

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

**Introduced**

### **House Bill 4051**

**FISCAL  
NOTE**

BY DELEGATES HOWELL, BIBBY, J. JEFFRIES, FAST,

WAXMAN, J. KELLY AND CADLE

[Introduced January 08, 2020; Referred to the Committee  
on Technology and Infrastructure then Finance]

1 A BILL to amend and reenact §5B-2I-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to authorizing the West Virginia Tourism Office to enter into an agreement with the Division  
 3 of Highways to provide staff at the welcome centers and highway rest areas; and to create  
 4 displays promoting in state tourism at the welcome centers and rest areas.

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

**ARTICLE 2I. WEST VIRGINIA TOURISM OFFICE.**

**§5B-2I-4. Powers and duties of the West Virginia Tourism Office.**

1 (a) The West Virginia Tourism Office, under the direction and charge of the Executive  
 2 Director of the West Virginia Tourism Office, shall develop and implement a comprehensive  
 3 tourism advertising, promotion and development strategy for West Virginia. “Comprehensive  
 4 tourism advertising, promotion and development strategy” means a plan that outlines strategies  
 5 and activities designed to continue, diversify and expand the tourism base of the state as a whole;  
 6 create tourism jobs; develop a highly skilled tourism workforce; facilitate business access to  
 7 capital for tourism; advertise and market the resources offered by the state with respect to tourism  
 8 advertising, promotion and development; facilitate cooperation among local, regional and private  
 9 tourism enterprises; improve infrastructure on a state, regional and community level in order to  
 10 facilitate tourism development; improve the tourism business climate generally; and leverage  
 11 funding from sources other than the state, including local, federal and private sources. In addition  
 12 to all other power and duties of the West Virginia Tourism Office by other provisions of this code,  
 13 the West Virginia Tourism Office shall:

14 (1) Coordinate media events to promote a positive image of West Virginia and new  
 15 investment in the tourist industry;

16 (2) Provide comprehensive strategic planning services to existing tourism enterprises;

17 (3) Promote attractions of West Virginia in other states;

18 (4) Provide advertising, marketing and communications goods and services, including,  
 19 without limitation, a cooperative advertising program to facilitate and allow participation in the

20 West Virginia Tourism Office's advertising and marketing campaigns and activities, to state  
21 agencies, departments, units of state or local government, private tourism enterprises and other  
22 persons, entities or private enterprises, including, without limitation, convention and visitors'  
23 bureaus; and

24 (5) Distribute West Virginia informational publications and manage the West Virginia  
25 Welcome Centers. The Tourism Office may enter into an agreement with the Division of Highways  
26 to provide additional or existing staff at the welcome centers and highway rest areas and to create  
27 displays promoting in-state tourism.

28 (b) In developing its strategies, plans and campaigns, the West Virginia Tourism Office  
29 shall consider the following:

30 (1) Improvement and expansion of existing tourism marketing and promotion activities;

31 (2) Promotion of cooperation among municipalities, counties and the West Virginia  
32 Infrastructure and Jobs Development Council in funding physical infrastructure to enhance the  
33 potential for tourism development.

34 (c) The West Virginia Tourism Office shall have the power and duty:

35 (1) To acquire for the state in the name of the West Virginia Tourism Office by purchase,  
36 lease or agreement, or accept or reject for the state, in the name of the West Virginia Tourism  
37 Office, gifts, donations, contributions, bequests or devises of money, security or property, both  
38 real and personal, and any interest in such property, to effectuate or support the purposes of this  
39 article;

40 (2) To make recommendations to the Governor and the Legislature of any legislation  
41 deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to  
42 exercise any other power that may be necessary or proper for the orderly conduct of the business  
43 of the West Virginia Tourism Office and the effective discharge of the duties of the West Virginia  
44 Tourism Office;

45 (3) To cooperate and assist in the production of motion pictures and television and other

46 communications;

47 (4) To purchase advertising time or space in or upon any medium generally engaged or  
48 employed for said purpose to advertise and market the resources of the state or to inform the  
49 public at large or any specifically targeted group or industry about the benefits of living in, investing  
50 in, producing in, buying from, contracting with, or in any other way related to, the State of West  
51 Virginia or any business, industry, agency, institution or other entity therein;

52 (5) To promote and disseminate information related to the attractions of the state through  
53 the operation of the state's telemarketing initiative, which telemarketing initiative shall include a  
54 centralized reservation and information system for state parks and recreational facilities;

55 (6) To take such additional factors as may be necessary to carry out the duties and  
56 programs described in this article; and

57 (7) To provide assistance to and assist with retention and expansion of existing tourism-  
58 related enterprises in the state and to recruit or assist in the recruitment of new tourism-related  
59 enterprises to the state.

60 (d) The West Virginia Tourism Office may charge and collect reasonable fees for goods  
61 and services it provides to state agencies, departments, units of state or local government or other  
62 person, entity or enterprise. All moneys collected by the West Virginia Tourism Office shall be  
63 deposited in the Tourism Promotion Fund and used in accordance with the provisions of this  
64 article.

65 (e) The West Virginia Tourism Office may engage and retain one or more advertising and  
66 marketing agencies, consultants, enterprises, firms or persons, as deemed by the Executive  
67 Director of the West Virginia Tourism Office, in his or her sole discretion, necessary or advisable  
68 to assist the West Virginia Tourism Office in carrying out its powers and duties as set forth in this  
69 article. In the procurement of advertising agencies, consultants, enterprises or persons, from time  
70 to time, estimated to cost \$250,000 or more, the Executive Director of the West Virginia Tourism  
71 Office shall encourage such advertising and marketing agencies, consultants, enterprises, firms

72 or persons to submit an expression of interest, which shall include a statement of qualifications,  
73 including anticipated concepts and proposed advertising, marketing and advertising campaigns.  
74 All potential contracts shall be announced by public notice published as a Class II legal  
75 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. A committee of  
76 three to five representatives of the West Virginia Tourism Office and/or the Tourism Commission,  
77 as selected by the chair of the Tourism Commission, shall evaluate the statements of  
78 qualifications and other materials submitted by interested firms and select three firms which, in  
79 their opinion, are best qualified to perform the desired service. The committee shall then rank, in  
80 order of preference, the three firms selected and shall commence scope of service and price  
81 negotiations with the first ranked firm. If the West Virginia Tourism Office is unable to negotiate  
82 a satisfactory contract with the first ranked firm, at a fee determined to be fair and reasonable,  
83 price negotiations with the firm of second choice shall commence. Failing accord with the second  
84 ranked firm, the committee shall undertake price negotiations with the third ranked firm. If the  
85 West Virginia Tourism Office is unable to negotiate a satisfactory contract with any of the selected  
86 firms, the office shall select additional firms in order of their competence and qualifications and it  
87 shall continue negotiations in accordance with this section until an agreement is reached.

88         If the procurement of the services is estimated by the executive director to cost less than  
89 \$250,000, the West Virginia Tourism Office shall conduct discussions with three or more firms  
90 solicited on the basis of known or submitted qualifications for the assignment prior to the awarding  
91 of any contract: *Provided*, That if a judgment is made that special circumstances exist and that  
92 seeking competition is not practical, the West Virginia Tourism Office may, with the prior written  
93 approval of the Secretary of Commerce, select a firm on the basis of previous satisfactory  
94 performance and knowledge of the West Virginia Tourism Office's needs. After selection, the  
95 West Virginia Tourism Office and selected firm shall develop the scope of desired services and  
96 negotiate a contract.

97         (f) The Executive Director of the West Virginia Tourism Office may, in order to carry out

98 the powers and duties of the West Virginia Tourism Office described in this article, employ  
99 necessary personnel, contract with professional or technical experts or consultants and purchase  
100 or contract for the necessary equipment or supplies.

101 (g) The Executive Director of the West Virginia Tourism Office may designate, in writing,  
102 with the written consent of the Secretary of Commerce, a list of positions within the West Virginia  
103 Tourism Office that shall be exempt from coverage under the state's classified service.

104 (h) The West Virginia Tourism Office shall submit a report annually to the Governor,  
105 Secretary of Commerce and the Legislature about the development of the tourism industry in the  
106 state and the necessary funding required by the state to continue the development of the tourism  
107 industry.

108 (i) The West Virginia Tourism Office and the Executive Director of the West Virginia  
109 Tourism Office shall engage, collaborate, assist and cooperate with the West Virginia  
110 Development Office, when and as appropriate, to facilitate retention, expansion, recruitment and  
111 location of existing and new tourism-related enterprises.

NOTE: The purpose of this bill is to authorize the West Virginia Tourism Office to enter into an agreement with the Division of Highways to provide staff at welcome centers and highway rest areas, and to create displays promoting in state tourism at the welcome centers and rest areas.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.