

WEST VIRGINIA LEGISLATURE
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ENROLLED

Senate Bill No. 314

(BY SENATORS WILLIAMS AND SYPOLT)

[PASSED MARCH 5, 2014; IN EFFECT NINETY DAYS FROM PASSAGE.]

E N R O L L E D

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(BY SENATORS WILLIAMS AND SYPOLT)

[Passed March 5, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to proceeds of the hotel occupancy tax; allowing expenditure of the proceeds for medical care and emergency services in certain counties with no more than one hospital; and measuring county populations according to most recent decennial census for these purposes.

Be it enacted by the Legislature of West Virginia:

That §7-18-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-14. Proceeds of tax; application of proceeds.

1 (a) *Application of proceeds.* – The net proceeds of the tax
2 collected and remitted to the taxing authority pursuant to this
3 article shall be deposited into the General Revenue Fund of
4 such municipality or county commission and, after
5 appropriation thereof, shall be expended only as provided in
6 subsections (b) and (c) of this section.

7 (b) *Required expenditures.* – At least fifty percent of the
8 net revenue receivable during the fiscal year by a county or
9 a municipality pursuant to this article shall be expended in
10 the following manner for the promotion of conventions and
11 tourism:

12 (1) *Municipalities.* – If a convention and visitor’s bureau
13 is located within the municipality, county or region, the
14 governing body of such municipality shall appropriate the
15 percentage required by this subsection to that bureau. If a
16 convention and visitor’s bureau is not located within such
17 municipality, county or region, then the percentage
18 appropriation required by this subsection shall be
19 appropriated as follows:

20 (A) Any hotel located within such municipality, county
21 or region may apply to such municipality for an appropriation
22 to such hotel of a portion of the tax authorized by this article
23 and collected by such hotel and remitted to such municipality,
24 for uses directly related to the promotion of tourism and
25 travel, including advertising, salaries, travel, office expenses,
26 publications and similar expenses. The portion of such tax
27 allocable to such hotel shall not exceed seventy-five percent
28 of that portion of such tax collected and remitted by such
29 hotel which is required to be expended pursuant to this
30 subsection: *Provided*, That prior to appropriating any moneys
31 to such hotel, such municipality shall require the submission
32 of, and give approval to, a budget setting forth the proposed
33 uses of such moneys.

34 (B) If there is more than one convention and visitor’s
35 bureau located within a municipality, county or region, the
36 city council may allocate the tax authorized by this article to
37 one or more of such bureaus in such portion as the city
38 council in its sole discretion determines.

39 (C) The balance of net revenue required to be expended
40 by this subsection shall be appropriated to the regional travel
41 council serving the area in which the municipality is located.

42 (2) *Counties.* – If a convention and visitor’s bureau is
43 located within a county or region, the county commission
44 shall appropriate the percentage required by this subsection
45 to that convention and visitor’s bureau. If a convention and
46 visitor’s bureau is not located within such county or region,
47 then the percentage appropriation required by this subsection
48 shall be appropriated as follows:

49 (A) Any hotel located within such county or region may
50 apply to such county for an appropriation to such hotel of a
51 portion of the tax authorized by this article and collected by
52 such hotel and remitted to such county, for uses directly
53 related to the promotion of tourism and travel, including
54 advertising, salaries, travel, office expenses, publications and
55 similar expenses. The portion of such tax allocable to such
56 hotel shall not exceed seventy-five percent of that portion of
57 such tax collected and remitted by such hotel which is
58 required to be expended pursuant to this subsection:
59 *Provided*, That prior to appropriating any moneys to such
60 hotel such county shall require the submission of, and give
61 approval to, a budget setting forth the proposed uses of such
62 moneys.

63 (B) If there is more than one convention and visitor’s
64 bureau located within a county or region, the county
65 commission may allocate the tax authorized by this article to
66 one or more of such bureaus in such portion as the county
67 commission in its sole discretion determines.

68 (C) The balance of net revenue required to be expended
69 by this subsection shall be appropriated to the regional travel
70 council serving the area in which the county is located.

71 (3) *Legislative finding.* – The Legislature hereby finds
72 and declares that in order to attract new business and industry
73 to this state and to retain existing business and industry all to
74 provide the citizens of the state with economic security, and
75 to advance the business prosperity and economic welfare of
76 this state, it is necessary to enhance recreational and tourism
77 opportunities. Therefore, in order to promote recreation and
78 tourism, the Legislature finds that public financial support
79 should be provided for constructing, equipping, improving
80 and maintaining projects, agencies and facilities which
81 promote recreation and tourism. The Legislature also finds
82 that the support of convention and visitor’s bureaus, hotels
83 and regional travel councils is a public purpose for which
84 funds may be expended. Local convention and visitor’s
85 bureaus, hotels and regional travel councils receiving funds
86 under this subsection may expend such funds for the payment
87 of administrative expenses, and for the direct or indirect
88 promotion of conventions and tourism, and for any other uses
89 and purposes authorized by subdivisions (1) and (2) of this
90 subsection.

91 (c) *Permissible expenditures.* – After making the
92 appropriation required by subsection (b) of this section, the
93 remaining portion of the net revenues receivable during the
94 fiscal year by such county or municipality, pursuant to this
95 article, may be expended for one or more of the purposes set
96 forth in this subsection, but for no other purpose. The
97 purposes for which expenditures may be made pursuant to
98 this subsection are as follows:

99 (1) The planning, construction, reconstruction,
100 establishment, acquisition, improvement, renovation,
101 extension, enlargement, equipment, maintenance, repair and
102 operation of publicly owned convention facilities, including,
103 but not limited to, arenas, auditoriums, civic centers and
104 convention centers;

105 (2) The payment of principal or interest or both on
106 revenue bonds issued to finance such convention facilities;

107 (3) The promotion of conventions;

108 (4) The construction, operation or maintenance of public
109 parks, tourist information centers and recreation facilities,
110 including land acquisition;

111 (5) The promotion of the arts;

112 (6) Historic sites;

113 (7) Beautification projects;

114 (8) Passenger air service incentives and subsidies directly
115 related to increasing passenger air service availability to
116 tourism destinations in this state;

117 (9) Medical care and emergency services, in an amount
118 not exceeding \$200,000, in any county where:

119 (A) There is an urgent necessity to preserve the delivery
120 of acute medical care and emergency services;

121 (B) There is an increase in need for acute medical care
122 and emergency services directly related to tourism;

123 (C) Recurrent flooding in the county significantly
124 disrupts, on a periodic basis, the delivery of acute medical
125 care and emergency services;

126 (D) There is an inadequate economic base within the
127 county from any source other than tourism to preserve the
128 delivery of acute medical care and emergency services;

129 (E) There is an inadequate economic base directly related
130 to low population in the county, specifically, a population of
131 less than ten thousand persons according to the most recent
132 decennial census taken under the authority of the United
133 States;

134 (F) There is no more than one hospital within the county;
135 and

136 (G) The county commission makes specific findings, by
137 resolution, that all of the foregoing conditions within the
138 county exist; or

139 (10) Support and operation of the Hatfield-McCoy
140 Recreation Area by the participating county commissions in
141 the Hatfield-McCoy Regional Recreational Authority.

142 (d) *Definitions.* – For purposes of this section, the
143 following terms are defined:

144 (1) *Convention and visitor’s bureau and visitor’s and*
145 *convention bureau.* – “Convention and visitor’s bureau” and
146 “visitor’s and convention bureau” are interchangeable and
147 either shall mean a nonstock, nonprofit corporation with a
148 full-time staff working exclusively to promote tourism and to
149 attract conventions, conferences and visitors to the
150 municipality, county or region in which such convention and
151 visitor’s bureau or visitor’s and convention bureau is located
152 or engaged in business within.

153 (2) *Convention center.* – “Convention center” means a
154 convention facility owned by the state, a county, a
155 municipality or other public entity or instrumentality and
156 shall include all facilities, including armories, commercial,
157 office, community service and parking facilities and publicly
158 owned facilities constructed or used for the accommodation

159 and entertainment of tourists and visitors, constructed in
160 conjunction with the convention center and forming
161 reasonable appurtenances thereto.

162 (3) *Fiscal year*. – “Fiscal year” means the year beginning
163 July 1 and ending June 30 of the next calendar year.

164 (4) *Net proceeds*. – “Net proceeds” means the gross
165 amount of tax collections less the amount of tax lawfully
166 refunded.

167 (5) *Promotion of the arts*. – “Promotion of the arts”
168 means activity to promote public appreciation and interest in
169 one or more of the arts. It includes the promotion of music
170 for all types, the dramatic arts, dancing, painting and the
171 creative arts through shows, exhibits, festivals, concerts,
172 musicals and plays.

173 (6) *Recreational facilities*. – “Recreational facilities”
174 means and includes any public park, parkway, playground,
175 public recreation center, athletic field, sports arena, stadium,
176 skating rink or arena, golf course, tennis courts and other
177 park and recreation facilities, whether of a like or different
178 nature, that are owned by a county or municipality.

179 (7) *Region*. – “Region” means an area consisting of one
180 or more counties that have agreed by contract to fund a
181 convention and visitor’s bureau to promote those counties.

182 (8) *Regional travel council*. – “Regional travel council”
183 means a nonstock, nonprofit corporation, with a full-time
184 staff working exclusively to promote tourism and to attract
185 conventions, conferences and visitors to the region of this
186 state served by the regional travel council.

187 (9) *Historic site*. – “Historic site” means any site listed on
188 the United States National Register of Historic Places, or

189 listed by a local historical landmarks commission, established
190 under state law, when such sites are owned by a city, a
191 county or a nonprofit historical association and are open,
192 from time to time, to accommodate visitors.

193 (e) Any member of a governing body who willingly and
194 knowingly votes to or causes to be expended moneys
195 generated by the provisions of this section for purposes other
196 than specifically set forth in this section is guilty of a
197 misdemeanor and, upon conviction thereof, shall be fined not
198 more than \$100.

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the

Day of, 2014.

.....
Governor