

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 167

By Senators Smith, Hamilton, Oliverio, Roberts,

Swope, Tarr, Taylor, Woodrum, and Deeds

[Originating in the Committee on Finance; reported

February 21, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §7-1-3uu, relating to authorizing county commissions to impose a health and
3 safety fee for tourism and recreational activities within the county; listing applicable
4 activities and how fee to be calculated thereon; providing that fee may only be collected
5 once on any seasonal or annual pass purchased for activities to which fee is applicable;
6 establishing that fee may not be collected or imposed on activities within municipalities that
7 have levied an amusement tax; establishing who owes fee, collection, and remittance to
8 county; requiring counties who impose fee to notify the State Fire Marshal and the Office of
9 Emergency Medical Services; authorizing counties to promulgate administrative
10 procedures for collection of fee; providing that the sheriff is the county's agent for collection
11 of fee; requiring moneys collected for fee be kept in a separate account; establishing
12 requirements for use of proceeds from fee; establishing waiver process for alternative use
13 of proceeds; and providing rulemaking authority.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3uu. Health and safety fee.

1 (a) Each county commission may impose and collect a health and safety fee of up to \$1 for
2 any or all of the following tourism and recreation activities within the county, on the basis stated in
3 this section:

4 (1) The fee for the following activities shall be collected for each day or night of rental of the
5 accommodation or vehicle:

6 (A) Hotel/motel/cabin/condominium/Airbnb/VRBO rentals;

7 (B) RV or tent camping rentals or fees;

8 (C) Automobile rentals;

9 (D) Boat rentals; and

10 (E) ATV/motorcycle/bicycle rentals.

11 (2) The fee for the following activities shall be collected for each ticket purchased or
12 admission paid:

13 (A) Boat rides;

14 (B) Ski lift usage;

15 (C) Whitewater rafting;

16 (D) Golfing;

17 (E) Carnival, fair, or amusement park visits;

18 (F) Train rides;

19 (G) Museum or historical home tours;

20 (H) Zip lining, rock climbing, paddle boarding, and similar outdoor adventure activities; and

21 (I) Concerts or music festivals.

22 (3) The fee for the following activities shall be collected per person, per day:

23 (A) Bus excursions/charter; and

24 (B) Guided fishing or hunting excursions.

25 (b) The fee shall be collected only once on any seasonal or annual pass purchased for any
26 of the activities to which the fee is applicable: *Provided*, That the fee shall equal one percent of the
27 purchase price on any seasonal or annual pass for any of the activities to which the fee is
28 applicable if the purchase price is greater than \$100.99.

29 (c) Any fee imposed by a county commission pursuant to this section may not be imposed
30 on, or collected for, activities within the boundaries of a municipal corporation that has levied an
31 amusement tax pursuant to §8-13-6 of this code.

32 (d) The person to whom the rental is made, or the service or activity is provided, shall pay
33 to the operator or vendor of the activity the amount of the health and safety fee imposed by the
34 county hereunder, which fee shall be added to and shall constitute a part of the consideration paid
35 for the rental, service, or activity, and which fee shall be collectible as such by the operator or
36 vendor who shall account for, and remit to the county, all fees paid by such persons. Operators

37 who are subject to the collection and remittance of hotel occupancy tax pursuant to §7-18-1 et seq.
38 of this code shall remit the fee with the remittance of the hotel occupancy tax but shall separately
39 state the amount of the fee and the tax when remittance is made.

40 (e) The county commission shall notify the State Fire Marshal and the Office of Emergency
41 Medical Services of its initial decision to impose and collect a health and safety fee. The county
42 shall promulgate, by ordinance, order, rule, or regulation, administrative procedures for the
43 assessment, collection, and refund of the fee authorized by this section. The sheriff of each county
44 shall be the county's agent for administration and collection of the fee and shall have the power to
45 initiate civil suits for the collection of the fee. The county commission may promulgate regulations
46 and return forms as it determines are necessary or desirable for the administration and collection
47 of the fee. In all circumstances, the moneys collected for the fee shall be kept in a discrete account
48 solely for that purpose until they are expended in accordance with the provisions of subsection (g)
49 of this section.

50 (f) Every county commission imposing a health and safety fee shall report annually on or
51 before 90 days before the end of the fiscal year all collections and expenditures, including an
52 income statement and balance sheet, to the State Auditor, the Joint Committee on Government
53 and Finance, the State Fire Marshal, and the West Virginia Office of Emergency Medical Services.

54 (g) Sixty percent of the moneys collected for the fee shall be expended only for use in
55 emergency services readiness and shall be appropriated at the discretion of the county
56 commission among emergency medical services providers and volunteer and part-volunteer fire
57 departments located in the county. Forty percent of the moneys collected for the fee shall be
58 expended only for use in emergency services readiness or critical infrastructure projects and shall
59 be appropriated at the discretion of the county commission among emergency medical services
60 providers, volunteer and part-volunteer fire departments, and other critical infrastructure projects,
61 as determined necessary by the county commission, located within the county: *Provided,*
62 however, That a county may seek a waiver from the State Fire Marshal and the West Virginia

63 Office of Emergency Medical Services allowing it to appropriate up to 100 percent of the moneys
64 collected for use in critical infrastructure projects, if it is determined by the State Fire Marshal and
65 the West Virginia Office of Emergency Medical Services that the county's emergency services
66 readiness needs will be met during such time as the waiver is in effect. Such waiver may be in
67 effect no longer than three years from the date of its issuance, at which point the county may
68 reapply at the discretion of the county commission. The State Fire Marshal and the West Virginia
69 Office of Emergency Medical Services may promulgate legislative rules in accordance with §29A-
70 3-1 et seq. of this code relating to criteria which must be satisfied to qualify for such waiver.