

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2096**

4  
5 (By Delegate Guthrie)

6 (Originating in the Committee on the Judiciary)

7  
8 [February 21, 2011]

9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new article, designated §5B-2H-1, §5B-2H-2,  
12 §5B-2H-3, §5B-2H-4, §5B-2H-5, and §5B-2H-6; all relating to  
13 arts, entertainment and enterprise districts; establishing a  
14 board for the purpose of designating areas as an arts,  
15 entertainment and enterprise district; providing for the  
16 makeup of the board; definitions; providing for application by  
17 municipalities and political subdivisions to designate an area  
18 an arts, entertainment and enterprise district; requiring the  
19 board to adopt by-laws and establish and application procedure  
20 and criteria for the designation of arts, entertainment and  
21 enterprise districts; and requiring the chairperson of the  
22 board to report to the Legislature on the efforts of other  
23 states to create arts, entertainment and enterprise districts  
24 and the benefit of related tax credits and potential funding  
25 sources for related tax credits.

26 *Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by  
2 adding thereto a new article, designated §5B-2H-1, §5B-2H-2, §5B-  
3 2H-3, §5B-2H-4, §5B-2H-5 and §5B-2H-6 all to read as follows:

4 **ARTICLE 2H. ARTS, ENTERTAINMENT AND ENTERPRISE DISTRICTS.**

5 **§5B-2H-1. Short title.**

6 This article may be cited as the Arts, Entertainment and  
7 Enterprise District Creation Act.

8 **§5B-2H-2. Creation of Arts, Entertainment and Enterprise Districts**  
9 **Review Board; composition; compensation; duties and**  
10 **responsibilities.**

11 (a) There is hereby created an Arts, Entertainment and  
12 Enterprise District Review Board, which shall establish a process  
13 by which municipalities and counties may seek to be designated as  
14 an arts, entertainment or enterprise district, for the ultimate  
15 purpose of developing for commercial purposes arts, entertainment  
16 or technology driven endeavors and industries.

17 (b) The board shall consist of the following nine members,  
18 each of whom are appointed by the Governor:

19 (1) The Secretary of Commerce or the Director of the West  
20 Virginia Development Office, who shall serve as chair;

21 (2) The Secretary of Education and the Arts or a designee;

22 (3) One member who represents an entertainment organization;

23 (4) One member who represents an arts organization;

24 (5) One member who is a licensed architect and is L.E.E.D  
25 certified;

26 (6) One member who represents the West Virginia Housing

1 Development Fund;

2 (7) One member who represents a scientific research and  
3 development or technology organization;

4 (8) One member who represents municipalities; and,

5 (9) One member is associated with urban planning and  
6 development.

7 (c) Members of the board shall serve without compensation, but  
8 may be reimbursed for all reasonable and necessary expenses  
9 actually incurred in the performance of duties as a board member,  
10 in a manner consistent with the guidelines of the Travel Management  
11 Office of the Department of Administration.

12 (d) The board shall adopt by-laws, an application procedure  
13 and criteria to designate arts, entertainment and enterprise  
14 districts. The board shall adopt these requirement by August 1,  
15 2011.

16 (e) The board shall meet on December 1, 2011 to review  
17 applications and approve districts.

18 (f) The board shall thereafter establish an annual application  
19 and review process by which such applications for designation may  
20 be filed with, reviewed and approved by the board.

21 **§5B-2H-3. Definitions.**

22 (a) In this article the following words have the meanings  
23 indicated.

24 (b) "Artistic work" means an original and creative work that:

25 (1) Is created, written, composed or executed; and

26 (2) Falls into one of the following categories:

- 1       (A) A book or other writing;  
2       (B) A play or performance of a play;  
3       (C) A musical composition or the performance of a musical  
4 composition;  
5       (D) A painting or other picture;  
6       (E) A sculpture;  
7       (F) Traditional or fine crafts;  
8       (G) The creation of a film or the acting within a film;  
9       (H) The creation of a dance or the performance of a dance;  
10      (I) The creation of original jewelry, clothing or clothing  
11 design;  
12      (J) The creation of new technology design or advancement;  
13      (K) The investigation and development of new processes and  
14 products through engineering, scientific or technological research  
15 and development; or,  
16      (L) Any other product generated as a result of work listed in  
17 paragraphs (A) through (J) of this subdivision.  
18      (c) "Arts, entertainment and enterprise district" means a  
19 developed district of public and private uses that:  
20      (1) Is distinguished by physical, technological, scientific,  
21 research and development and cultural resources that play a vital  
22 role in the life and development of the community and contribute to  
23 the public through interpretive, commercial, education, research  
24 and recreational uses; and  
25      (2) Is a portion of a municipality with a special coherence.  
26      (d) "Arts, entertainment and enterprise" means a for-profit or

1 not-for-profit entity dedicated to the advancement of one or more  
2 of the following: visual arts, performing arts, technology,  
3 engineering research and development or scientific research and  
4 development.

5 (e) "Qualifying residing artist or entrepreneur" means an  
6 individual who:

7 (1) Owns or rents residential real property where the arts,  
8 entertainment and enterprise district is located;

9 (2) Conducts a business in the art, entertainment and  
10 enterprise district; and

11 (3) Derives income from the sale or performance within the  
12 art, entertainment and enterprise district of an artistic endeavor  
13 or a technological advancement or of engineering, scientific or  
14 technological research and development that the individual created,  
15 wrote, composed or executed for commercial use, either alone or  
16 with others in the arts, entertainment and enterprise district.

17 **§5B-2H-4. Application.**

18 (a) A county or municipality may apply to the board to  
19 designate an area as an arts, entertainment and enterprise  
20 district:

21 (b) The application shall:

22 (1) Be in the form and manner and contain the information that  
23 the board requires; and

24 (2) Be approved by the governing body of the municipality of  
25 the county submitting the application.

26 **§5B-2H-5. Designation.**

1 (a)(1) Within sixty days after a submission date, the board  
2 may designate no more than ten arts, entertainment and enterprise  
3 districts per year from among the applications submitted.

4 (2) A county may not receive more than one arts, entertainment  
5 and enterprise district designation in a calendar year.

6 (b) The designation of the board is final.

7 (c) At any time, a municipality may reapply to the board to  
8 designate an area an arts, entertainment and enterprise district  
9 that is not so designated.

10 **§5B-2H-5. Expansion.**

11 A municipality or county may apply to the board to expand an  
12 existing arts, entertainment and enterprise district in the same  
13 manner as the municipality or county would apply to designate a new  
14 arts, entertainment and enterprise district.

15 **§5B-2H-6. Rules and Report.**

16 The chairperson of the board shall report during the July 2012  
17 interim meetings to the Joint Committee on Finance regarding:

18 (1)The identity of the counties and municipalities which have  
19 been designated as arts, entertainment and enterprise districts in  
20 this state;

21 (2) The efforts and successes of other states which have  
22 created arts, entertainment and enterprise districts;

23 (3) Whether the creation of a tax credit would incentive the  
24 development of these districts; and,

25 (4) If a tax credit would be beneficial to the development of  
26 such districts, identify possible funding sources for the tax

1 credit.