

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Introduced**

## **Senate Bill 28**

BY SENATORS BLAIR, BOSO, AND CLEMENTS

[Introduced January 9, 2019; Referred  
to the Committee on Finance]

1 A BILL to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating  
2 to removing the limitation on the amount collected by the county via the hotel occupancy  
3 tax that may be used for medical care and emergency services.

*Be it enacted by the Legislature of West Virginia:*

**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 collected and remitted to the  
2 taxing authority pursuant to this article shall be deposited into the general revenue fund of such  
3 municipality or county commission and, after appropriation thereof, shall be expended only as  
4 provided in ~~subsections (b) and (c)~~ of this section.

5 (b) *Required expenditures.* — At least 50 percent of the net revenue receivable during the  
6 fiscal year by a county or a municipality pursuant to this article shall be expended in the following  
7 manner for the promotion of conventions and tourism:

8 (1) *Municipalities.* — If a convention and visitor’s bureau is located within the municipality,  
9 county, or region, the governing body of such municipality shall appropriate the percentage  
10 required by this subsection to that bureau. If a convention and visitor’s bureau is not located within  
11 such municipality, county or region, then the percentage appropriation required by this subsection  
12 shall be appropriated as follows:

13 (A) Any hotel located within such municipality, county, or region may apply to such  
14 municipality for an appropriation to such hotel of a portion of the tax authorized by this article and  
15 collected by such hotel and remitted to such municipality for uses directly related to the promotion  
16 of tourism and travel, including advertising, salaries, travel, office expenses, publications, and  
17 similar expenses. The portion of such tax allocable to such hotel shall not exceed 75 percent of  
18 that portion of such tax collected and remitted by such hotel which is required to be expended  
19 pursuant to this subsection: *Provided*, That prior to appropriating any moneys to such hotel, such  
20 municipality shall require the submission of, and give approval to, a budget setting forth the

21 proposed uses of such moneys.

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

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

27 (2) *Counties.* — If a convention and visitor's bureau is located within a county or region,  
28 the county commission shall appropriate the percentage required by this subsection to that  
29 convention and visitor's bureau. If a convention and visitor's bureau is not located within such  
30 county or region, then the percentage appropriation required by this subsection shall be  
31 appropriated as follows:

32 (A) Any hotel located within such county or region may apply to such county for an  
33 appropriation to such hotel of a portion of the tax authorized by this article and collected by such  
34 hotel and remitted to such county for uses directly related to the promotion of tourism and travel,  
35 including advertising, salaries, travel, office expenses, publications, and similar expenses. The  
36 portion of such tax allocable to such hotel shall not exceed 75 percent of that portion of such tax  
37 collected and remitted by such hotel which is required to be expended pursuant to this subsection:  
38 *Provided,* That prior to appropriating any moneys to such hotel, such county shall require the  
39 submission of, and give approval to, a budget setting forth the proposed uses of such moneys.

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

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

45 (3) *Legislative finding.* — The Legislature hereby finds and declares that in order to attract

46 new business and industry to this state and to retain existing business and industry all to provide  
47 the citizens of the state with economic security and to advance the business prosperity and  
48 economic welfare of this state, it is necessary to enhance recreational and tourism opportunities.  
49 Therefore, in order to promote recreation and tourism, the Legislature finds that public financial  
50 support should be provided for constructing, equipping, improving, and maintaining projects,  
51 agencies, and facilities which promote recreation and tourism. The Legislature also finds that the  
52 support of convention and visitor's bureaus, hotels, and regional travel councils is a public  
53 purpose for which funds may be expended. Local convention and visitor's bureaus, hotels, and  
54 regional travel councils receiving funds under this subsection may expend such funds for the  
55 payment of administrative expenses, and for the direct or indirect promotion of conventions and  
56 tourism, and for any other uses and purposes authorized by ~~subdivisions (1) and (2)~~ of this  
57 subsection.

58 (c) *Permissible expenditures.* — After making the appropriation required by §7-18-14(b)  
59 of this code, the remaining portion of the net revenues receivable during the fiscal year by such  
60 county or municipality, pursuant to this article, may be expended for one or more of the purposes  
61 set forth in this subsection, but for no other purpose. The purposes for which expenditures may  
62 be made pursuant to this subsection are as follows:

63 (1) The planning, construction, reconstruction, establishment, acquisition, improvement,  
64 renovation, extension, enlargement, equipment, maintenance, repair, and operation of publicly  
65 owned convention facilities, including, but not limited to, arenas, auditoriums, civic centers, and  
66 convention centers;

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

69 (3) The promotion of conventions;

70 (4) The construction, operation, or maintenance of public parks, tourist information

- 71 centers, and recreation facilities, including land acquisition;
- 72 (5) The promotion of the arts;
- 73 (6) Historic sites;
- 74 (7) Beautification projects;
- 75 (8) Passenger air service incentives and subsidies directly related to increasing passenger
- 76 air service availability to tourism destinations in this state;
- 77 (9) Medical care and emergency services ~~in an amount not exceeding \$200,000~~ in any
- 78 county where:
- 79 (A) There is an urgent necessity to preserve the delivery of acute medical care and
- 80 emergency services;
- 81 (B) There is an increase in need for acute medical care and emergency services directly
- 82 related to tourism;
- 83 (C) Recurrent flooding in the county significantly disrupts, on a periodic basis, the delivery
- 84 of acute medical care and emergency services;
- 85 (D) There is an inadequate economic base within the county from any source other than
- 86 tourism to preserve the delivery of acute medical care and emergency services;
- 87 (E) There is an inadequate economic base directly related to low population in the county,
- 88 specifically, a population of less than 10,000 persons according to the most recent decennial
- 89 census taken under the authority of the United States;
- 90 (F) There is no more than one hospital within the county; and
- 91 (G) The county commission makes specific findings, by resolution, that all of the foregoing
- 92 conditions within the county exist; or
- 93 (10) Support and operation of the Hatfield-McCoy Recreation Area by the participating
- 94 county commissions in the Hatfield-McCoy Regional Recreational Authority.
- 95 (d) *Definitions.* — For purposes of this section, the following terms are defined:

96           (1) *Convention and visitor's bureau and visitor's and convention bureau.* — “Convention  
97 and visitor's bureau” and “visitor's and convention bureau” are interchangeable and either shall  
98 mean a nonstock, nonprofit corporation with a full-time staff working exclusively to promote  
99 tourism and to attract conventions, conferences, and visitors to the municipality, county, or region  
100 in which such convention and visitor's bureau or visitor's and convention bureau is located or  
101 engaged in business within.

102           (2) *Convention center.* — “Convention center” means a convention facility owned by the  
103 state, a county, a municipality, or other public entity or instrumentality and shall include all  
104 facilities, including armories, commercial, office, community service, and parking facilities and  
105 publicly owned facilities constructed or used for the accommodation and entertainment of tourists  
106 and visitors, constructed in conjunction with the convention center and forming reasonable  
107 appurtenances thereto.

108           (3) *Fiscal year.* — “Fiscal year” means the year beginning July 1 and ending June 30 of  
109 the next calendar year.

110           (4) *Net proceeds.* — “Net proceeds” means the gross amount of tax collections less the  
111 amount of tax lawfully refunded.

112           (5) *Promotion of the arts.* — “Promotion of the arts” means activity to promote public  
113 appreciation and interest in one or more of the arts. It includes the promotion of music for all types,  
114 the dramatic arts, dancing, painting, and the creative arts through shows, exhibits, festivals,  
115 concerts, musicals, and plays.

116           (6) *Recreational facilities.* — “Recreational facilities” means and includes any public park,  
117 parkway, playground, public recreation center, athletic field, sports arena, stadium, skating rink  
118 or arena, golf course, tennis courts, and other park and recreation facilities, whether of a like or  
119 different nature, that are owned by a county or municipality.

120           (7) *Region.* — “Region” means an area consisting of one or more counties that have

121 agreed by contract to fund a convention and visitor's bureau to promote those counties.

122 (8) *Regional travel council.* — "Regional travel council" means a nonstock, nonprofit  
123 corporation, with a full-time staff working exclusively to promote tourism and to attract  
124 conventions, conferences, and visitors to the region of this state served by the regional travel  
125 council.

126 (9) *Historic site.* — "Historic site" means any site listed on the United States National  
127 Register of Historic Places, or listed by a local historical landmarks commission, established under  
128 state law, when such sites are owned by a city, a county, or a nonprofit historical association and  
129 are open, from time to time, to accommodate visitors.

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

NOTE: The purpose of this bill is to remove the current \$200,000 limitation on the amount collected by the county via the hotel occupancy tax that may be used for medical care and emergency services.

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