

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 4431**

BY DELEGATES STATLER, MILEY, CAPUTO, FLEISCHAUER,  
PETHTEL, WILLIAMS, PYLES, SUMMERS, FRICH, WARD  
AND HAMRICK

[Reported February 26, 2018; Referred  
to the Committee on Government Organization then  
the Judiciary.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-  
3 14A-7, §20-14A-8, §20-14A-9, §20-14A-10, §20-14A-11, §20-14A-12, and §20-14A-13,  
4 all relating to establishing the Mountaineer Trail Network Recreation Authority; providing  
5 a statement of legislative purpose and findings; providing definitions; establishing the  
6 Mountaineer Trail Network Recreation Authority; providing for a method of appointment to  
7 the board of the authority; prescribing the terms of appointment; describing the powers  
8 and duties of the authority; limiting the liability of landowners; setting forth purchasing and  
9 bidding procedures; providing civil remedies; providing for conflicts of interest; providing  
10 criminal penalties; providing for severability; establishing an effective date; and authorizing  
11 rule-making.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 14A. MOUNTAINEER TRAIL NETWORK RECREATION AUTHORITY.**

**§20-14A-1. Legislative findings.**

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

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

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

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

**§20-14A-2. Definitions.**

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

3           “Authority” means the Mountaineer Trail Network Recreation Authority;

4           “Board” means the board of the Mountaineer Trail Network Recreation Authority;

5           “Charge” means, for purposes of limiting liability for recreational purposes set forth in this  
6 article, the amount of money asked in return for an invitation to enter or go upon the land, including  
7 a one-time fee for a particular event, amusement, occurrence, adventure, incident, experience,  
8 or occasion as set by the authority: *Provided*, That the authority may set charges in differing  
9 amounts for different categories of participants, including, but not limited to, in-state and out-of-  
10 state participants, as the authority sees fit;

11           “Mountaineer Trail Network Recreation Area” means a system of recreational trails and  
12 appurtenant facilities, including trail head centers, parking areas, camping facilities, picnic areas,  
13 recreational areas, historic or cultural interpretive sites, and other facilities that are a part of the  
14 system;

15 “Land” includes, but is not limited to, roads, water, watercourses, private ways and  
16 buildings, structures, and machinery or equipment thereon when attached to the realty;

17 “Owner” means those vested with title to real estate and those with the ability to exercise  
18 control over real estate and includes, but is not limited to, tenant, lessee, licensee, holder of a  
19 dominant estate, or other lawful occupant;

20 “Participant” means any person using the land, trails, and facilities of the Mountaineer Trail  
21 Network Recreation Area;

22 “Participating county” means the counties of Monongalia, Preston, Marion, Harrison,  
23 Taylor, and with the approval of the board, any other county or counties where trails and other  
24 recreational facilities relating to the Mountaineer Trail Network Recreation Area are developed in  
25 the future with the cooperation of the county commission; and

26 “Recreational purposes” includes, but is not limited to, any one or any combination of the  
27 following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping,  
28 picnicking, hiking, bicycling, mountain bicycling, running, cross-country running, nature study,  
29 winter sports and visiting, viewing or enjoying historical, archaeological, scenic, or scientific sites  
30 or otherwise using land for purposes of the user.

**§20-14A-3. Mountaineer Trail Network Recreation Authority; board; terms.**

1 (a) There is hereby created the “Mountaineer Trail Network Recreation Authority” which is  
2 a public corporation and a government instrumentality existing for the purpose of enabling and  
3 facilitating the development and operation of a system of trail-oriented recreation facilities for use  
4 by bicycling enthusiasts, mountain bicyclists, and others to be located in north central West Virginia  
5 with significant portions of the trails system being located on private property made available for  
6 use through lease, license, easement, or other appropriate legal form by a willing landowner.

7 (b) The authority is composed of a board of no more than 14 members who shall be  
8 representative of the various interests involved in the Mountaineer Trail Network Recreation Area  
9 project in the participating counties and who shall be appointed as follows:

10           (1) The county commission of each participating county, as defined in §20-14A-2 of this  
11 code, shall appoint two members of the board as follows:

12           (A) One member who represents and is associated with a corporation or individual  
13 landowner whose land is being used or is expected to be used in the future as part of the  
14 Mountaineer Trail Network Recreation Area project or their designee. This member shall be  
15 appointed to a four-year term.

16           (B) One member who represents and is associated with travel and tourism or economic  
17 development efforts within the county or who is associated with a mining, logging, natural gas, or  
18 other resource-extraction industry or who is a licensed land surveyor or licensed professional  
19 engineer. The initial appointment shall be for a two-year term, but all subsequent appointments  
20 shall be for a four-year term.

21           Any appointed member whose term has expired shall serve until his or her successor has  
22 been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the  
23 unexpired term. Any appointed member is eligible for reappointment. Members of the board are  
24 not entitled to compensation for services performed as members but are entitled to  
25 reimbursement for all reasonable and necessary expenses actually incurred in the performance  
26 of their duties.

27           (c) The Mountaineer Trail Network Recreation Authority is a “public body” for purposes of  
28 the West Virginia Freedom of Information Act, as provided in §29B-1-1 et seq. of this code.

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

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

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

7 Most of the members of the board constitutes a quorum and a quorum shall be present  
8 for the board to conduct business.

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

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

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

30 All expenses incurred in carrying out the provisions of this article shall be payable solely  
31 from funds provided under the authority of this article and no liability or obligation may be incurred

32 by the authority under this article beyond the extent to which moneys have been provided under  
33 the authority of this article.

**§20-14A-5. Financial review and oversight.**

1 (a) The 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 the 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 Mountaineer Trail Network Recreation Authority and for these purposes  
9 shall have the power to inspect the properties, equipment, and facilities of the authority and to  
10 request, inspect, and obtain copies of any records of the authority. For each fiscal year in which  
11 the authority receives any funds from the Legislature by appropriation or grant, the executive  
12 director shall provide to the Legislative Auditor and Secretary of Revenue a detailed list of actual  
13 expenditures and revenue by account and recipient name for the previous fiscal year within 45  
14 days of the close of that fiscal year.

**§20-14A-6. Powers and authority.**

1 The authority, as a public corporation and joint development entity, may exercise all  
2 powers necessary or appropriate to carry out the purposes of this article, including, but not limited  
3 to, the 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 use of 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, license, or  
11 easements, contracts, including hold-harmless agreements, operations, or assets 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 its  
24 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 on its business, including contracts with any other governmental agency  
29 of this state or of the federal government or with any person, individual, partnership, or corporation  
30 to effect any or all of the purposes of this article;
- 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 places within the state as it may designate;

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

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

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

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

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

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

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

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

60 (20) To construct, reconstruct, improve, maintain, repair, operate, and manage the  
61 Mountaineer Trail Network Recreation Area at the locations within the participating counties as  
62 may be determined by the authority;

63 (21) To enter into an agreement with the West Virginia Division of Natural Resources for  
64 natural resources police officers to provide law-enforcement services within the Mountaineer Trail  
65 Network Recreation Area and to reimburse the Division of Natural Resources for its costs therefor;

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

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

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

74 (25) To develop, maintain, and operate or to contract for the development, maintenance,  
75 and operation of the Mountaineer Trail Network Recreation Area;

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

82 (27) To assess and collect a reasonable fee from those persons who use the trails, parking  
83 facilities, visitor centers, or other facilities which are part of the Mountaineer Trail Network  
84 Recreation Area and to retain and utilize that revenue for any purposes consistent with this article;

85           (28) To enter into contracts or other appropriate legal arrangements with landowners  
86 under which their land is made available for use as part of the Mountaineer Trail Network  
87 Recreation Area; and

88           (29) To directly operate and manage recreation activities and facilities within the  
89 Mountaineer Trail Network Recreation Area.

**§20-14A-7. Prohibited acts; penalty.**

1           (a) A person may not enter or remain upon the Mountaineer Trail Network Recreation Area  
2 without a valid, nontransferable user permit issued by the 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 and not for recreational purposes;

6           (b) A person may not consume or possess any alcoholic liquor at any time or any location  
7 within the Mountaineer Trail Network Recreation Area.

8           (c) The operator or passenger of a bicycle or mountain bicycle within the Mountaineer Trail  
9 Network Recreation Area shall wear size-appropriate protective helmets at all times. All operators  
10 and passengers shall wear helmets that meet the current performance specifications established  
11 by the United States Consumer Products Safety Commission standard or the American Society  
12 for Testing and Materials standard.

13           (d) Each trail user shall obey all traffic laws, traffic-control devices, and signs within the  
14 Mountaineer Trail Network Recreation Area, including those which restrict trails to certain types  
15 of bicycles or mountain bicycles.

16           (e) Each trail user shall at all times remain within and on a designated and marked trail  
17 while within the Mountaineer Trail Network Recreation Area.

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

21 (g) Every person within the Mountaineer Trail Network Recreation Area who is under  
22 sixteen years of age shall at all times be under the immediate supervision of, and within sight of,  
23 a person who is at least 18 years of age and who either is a parent or guardian of the youth or  
24 has the express permission of a parent or guardian to supervise the youth. No parent, guardian,  
25 or supervising adult may allow a child under the age of 16 years to leave that person's sight and  
26 supervision within the Mountaineer Trail Network Recreation Area.

27 (h) A person may not ignite or maintain any fire within the Mountaineer Trail Network  
28 Recreation Area except in a designated camp site.

29 (i) A person may not operate a motor vehicle within the Mountaineer Trail Network  
30 Recreation Area.

31 (j) A person may not possess a glass container while riding on a bicycle or mountain  
32 bicycle within the Mountaineer Trail Network Recreation Area.

33 (k) A person may not operate or ride in a utility terrain vehicle, as defined in §17F-1-1 et  
34 seq. of this code, or any other motor vehicle with bench or bucket seating and a steering wheel  
35 for control within the Mountaineer Trail Network Recreation Area.

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

**§20-14A-8. Limiting liability.**

1 (a) An owner of land used by, or for the stated purposes of, the Mountaineer Trail Network  
2 Recreation Authority, whether with or without charge, owes no duty of care to keep the premises  
3 safe for entry or use by others for recreational purposes or to give any warning of a dangerous or  
4 hazardous condition, use, structure, or activity on the premises to persons entering for those  
5 purposes.

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

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

**§20-14A-9. Purchasing and bidding procedures.**

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

10           (b) Where the cost for the purchase of commodities or services is reasonably anticipated to  
11 exceed \$25,000, the executive director shall solicit sealed bids for the commodities or services to  
12 be provided: *Provided*, That the executive director may permit bids by electronic transmission be  
13 accepted in lieu of sealed bids. Bids shall be solicited by public notice. The notice shall be published  
14 as a Class II legal advertisement in all participating counties in compliance with the provisions of  
15 §59-3-1 *et seq.* of this code and by such other means as the executive director deems appropriate.  
16 The notice shall state the general character of the work and general character of the materials to  
17 be furnished, the place where plans and specifications therefor may be examined, and the time and  
18 place of receiving bids. After all bids are received, the authority shall enter into a written contract  
19 with the lowest responsible bidder; however, the authority may reject any or all bids that fail to meet  
20 the specifications required by the authority or that exceed the authority's budget estimation for those  
21 commodities or services. If the executive director determines in writing that there is only one  
22 responsive and responsible bidder and that there has been sufficient public notice to attract  
23 competitive bids, he or she may negotiate the price for a noncompetitive award or the specifications  
24 for a noncompetitive award based solely on the original purpose of the solicitation.

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

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

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

**§20-14A-10. Conflicts of interest prohibiting certain contracts.**

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

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

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

18       (d) Any person who violates a provision of this section is guilty of a misdemeanor and,  
19 upon conviction thereof, shall be confined in jail not less than 10 days nor more than one year, or  
20 fined not less than \$10 nor more than \$1,000, or both confined and fined.

**§20-14A-11. Civil remedies for unlawful purchasing and contracts.**

1       The county commission of any participating county may challenge the validity of any  
2 contract or purchase entered, solicited, or proposed by the authority in violation of §20-14A-10 or  
3 §20-14A-11 of this code by seeking declaratory or injunctive relief in the circuit court of the county  
4 of the challenging party. If the court finds by a preponderance of evidence that the provisions of



5 those sections have been violated, the court may declare the contract or purchase to be void and  
6 may grant any injunctive relief necessary to correct the violations and protect the funds of the  
7 authority as a joint development entity.

**§20-14A-12. Severability.**

1 The several sections and provisions of this article are severable, and if any section or  
2 provision hereof is held unconstitutional, all the remaining sections and provisions of this article  
3 shall nevertheless remain valid.

NOTE: The purpose of this bill is to establish the Mountaineer Trail Network Recreation Authority. The bill provides a statement of legislative purpose and findings. The bill provides definitions. The bill establishes the Mountaineer Trail Network Recreation Authority. The bill provides for a method of appointment to the board of the authority. The bill prescribes the terms of appointment. The bill describes the powers and duties of the authority. The bill limits the liability of landowners. The bill sets forth purchasing and bidding procedures. The bill provides civil remedies. The bill provides for conflicts of interest. The bill provides criminal penalties. The bill provides for severability. The bill establishes an effective date. This bill authorizes rule-making.

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