11 state.

12 The Legislature further finds that, under an appropriate contractual and management
13 scheme, well-managed trail systems may exist on private property without diminishing the
14 landowner's interest, control, or profitability in the land and without increasing the landowner's
15 exposure to liability.

16 The Legislature further finds that creating and empowering multicounty trail network
17 authorities, that can work with the landowners, county officials, community leaders, state and
18 federal government agencies, recreational user groups, and other interested parties to expand
19 trail systems will greatly assist in improving and linking recreational trail systems.

20 The Legislature further finds that it is in the best interests of the state to encourage private
21 landowners to make land available for public use, through multicounty trail network authorities,
22 for recreational purposes by limiting landowner liability for injury to persons entering thereon, by
23 limiting landowner liability for injury to the property of persons entering thereon, and by limiting
24 landowner liability to persons who may be injured or otherwise damaged by the acts or omissions
25 of persons entering thereon.

§20-17-2. Definitions.

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

3 (1) “Adjacent county” means a nonparticipating county that directly borders any
4 participating county in a multicounty trail network authority;

5 (2) “Authority” means a multicounty trail network authority created pursuant to this article;

6 (3) “Board” means the board of a multicounty trail network authority;

7 (4) “Contiguous counties” means a group of counties in which each county shares the
8 border of at least one other county in the group;

9 (5) “Fee” means the amount of money asked in return for an invitation to enter or go upon
10 a recreational area of a trail network, including a one-time fee for a particular event, amusement,
11 occurrence, adventure, incident, experience, or occasion as set by an authority, which may differ
12 in amount for different categories of participants;

13 (6) “Land” or “property” includes, but is not limited to, roads, water, watercourses, private
14 ways, buildings, premises, structures, and machinery or equipment, when attached to the realty;

15 (7) “Owner” or “owner of land” means a person vested with title to real estate and those
16 with the ability to exercise control over real estate and includes, but is not limited to, a tenant,
17 lessee, licensee, holder of a dominant estate, or other lawful occupant;

18 (8) “Participant” means any person using a recreational area of a trail network for
19 recreational purposes;

20 (9) “Person” means any public or private corporation, institution, association, society, firm,
21 organization, or company organized or existing under the laws of this or any other state or country;
22 the State of West Virginia; any state governmental agency; any political subdivision of the state
23 or of its counties or municipalities; a sanitary district; a public service district; a drainage district;
24 a conservation district; a watershed improvement district; a partnership, trust, or estate; a person
25 or individual; a group of persons or individuals acting individually or as a group; any other legal
26 entity; or any authorized agent, lessee, receiver, or trustee of any of the foregoing;

27 (10) “Participating county” means one of the three or more counties forming a multicounty
28 trail network authority;

29 (11) “Recreational area” means the recreational trails and appurtenant facilities, including
30 trail head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or
31 cultural interpretive sites, and other facilities or attractions that are a part of a multicounty trail
32 network authority system; and

33 (12) “Recreational purposes” means:

34 (A) Any outdoor activity undertaken, or practice or instruction in any such activity, for the
35 purpose of exercise, relaxation, or pleasure, including, but not limited to any one or any
36 combination of the following noncommercial recreational activities: Hunting, fishing, swimming,
37 boating, kayaking, camping, picnicking, hiking, rock climbing, bouldering, bicycling, horseback
38 riding, spelunking, nature study, water skiing, winter sports, and visiting, viewing, or enjoying
39 historical, archaeological, scenic, or scientific sites, aircraft, or ultralight operations on private
40 airstrips or farms, or otherwise using land for purposes of the user;

41 (B) Parking on or traversing land, outside of the state road system, for the purpose of
42 engaging in a recreational activity described in paragraph (A) of this subdivision; or

43 (C) Maintaining or making improvements on land, including, but not limited to, artificial
44 improvements for the purpose of making the land accessible or usable for a recreational activity
45 described in paragraph (A) of this subdivision.

§20-17-3. Multicounty trail network authorities authorized; addition of counties; merger of existing authorities.

1 (a) For the purposes of this article, three or more contiguous counties may, upon approval
2 of the county commission of each county desiring to participate, form a multicounty trail network
3 authority. An authority established pursuant to this section is a public corporation and a joint
4 development entity existing for the purpose of facilitating the development and operation of a
5 system of recreational trails and areas throughout the participating counties. Such trails will be
6 designated and made available for recreational purposes with significant portions of the trails
7 system being located on private property throughout West Virginia, made available for use
8 through lease, license, easement, or other appropriate legal form by a willing landowner.

9 (b) An adjacent county may join a multicounty trail network authority as a participating
10 county upon approval of both the board of the authority and the county commission of the adjacent
11 county wishing to become a participating county.

12 (c) Two or more existing authorities may merge and become a single authority
13 encompassing the participating counties in each merging authority upon approval of the board of
14 each authority. Upon merger of two or more authorities, the board of the newly created authority
15 will be composed of all board members serving on the board of each merging authority at the time
16 the merger takes place. Thereafter, the authority will fill any vacancies and appoint board
17 members as required by §20-17-4 of this code. The board of the newly created authority shall
18 adopt appropriate procedures and bylaws to ensure that the newly created authority complies
19 with all requirements of this article.

§20-17-4. Board; quorum; executive director; expenses; application of state Freedom of Information Act.

1 (a) The board is the governing body of an authority and the board shall exercise all the
2 powers given the authority in this article. The county commission of each participating county shall
3 appoint two members to the board, as follows:

4 (1) Each participating county shall appoint one member who represents and is associated
5 with a corporation or individual landowner whose land is being used or is expected to be used in
6 the future as part of the authority's recreational area. This member shall be appointed to a
7 four-year term.

8 (2) Each participating county shall appoint one member who is an experienced instructor,
9 guide, or participant in recreational activities in the county or an individual who represents and is
10 associated with travel, tourism, economic development, land surveying, or relevant engineering
11 efforts within the county. The initial appointment for this member shall be for a two-year term, but
12 all subsequent appointments shall be for a four-year term.

13 (3) Any appointed member whose term has expired shall serve until his or her successor
14 has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for
15 the unexpired term. Any appointed member is eligible for reappointment. Members of the board
16 are not entitled to compensation for services performed as members but are entitled to
17 reimbursement for all reasonable and necessary expenses actually incurred in the performance
18 of their duties.

19 (b) Upon joining an existing authority as a participating county pursuant to §20-17-3 of this
20 code, the newly participating county shall appoint board members only for the length of the
21 unexpired terms of the authority's board members serving at the time the county joins the
22 authority. Thereafter, the county shall appoint board members according to the regular
23 appointment procedure provided in subsection (a) of this section.

24 (c) The board shall meet quarterly, unless a special meeting is called by its chairman.
25 During the first meeting of each fiscal year beginning in an odd-numbered year, or as soon as
26 feasible thereafter, the board shall elect a chairman, secretary, and treasurer from among its own
27 members to serve for two-year terms.

28 (d) A majority of the members of the board constitutes a quorum and a quorum shall be
29 present for the board to conduct business.

30 (e) The board may prescribe, amend, and repeal bylaws and rules governing the use of
31 the trail system, safety standards for participants, and the manner in which the business of the
32 authority is conducted.

33 (f) The board shall review and approve an annual budget. The fiscal year for an authority
34 begins on July 1 and ends on the 30th day of the following June.

35 (g) The board shall appoint an executive director to act as its chief executive officer, to
36 serve at the will and pleasure of the board. The board, acting through its executive director, may
37 employ any other personnel considered necessary and retain such temporary legal, engineering,
38 financial, and other consultants or technicians as may be required for any special study or survey
39 consistent with the provisions of this article. The executive director shall carry out plans to
40 implement the provisions of this article and to exercise those powers enumerated in the bylaws.
41 The executive director shall prepare an annual budget to be submitted to the board for its review
42 and approval prior to the commencement of each fiscal year. The budget shall contain a detailed
43 account of all planned and proposed revenue and expenditures for the authority for the upcoming
44 fiscal year, including a detailed list of employees by title, salary, cost of projected benefits, and
45 total compensation. Before August 15 of each year, the executive director shall provide to the
46 board and the county commission for each participating county a detailed list of actual
47 expenditures and revenue, by account and recipient name, for the previous fiscal year and a copy
48 of the approved budget for the current fiscal year.

49 (h) All costs incidental to the administration of the authority, including office expenses,
50 personal services expenses, and current expenses, shall be paid in accordance with guidelines
51 issued by the board from funds accruing to the authority.

52 (i) All expenses incurred by an authority in carrying out the provisions of this article shall
53 be payable solely from funds that have accrued to the authority pursuant to this article. An
54 authority may not incur liability or an obligation above the amount of funds that have accrued to
55 the authority pursuant to this article.

56 (j) A multicounty trail network authority and the board is a “public body” for purposes of
57 the West Virginia Freedom of Information Act, as provided in §29B-1-1 *et seq.* of this code.

§20-17-5. Financial review and oversight.

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

6 (b) If an authority receives any funds from the Legislature by appropriation or grant, the
7 Legislative Auditor shall have the power and authority to examine the revenues, expenditures,
8 and performance of the authority, and, for these purposes, shall have the power to inspect the
9 properties, equipment, and facilities of the authority and to request, inspect, and obtain copies of
10 any records of the authority. For each fiscal year in which the authority receives any funds from
11 the Legislature by appropriation or grant, the executive director shall provide to the Legislative
12 Auditor and Secretary of Revenue a detailed list of actual expenditures and revenue by account
13 and recipient name for the previous fiscal year within 45 days of the close of that fiscal year.

§20-17-6. Powers of an authority.

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

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

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

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

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

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

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

16 (7) To contract for the provision of legal services by private counsel and, notwithstanding
17 the provisions of §5-3-1 *et seq.* of this code, the counsel may, in addition to the provisions of other
18 legal services, represent the authority in court, negotiate contracts and other agreements on
19 behalf of the authority, render advice to the authority on any matter relating to the authority,
20 prepare contracts and other agreements, and provide such other legal services as may be
21 requested by the authority;

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

23 (9) To make, amend, repeal, and adopt bylaws for the management and regulation of the
24 authority's affairs;

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

27 (11) To make contracts of every kind and nature and to execute all instruments necessary
28 or convenient for carrying out the purposes of this article, including contracts with any other
29 governmental agency of this state or of the federal government or with any person, individual,
30 partnership, or corporation;

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

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

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

36 (15) To issue notes payable solely from the revenue or other funds available to the
37 authority, which may be issued in such principal amounts as necessary to provide funds for any
38 purpose under this article, including:

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

42 (B) The establishment or increase of reserves to secure or to pay notes, or the interest on
43 the notes, and all other costs or expenses of the authority incident to and necessary or convenient
44 to carry out its corporate purposes and powers. Notes may be additionally secured by a pledge
45 of any revenues, funds, assets, or moneys of the authority from any source;

46 (16) To issue renewal notes, except that no renewal notes may be issued to mature more
47 than 10 years from the date of issuance of the notes renewed;

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

50 (18) To accept gifts or grants of property, funds, security interests, money, materials, labor,
51 supplies, or services from the federal government or from any governmental unit or any person,
52 firm, or corporation, and to take appropriate measures in procuring, accepting, or disposing of
53 gifts or grants;

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

58 (20) To construct, reconstruct, improve, maintain, repair, operate, and manage the
59 recreational areas at the locations within the participating counties as may be determined by the
60 authority;

61 (21) To enter into an agreement with the West Virginia Division of Natural Resources for
62 natural resources police officers to provide law-enforcement services within the authority's
63 recreational area and to reimburse the Division of Natural Resources for its costs therefor;

64 (22) To exercise all power and authority provided in this article necessary and convenient
65 to plan, finance, construct, renovate, maintain, and operate or oversee the operation of the
66 authority at such locations within the participating counties as may be determined by the authority;

67 (23) To exercise all of the powers which a corporation may lawfully exercise under the
68 laws of this state;

69 (24) To develop, maintain, and operate or contract for the development, maintenance, and
70 operation of the authority;

71 (25) To enter into contracts with landowners and other persons holding an interest in the
72 land being used for its recreational facilities to hold those landowners and other persons harmless
73 with respect to any claim in tort growing out of the use of the land for recreational purposes or
74 growing out of the recreational activities operated or managed by the authority from any claim

75 except a claim for damages proximately caused by the willful or malicious conduct of the
76 landowner or any of his or her agents or employees;

77 (26) To assess and collect a reasonable fee from those persons who use the trails, parking
78 facilities, visitor centers, or other facilities which are part of the recreational area and to retain and
79 utilize that revenue for any purposes consistent with this article: *Provided*, That such fee does not
80 constitute a “charge” or a “fee” within the meaning and for the purposes of §19-25-5 of this code:
81 *Provided, however*, That the authority may not charge a fee for any user to enter or go upon any
82 trail that is already open for use by the public without fee as of January 1, 2019;

83 (27) To enter into contracts or other appropriate legal arrangements with landowners
84 under which land is made available for use as part of the recreational area;

85 (28) To directly operate and manage recreation activities and facilities within the
86 recreational area;

87 (29) To promulgate and publish rules governing the use of the recreational area and the
88 safety of participants, including rules designating particular trails or segments of trails within the
89 recreational area for certain activities and limiting use of designated trails to such activities;

90 (30) To coordinate and conduct athletic races, competitions, or events within the
91 recreational area, in cooperation with the county commissions of participating counties in which
92 such events will take place; and

93 (31) To exercise such other and additional powers as may be necessary or appropriate to
94 carry out the purposes of this article.

§20-17-7. Requirements for trail users and prohibited acts; criminal penalties.

1 (a) A person may not enter or remain upon a recreational area without a valid,
2 nontransferable user permit issued by the appropriate authority and properly displayed, except
3 properly identified landowners or leaseholders or their officers, employees, or agents while on the
4 land that the person owns or leases for purposes related to the ownership or lease of the land.

5 (b) An authority may require recreational users to wear protective helmets or use safety
6 equipment that the authority determines to be appropriate for the recreational activity in which the
7 user is engaged.

8 (c) Each trail user operating a bicycle or mountain bicycle shall obey all traffic laws,
9 traffic-control devices, and signs within the recreational area, including those which restrict trails
10 to certain types of bicycles or mountain bicycles.

11 (d) Each trail user shall at all times remain within and on a designated and marked trail
12 while within the recreational area.

13 (e) A person may not ignite or maintain any fire within the recreational area except in a
14 designated camp site.

15 (f) A person may not operate a motor vehicle within the recreational area unless the person
16 is authorized to operate a motor vehicle in the area to perform maintenance services or
17 emergency response.

18 (g) A person who violates any provision of this section is guilty of a misdemeanor and,
19 upon conviction, shall be fined not more than \$100. Prosecution or conviction for the
20 misdemeanor described in this subsection shall not prevent or disqualify any other civil or criminal
21 remedies for the conduct prohibited by this section.

§20-17-8. Limiting liability.

1 (a) An owner of land used by an authority owes no duty of care to keep his or her land
2 safe for entry or use by others for recreational purposes, or to give any warning of a dangerous
3 or hazardous condition, use, structure, activity, or wild animal on such land to persons entering
4 or going upon the land for such purposes. The provisions of this section apply regardless of
5 whether the person entering or going upon the leased land is permitted to enter the land or is a
6 trespasser.

7 (b) Unless otherwise agreed in writing, an owner of land who grants a lease, easement,
8 or license of land to an authority for recreational purposes does not, by giving a lease, easement

9 or license: (1) Extend any assurance to any person using the land that the land is safe for any
10 purpose; (2) confer upon those persons the legal status of a party to whom a duty of care is owed;
11 or (3) assume responsibility for or incur liability for any injury to person or property or death caused
12 by an act or omission of a person who enters upon the leased land. The provisions of this section
13 apply whether the person entering or going upon the leased land is permitted to enter the land or
14 is a trespasser.

15 (c) Nothing in this section limits in any way any liability which otherwise exists for
16 deliberate, willful, or malicious infliction of injury to persons or property: *Provided*, That nothing
17 herein limits in any way the obligation of a person entering upon or using the land of another for
18 recreational purposes to exercise due care in his or her use of the land and in his or her activities
19 thereon, so as to prevent the creation of hazards or the commission of waste by himself or herself.

§20-17-9. Purchasing and bidding procedures; criminal penalties.

1 (a) *Purchasing and bidding procedures; criminal penalties.* —

2 (1) Whenever an authority proposes to purchase or contract for commodities or services
3 reasonably anticipated to equal or exceed \$25,000 in cost, the purchase or contract shall be
4 based on competitive bidding. Where the purchase of particular commodities or services is
5 reasonably anticipated to be less than \$25,000, the executive director may, on behalf of the
6 authority, solicit bids or price quotes in any manner that the executive director deems appropriate
7 and the authority shall obtain its commodities or services by the lowest bid. In lieu of seeking bids
8 or quotes for commodities or services in this price range, the authority may purchase those
9 commodities and services pursuant to state prequalification agreements as provided in §5A-3-10e
10 of this code.

11 (2) Where the cost for the purchase of commodities or services is reasonably anticipated
12 to exceed \$25,000, the executive director shall solicit sealed bids for such commodities or
13 services: *Provided*, That the executive director may permit bids by electronic transmission to be
14 accepted in lieu of sealed bids. Bids shall be solicited by public notice. The notice shall be

15 published as a Class II legal advertisement in all participating counties in compliance with the
16 provisions of §59-3-1 *et seq.* of this code and by such other means as the executive director
17 deems appropriate. The notice shall state the general character of the work and general character
18 of the materials to be furnished, the place where plans and specifications therefor may be
19 examined, and the time and place for receiving bids. After all bids are received, the authority shall
20 enter into a written contract with the lowest responsible bidder; however, the authority may reject
21 any or all bids that fail to meet the specifications required by the authority or that exceed the
22 authority's budget estimation for those commodities or services. If the executive director
23 determines in writing that there is only one responsive and responsible bidder and that there has
24 been sufficient public notice to attract competitive bids, he or she may negotiate the price for a
25 noncompetitive award or the specifications for a noncompetitive award based solely on the
26 original purpose of the solicitation.

27 (3) For any contract that exceeds \$25,000 in total cost, the authority shall require the
28 vendors to post a bond, with form and surety to be approved by the authority, in an amount equal
29 to at least 50 percent of the contract price conditioned upon faithful performance and completion
30 of the contract.

31 (4) The bidding requirements specified in this section do not apply to any leases for real
32 property upon which the authority makes improvements for public access to the recreational area,
33 information distribution, and welcome centers. This exemption does not apply to leases for offices,
34 vehicle and heavy equipment storage, or administrative facilities.

35 (5) Any person who violates a provision of this subsection is guilty of a misdemeanor and,
36 upon conviction, shall be confined in jail not less than 10 days nor more than one year, or fined
37 not less than \$10 nor more than \$1,000, or both fined and confined.

38 (b) *Conflicts of interest in contracts prohibited.* —

39 An authority or any of its board members, officers, employees, or agents may not enter
40 into any contracts, agreements, or arrangements for purchases of services or commodities
41 violating the requirements of §6B-2-5 or §61-10-15 of this code.

42 (c) *Civil remedies.* —

43 The county commission of a participating county in an authority may challenge the validity
44 of any contract or purchase entered, solicited, or proposed by the authority in violation of this
45 section by seeking declaratory or injunctive relief in the circuit court of the county of the
46 challenging party. If the court finds by a preponderance of evidence that the provisions of those
47 sections have been violated, the court may declare the contract or purchase to be void and may
48 grant any injunctive relief necessary to correct the violations and protect the funds of the authority
49 as a joint development entity.

ARTICLE 17A. MOUNTAINEER TRAIL NETWORK RECREATION AUTHORITY.

§20-17A-1. Legislative findings; purpose.

1 The Legislature further finds that, with the cooperation of private landowners, there is an
2 opportunity to provide trail-oriented recreation facilities primarily on private property in the
3 mountainous terrain of the Potomac Highlands and north central West Virginia and that the
4 facilities will provide significant economic and recreational benefits to the state and to the
5 communities in the Potomac Highlands and north central West Virginia through increased tourism
6 in the same manner as whitewater rafting, snow skiing, and utility terrain motor vehicle riding
7 benefit the state and communities surrounding those activities.

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

13 The purpose of this article is to provide additional opportunities and regulatory
14 authorization for recreational trail networks and to provide for increased access to recreational
15 areas, including, but not limited to, creating a contiguous trail system that connects to the
16 Chesapeake and Ohio Canal Tow Path.

**§20-17A-2. Creation of Mountaineer Trail Network Recreation Authority and establishment
of recreation area.**

1 (a) There is hereby created the Mountaineer Trail Network Recreation Authority consisting
2 of representatives from the counties of Barbour, Grant, Harrison, Marion, Mineral, Monongalia,
3 Preston, Randolph, Taylor, and Tucker organized pursuant to the provisions of §20-17-1 *et seq.*
4 of this code. This authority is authorized to establish a Mountaineer Trail Network Recreation Area
5 within the jurisdictions of those counties and the authority shall be subject to the powers, duties,
6 immunities, and restrictions provided in §20-17-1 *et seq.* of this code. Visitors and participants in
7 recreational activities within the trail network shall, in similar respects, be subject to the user
8 requirements and prohibitions of §20-17-7 of this code.

9 (b) Notwithstanding subsection (a) of this section, an adjacent county may join the
10 Mountaineer Trail Network Recreation Authority pursuant to the procedures set forth in
11 §20-17-3(b) of this code.

12 (c) Notwithstanding subsection (a) of this section, the Mountaineer Trail Network
13 Recreation Authority may merge with another multicounty trail network authority, pursuant to the
14 procedures set forth in §20-17-3(c) of this code.

§20-17A-3. Recreational purposes.

1 The permitted recreational purposes for the Mountaineer Trail Network Recreation Area
2 include, but are not limited to, any one or any combination of the following noncommercial
3 recreational activities: Hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling,
4 mountain bicycling, running, cross-country running, nature study, winter sports and visiting,
5 viewing or enjoying historical, archaeological, scenic, or scientific sites.

§20-17A-4. Governing body and expenses.

1 (a) The governing body of the authority shall be a board constituted according to the
2 provisions of §20-17-4 of this code.

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

6 (c) 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 according to the requirements of
8 §20-17-1 *et seq.* of this code. No liability or obligation may be incurred by the authority under this
9 article beyond the extent to which moneys have been provided under the authority of this article.

§20-17A-5. Protection for private landowners.

1 Owners of land used by the authority shall have the full benefit of the limitations of liability
2 provided in §20-17-8 of this code.

Enr CS for CS for SB

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

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Governor