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HOUSE BILL NO. 1496

House Amendments in [] - February 11, 2008

A BILL to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 60.1, consisting of sections numbered 15.2-6016 through 15.2-6024, relating to the Southwest Regional Recreation Authority.

Patron Prior to Engrossment—Delegate Bowling

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 60.1, consisting of sections numbered 15.2-6016 through 15.2-6024, as follows:

§ 15.2-6016. Southwest Regional Recreation Authority established.

There is hereby established a Southwest Regional Recreation Authority for the LENOWISCO and Cumberland Plateau Planning District Commissions.

§ 15.2-6017. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Southwest Regional Recreation Authority, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Board" means the board of the Southwest Regional Recreation Authority established pursuant to § 15.2-6018.

"Land" includes roads, water, watercourses, private ways and buildings, structures, and machinery or equipment thereon when attached to the realty.

"Owner" includes tenant, lessee, occupant, or person in control of the premises.

"Recreational purposes" includes any one or any combination of the following noncommercial recreational activities: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycle or all-terrain vehicle riding, bicycling, horseback riding, nature study, water skiing, winter sports, and visiting, viewing or enjoying historical, archaeological, scenic, or scientific sites or otherwise using land for purposes of the user.

"Southwest Regional Recreation Area" means a system of recreational trails and appurtenant facilities, including trail-head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities that are a part of the system.

§ 15.2-6018. Board of directors; appointments; terms.

The Authority shall be governed by a board of directors in which all powers of the Authority shall be vested. The Authority shall consist of members as follows:

1. One representative each from the [~~Board of Supervisors~~ governing bodies] of the Counties of Buchanan, Dickenson, Lee, Norton, Russell, Scott, Tazewell, and Wise to serve terms of three years;

2. Four additional [ex-officio] members appointed by a majority vote of the members appointed in subdivision 1 to serve terms of two years; and

3. Any additional [ex-officio] members as determined by the board.

Appointments to fill vacancies shall be for the unexpired terms. Any member may be reappointed. The directors shall elect from their membership a chairman and a vice-chairman. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

§ 15.2-6019. Meetings; decisions of Authority; compensation.

The board shall meet quarterly, unless a special meeting is called by its chairman. A majority of the Authority shall constitute a quorum. Decisions of the Authority shall require a quorum and shall be in accordance with voting procedures established by the Authority.

The board shall prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the Authority is conducted and shall review and approve an annual budget. The board shall appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board. The board, acting through its executive director, may employ any other personnel considered necessary and may appoint counsel and legal staff for the Authority and retain such temporary engineering, financial, and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this chapter. The executive director shall carry out plans to implement the provisions of this chapter and to exercise those powers enumerated in the bylaws. The

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59 executive director shall prepare annually a budget to be submitted to the board for its review and
60 approval.

61 All costs incidental to the administration of the Authority, including office expenses, personal services
62 expense, and current expense, shall be paid in accordance with guidelines issued by the board from
63 funds accruing to the Authority.

64 All expenses incurred in carrying out the provisions of this chapter shall be payable solely from
65 funds provided under this chapter, and no liability or obligation may be incurred by the Authority under
66 this chapter beyond the extent to which moneys have been provided under the authority of this chapter.

67 § 15.2-6020. Powers of Authority.

68 The Authority, as a public corporation and governmental instrumentality exercising public powers of
69 the state, may exercise all powers necessary or appropriate to carry out the purposes of this chapter,
70 including the power to:

71 1. Acquire, own, hold and dispose of property, real and personal, tangible and intangible;

72 2. Lease property, whether as lessee or lessor, and acquire or grant through easement, license or
73 other appropriate legal form, the right to develop and use property and open it to the use of the public;

74 3. Mortgage or otherwise grant security interests in its property;

75 4. Procure insurance against any losses in connection with its property, license or easements,
76 contracts, including hold-harmless agreements, operations or assets in such amounts and from such
77 insurers as the Authority considers desirable;

78 5. Maintain such sinking funds and reserves as the board determines appropriate for the purposes of
79 meeting future monetary obligations and needs of the Authority;

80 6. Sue and be sued, implead and be impleaded, and complain and defend in any court;

81 7. Adopt, use, and alter at will a corporate seal;

82 8. Make, amend, repeal, and adopt bylaws for the management and regulation of its affairs;

83 9. Make contracts of every kind and nature and execute all instruments necessary or convenient for
84 carrying on its business, including contracts with any other governmental agency of this state or of the
85 federal government or with any person, individual, partnership, or corporation to effect any or all of the
86 purposes of this chapter;

87 10. Accept grants and loans from and enter into contracts and other transactions with any federal
88 agency;

89 11. Maintain an office at such places within the state as it may designate;

90 12. Borrow money and issue bonds, security interests, or notes and provide for and secure the
91 payment of the bonds, security interests, or notes and provide for the rights of the holders of the bonds,
92 security interests, or notes and purchase, hold, and dispose of any of its bonds, security interests, or
93 notes;

94 13. Accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or
95 services from the federal government or from any governmental unit or any person, firm, or corporation
96 and to carry out the terms or provisions of or make agreements with respect to or pledge any gifts or
97 grants and to do any and all things necessary, useful, desirable, or convenient in connection with the
98 procuring, acceptance, or disposition of gifts or grants;

99 14. Enter into contract with landowners and other persons holding an interest in the land being used
100 for its recreational facilities to hold those landowners and other persons harmless with respect to any
101 claim in tort growing out of the use of the land for public recreation or growing out of the recreational
102 activities operated or managed by the Authority from any claim except a claim for damages proximately
103 caused by the willful or malicious conduct of the landowner or other person or any of his or her agents
104 or employees;

105 15. Assess and collect a reasonable fee from those persons who use the trails, parking facilities,
106 visitor centers, or other facilities which are part of the Southwest Regional Recreation Area and to
107 retain and utilize that revenue for any purposes consistent with this chapter;

108 16. Adopt rules to regulate the use and maintenance of the Southwest Regional Recreation Area;

109 17. Cooperate with the states of Kentucky and West Virginia and appropriate state and local officials
110 and community leaders in those states to connect the trails in Virginia with similar recreation facilities
111 in those states; and

112 18. Exercise all of the powers that a corporation may lawfully exercise under the laws of the
113 Commonwealth.

114 § 15.2-6021. Southwest Regional Recreation Area rangers.

115 The board may appoint qualified persons as Southwest Regional Recreation Area rangers. The
116 ranger may enforce the rules adopted by the Board and issue civil penalties for violations thereof upon
117 any premises located within the Southwest Regional Recreation Area. The ranger may preserve law and
118 order on any premises that is part of the Southwest Regional Recreation Area, any immediately adjacent
119 property of landowners who are making land available for public use under agreement with the
120 Authority, and on streets, highways, or other public lands utilized by the trails, parking areas, or related

recreational facilities and other immediately adjacent public lands. The assignment of rangers to the duties authorized by this section shall not supersede the authority of any law-enforcement officers. The salary of all rangers shall be paid by the board. The board shall furnish each ranger with an official uniform to be worn while on duty and shall furnish and require each ranger while on duty to wear a shield with an appropriate inscription and to carry credentials certifying the person's identity and authority as a ranger.

§ 15.2-6022. Bonds not a debt of the state.

Revenue bonds and revenue refunding bonds of the Authority issued under the provisions of this chapter do not constitute a debt of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of any political subdivision, but the bonds shall be payable solely from the funds provided for in this chapter from revenues resulting from the issuance of bonds. All bonds shall contain on the face of the bond a statement to the effect that neither the state nor any political subdivision of the state is obligated to pay the bond or the interest on the bond except from revenues of the recreational project or projects for which they are issued and that neither the faith or credit nor the taxing power of the state or any political subdivision of the state is pledged to the payment of the principal or the interest on the bonds.

§ 15.2-6023. Violation of rules; civil penalties.

Any person who violates any of the rules adopted by the board pursuant of this chapter relating to permits or failure to purchase a permit, safety violations, or other civil violations is subject to a civil penalty of \$100.

§ 15.2-6024. Limiting liability

A. An owner of land used by or for the stated purposes of the Authority, whether with or without charge, owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give any warning of a dangerous or hazardous condition, use, structure, or activity on the premises to persons entering for those purposes.

B. The landowner or lessor of the property used for recreational purposes does not: (i) extend any assurance that the premises are safe for any purpose; (ii) confer upon users the legal status of an invitee or licensee to whom a duty of care is owed; or (iii) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of these persons.

C. Nothing herein limits in any way any liability which otherwise exists for deliberate, willful, or malicious infliction of injury to persons or property. Nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his or her use of the land and in his or her activities thereon, so as to prevent the creation of hazards or waste.