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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 4119

(By Delegates Caputo, Coleman, Morgan, Pethtel,
Ellem, Overington and Smirl)



Passed March 13, 2004

In Effect Ninety Days from Passage

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E N R O L L E D

H. B. 4119

(BY DELEGATES CAPUTO, COLEMAN, MORGAN, PETHTEL,
ELLEM, OVERINGTON AND SMIRL)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §7-18-1 of the code of West Virginia, 1931, as amended; and to amend and reenact §8-6-4 of said code, all relating to annexation generally; limiting imposition and collection of hotel tax by municipality after annexation under certain circumstances; providing for a phase out of collection and imposition of hotel tax by county commission in certain circumstances; requiring county commission to provide hotel tax information to annexing municipality upon request; requiring municipality considering annexation without an election to provide notice to county commission; requiring municipality considering annexation without an election to hold a public hearing, and requiring all voters and freeholders to agree to annexation without election.

Be it enacted by the Legislature of West Virginia:

That §7-18-1 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that §8-6-4 of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**ARTICLE 18. HOTEL OCCUPANCY TAX.****§7-18-1. Hotel occupancy tax.**

1 (a) Authority to impose.— On and after the first day of July,
2 one thousand nine hundred eighty-five, any county or municipi-
3 pality may impose and collect a privilege tax upon the occu-
4 pancy of hotel rooms located within its taxing jurisdiction. The
5 tax shall be imposed and collected as provided in this article.

6 (b) Municipal tax.—A municipal hotel tax shall be imposed
7 by ordinance enacted by the governing body of the municipal-
8 ity, in accordance with the provisions of article eleven, chapter
9 eight of this code. The tax shall be imposed uniformly through-
10 out the municipality; and the tax shall apply to all hotels located
11 within the corporate limits of the municipality, including hotels
12 owned by the state or by any political subdivision of this state:
13 *Provided*, That a municipality may only impose the tax on a
14 hotel located within its corporate limits upon which a county
15 was imposing a hotel tax immediately preceding annexation of
16 the territory pursuant to article six, chapter eight of this code
17 within the following limitations: (1) If the county commission
18 had previously pledged the revenue specified for a term to a
19 particular project or projects, then the hotel tax may be retained
20 by the county for the sole purpose of retiring this obligation; or
21 (2) if the county commission has not pledged the revenue to a
22 project or projects prior to the time a petition for annexation is
23 filed, the tax collected from the hotel shall be amortized over a
24 six-year period as follows: Beginning on the first day of July
25 of the fiscal year following the annexation, the county shall
26 remit twenty percent of the taxes collected on the annexed hotel
27 to the municipality, and shall increase the amount remitted to
28 the municipality by twenty percent for each year thereafter until
29 one hundred percent of the taxes collected are remitted to the

30 municipality. Upon reaching the one hundred percent threshold,
31 the county shall cease assessment and collection of the hotel tax
32 and the municipality shall assess and collect its own hotel tax.
33 The county at any point during the six year-period may relin-
34 quish its authority to assess and collect the hotel tax.

35 (c) County tax.—A county hotel tax shall be imposed by
36 order of the county commission duly entered of record. The tax
37 shall be imposed uniformly throughout the county: *Provided*,
38 That a county commission may not impose its tax on hotels
39 located within the corporate limits of any municipality situated,
40 in whole or in part, within the county, except as provided in the
41 preceding subsection: *Provided, however*, That the tax collected
42 by a hotel owned by a municipality but located outside the
43 corporate limits of the municipality pursuant to this article shall
44 be remitted to the municipality owning the hotel for expenditure
45 pursuant to the provisions of section fourteen of this article. The
46 tax shall apply to all hotels located outside the corporate limits
47 of a municipality, including hotels owned by the state or any
48 political subdivision of this state. Any county commission
49 pledging hotel taxes to retire debt and pay the interest on
50 revenue bonds shall make information relating to the revenue
51 bonds available to the annexing municipality upon request of
52 the municipality.

53 (d) The tax shall be imposed on the consumer and shall be
54 collected by the hotel operator as part of the consideration paid
55 for the occupancy of a hotel room: *Provided*, That the tax shall
56 not be imposed on any consumer occupying a hotel room for
57 thirty or more consecutive days.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 6. ANNEXATION.

PART III—ANNEXATION WITHOUT ELECTION.

§8-6-4. Annexation without an election.

1 (a) The governing body of a municipality may, by ordi-
2 nance, provide for the annexation of additional territory without
3 ordering a vote on the question if: (1) All of the qualified voters
4 of the additional territory file with the governing body a
5 petition to be annexed; and (2) all freeholders of the additional
6 territory, whether they reside or have a place of business therein
7 or not, file with the governing body a petition to be annexed.
8 The governing body must provide notice, by certified mail,
9 return receipt requested, to each member of the county commis-
10 sion in the county where the proposed annexation will occur.

11 (b) For purposes of this section, the term “qualified voter of
12 the additional territory” includes firms and corporations in the
13 additional territory regardless of whether the firm or corpora-
14 tion is a freeholder. A firm or corporation may sign a petition
15 by its manager, president or executive officer duly designated
16 in writing by the firm or corporation. In any instance where a
17 freeholder leases or rents real property to a firm or corporation
18 the freeholder and the firm or corporation shall determine
19 which entity will be entitled to sign a petition relating to the
20 proposed annexation.

21 (c) The determination that the requisite number of petition-
22 ers have filed the required petitions shall be reviewable by the
23 circuit court of the county in which the municipality or the
24 major portion of the territory thereof, including the area
25 proposed to be annexed is located, upon certiorari to the
26 governing body in accordance with the provisions of article
27 three, chapter fifty-three of this code.

28 (d) A qualified voter of the additional territory who is also
29 a freeholder of the additional territory may join only one
30 petition of the additional territory.

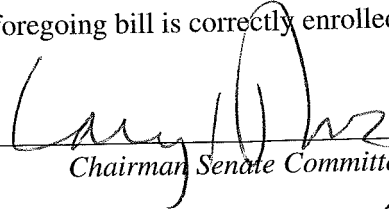
31 (e) It shall be the responsibility of the governing body to
32 enumerate and verify the total number of eligible petitioners, in
33 each category, from the additional territory. In determining the
34 total number of eligible petitioners, in each category, a free-
35 holder or any other entity that is a freeholder shall be limited to
36 one signature on a petition as provided in this section. There
37 shall be allowed only one signature on a petition per parcel of
38 property and any freehold interest that is held by more than one
39 individual or entity shall be allowed to sign a petition only upon
40 the approval by the majority of the individuals or entities that
41 have an interest in the parcel of property.

42 (f) If all of the eligible petitioners are qualified voters, only
43 a voters' petition is required.

44 (g) Upon receipt of a petition, the governing body shall
45 conduct a public hearing to receive public comments on the
46 petition.

47 (h) If satisfied that the petition is sufficient in every respect,
48 the governing body shall enter that fact upon its journal and
49 forward a certificate to that effect to the county commission of
50 the county wherein the municipality or the major portion of the
51 territory thereof, including the additional territory, is located.
52 The county commission shall thereupon enter an order as
53 described in the immediately preceding section of this article.
54 After the date of the order, the corporate limits of the municipi-
55 pality shall be as set forth therein.

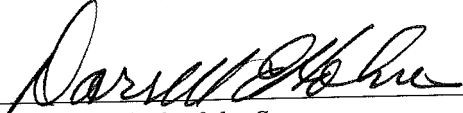
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

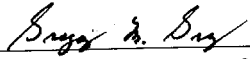

Chairman Senate Committee

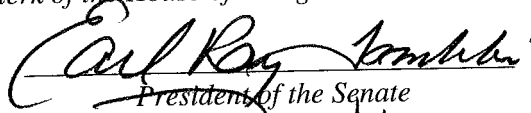

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

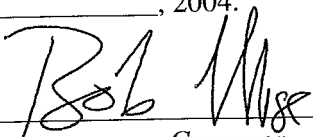

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is disapproved this the 6th
day of April, 2004.


Governor

PRESENTED TO THE
GOVERNOR ✓

DATE 3/31/04

TIME 10:00 am