

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### Senate Bill 317

FISCAL  
NOTE

BY SENATORS MAYNARD, CLINE, AND SYPOLT

[Introduced January 16, 2019; Referred  
to the Committee on Natural Resources; and then to the  
Committee on 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, and §20-14A-12, all relating  
4 generally to authorizing three or more adjacent counties to form a multicounty trail network  
5 authority; providing a statement of legislative purpose and findings; defining terms;  
6 providing that an authority is a public corporation and joint development entity; providing  
7 that a county that is adjacent to an authority may join the authority as a participating county  
8 upon approval of the board of the authority and the county commission of the county  
9 wishing to participate; providing that two existing authorities may merge upon approval of  
10 the boards of both authorities; providing for appointment of individuals to the board of an  
11 authority and for the filling of vacancies in the board; prescribing the terms of appointment  
12 to a board; requiring quarterly meetings of a board; describing how a quorum is  
13 established; authorizing a board to promulgate bylaws and rules; providing that an  
14 authority is subject to Freedom of Information Act laws; describing the powers and duties  
15 of an authority; requiring a board to appoint an executive director; describing powers and  
16 duties of an executive director; authorizing employment of staff; requiring creation of an  
17 annual budget; providing for payment of an authority's expenses; allowing reimbursement  
18 of board member expenses; establishing financial audit requirements; requiring reporting  
19 and oversight of state funds; prohibiting certain actions by users of recreational area land  
20 and providing criminal penalties; limiting the liability of owners of land used by an authority;  
21 setting forth purchasing and bidding procedures for authority contracts and purchases;  
22 providing criminal penalties for violation of purchasing and bidding requirements;  
23 prohibiting certain purchasing contracts with vendors that create conflicts of interest;  
24 providing criminal penalties for entering into prohibited purchasing contracts creating  
25 conflicts of interest; providing civil remedies for participating counties challenging

26 purchasing contracts violating purchasing or bidding requirements or conflict of interest  
27 prohibitions; and providing for severability.

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

**ARTICLE 14A. MULTI-COUNTY TRAIL NETWORK AUTHORITIES.**

**§20-14A-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 could 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 multi-county trail network  
17 authorities, which 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 expanding 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 multi-county trail network authorities,

22 for these recreational purposes by limiting landowner liability for injury to persons entering  
23 thereon, by limiting landowner liability for injury to the property of persons entering thereon, and  
24 by limiting landowner liability to persons who may be injured or otherwise damaged by the acts  
25 or 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 (1) "Adjacent counties" means a group of counties in which each county directly borders  
4 at least one of the other counties in the group;

5 (2) "Adjacent county" means a nonparticipating county that directly borders any  
6 participating county in a multi-county trail network authority;

7 (3) "Authority" means a multi-county trail network authority created pursuant to this article;

8 (4) "Board" means the board of a multi-county trail network authority;

9 (5) "Contiguous counties" means a group of counties in which each county shares the  
10 border of at least one other county in the group.

11 (6) "Fee" means the amount of money asked in return for an invitation to enter or go upon  
12 a recreational area of a trail network, including a one-time fee for a particular event, amusement,  
13 occurrence, adventure, incident, experience, or occasion as set by an authority, which may be  
14 set by the authority in differing amounts for different categories of participants;

15 (7) "Land" includes, but is not limited to, roads, water, watercourses, private ways,  
16 buildings, premises, structures and machinery or equipment, when attached to the realty;

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

20 (9) "Participant" means any person using a recreational area of a trail network for  
21 recreational purposes;

22           (10) "Person" means any public or private corporation, institution, association, society,  
23 firm, organization or company organized or existing under the laws of this or any other state or  
24 country; the State of West Virginia; any state governmental agency; any political subdivision of  
25 the state or of its counties or municipalities; a sanitary district; a public service district; a drainage  
26 district; a conservation district; a watershed improvement district; a partnership, trust or estate; a  
27 person or individual; a group of persons or individuals acting individually or as a group; or any  
28 other legal entity. The term "person", when used in this article, includes and refers to any  
29 authorized agent, lessee or trustee of any of the foregoing or receiver or trustee appointed by any  
30 court for any of the foregoing;

31           (11) "Participating county" means one of the three or more counties forming a multi-county  
32 trail network authority;

33           (12) "Recreational area" means the recreational trails and appurtenant facilities, including  
34 trail head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or  
35 cultural interpretive sites, and other facilities or attractions that are a part of a multi-county trail  
36 network authority system;

37           (13) "Recreational purposes" means:

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

46           (B) Parking on or traversing property for the purpose of engaging in a recreational activity  
47 described in subdivision (1) of this subsection; or

48 (C) Maintaining or making improvements, including, but not limited to, artificial  
49 improvements, on property for the purpose of making such land accessible or usable for a  
50 recreational activity described in paragraph (A) of this subsection.

**§20-14A-3. Multi-county trail network authorities authorized; addition of counties; merger  
of existing authorities.**

1 (a) For the purposes provided in §20-14A-1 et seq. of this code, three or more contiguous  
2 counties may, upon approval of the county commission of each county desiring to participate,  
3 form a multi-county trail network authority. An authority established pursuant to this section is a  
4 public corporation and a joint development entity existing for the purpose of facilitating the  
5 development and operation of a system of recreational trails and areas throughout the  
6 participating counties. Such trails will be designated and made available for recreational purposes  
7 with significant portions of the trails system being located on private property throughout West  
8 Virginia made available for use through lease, license, easement, or other appropriate legal form  
9 by a willing landowner.

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

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

**§20-14A-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.

3        (b) Each authority shall be composed of a board of members who shall be appointed as  
4 follows:

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

7        (A) One member who represents and is associated with a corporation or individual  
8 landowner whose land is being used or is expected to be used in the future as part of the  
9 authority's recreational area. This member shall be appointed to a four-year term.

10       (B) One member who is an experienced instructor, guide, or participant in recreational  
11 activities in the county or an individual who represents or is associated with travel and tourism or  
12 economic development efforts within the county or who is a licensed land surveyor or licensed  
13 professional engineer. The initial appointment shall be for a two-year term, but all subsequent  
14 appointments shall be for a four-year term.

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

21       (3) Upon joining an existing authority as a participating county pursuant to §20-14A-3 of  
22 this code, the newly participating county shall appoint board members only for the length of the  
23 unexpired terms of the authority's board members serving at the time the county joins the  
24 authority. Thereafter, the county shall appoint board members according to subdivision (1) of this  
25 subsection.

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

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

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

35 (f) The board shall review and approve an annual budget. The fiscal year for an authority  
36 begins on July 1 and ends on the thirtieth day of the following June.

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

51 (h) All costs incidental to the administration of the authority, including office expenses,

52 personal services expense, and current expense, shall be paid in accordance with guidelines  
53 issued by the board from funds accruing to the authority.

54 (i) All expenses incurred in carrying out the provisions of this article shall be payable solely  
55 from funds provided under the authority of this article and no liability or obligation may be incurred  
56 by the authority under this article beyond the extent to which funds have accrued to the authority  
57 of this article.

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

**§20-14A-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.

**§20-14A-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 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 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 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 affect 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 10 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 recreational areas at the locations within the participating counties as may be determined by the  
62 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 authority's  
65 recreational 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 authority at such locations within the participating counties as may be determined by the authority;

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

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

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

79 (26) To assess and collect a reasonable fee from those persons who use the trails, parking  
80 facilities, visitor centers, or other facilities which are part of the recreational area and to retain and  
81 utilize that revenue for any purposes consistent with this article: *Provided*, That such fee does not

82 constitute a “charge” or a “fee” within the meaning and for the purposes of §19-25-5 of this code:  
 83 Provided, however, That the authority may not charge a fee for any user to enter or go upon any  
 84 trail that is already open for use by the public without fee as of January 1, 2018;

85 (27) 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 recreational area;

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

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

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

95 (31) To exercise such other and additional powers as may be necessary or appropriate  
 96 for the exercise of the powers conferred in this section.

**§20-14A-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) A person may not consume or possess any alcoholic liquor, wine, nonintoxicating beer,  
 6 or nonintoxicating craft beer at any time or any location within a recreational area.

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

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

11 certain types of bicycles or mountain bicycles.

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

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

16 (g) A person may not operate a motor vehicle within the recreational area, unless:

17 (1) The person is authorized by the authority to operate an all-terrain vehicle or utility-  
18 terrain vehicle, as defined in §17F-1-1 et seq. of this code, in a designated area; or

19 (2) The person is authorized to operate a motor vehicle in the area to perform maintenance  
20 services or emergency response.

21 (h) A person may not possess a glass container while riding on a bicycle or mountain  
22 bicycle within the recreational area.

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

**§20-14A-8. Limiting liability.**

1 (a) An owner of land used by an authority owes no duty of care to keep the premises his  
2 or her land safe for entry or use by others for recreational purposes, or to give any warning of a  
3 dangerous or hazardous condition, use, structure, activity, or wild animal on such land to persons  
4 entering or going upon the land for such purposes. The provisions of this section apply regardless  
5 of whether the person entering or going upon the leased land is permitted to enter the land or is  
6 a 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 herein limits in any way any liability which otherwise exists for deliberate,  
16 willful, or malicious infliction of injury to persons or property: *Provided*, That nothing herein limits  
17 in any way the obligation of a person entering upon or using the land of another for recreational  
18 purposes to exercise due care in his or her use of the land and in his or her activities thereon, so  
19 as to prevent the creation of hazards or the commission of waste by himself or herself.

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

1 (a) Whenever an 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  
11 to exceed \$25,000, the executive director shall solicit sealed bids for such commodities or  
12 services: *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  
14 published as a Class II legal advertisement in all participating counties in compliance with the  
15 provisions of §59-3-1 *et seq.* of this code and by such other means as the executive director

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

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

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

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

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

1 (a) No contract, change order to a prior contract, or renewal of any contract may be  
2 awarded or entered by an 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 an 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 fined and confined.

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

1 The county commission of a participating county in an authority may challenge the validity  
 2 of any contract or purchase entered, solicited, or proposed by the authority in violation of §20-  
 3 14A-9 or §20-14A-10 of this article by seeking declaratory or injunctive relief in the circuit court of  
 4 the county of the challenging party. If the court finds by a preponderance of evidence that the  
 5 provisions of those sections have been violated, the court may declare the contract or purchase  
 6 to be void and may grant any injunctive relief necessary to correct the violations and protect the  
 7 funds of the 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 authorize three or more adjacent counties to form a multi-county trail network authority.

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