

Senate Bill No. 581

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

[Originating in the Committee on Finance;
reported February 28, 2015.]

A BILL 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 the Courtesy Patrol from Division of Tourism to Division of Highways; eliminating requirement that moneys be transferred from the Tourism Promotion Fund to the Courtesy Patrol Fund; and specifying how funds may be spent.

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 ~~(a) The Legislature finds that a courtesy patrol program providing assistance to motorists on~~
4 ~~the state's highways is one of the most beneficial methods to introduce a tourist visiting the state to~~

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1 the state's hospitality and good will. For that reason, up to \$4,700,000 of the moneys deposited in
2 the fund each year shall be transferred to a special revenue account in the State Treasury known as
3 the Courtesy Patrol Fund. Expenditures from the fund shall be used solely to fund the courtesy
4 patrol program providing assistance to motorists on the state's highways. Amounts collected in the
5 fund which are found, from time to time, to exceed funds needed for the purposes set forth in this
6 subdivision may be transferred to other accounts or funds and redesignated for other purposes by
7 appropriation of the Legislature.

8 (b) If there are funds remaining after the transfers required in subdivision (a) of this section,
9 a minimum of five Seventy-five percent of the moneys deposited ~~remaining~~ in the fund each year
10 shall be used solely for direct advertising for West Virginia travel and tourism as defined by the
11 ~~division of tourism;~~ marketing, advertising and public relations efforts for building the brand identity
12 of Wild, Wonderful, West Virginia and promoting travel and tourism within the state at the
13 discretion and direction of the Commissioner of the Division of Tourism: *Provided*, That no less
14 than ~~twenty one~~ one percent of these funds be expended, with the approval of the Secretary of
15 Commerce, to effectively promote and market the state's parks, state forests, state recreation areas
16 and wildlife recreational resources. "Direct advertising" means advertising which includes, but is
17 not limited to, television, radio, mailings, newspaper, magazines, digital marketing, including the
18 Internet and social media, and outdoor billboards or any combination thereof.

19 © The balance of the moneys deposited in the fund shall be used for direct advertising within
20 the state's travel regions as defined by the commission. The funds shall be made available to these
21 districts beginning July 1, 1995, according to legislative rules authorized for promulgation by the

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1 Tourism Commission.

2 (d) ~~All advertising expenditures over \$25,000 from the Tourism Promotion Fund require~~
3 ~~prior approval by recorded vote of the commission.~~ No member of the commission or of any
4 committee created by the commission to evaluate applications for advertising or other grants may
5 participate in the discussion of, or action upon, an application for or an award of any grant in which
6 the member has a direct financial interest.

7 **ARTICLE 1. DEFINITIONS.**

8 **§17-1-3. "Road"; "public road"; "highway".**

9 The words or terms "road", "public road" or "highway" shall be deemed to include, but shall
10 not be limited to, the right-of-way, roadbed and all necessary culverts, sluices, drains, ditches,
11 waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the
12 maintenance of travel, dispatch of freight and communication between individuals and communities;
13 and such public road or highway shall be taken to include any road to which the public has access
14 and which it is not denied the right to use, or any road or way leading from any other public road
15 over the land of another person, and which shall have been established pursuant to law. Any road
16 shall be conclusively presumed to have been established when it has been used by the public for a
17 period of ten years or more, and public moneys or labor have been expended thereon, whether there
18 be any record of its conveyance, dedication or appropriation to public use or not. In the absence of
19 any other mark or record, the center of the traveled way shall be taken as the center of the road and
20 the right-of-way shall be designated therefrom an equal distance on each side, but a road may be
21 constructed on any part of the located right-of-way when it is deemed advisable so to do.

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1 The Legislature notes that there are public highways that run over the surface of this land,
2 over and through the navigable streams, rivers and waterways on this earth and above the surface of
3 this earth in the form of highways in the sky, commonly known as airways. The Legislature finds
4 that each of these types of public highways are essential to the development of this state and that the
5 health and safety of each of the citizens of this state are affected daily by the availability of each of
6 these three types of public highways, and that it is the best interests of the people of this state that
7 each of these be recognized and included within the meaning of public highways. The Legislature
8 further recognizes that airports are an important and integral part of the public highways existing
9 above the surface of this state, and that airports are necessary to access such highways, and therefore
10 airports, including runways, taxiways, parking ramps, access roads and air traffic control facilities
11 located at airports, are hereby declared to be part of the public highway system of this state.

12 The Legislature finds that a courtesy patrol program providing assistance to motorists on the
13 state's highways is one of a most beneficial public safety service to residents of the state using public
14 highways and serves as a showing of the state's hospitality and good will to tourists visiting the state.
15 For that reason, on July 1, 2015, the special revenue account in the State Treasury known as the
16 Courtesy Patrol Fund shall be transferred to the Division of Highways. Deposits to the fund shall
17 consist of any appropriations that may be made by the Legislature, income from the investment of
18 moneys held in the special revenue account and all other sums available for deposit to the special
19 revenue account from any source, public or private. Expenditures from the fund shall be used solely
20 to fund the courtesy patrol program providing assistance to motorists on the state's highways.
21 Amounts collected in the fund which are found, from time to time, to exceed funds needed for the

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- 1 purposes set forth in this subdivision may be transferred to other accounts or funds and redesignated
- 2 for other purposes by appropriation of the Legislature.