

ENROLLED

Senate Bill No. 581

(By Senators M. Hall, Walters, Blair,
Boley, Boso, Facemire, Kessler, Laird,
Mullins, Plymale, Stollings, Sypolt,
Takubo, Unger and Yost)

[Passed March 13, 2015; in effect July 1, 2015.]

AN ACT to amend and reenact §5B-2-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-1-3 of said code, all relating to transferring administration of the courtesy patrol program and the Courtesy Patrol Fund from Division of Tourism to Division of Highways; authorizing expenditures to fund the courtesy patrol program to be made pursuant to appropriation of the Legislature from the State Road Fund; eliminating requirement that moneys be transferred from the Tourism Promotion Fund to the Courtesy Patrol Fund; providing for the disposition of balances in the fund upon transfer; providing sources of funding for the program; and providing for the uses of moneys in the fund.

Be it enacted by the Legislature of West Virginia:

That §5B-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §17-1-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

§5B-2-12. Tourism Promotion Fund created; use of funds.

1 (a) There is hereby continued in the State Treasury the special revenue fund known as the
2 Tourism Promotion Fund created under prior enactment of section nine, article one of this chapter.

3 (b) Seventy-five percent of the moneys deposited in the fund each year shall be used
4 solely for marketing, advertising and public relations efforts for building the brand identity of Wild,
5 Wonderful, West Virginia and promoting travel and tourism within the state at the discretion and
6 direction of the Commissioner of the Division of Tourism: *Provided*, That no less than one percent
7 of these funds be expended, with the approval of the Secretary of Commerce, to effectively promote
8 and market the state's parks, state forests, state recreation areas and wildlife recreational resources.
9 "Direct advertising" means advertising which includes, but is not limited to, television, radio,
10 mailings, newspaper, magazines, digital marketing, including the Internet and social media, and
11 outdoor billboards or any combination thereof.

12 (c) The balance of the moneys deposited in the fund shall be used for direct advertising
13 within the state's travel regions as defined by the commission. The funds shall be made available
14 to these districts beginning July 1, 1995, according to legislative rules authorized for promulgation
15 by the Tourism Commission.

16 (d) No member of the commission or of any committee created by the commission to
17 evaluate applications for advertising or other grants may participate in the discussion of, or action
18 upon, an application for or an award of any grant in which the member has a direct financial interest.

19 **ARTICLE 1. DEFINITIONS.**

20 **§17-1-3. "Road"; "public road"; "highway".**

21 The words or terms "road", "public road" or "highway" shall be deemed to include, but shall
22 not be limited to, the right-of-way, roadbed and all necessary culverts, sluices, drains, ditches,

1 waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the
2 maintenance of travel, dispatch of freight and communication between individuals and communities;
3 and such public road or highway shall be taken to include any road to which the public has access
4 and which it is not denied the right to use, or any road or way leading from any other public road
5 over the land of another person, and which shall have been established pursuant to law. Any road
6 shall be conclusively presumed to have been established when it has been used by the public for a
7 period of ten years or more, and public moneys or labor have been expended thereon, whether there
8 be any record of its conveyance, dedication or appropriation to public use or not. In the absence of
9 any other mark or record, the center of the traveled way shall be taken as the center of the road and
10 the right-of-way shall be designated therefrom an equal distance on each side, but a road may be
11 constructed on any part of the located right-of-way when it is deemed advisable so to do.

12 The Legislature notes that there are public highways that run over the surface of this land,
13 over and through the navigable streams, rivers and waterways on this earth and above the surface of
14 this earth in the form of highways in the sky, commonly known as airways. The Legislature finds
15 that each of these types of public highways are essential to the development of this state and that the
16 health and safety of each of the citizens of this state are affected daily by the availability of each of
17 these three types of public highways, and that it is the best interests of the people of this state that
18 each of these be recognized and included within the meaning of public highways. The Legislature
19 further recognizes that airports are an important and integral part of the public highways existing
20 above the surface of this state, and that airports are necessary to access such highways, and therefore
21 airports, including runways, taxiways, parking ramps, access roads and air traffic control facilities
22 located at airports, are hereby declared to be part of the public highway system of this state.

1 The Legislature finds that a courtesy patrol program providing assistance to motorists on the
2 state's highways is one of a most beneficial public safety service to residents of the state using public
3 highways and serves as a showing of the state's hospitality and good will to tourists visiting the state.
4 For that reason, on July 1, 2015:

5 (1) The administration of the courtesy patrol program shall be transferred to the Division of
6 Highways and expenditures made by the division to fund the courtesy patrol program providing
7 assistance to motorists on the state's highways shall be made pursuant to appropriation of the
8 Legislature from the State Road Fund or as otherwise provided by law; and

9 (2) The administration of the special revenue account in the State Treasury known as the
10 Courtesy Patrol Fund shall be transferred to the Division of Highways: *Provided*, That any balances
11 remaining in the Courtesy Patrol Fund at the end of fiscal year 2015 shall be transferred and
12 deposited into the Tourism Promotion Fund. After the June 30, 2015, expenditures from the
13 Courtesy Patrol Fund shall be used solely to fund the courtesy patrol program providing assistance
14 to motorists on the state's highways. Amounts collected in the Courtesy Patrol Fund which are
15 found, from time to time, to exceed funds needed for the purposes set forth in this subdivision may
16 be transferred to other accounts or funds and redesignated for other purposes by appropriation of the
17 Legislature. Moneys paid into the fund may be derived from the following sources:

18 (A) Any gifts, grants, bequests, transfers, appropriations or other donations which may be
19 received from any governmental entity or unit or any person, firm, foundation, corporation or other
20 private entity;

21 (B) Any appropriations by the Legislature which may be made for the purposes of this
22 section; and

- 1 (C) All interest or other return accruing to the fund.
- 2 Any moneys remaining in the fund at the end of a fiscal year shall remain in the fund and be
- 3 available for expenditure during the ensuing fiscal year.