

COMMITTEE SUBSTITUTE

FOR

H. B. 2096

(BY DELEGATE GUTHRIE)

(Originating in the Committee on the Judiciary)
[February 21, 2011]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2H-1, §5B-2H-2, §5B-2H-3, §5B-2H-4, §5B-2H-5, and §5B-2H-6, all relating to arts, entertainment and enterprise districts; establishing a board for the purpose of designating areas as an arts, entertainment and enterprise district; providing for the makeup of the board; definitions; providing for application by municipalities and political subdivisions to designate an area an arts, entertainment and enterprise district; requiring the board to adopt by-laws and establish and application procedure and

criteria for the designation of arts, entertainment and enterprise districts; and requiring the chairperson of the board to report to the Legislature on the efforts of other states to create arts, entertainment and enterprise districts and the benefit of related tax credits and potential funding sources for related tax credits.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2H. ARTS, ENTERTAINMENT AND ENTERPRISE DISTRICTS.

§5B-2H-1. Short title.

- 1 This article may be cited as the Arts, Entertainment and
- 2 Enterprise District Creation Act.

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

- 1 (a) There is hereby created an Arts, Entertainment and
- 2 Enterprise District Review Board, which shall establish a
- 3 process by which municipalities and counties may seek to be
- 4 designated as an arts, entertainment or enterprise district, for
- 5 the ultimate purpose of developing for commercial purposes

6 arts, entertainment or technology driven endeavors and
7 industries.

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

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

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

14 (3) One member who represents an entertainment
15 organization;

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

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

19 (6) One member who represents the West Virginia
20 Housing Development Fund;

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

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

24 (9) One member is associated with urban planning and
25 development.

26 (c) Members of the board shall serve without
27 compensation, but may be reimbursed for all reasonable and

28 necessary expenses actually incurred in the performance of
29 duties as a board member, in a manner consistent with the
30 guidelines of the Travel Management Office of the
31 Department of Administration.

32 (d) The board shall adopt by-laws, an application
33 procedure and criteria to designate arts, entertainment and
34 enterprise districts. The board shall adopt these requirements
35 by August 1, 2011.

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

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

§5B-2H-3. Definitions.

1 (a) In this article the following words have the meanings
2 indicated.

3 (b) “Artistic work” means an original and creative work
4 that:

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

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

7 (A) A book or other writing;

8 (B) A play or performance of a play;

9 (C) A musical composition or the performance of a
10 musical composition;

11 (D) A painting or other picture;

12 (E) A sculpture;

13 (F) Traditional or fine crafts;

14 (G) The creation of a film or the acting within a film;

15 (H) The creation of a dance or the performance of a
16 dance;

17 (I) The creation of original jewelry, clothing or clothing
18 design;

19 (J) The creation of new technology design or
20 advancement;

21 (K) The investigation and development of new processes
22 and products through engineering, scientific or technological
23 research and development; or,

24 (L) Any other product generated as a result of work listed
25 in paragraphs (A) through (J) of this subdivision.

26 (c) “Arts, entertainment and enterprise district” means a
27 developed district of public and private uses that:

28 (1) Is distinguished by physical, technological, scientific,
29 research and development and cultural resources that play a

30 vital role in the life and development of the community and
31 contribute to the public through interpretive, commercial,
32 education, research and recreational uses; and

33 (2) Is a portion of a municipality with a special coherence.

34 (d) “Arts, entertainment and enterprise” means a for-
35 profit or not-for-profit entity dedicated to the advancement of
36 one or more of the following: visual arts, performing arts,
37 technology, engineering research and development or
38 scientific research and development.

39 (e) “Qualifying residing artist or entrepreneur” means an
40 individual who:

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

43 (2) Conducts a business in the art, entertainment and
44 enterprise district; and

45 (3) Derives income from the sale or performance within
46 the art, entertainment and enterprise district of an artistic
47 endeavor or a technological advancement or of engineering,
48 scientific or technological research and development that the
49 individual created, wrote, composed or executed for
50 commercial use, either alone or with others in the arts,
51 entertainment and enterprise district.

§5B-2H-4. Application.

1 (a) A county or municipality may apply to the board to
2 designate an area as an arts, entertainment and enterprise
3 district:

4 (b) The application shall:

5 (1) Be in the form and manner and contain the
6 information that the board requires; and

7 (2) Be approved by the governing body of the
8 municipality of the county submitting the application.

§5B-2H-5. Designation.

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

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

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

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

§5B-2H-6. Expansion.

1 A municipality or county may apply to the board to
2 expand an existing arts, entertainment and enterprise district
3 in the same manner as the municipality or county would
4 apply to designate a new arts, entertainment and enterprise
5 district.

§5B-2H-7. Rules and Report.

1 The chairperson of the board shall report during the July
2 2012 interim meetings to the Joint Committee on Finance
3 regarding:

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

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

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

11 (4) If a tax credit would be beneficial to the development
12 of such districts, identify possible funding sources for the tax
13 credit.