

Senate Bill No. 314

(By Senators Williams and Sypolt)

[Introduced January 10, 2014; referred to the Committee on Government Organization; and then to the Committee on Finance.]

A BILL to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to proceeds of the hotel occupancy tax; and permissible expenditure of the proceeds in a county with no more than one hospital.

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
22 appropriation to such hotel of a portion of the tax

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

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

40 (C) The balance of net revenue required to be expended
41 by this subsection shall be appropriated to the regional

42 travel council serving the area in which the municipality is
43 located.

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

51 (A) Any hotel located within such county or region
52 may apply to such county for an appropriation to such hotel
53 of a portion of the tax authorized by this article and
54 collected by such hotel and remitted to such county, for
55 uses directly related to the promotion of tourism and travel,
56 including advertising, salaries, travel, office expenses,
57 publications and similar expenses. The portion of such tax
58 allocable to such hotel shall not exceed seventy-five
59 percent of that portion of such tax collected and remitted
60 by such hotel which is required to be expended pursuant to

61 this subsection: *Provided*, That prior to appropriating any
62 moneys to such hotel such county shall require the
63 submission of, and give approval to, a budget setting forth
64 the proposed uses of such moneys.

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

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

74 (3) *Legislative finding.* – The Legislature hereby finds
75 and declares that in order to attract new business and
76 industry to this state and to retain existing business and
77 industry all to provide the citizens of the state with
78 economic security, and to advance the business prosperity
79 and economic welfare of this state, it is necessary to

80 enhance recreational and tourism opportunities. Therefore,
81 in order to promote recreation and tourism, the Legislature
82 finds that public financial support should be provided for
83 constructing, equipping, improving and maintaining
84 projects, agencies and facilities which promote recreation
85 and tourism. The Legislature also finds that the support of
86 convention and visitor's bureaus, hotels and regional travel
87 councils is a public purpose for which funds may be
88 expended. Local convention and visitor's bureaus, hotels
89 and regional travel councils receiving funds under this
90 subsection may expend such funds for the payment of
91 administrative expenses, and for the direct or indirect
92 promotion of conventions and tourism, and for any other
93 uses and purposes authorized by subdivisions (1) and (2) of
94 this subsection.

95 (c) *Permissible expenditures.* – After making the
96 appropriation required by subsection (b) of this section, the
97 remaining portion of the net revenues receivable during the
98 fiscal year by such county or municipality, pursuant to this

99 article, may be expended for one or more of the purposes
100 set forth in this subsection, but for no other purpose. The
101 purposes for which expenditures may be made pursuant to
102 this subsection are as follows:

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

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

111 (3) The promotion of conventions;

112 (4) The construction, operation or maintenance of public
113 parks, tourist information centers and recreation facilities,
114 including land acquisition;

115 (5) The promotion of the arts;

116 (6) Historic sites;

117 (7) Beautification projects;

118 (8) Passenger air service incentives and subsidies directly
119 related to increasing passenger air service availability to
120 tourism destinations in this state;

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

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

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

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

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

133 (E) There is an inadequate economic base directly related
134 to low population in the county, specifically, a population of
135 less than ten thousand persons according to the census of the
136 year 1990;

137 (F) There is ~~one and only~~ no more than one hospital
138 within the county; and

139 (G) The county commission makes specific findings, by
140 resolution, that all of the foregoing conditions within the
141 county exist; or

142 (10) Support and operation of the Hatfield-McCoy
143 Recreation Area by the participating county commissions in
144 the Hatfield-McCoy Regional Recreational Authority.

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

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

156 (2) *Convention center.* – “Convention center” means a
157 convention facility owned by the state, a county, a
158 municipality or other public entity or instrumentality and
159 shall include all facilities, including armories, commercial,
160 office, community service and parking facilities and publicly
161 owned facilities constructed or used for the accommodation
162 and entertainment of tourists and visitors, constructed in
163 conjunction with the convention center and forming
164 reasonable appurtenances thereto.

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

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

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

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

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

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

190 (9) *Historic site.* – “Historic site” means any site listed
191 on the United States National Register of Historic Places,
192 or listed by a local historical landmarks commission,
193 established under state law, when such sites are owned by

194 a city, a county or a nonprofit historical association and are
195 open, from time to time, to accommodate visitors.

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

(NOTE: The purpose of this bill is to provide for the permissible expenditure of the proceeds from the hotel occupancy tax in counties with no more than one hospital. Current law refers to “one and only one hospital within the county”.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)