

CHAPTER 170**(HB 249)**

AN ACT relating to promoting outdoor recreation and tourism development.

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

➔Section 1. KRS 148.0221 is amended to read as follows:

As used in KRS 148.0221 to 148.0225, unless the context requires otherwise:

- (1) "Authority" or "KMRRRA" means the Kentucky Mountain Regional Recreation Authority established in KRS 148.0222;
- (2) "Board" means the board of directors of KMRRRA;
- (3) "County" means a county, charter county, urban-county government, unified local government, or consolidated local government;
- (4) "Kentucky Mountain Recreational Area" or "KMRA" 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 KMRRRA as a part of the KMRA;
- (5) "Land" means roads, water, watercourses, buildings, structures, and machinery or equipment thereon when attached to the realty;
- (6) "Landowner" means a tenant, lessee, occupant, or person in control of the premises;
- (7) "Participating county" means a county that has qualified under KRS 148.0222(5);
- (8) "Participating landowner" means a landowner who owns land in a participating county and has a contractual agreement with the KMRRRA for trail development as part of the KMRA;
- (9) "Recreational purposes" means all-terrain vehicle riding, bicycling, canoeing, hiking, horseback riding, hunting, kayaking, motorcycle riding, rock climbing, fishing, swimming, archaeological activities, nature study, off-highway vehicle driving, pleasure driving, watersports, winter sports, visiting or viewing historical or scenic sites, and otherwise using land for purposes pertaining to recreation or trail activities; and
- (10) "Target county" means Bell, *Boyd*, Breathitt, *Carter*, Clay, *Clinton*, *Elliott*, *Estill*, Floyd, *Greenup*, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, *Lewis*, *Madison*, Magoffin, Martin, *McCreary*, *Menifee*, Morgan, Owsley, Perry, Pike, Powell, Pulaski, *Rockcastle*, *Rowan*, *Wayne*, *Whitley*, or Wolfe County.

➔Section 2. KRS 148.0222 is amended to read as follows:

- (1) The Kentucky Mountain Regional Recreation Authority is hereby created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth and shall exercise all of the powers that a corporation may lawfully exercise under the laws 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 Kentucky Department for Local Government for administrative purposes only. The authority shall be **reauthorized**~~authorized~~ for ~~an initial period of~~ five (5) years from **the effective date of this Act**~~[June 29, 2017]~~, and may be renewed by the General Assembly. The authority may adopt bylaws and administrative regulations, subject to 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 KMRA to increase economic development, tourism, and outdoor recreation for residents and visitors. The recreational trail system shall be located with significant portions of the system situated on private property made available for use through lease, license, easement, or other appropriate legal form by willing landowners.
- (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 when sixteen (16) target counties complete the requirements established by subsection (5)(a)1. of this section. When at least sixteen (16) target counties become participating counties, the commissioner of the Department for Local ~~Government~~~~government~~ shall notify the county judge/executive of each of the participating counties, as well as the board members described in subsection (6) of this section, that the requirements have been met for the authority and board to become operational. The commissioner 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 chair is elected. The chair shall be a resident of a participating county.
- (5) ~~To become a participating county, a county shall meet one (1) of the following:~~
- (a) ~~Any target county may become a participating county upon adoption of a resolution or ordinance by the governing body of the county specifically approving the county's participation in the KMRRA and submission of the adopted resolution or ordinance to:~~
- (a) ~~The commissioner of the Department for Local Government if the resolution or ordinance is adopted prior to the KMRRA becoming operational pursuant to subsection (4) of this section; or~~
- (b) ~~The KMRRA if the resolution or ordinance is adopted after KMRRA becomes operational;~~~~or~~
- (b) ~~Any county that is not a target county and is contiguous to a target county may become a participating county through an application process developed by the KMRRA. The application shall be approved or rejected by a majority of the board's voting members.~~
- (6) The KMRRA board shall consist of the following members:
- (a) The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;
- (b) The commissioner of the Department for Local Government or his or her designee;
- (c) *The commissioner of the Department of Fish and Wildlife Resources or his or her designee;*
- (d) *If an*~~The~~ executive director of the authority *has been employed under subsection (10) of this section, he or she*~~who~~ shall serve as a nonvoting member, *except in the event of a tie vote of the board;*
- (e) ~~(d)~~ One (1) representative *selected for each of the nine (9) participating counties as provided in subsection (8) of this section*~~from each participating county~~, who shall be either:
1. The county judge/executive; or
 2. The county judge/executive's designee, who shall be an individual involved with economic development, tourism, recreation, or a related area within the county;
- ~~(e) One (1) landowner or his or her designee, who shall be selected by participating landowners;~~
- (f) One (1) state Representative *who is from the KMRRA region*~~who~~ shall serve as a nonvoting member, appointed to *a two (2) year*~~an annual~~ term by the Speaker of the Kentucky House of Representatives, *and shall not serve another term consecutively with a prior term;* and
- (g) One (1) state Senator *who is from the KMRRA region*~~who~~ shall serve as a nonvoting member, appointed to *a two (2) year*~~an annual~~ term by the President of the Kentucky Senate, *and shall not serve another term consecutively with a prior term.*
- (7) ~~(a)~~ The board membership of each county judge/executive or his or her designee shall:
- (a) ~~(1)~~ Begin with the county judge/executive's term of office; and
- (b) ~~(2)~~ End with the county judge/executive's term of office.
- If a county judge/executive ceases to serve as the county judge/executive prior to the end of his or her term, 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.
- ~~(b) The term of the landowner member shall be four (4) years, and he or she may be reappointed for one (1) successive term.~~
- (8) (a) The twelve (12) voting members of the board shall be:
1. *The nine (9) county judges/executive, or their designees, from different KMRRA participating counties as described in subsection (6) (e) of this section*~~Nine (9) of the county representatives~~

~~or their designees described in subsection (6)(d) of this section who have been accorded voting status under paragraphs (b) to (e) of this subsection];~~

2. ~~{One (1) landowner or his or her designee described in subsection (6)(e) of this section;~~

3. ~~—}The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;~~{and}~~~~

3.~~{4.}~~ The commissioner of the Department for Local Government or his or her designee; **and**

4. The commissioner of the Department of Fish and Wildlife Resources or his or her designee.

- (b) The nine (9) initial county representatives shall be the county judges/executive of Breathitt, Martin, Perry, Knott, Leslie, Letcher, Pike, Magoffin, and Floyd Counties or their designees in that order. The first three (3) representatives listed shall serve a three (3) year term as voting members, the next three (3) representatives shall serve a two (2) year term as voting members, and the remaining three (3) representatives shall serve a one (1) year term as voting members.
- (c) After each term ends, the voting county representative shall be replaced by one (1) of the county judges/executive or his or her designee from one (1) of the target counties whose representative has not yet served as a voting member.
- (d) After the third year of operation, each new voting member shall serve a term of three (3) years, then step down and let a representative from *the next*~~{a}~~ county *in line alphabetically* whose representative has not served as a voting member take his or her place.
- (e) Once representatives from all participating counties within KMRA have each served one (1) term, the rotation shall begin again. ~~{The rotation order may vary as long as no participating county has a representative serve as a voting member more than four (4) years more than any other county in a four (4) year period.}~~
- (9) (a) The board shall meet at least once *annually*~~{every quarter}~~ to elect officers, establish a regular meeting schedule, and perform other duties as may be prescribed in the authority's bylaws. The board chair may call special meetings at any time.
- (b) Notice of each meeting shall be made *both* in writing *and electronically* and delivered to board members at least seven (7) days before the scheduled meeting date. Electronic mail *alone* is an acceptable form of notice of special meetings, so long as it is sent to directors at least seven (7) days before the scheduled meeting date.
- (c) *Accommodations shall be made for remote attendance of each board meeting, whether regular or special, through means such as video conferencing, conference call, or similar services.*
- (d) The presence of a majority of the total voting members of the KMRA board, *whether in person or remote*, shall constitute a quorum. Vacant board positions shall be counted against the quorum total necessary for board action.
- (e) *Board meetings shall be held exclusively within KMRA participating counties, and each meeting shall be held in a different participating county until every participating county has hosted a meeting, at which time the cycle shall begin again.*
- (10) The KMRA board:
- (a) Shall elect a chair, vice chair, secretary, treasurer, and any other officers as established in the bylaws of the board;
- (b) May appoint temporary and standing committees to accomplish the purposes of KRS 148.0221 to 148.0225 and shall clearly describe the role, responsibilities, and tenure of each committee so created;
- (c) 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:
1. The powers and duties of the board's members and the manner and number of officers to be elected from among the board members; **and**
 2. The terms, conditions, and manner in which a board member will be removed;~~{and}~~

- ~~3. The terms and conditions under which a board member will be paid to attend meetings, if at all, and the extent to which members will be reimbursed for travel and other expenses and any requirements for approval of expense reports, if applicable;~~
- (d) Shall review and approve an annual budget;
 - (e) Shall annually procure an audit of the authority's financial systems, conducted in accordance with generally accepted auditing standards. The Auditor of Public Accounts shall perform the audit. A copy of the audit shall be sent to the Legislative Research Commission *and the Department for Local Government* within ten (10) days of receipt by the board;
 - (f) Shall ensure that all administrative costs for operating the authority are 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 under KRS 148.0221 to 148.0225;
 - (g) May seek administrative and management assistance through written agreement with state agencies, local area development districts, or local governing bodies until such time as the board has secured sufficient funding through grants, loans, fee systems, or any other funding source to hire staff; *and*
 - (h) Shall employ an executive director to act as its chief executive officer to serve at its will and pleasure *once it is financially possible to do so*; ~~and~~
 - ~~(i) Shall establish personnel, retirement, and benefit systems through professional programs approved by the board.~~
- (11) The executive director:
- (a) *Shall be a person who is domiciled in a KMRRA participating county;*
 - (b) May, with permission of the board *and approval of the commissioner of the Department for Local Government or his or her designee*, employ any other *hourly* personnel considered necessary; ~~and retain temporary services, and retain consultants.~~ *Pay raises for any personnel shall require approval of the board and the commissioner of the Department for Local Government or his or her designee;*
 - ~~(c)(b)~~ Shall carry out plans to implement KRS 148.0221 to 148.0225 and to exercise those powers enumerated in the bylaws of the board;
 - ~~(d)(c)~~ Shall, along with any staff with responsibilities so delegated by the executive director, ensure that all minutes, records, and orders of the authority and its board are complete and available for public inspection, if necessary; ~~and~~
 - ~~(e)(d)~~ Shall prepare narrative and financial reports of the authority's fiscal obligations and submit these reports to the board at regularly scheduled meetings or as otherwise directed; *and*
 - (f) *May cast a tiebreaking vote in board decisions, but shall not be permitted to cast a vote under any other circumstances. Until such time as an executive director is hired, the chairperson of the board shall make the final determination in the event of a tie vote of the board.*
- (12) 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, *unless the Department for Local Government has temporarily taken on the responsibility of paying any of those employees.*
- (13) *Board members shall serve without compensation, but may be reimbursed for actual and necessary travel expenses incurred in the performance of their duties, subject to Finance and Administration Cabinet administrative regulations. Board members may have their lodging reimbursed by KMRRA. Any reimbursement requests exceeding five hundred dollars (\$500) per person shall be submitted to the Department for Local Government for approval.*
- ➔Section 3. KRS 148.0223 is amended to read as follows:
- (1) The KMRRA shall:
- (a) Supervise the design and construction of trail systems within the KMRA and provide all management functions for the trails and for any other property built, acquired, or leased pursuant to its powers under KRS 148.0221 to 148.0225;

- (b) Construct, develop, manage, maintain, operate, improve, renovate, finance, or otherwise provide for recreational and trail-related activities and facilities on designated public lands and private lands of participating landowners who have voluntarily entered into use agreements with the board;
 - (c) Promote the growth and development of the trail system, tourism, and the hotel, restaurant, and entertainment industry within the KMRA and the Commonwealth, through marketing KMRA to enhance local economic and tourism development;
 - (d) Establish agreements with other persons, businesses, agencies, organizations, or any other entity to levy a surcharge on tickets for events, activities, festivals, or functions that are cosponsored with other entities and contribute to the authority's operating revenue; and
 - (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 board considers desirable.
- (2) 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 that recognize the primary mission for which the public entity controls and manages the land.
- (3) The board may carry out any of the following to accomplish the purposes of KRS 148.0221 to 148.0225:
- (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) Maintain sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority; ***however, contributions to a sinking fund during a fiscal year shall not exceed ten percent (10%) of the total fees collected during the prior year;***
 - (f) Sue and be sued, plead and be impleaded, and complain and defend in any court;
 - (g) Make contracts and execute instruments necessary for carrying on its business, including contracts with any Kentucky state agency, the federal government, or any person, individual, partnership, or corporation to effect any or all of the purposes of KRS 148.0221 to 148.0225, ***as follows:***
 - 1. ***Contracts shall go through a public bidding process;***
 - 2. ***Contracts for one thousand dollars (\$1000) or more shall be sent, with at least three (3) bids from separate entities, to the Department for Local Government for review and final approval;***
 - 3. ***Bids from entities within KMRA participating counties are to be given preference over competing bidders from outside of KMRA participating counties;***
 - 4. ***If the Department for Local Government has not given a response in the form of an approval or rejection after five (5) business days from the date the department received the contract to be reviewed, it shall be considered approved;***
 - (h) Accept grants and loans from and enter into contracts and other transactions with any federal agency, regional commission, or state agency for accomplishing the purposes of KRS 148.0221 to 148.0225;
 - (i) ~~Maintain an office at any place within the KMRA as the board may designate; —~~
 - ~~(j) —~~ Borrow money and issue bonds, security interests, or notes;
 - ~~(j)(1)~~ Provide for and secure the payment of the bonds, security interests, or notes;
 - ~~(k)(1)~~ Provide for the rights of the holders of the bonds, security interests, or notes;

- (l)~~(m)~~ Purchase, hold, and dispose of any of its bonds, security interests, or notes;
- (m)~~(n)~~ Accept gifts or grants of property, security interests, money, labor, supplies, or services from any governmental unit or from any person, firm, or corporation;
- (n)~~(o)~~ 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;
- (o)~~(p)~~
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 to and use of the trails, parking facilities, visitor centers, or other trail-related recreational purpose facilities or recreation activities that are part of the KMRA or as an admission to an event.
 3. The fees shall be decided by the board.
 4. The KMRRRA shall retain and use the revenue from fees for any purposes consistent with KRS 148.0221 to 148.0225 **and within the guidelines in subsection (4) of this section**;
- (p)~~(q)~~ Promulgate administrative regulations in accordance with KRS Chapter 13A to govern use and maintenance of the KMRA and any other matters for effective management of the KMRA;
- (q)~~(r)~~ Cooperate and contract with the regional recreation authorities of Tennessee, Virginia, West Virginia, and other contiguous states to connect the trails in Kentucky with similar recreation facilities in those states; and
- (r)~~(s)~~ Exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth.
- (4) ***The fees collected by the KMRRRA are to be used within the following guidelines:***
- (a) ***To pay the salary of the executive director and all staff of the KMRRRA;***
 - (b) ***To reimburse travel expenses of board members including lodging, subject to Finance and Administration Cabinet administrative regulations;***
 - (c) ***To fund the construction, maintenance, and all necessary expenses of the KMRRRA trail system;***
 - (d) ***To maintain a sinking fund with contributions to the fund during a fiscal year not to exceed ten percent (10%) of the total fees collected during the prior year and the total fund not to exceed a balance of one million dollars (\$1,000,000) at the end of any fiscal year; and***
 - (e) ***Any remaining moneys not already appropriated in accordance with KRS 148.0221 to 148.0225 at the end of the fiscal year are to be sent to the Department for Local Government to be placed into an account to be used exclusively for economic development grants in KMRRRA participating counties. These grants shall give preference to projects in economically distressed counties, then to at-risk counties, and then to transitional counties, as defined by the Appalachian Regional Commission.***
- (5) Nothing in this section shall be construed as a waiver of sovereign immunity.

Signed by Governor March 26, 2019.