

AN ACT relating to promoting outdoor recreation and tourism development by establishing the Kentucky Mountain Trail Authority and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context requires otherwise:

- (1) "Authority" or "KMTA" means the Kentucky Mountain Trail Authority;*
- (2) "Board" means the board of directors of the Kentucky Mountain Trail Authority established pursuant to Section 2 of this Act;*
- (3) "County" means a county, urban-county, charter county, unified local government, or consolidated local government;*
- (4) "Kentucky Mountain Regional Recreational Area" or "KMRRRA" means lands on which there is a system of recreational trails, including streams, rivers, and other waterways, and appurtenant facilities, including trailhead centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities in Kentucky and designated by the KMTA as a part of the KMRRRA;*
- (5) "Land" includes roads, water, watercourses, and buildings, structures, and machinery or equipment thereon when attached to the realty;*
- (6) "Landowner" includes tenant, lessee, occupant, or person in control of the premises;*
- (7) "Participating county" means a county that has complied with the provisions of Section 2 of this Act;*
- (8) "Participating landowner" means a landowner who owns land in a participating county who has a contractual agreement with the KMTA for trail development as part of the KMRRRA;*

- (9) "Recreational purposes" includes the following recreational activities: all-terrain vehicle riding, bicycling, canoeing, hiking, horseback riding, hunting, kayaking, motorcycle riding, nature study, off-highway vehicle driving, pleasure driving, water skiing, winter sports, and visiting or viewing historical or scenic sites or otherwise using land for purposes pertaining to trails or trail activities; and
- (10) "Target county" means any of the following counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Morgan, Owsley, Perry, Pike, and Wolfe.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Mountain Trail Authority is hereby created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth. The authority shall be a public body corporate and politic and an instrumentality of the Commonwealth, established with all the general corporate powers incidental thereto. The authority shall be attached to the Tourism, Arts and Heritage Cabinet for administrative purposes only. The authority shall be endowed with perpetual succession, with powers to adopt bylaws and administrative regulations, subject to the provisions of KRS Chapter 13A, for the orderly conduct of its affairs.
- (2) The purpose of the authority is to establish, maintain, and promote a recreational trail system throughout the KMRRA to increase economic development, tourism, and outdoor recreation for residents and visitors. The recreational trail systems shall be located with significant portions of the system being situated on private property made available for use through lease, license, easement, or other appropriate legal form by a willing landowner.
- (3) The authority shall be governed by a board of directors consisting of representatives from participating counties and the Commonwealth as provided

in this section.

(4) The authority and board shall become operational only after at least three (3) target counties become participating counties by completing the requirements established by subsection (5)(a) of this section. Upon at least three (3) counties becoming participating counties, the secretary of the Tourism, Arts and Heritage Cabinet shall notify the county judge/executive of each of the participating counties, as well as the board members named in subsection (6) of this section, that the requirements have been met for the authority and board to become operational. The secretary shall also establish a date, time, and place for an initial organizational meeting of the board, and shall serve as interim chair of the initial organizational meeting until such time as a permanent chair is elected. The permanent chair shall be a resident of a participating county.

(5) To become a participating county, a county shall meet the requirements established by either paragraph (a) or (b) of this subsection:

(a) 1. A target county shall be accepted as a participating member in the authority upon adoption of a resolution or ordinance by the governing body of the county after the effective date of this Act specifically approving participation in the authority by the county.

2. Any target county voting to become a participating county prior to the authority becoming operational pursuant to subsection (4) of this section shall submit the resolution or ordinance passed by the governing body of the county to the secretary of the Tourism, Arts and Heritage Cabinet.

3. Any target county voting to become a participating county after the authority becomes operational pursuant to subsection (4) of this section shall submit the resolution or ordinance passed by the governing body of the county to the authority; or

(b) After the KMTA has become operational as established in this section, any contiguous county which is not a target county may become a participating county through an application process developed by the KMTA and a majority vote of its members.

(6) The authority board shall consist of the following members:

(a) The secretary of the Tourism, Arts and Heritage Cabinet or designee;

(b) The commissioner of the Department for Local Government, or his or her designee;

(c) The executive director of the authority, who shall serve as a nonvoting member; and

(d) Representatives from participating counties as follows:

1. If the number of participating counties is six (6) or less:

a. Each participating county shall have two (2) representatives on the board, who shall be the county judge/executive and a designee, or two (2) designees selected by the county judge/executive. Designees shall be involved with economic development, tourism, recreation, or related areas within the county.

b. Any county that becomes a participating county while the number of participating counties is six (6) or fewer shall appoint its board representatives, and those representatives shall serve for the remainder of the board year in which they were appointed.

c. Participating landowners may appoint one (1) landowner or a designee as a voting member on the board to represent the interests of the landowners.

2. When the number of participating counties reaches seven (7), the

board membership shall remain as it was under subparagraph 1. of this paragraph for the remainder of that board year. Prior to the beginning of the next board year, the board shall establish three (3) regions, and shall assign each participating county to a region. Thereafter, each region shall elect representatives to the board as follows:

- a. A total of twelve (12) representatives shall be elected from the regions with four (4) representatives elected in each region. The board shall strive to establish the regions, and to assign new participating counties to regions, in such a manner that counties within the same region are contiguous, and the number of people represented by each representative is as equal as possible;
- b. Each region shall elect two (2) representatives representing county judge/executives from within the counties of the designated region. Initial terms shall be staggered such that in each region one (1) representative is elected for two (2) years, one (1) representative is elected for three (3) years, and two (2) representatives are elected for four (4) years. Thereafter, all terms shall be four (4) years and the appointed members may be reappointed for up to two (2) successive terms;
- c. If a county judge/executive ceases to serve as the county judge/executive during his or her term on the board, he or she shall be removed from the board, and his or her replacement as county judge/executive shall serve on the board for the remainder of the term; and
- d. Members elected as representatives of county judge/executives do not have to be county judge/executives; however, to be

considered as a representative of county judge/executives, an individual must be designated by a county judge/executive as running for election in place of the county judge/executive, and he or she shall be involved with economic development, tourism, recreation, or related areas within the county.

e. Participating landowners may appoint one (1) landowner or a designee as a voting member on the KMTA board. The term of this member shall be four (4) years, and the appointed member may be reappointed for up to two (2) successive terms.

3. The board shall adopt bylaws which establish the process for regional elections and the process for filling vacancies during a term, and to address any other issues related to the election of regional members or the operation of the board in relation to elections.

4. A county that becomes a participating county after elections have been held and representatives elected in any year shall be assigned to a region by the board, and that county shall be eligible to offer candidates and participate in elections during the next election cycle within its assigned region.

(7) The board shall meet at least once annually for the election of officers, to establish a regular meeting schedule, and for other duties as may be prescribed in the authority's bylaws. The board shall elect a chair, vice chair, secretary, and treasurer and any other officers as established in bylaws approved by the board. The board may appoint temporary and standing committees to accomplish the purposes of Sections 1 to 6 of this Act and shall clearly describe the role, responsibilities, and tenure of each.

(8) The board chair may call a special meeting. Notice of a special meeting shall be made in writing and delivered to directors at least seven (7) days before the

scheduled meeting date.

(9) A majority of the total voting members of the authority shall constitute a quorum for the board, except that vacant board positions shall not be counted in a quorum.

(10) The board shall adopt bylaws for the management and regulation of its affairs and all other matters necessary to effect proper management and accountability of the board. The bylaws shall include, at a minimum, the following:

(a) The powers and duties of the board's officers and the manner and number of officers to be elected;

(b) The terms, conditions, and manner in which a director shall be removed;

(c) The terms and conditions under which directors will be paid to attend meetings, if at all. Additionally, the bylaws shall include the extent to which members will be reimbursed for travel and other expenses and any requirements for approval of expense reports, if applicable.

(11) The board shall review and approve an annual budget.

(12) (a) The board may appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board.

(b) The board, through the executive director, may employ any other personnel considered necessary and may retain temporary services or consultants.

(c) 1. The executive director shall carry out plans to implement the provisions of Sections 1 to 6 of this Act and to exercise those powers enumerated in the bylaws.

2. The executive director, and any staff with responsibilities so delegated by the executive director, shall ensure that all minutes, records, and orders of the authority are complete and available for public inspection, if necessary.

3. The executive director, all full-time or part-time personnel, all

seasonal employees, and all contractual employees, if any, shall be paid from funds accruing to the authority and authorized in a budget approved by the board. The board shall establish personnel, retirement, and benefit systems through professional programs approved by the board.

4. The executive director shall prepare narrative and financial reports of the authority's fiscal obligations and shall submit these to the board at regularly scheduled meetings or as otherwise directed.

5. The board shall annually procure an audit of the authority's financial systems, conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his or her discretion. A copy of the audit shall be sent to the Legislative Research Commission within ten (10) days of receipt by the board.

(13) All administrative costs for operating the authority shall be paid from funds accruing to the authority. The authority, its board, and its staff, shall incur no liability or obligation beyond the extent to which revenues have been provided through Sections 1 to 6 of this Act.

(14) Until such time as the board has secured sufficient funding through grants, loans, fee systems, or any other funding source to hire staff, the board may seek administrative and management assistance, through written agreement with state agencies, with local area development districts, or written agreements with local governing bodies.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO

READ AS FOLLOWS:

- (1) The board's management program shall prioritize contractual arrangements with private landowners to use land for recreational purposes, which shall not diminish the participating landowner's interest, control, or profitability of the land. If necessary to implement a comprehensive trail system, the board may also contract with public landowners, through contractual agreements which recognize the primary mission for which the public entity controls and manages the land.
- (2) The board may carry out any of the following responsibilities to accomplish the purposes of Sections 1 to 6 of this Act:

 - (a) Acquire, own, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission, except that the authority shall not acquire property through the exercise of the power of eminent domain;
 - (b) Dispose of any property acquired in any manner provided by law;
 - (c) Lease property, whether as lessee or lessor, and acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the use of the public;
 - (d) Mortgage or otherwise grant security interests in its property;
 - (e) Procure insurance against any losses in connection with its property, licenses, easements, or contracts, including hold-harmless agreements, operations, or assets in such amounts and from such insurers as the authority considers desirable. However, if the authority procures such insurance, the authority shall not be afforded any form of governmental or sovereign immunity, up to the limits of the insurance;
 - (f) Maintain sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the

- authority;
- (g) Sue and be sued, plead and be impleaded, and complain and defend in any court;
- (h) Make contracts and execute instruments necessary for carrying on its business, including contracts with any other Kentucky state agency or with the federal government or with any person, individual, partnership, or corporation to effect any or all of the purposes of Sections 1 to 6 of this Act;
- (i) Accept grants and loans from and enter into contracts and other transactions with any federal agency, regional commission, or other state agencies for accomplishing the purposes of Sections 1 to 6 of this Act;
- (j) Maintain an office at such place within the KMRRA as the board may designate;
- (k) 1. Borrow money and issue bonds, security interests, or notes;
2. Provide for and secure the payment of the bonds, security interests, or notes;
3. Provide for the rights of the holders of the bonds, security interests, or notes; and
4. Purchase, hold, and dispose of any of its bonds, security interests, or notes;
- (l) Accept gifts or grants of property, security interests, money, labor, supplies, or services from any governmental unit or from any person, firm, or corporation;
- (m) Establish a regional recreational trail system based upon contracts and agreements with participating landowners. The board may enter into contracts with landowners, and other persons holding an interest in the land being used for its recreational facilities, to hold those landowners harmless with respect to any claim in tort growing out of the use of the land

for public recreation or growing out of the recreational activities operated or managed by the board from any claim, except a claim for damages proximately caused by the willful or malicious conduct of the landowner or any of his or her agents or employees;

(n) 1. Establish a fee-based system of permits, user registrations, or other trail or facility access mechanisms.

2. The fees may be imposed for access and use of the trails, parking facilities, visitor centers, or other trail-related recreational purpose facilities which are part of the KMRRA or as an admission to an event.

3. Fees may be tiered or may be different for different categories of participants, including in-state and out-of-state participants.

4. The KMTA may retain and use such revenue for any purposes consistent with Sections 1 to 6 of this Act. The board may set charges in differing amounts for different categories of participants, including but not limited to in-state and out-of-state participants, as the board so decides;

(o) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to govern use and maintenance of the KMRRA and any other matters for effective management of the KMRRA;

(p) Cooperate and contract with the regional recreational trail authorities of Tennessee, Virginia, West Virginia, and other contiguous states to connect the trails in Kentucky with similar recreation facilities in those states; and

(q) Exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth.

(3) In accordance with the purpose and limitations specified in this section, the KMTA:

- (a) Shall supervise the design and construction of trail systems within the KMRRA, and shall provide all management functions for the trails and for any other property built, acquired, or leased pursuant to its powers under Sections 1 to 6 of this Act;
- (b) May construct, develop, manage, maintain, operate, improve, renovate, finance, or otherwise provide for trail-related recreational activities and facilities on designated public lands and private lands of participating landowners who have voluntarily entered into use agreements with the board;
- (c) Shall promote the growth and development of the trail system, tourism, and the hotel, restaurant, and entertainment industry within the KMRRA and the Commonwealth, through marketing KMRRA to enhance local economic and tourism development; and
- (d) May establish agreements with other persons, businesses, agencies, organizations or any other entity to levy a surcharge on tickets for events, activities, festivals, or functions cosponsored with other entities, which contribute to the authority's operating revenue.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) Revenue bonds and revenue refunding bonds of the authority issued under the provisions of Sections 1 to 6 of this Act do not constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision, but the bonds shall be payable solely from the funds provided for in Sections 1 to 8 of this Act from revenues resulting from the issuance of bonds.
- (2) All bonds shall contain on the face of the bond a statement to the effect that neither the Commonwealth nor any political subdivision of the Commonwealth 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 Commonwealth or any political subdivision of the Commonwealth is pledged to the payment of the principal or the interest on the bonds.

→SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

A participating landowner who has a contractual agreement with the KMTA for trail development as part of the KMRRA shall not waive any protection granted to the landowner by KRS 411.190.

→SECTION 6. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

In addition to its other powers, each area development district shall cooperate with the Kentucky Mountain Trail Authority for the purpose of establishing, maintaining, and promoting recreational trails to increase economic development, tourism, and outdoor recreation for Kentucky's residents and visitors, not only in eastern Kentucky but throughout the Commonwealth.