

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2213

By Delegate Mallow

[Introduced January 11, 2023; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §5B-2I-4 of the Code of West Virginia, 1931, as amended, relating to
2 the West Virginia Tourism Office; and providing that the office may limit the number of
3 visitor bureaus in the counties of the state in order to maximize effectiveness of one main
4 visitors' bureau in smaller populated counties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2I. DEPARTMENT OF TOURISM.

§5B-2I-4. Powers and duties of the Department of Tourism.

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

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

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

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

17 (4) Provide advertising, marketing and communications goods and services, including,
18 without limitation, a cooperative advertising program to facilitate and allow participation in the
19 department's advertising and marketing campaigns and activities, to state agencies, departments,

20 units of state or local government, private tourism enterprises and other persons, entities, or
21 private enterprises, including, without limitation, convention and visitors' bureaus; and

22 (5) Distribute West Virginia informational publications and manage the West Virginia
23 Welcome Centers; and

24 (6) Coordinate programs, initiatives, and production of materials relating to the branding
25 and marketing of the state, and its departments and agencies, and to provide greater coherence in
26 such programs, initiatives, and materials across the departments and agencies of the state.

27 (b) In developing its strategies, plans and campaigns, the department shall consider the
28 following:

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

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

33 (c) The Department of Tourism ~~shall have the following powers and duties~~ may:

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

38 (2) ~~To make~~ Make recommendations to the Governor and the Legislature of any legislation
39 deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to
40 exercise any other power that may be necessary or proper for the orderly conduct of the business
41 of the department and the effective discharge of the duties of the department;

42 (3) ~~To cooperate~~ Cooperate and assist in the production of motion pictures and television
43 and other communications;

44 (4) ~~To purchase~~ Purchase advertising time or space in or upon any medium generally
45 engaged or employed for said purpose to advertise and market the resources of the state or to

46 inform the public at large or any specifically targeted group or industry about the benefits of living
47 in, investing in, producing in, buying from, contracting with, or in any other way related to, the State
48 of West Virginia or any business, industry, agency, institution, or other entity therein;

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

52 (6) ~~To take~~ Take such additional actions as may be necessary to carry out the powers,
53 duties and programs described in this article: Provided, That the West Virginia Tourism Office may
54 limit the number of visitor bureaus in the counties of the state in order to maximize effectiveness of
55 one main visitors' bureau in smaller populated counties; and

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

59 (d) The Department of Tourism may contract with the Division of Highways to sell
60 advertising space on the WV511 website to promote in-state tourism and raise capital for
61 technological improvements to the website: *Provided, That* 50 percent of the money collected for
62 sale of advertising space is deposited into the Tourism Promotion Fund and the other 50 percent of
63 the money collected from the sale of advertising space is remitted to the Division of Highways
64 pursuant to the contract.

65 (e) The Department of Tourism may charge and collect reasonable fees for goods and
66 services it provides to state agencies, departments, units of state or local government or other
67 person, entity, or enterprise. All moneys collected by the department shall be deposited in the
68 Tourism Promotion Fund and used in accordance with the provisions of this article.

69 (f) The Department of Tourism may engage and retain one or more advertising and
70 marketing agencies, consultants, enterprises, firms, or persons, as deemed by the secretary, in his
71 or her sole discretion, necessary or advisable to assist the department in carrying out its powers

72 and duties as set forth in this article. In the procurement of advertising agencies, consultants,
73 enterprises, or persons, from time to time, estimated to cost \$250,000 or more, the secretary shall
74 encourage such advertising and marketing agencies, consultants, enterprises, firms, or persons to
75 submit an expression of interest, which shall include a statement of qualifications, including
76 anticipated concepts and proposed advertising, marketing and advertising campaigns. All
77 potential contracts shall be announced by public notice published as a Class II legal advertisement
78 in compliance with §59-3-3 of this code. A committee of three to five representatives of the
79 department or the Tourism Advisory Council, as selected by the secretary, shall evaluate the
80 statements of qualifications and other materials submitted by interested firms and select three
81 firms which, in their opinion, are best qualified to perform the desired service. The committee shall
82 then rank, in order of preference, the three firms selected and shall commence scope of service
83 and price negotiations with the first-ranked firm. If the department is unable to negotiate a
84 satisfactory contract with the first-ranked firm, at a fee determined to be fair and reasonable, price
85 negotiations with the firm of second choice shall commence. Failing accord with the second-
86 ranked firm, the committee shall undertake price negotiations with the third-ranked firm. If the
87 department is unable to negotiate a satisfactory contract with any of the selected firms, the office
88 shall select additional firms in order of their competence and qualifications and it shall continue
89 negotiations in accordance with this section until an agreement is reached.

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

97 (g) The secretary of the Department of Tourism may, in order to carry out the powers and

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

101 (h) The secretary of the Department of Tourism may designate, in writing, a list of positions
102 within the department that shall be exempt from coverage under the state's classified service.

103 (i) The Department of Tourism shall submit a report annually to the Governor and the
104 Legislature about the development of the tourism industry in the state and the necessary funding
105 required by the state to continue the development of the tourism industry.

106 (j) The Department of Tourism and the secretary shall engage, collaborate, assist, and
107 cooperate with the Department of Economic Development, when and as appropriate, to facilitate
108 retention, expansion, recruitment, and location of existing and new tourism-related enterprises.

109 (k) The Department of Tourism shall utilize, to the fullest extent practicable and efficient,
110 existing resources of the Department of Commerce for functions necessary for the operation of the
111 department but which functions are not directly related to the purposes of the department listed
112 above. The Department of Tourism may enter into such agreements with the Department of
113 Commerce or other agencies of this state as may be necessary or advisable to utilize existing
114 resources of this state.

115 (l) The Department of Tourism shall be exempt from §5A-3-1 *et seq.* of this code.

NOTE: The purpose of this bill is to authorize the West Virginia Tourism Office to limit the number of visitor bureaus in the counties of the state in order to maximize effectiveness of one main visitors bureau in smaller populated counties.

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