

**148.0223 Duties of authority -- Prioritizing contractual obligations -- Authorized functions -- No waiver of sovereign immunity.**

- (1) The KMRA 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 (\$1,000) 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 KMRRA participating counties are to be given preference over competing bidders from outside of KMRRA participating counties; and
  - 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) Borrow money and issue bonds, security interests, or notes;
- (j) Provide for and secure the payment of the bonds, security interests, or notes;
- (k) Provide for the rights of the holders of the bonds, security interests, or notes;
- (l) Purchase, hold, and dispose of any of its bonds, security interests, or notes;
- (m) 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) 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)
  - 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 KMRRA 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) 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) 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) Exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth.
- (4) The fees collected by the KMRRA are to be used within the following guidelines:
  - (a) To pay the salary of the executive director and all staff of the KMRRA;
  - (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 KMRRA 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 KMRRA 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.

**Effective:** June 27, 2019

**History:** Amended 2019 Ky. Acts ch. 170, sec. 3, effective June 27, 2019. -- Created 2017 Ky. Acts ch. 164, sec. 5, effective June 29, 2017.