

CHAPTER 532

(SB 34)

AN ACT relating to state government.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

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

- (1) *"Board" means the board of directors of the Red Fox Tri-County Cooperative Corporation;*
- (2) *"Corporation" means the Red Fox Tri-County Cooperative Corporation, consisting of Knott, Letcher, and Perry Counties; and*
- (3) *"Project" means the Red Fox Golf Course and Tourism Project.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Red Fox Tri-County Cooperative Corporation, consisting of Knott, Letcher, and Perry Counties, is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The corporation shall develop, operate, and manage the Red Fox Golf Course and Tourism Project funded by 1998 Ky. Acts ch. 615, Parts I and X. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The corporation shall be governed by a board of directors consisting of seven (7) voting members and three (3) ex officio members as follows:*
 - (a) *Three (3) members representing the three (3) county governments, one (1) to be appointed by the county judge/executive of Knott County, one (1) to be appointed by the county judge/executive of Letcher County, and one (1) to be appointed by the county judge/executive of Perry County;*
 - (b) *Three (3) members appointed by the Governor, one (1) each from Knott, Letcher, and Perry Counties;*
 - (c) *The secretary of the Finance and Administration Cabinet, or his or her designee, as a voting member;*
 - (d) *The secretary of the Tourism Development Cabinet, or his or her designee, as an ex officio, nonvoting member;*
 - (e) *The secretary of the Cabinet for Economic Development, or his or her designee, as an ex officio, nonvoting member; and*
 - (f) *The commissioner of the Department for Local Government, or his or her designee, as an ex officio, nonvoting member.*
- (2) *Appointed members shall serve staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:*

- (a) *One (1) member appointed by the Governor and the member appointed by the county judge/executive of Knott County shall each serve a term of four (4) years;*
 - (b) *One (1) member appointed by the Governor and the member appointed by the county judge/executive of Letcher County shall each serve a term of three (3) years;*
 - (c) *The one (1) member appointed by the county judge/executive of Perry County shall serve a term of two (2) years; and*
 - (d) *One (1) member appointed by the Governor shall serve a term of one (1) year.*
- (3) *A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B.*
- (4) *Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.*
- (2) *Five (5) members of the board shall constitute a quorum, with a majority of members present authorized to act upon any matter legally before the corporation.*
- (3) *The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.*
- (4) *The board may adopt administrative regulations governing the operation, maintenance, or use of property under its custody and control in accordance with KRS Chapter 13A.*
- (5) *Minutes and records of all meetings of the board shall be retained, and all official actions shall be recorded.*
- (6) *The board may establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by vote of a majority of the members of the board.*
- (7) *The board may employ a full-time executive director who shall hold office at the board's pleasure.*
 - (a) *The executive director shall act under the direction of the board in employing necessary staff to perform its duties and exercise its powers.*
 - (b) *The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all of the documents, which shall be public records under KRS 61.870 to 61.884.*
- (8) *The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Red Fox Tri-County Cooperative Corporation shall have the following powers and duties:

- (1) The corporation shall supervise the design and construction of the Red Fox Golf Course project and shall provide all operation and management functions for the facility and for any other property acquired or leased under its powers established in this section. The corporation shall provide any assistance necessary to the Kentucky Transportation Cabinet in the design and building of roads associated with the project.*
- (2) The corporation shall promote the growth and development of the project and shall promote tourism and recreation in the area through the project.*
- (3) The corporation shall have the exclusive control of all functions at the golf course facility.*
- (4) The corporation shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract tourists to the project.*
- (5) The corporation may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, lease, or by transfer from the State Property and Buildings Commission, and may dispose of any property so acquired in any manner by law.*
- (6) The corporation may levy a surcharge on golf course fees to contribute to operating revenue.*
- (7) The corporation may sue and be sued and maintain and defend legal actions in its corporate name.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) All revenues derived by the corporation from the use of the Red Fox project, contributions to the Red Fox Tri-County Cooperative Corporation from other sources, and any revenues derived by the corporation from any other source shall be used solely for defraying the expenses of the corporation, including payment on debt; the cost of management and operation of its facilities; the creation of an adequate reserve for repair, replacement, debt service, and capital improvements; the procurement of insurance; and promotional activities.*
- (2) The Auditor of Public Accounts shall conduct an annual audit of all funds of the corporation and its affiliated entities, if any, and shall report to the Governor and the Legislative Research Commission.*

Section 7. KRS 12.210 is amended to read as follows:

- (1) The Governor, or any department with the approval of the Governor, may employ and fix the term of employment and the compensation to be paid to an attorney or attorneys for legal services to be performed for the Governor or for such department. An attorney hired for the collection of revenue owed to the state by a resident shall not be hired by personal service contract. ~~Before approving the employment of an attorney the Governor shall consult the Attorney General as to whether legal services requested by departments are available in the Attorney General's office.~~ The compensation and expenses of any attorney or attorneys employed under the provisions of this section shall be paid out of the appropriations made to such department as other salaries, compensation and expenses are paid, except when the

terms of employment provide that the compensation shall be on a contingent basis, and in such event the attorneys may be paid the amount specified out of the moneys recovered by them or out of the general fund. If the Governor approves the employment, the terms of employment shall be duly entered by executive order upon the executive journal in the Office of the Secretary of State.

- (2) An attorney may be employed pursuant to the provisions of subsection (1) of this section to render legal services for one (1) or more departments, boards, program cabinets, offices or commissions.

Section 8. KRS 12.213 is amended to read as follows:

The Governor shall provide by regulation ~~[, with advice of the Attorney General,]~~ for the defense of employees or former employees of the Commonwealth pursuant to KRS 12.211 to 12.215 by one (1) or more of the following methods:

- (1) By the Attorney General;
- (2) By employing other counsel for this purpose as provided for in KRS 12.210;
- (3) By authorizing the purchase of insurance which requires that the insurer provide or underwrite the cost of the defense; or
- (4) By authorizing defense by counsel assigned to or employed by the department, agency, board, commission, bureau, or authority which employed the person requesting the defense.

Section 9. The General Assembly confirms Executive Order 98-1025, dated August 3, 1998, as amended by Executive Order 98-1143, dated August 24, 1998, to the extent they are not otherwise confirmed or superseded by this Act.

Approved April 26, 2000