

H. B. 2227

(By Delegates L. Phillips, Eldridge, Gearheart, Moffatt, J. Nelson,
H. White, Guthrie, Rowe, Marcum, Perdue and Hornbuckle)

[Introduced January 22, 2015; referred to the
Committee on Government Organization.]

A BILL to amend and reenact §29-27-1, §29-27-2, §29-27-3, §29-27-4, §29-27-5 and §29-27-6 of the Code of West Virginia, 1931, as amended, all relating to the National Coal Heritage Area Authority; expanding the number of member counties; increasing number of members and providing for appointments by county commissions rather than the Governor; providing for chairperson appointed by and serving at the will and pleasure of the Secretary of Education and the Arts rather than the Governor; creating a standing committee and its responsibilities; and transferring all assets and responsibilities of the Coal Heritage Highway Authority to the National Coal Heritage Area Authority.

Be it enacted by the Legislature of West Virginia:

That §29-27-1, §29-27-2, §29-27-3, §29-27-4, §29-27-5 and §29-27-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. NATIONAL COAL HERITAGE AREA AUTHORITY.

§29-27-1. Legislative findings.

The West Virginia Legislature finds that there is a significant need for a public body to

1 promote and enhance historic preservation, tourism and economic development activities that relate
2 to the state's history as a coal producing state within the counties of Boone, Cabell, Fayette, Lincoln,
3 Logan, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, Wyoming, and the Paint Creek and
4 Cabin Creek Watersheds in Kanawha County.

5 The Legislature further finds that the creation and empowering of a statutory corporation to
6 work with the landowners, county officials and community leaders, state and federal government
7 agencies, and other interested parties to enable and facilitate the development of the national coal
8 heritage area will greatly assist in the realization of these potential benefits.

9 **§29-27-2. Definitions.**

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

12 (a) "Authority" means the National Coal Heritage Area Authority;

13 (b) "Board" means the board of the National Coal Heritage Area Authority; and

14 (c) "National coal heritage area" means and is comprised of the counties of Boone, Cabell,
15 Fayette, Lincoln, Logan, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne , Wyoming and the
16 Paint Creek and Cabin Creek Watersheds in Kanawha County.

17 **§29-27-3. Creation; appointment of board; terms; expenses; executive director.**

18 (a) There is hereby created the "National Coal Heritage Area Authority" which is a public
19 corporation and a government instrumentality existing for the purposes of providing direction to and
20 assistance with state and federal historic preservation, economic development, and tourism projects
21 in the national coal heritage area and aiding in the development and implementation of integrated
22 cultural, historical, and land resource management policies and programs in order to retain, enhance,

1 and interpret the significant values of the lands, waters and structures in the national coal heritage
2 area.

3 (b) The authority board shall be comprised of ~~seventeen~~ nineteen members. The following
4 six persons shall be nonvoting members and shall serve by virtue of their offices and may be
5 represented at meetings of the board by designees: The Secretary of the Department of Education
6 and the Arts, the Commissioner of the Bureau of the Environment, the Commissioner of the Division
7 of Tourism, the Commissioner of the Division of Culture and History, the Director of the Division
8 of Natural Resources and the executive Director of the West Virginia Development Office. The
9 remaining ~~eleven~~ thirteen members shall be appointed for terms of four years by the ~~Governor with~~
10 ~~the advice and consent of the Senate~~ county commissions of each of the counties whose county or
11 portion of their county are within the national coal heritage area. Of the ~~eleven~~ thirteen members
12 appointed by the ~~Governor~~ county commissions, one member must reside or work in Boone County;
13 one member must reside or work in Cabell County; one member must reside or work in Fayette
14 County; one member must reside or work in Lincoln County; one member must reside or work in
15 Logan County; one member must reside or work in McDowell County; one member must reside or
16 work in Mercer County; one member must reside or work in Mingo County; one member must reside
17 or work in Raleigh County; one member must reside or work in Summers County; one member must
18 reside or work in Wayne County; one member must reside or work in Wyoming County; one
19 member must reside or work in the Paint Creek and Cabin Creek Watersheds in Kanawha County;
20 and the appointees must be representative of the tourism industry, the coal industry, the United Mine
21 Workers of America, historical organizations, economic development activity, historic preservation
22 activity ~~and~~ or higher education.

1 (c) ~~Of the eleven members first appointed to the board, two shall be appointed for a term~~
2 ~~ending June 30, 2003, and three members for terms ending one, two and three years thereafter as the~~
3 ~~Governor shall designate at the time of the appointments. Thereafter, The terms of office shall be~~
4 ~~four years and shall expire on June 30.~~ No appointed member may serve more than two consecutive
5 full terms. A member shall continue to serve until his or her successor has been appointed and
6 qualified.

7 (d) If an appointed member is unable to complete a term, the ~~Governor~~ county commission
8 of the county that the member represents shall appoint a person to complete the unexpired term. Each
9 vacancy occurring on the board must be filled within sixty days after the vacancy is created.

10 (e) Any appointed member of the board shall immediately and automatically forfeit his or
11 her membership on the board if he or she becomes a nonresident of the county from which he or she
12 was appointed or ceases to be employed in that county.

13 (f) Each member of the board shall serve without compensation, but shall receive expense
14 reimbursement for all reasonable and necessary expenses actually incurred in the performance of the
15 duties of the office, in the same amount paid to members of the Legislature for their interim duties
16 as recommended by the Citizens Legislative Compensation Commission and authorized by law:
17 *Provided, That no member shall may be reimbursed for expenses paid by a third party.*

18 (g) The board shall appoint an executive director to act as its chief executive officer, to serve
19 at the will and pleasure of the board. The board, acting through its executive director, may employ
20 any other personnel considered necessary and may appoint staff for the authority and retain such
21 temporary consultants or technicians as may be required for any special study or survey consistent
22 with the provisions of this article. The executive director shall carry out plans to implement the

1 provisions of this article and to exercise those powers. The executive director shall prepare annually
 2 a budget to be submitted to the board for its review and approval.

3 **§29-27-4. Board; quorum; chairperson; bylaws.**

4 (a) The board is the governing body of the authority and the board shall exercise all the
 5 powers given the authority in this article.

6 (b) A chairperson shall be appointed by and shall serve at the will and pleasure of the
 7 ~~Governor, with the advice and consent of the Senate~~ Secretary of Education and the Arts. The
 8 authority shall meet at such times as shall be specified by the chairperson, but in no case less than
 9 once each three months. Notice of the meeting must be given in accordance with the provisions of
 10 section three, article nine-a, chapter six of this code. A majority of the members may also call a
 11 meeting upon such notice as provided in this section. ~~Six appointed~~ A majority of the members
 12 appointed by the county commissions shall constitute a quorum for the transaction of business. The
 13 chairperson of the board shall appoint from the membership of the authority certain members to
 14 serve as secretary and as treasurer.

15 (c) There shall be a standing committee of the National Coal Heritage Area Authority known
 16 as the Coal Heritage Trail committee comprised of the chair and members of the national coal
 17 heritage area from the counties that the Coal Heritage Trail passes through. These counties are
 18 Mercer, McDowell, Wyoming, Raleigh and Fayette. This standing committee is responsible for
 19 making recommendations to the full board regarding development and promotion of the Coal
 20 Heritage Trail, a national scenic byway.

21 ~~(c)~~ (d) The board shall prescribe, amend and repeal bylaws and rules governing the manner
 22 in which the business of the authority is conducted, shall keep a record of its proceedings, and shall

1 review and approve an annual budget.

2 **§29-27-5. Powers of authority.**

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

6 (1) To assist in the development and implementation of integrated cultural, historical and
7 land resource management policies and programs in the national coal heritage area;

8 (2) To advise the Executive Director of the National Coal Heritage Authority in retaining,
9 enhancing and interpreting the significant values of the lands, waters and structures of the area;

10 (3) To enter into partnerships with various preservation groups, landmark commissions,
11 certified local governments, county commissions and other entities to undertake the preservation,
12 restoration, maintenance, operation, development, interpretation and promotion of lands and
13 structures that possess unique and significant historic, architectural and cultural value associated with
14 the coal mining heritage of the national coal heritage area;

15 (4) To make, amend, repeal and adopt bylaws for the management and regulation of its
16 affairs;

17 (5) To appoint officers, agents and employees, and to contract for and engage the services
18 of consultants;

19 (6) To execute contracts necessary or convenient for carrying on its business, including
20 contracts with any other governmental agency of this state or of the federal government or with any
21 person, individual, partnership or corporation to effect any or all of the purposes of this article;

22 (7) Without in any way limiting any other subdivision of this section, to accept grants and

1 loans from and enter into contracts and other transactions with any federal agency;

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

3 (9) To accept gifts or grants of property, funds, money, materials, labor, supplies or services
4 from the federal government or from any governmental unit or any person, firm or corporation;

5 (10) To construct, reconstruct, improve, maintain, repair, operate and manage certain
6 facilities in the national coal heritage area as may be determined by the authority;

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

13 (12) To assess and collect a reasonable fee from those persons who use the designated
14 facilities which are part of the national coal heritage area, and to retain and utilize that revenue for
15 any purposes consistent with this article; and

16 (13) To propose rules for legislative approval in accordance with ~~the provisions of article~~
17 three, chapter twenty-nine-a of this code, as are necessary to effectuate the provisions of this article.

18 **§29-27-6. Continuation of legal obligations.**

19 Nothing in this article ~~shall~~ may be considered as superseding, amending, modifying or
20 repealing any contract or agreement entered into for the benefit of the national coal heritage area
21 prior to the date of enactment of this article. All obligations, contracts, grants and assets currently
22 belonging to the Coal Heritage Highway Authority shall be transferred to and become the

1 responsibility and property of the National Coal Heritage Area Authority.

NOTE: The purpose of this bill is to expand the number of member counties in the National Coal Heritage Area Authority. It increases the number of members and provides for appointments by county commissions rather than the Governor. The bill provides for chairperson appointed by and serving at the will and pleasure of the Secretary of Education and the Arts rather than the Governor. It creates a standing committee and its responsibilities. And, the bill transfers all assets and responsibilities of the Coal Heritage Highway Authority to the National Coal Heritage Area Authority.

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