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H. B. 2820

(By Delegates Fleischauer, Marshall, Hatfield,
Fragale, Evans, Doyle, Manchin
and T. Campbell)

[Introduced January 24, 2011; referred to the
Committee on Political Subdivisions then Finance.]

A BILL to amend and reenact §7-18-14 of the Code of West Virginia,
1931, as amended, relating to permitting municipalities and
counties to use proceeds from the hotel occupancy tax to fund
public libraries.

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.

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

(b) *Required expenditures.* -- At least fifty percent of the
net revenue receivable during the fiscal year by a county or a

1 municipality pursuant to this article shall be expended in the
2 following manner for the promotion of conventions, ~~and~~ tourism and
3 public libraries:

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

11 (A) ~~Any~~ The planning, construction, reconstruction,
12 establishment, acquisition, improvement, renovation, extension,
13 enlargement, equipment, maintenance, repair and operation of public
14 library facilities. However, any hotel located within such
15 municipality, county or region may apply to such municipality for
16 an appropriation to such hotel of a portion of the tax authorized
17 by this article and collected by such hotel and remitted to such
18 municipality, for uses directly related to the promotion of tourism
19 and travel, including advertising, salaries, travel, office
20 expenses, publications and similar expenses. The portion of such
21 tax allocable to public libraries or such hotel shall not exceed
22 seventy-five percent of that portion of such tax collected and
23 remitted by such hotel which is required to be expended pursuant to
24 this subsection in such portion as the municipality in its sole

1 discretion determines. ~~Provided, That prior~~ Prior to appropriating
2 any moneys to such hotel, such municipality shall require the
3 submission of, and give approval to, a budget setting forth the
4 proposed uses of such moneys.

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

10 (C) The balance of net revenue required to be expended by this
11 subsection ~~shall~~ may be used for the planning, construction,
12 reconstruction, establishment, acquisition, improvement,
13 renovation, extension, enlargement, equipment, maintenance, repair
14 and operation of public library facilities or be appropriated to
15 the regional travel council serving the area in which the
16 municipality is located in such portion as the municipality in its
17 sole discretion determines.

18 (2) Counties. -- If a convention and visitor's bureau is
19 located within a county or region, the county commission shall
20 appropriate the percentage required by this subsection to that
21 convention and visitor's bureau. If a convention and visitor's
22 bureau is not located within such county or region, then the
23 percentage appropriation required by this subsection shall be
24 appropriated as follows:

1 (A) ~~Any~~ The planning, construction, reconstruction,
2 establishment, acquisition, improvement, renovation, extension,
3 enlargement, equipment, maintenance, repair and operation of public
4 library facilities. However, any hotel located within such county
5 or region may apply to such county for an appropriation to such
6 hotel of a portion of the tax authorized by this article and
7 collected by such hotel and remitted to such county, for uses
8 directly related to public libraries or the promotion of tourism
9 and travel, including advertising, salaries, travel, office
10 expenses, publications and similar expenses. The portion of such
11 tax allocable to public libraries or such hotel shall not exceed
12 seventy-five percent of that portion of such tax collected and
13 remitted by such hotel which is required to be expended pursuant to
14 this subsection in such portion as the county in its sole
15 discretion determines. ~~Provided, That prior~~ Prior to appropriating
16 any moneys to such hotel such county shall require the submission
17 of, and give approval to, a budget setting forth the proposed uses
18 of such moneys.

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

24 (C) The balance of net revenue required to be expended by this

1 subsection ~~shall~~ may be used for the planning, construction,
2 reconstruction, establishment, acquisition, improvement,
3 renovation, extension, enlargement, equipment, maintenance, repair
4 and operation of public library facilities or be appropriated to
5 the regional travel council serving the area in which the county is
6 located in such portion as the municipality in its sole discretion
7 determines.

8 (3) *Legislative finding.* -- The Legislature hereby finds and
9 declares that in order to attract new business and industry to this
10 state and to retain existing business and industry all to provide
11 the citizens of the state with economic security, and to advance
12 the business prosperity and economic welfare of this state, it is
13 necessary to enhance public libraries and recreational and tourism
14 opportunities. Therefore, in order to promote public libraries and
15 recreation and tourism, the Legislature finds that public financial
16 support should be provided for constructing, equipping, improving
17 and maintaining projects, agencies and facilities which promote
18 recreation, ~~and~~ tourism and public libraries. The Legislature also
19 finds that the support of convention and visitor's bureaus, hotels,
20 ~~and~~ regional travel councils and public libraries is a public
21 purpose for which funds may be expended. Local convention and
22 visitor's bureaus, hotels, ~~and~~ regional travel councils and public
23 libraries receiving funds under this subsection may expend such
24 funds for the payment of administrative expenses, and for the

1 direct or indirect promotion of conventions, ~~and~~ tourism, public
2 libraries and for any other uses and purposes authorized by
3 subdivisions (1) and (2) of this subsection.

4 (c) *Permissible expenditures.* -- After making the
5 appropriation required by subsection (b) of this section, the
6 remaining portion of the net revenues receivable during the fiscal
7 year by such county or municipality, pursuant to this article, may
8 be expended for one or more of the purposes set forth in this
9 subsection, but for no other purpose. The purposes for which
10 expenditures may be made pursuant to this subsection are as
11 follows:

12 (1) The planning, construction, reconstruction, establishment,
13 acquisition, improvement, renovation, extension, enlargement,
14 equipment, maintenance, repair and operation of publicly owned
15 convention facilities, including, but not limited to, arenas,
16 auditoriums, civic centers, ~~and~~ convention centers and public
17 libraries;

18 (2) The payment of principal or interest or both on revenue
19 bonds issued to finance such convention facilities and public
20 libraries;

21 (3) The promotion of conventions and public libraries;

22 (4) The construction, operation or maintenance of public
23 parks, tourist information centers, ~~and~~ recreation facilities and
24 public libraries, including land acquisition;

1 (5) The promotion of the arts;

2 (6) Historic sites;

3 (7) Beautification projects;

4 (8) Passenger air service incentives and subsidies directly
5 related to increasing passenger air service availability to tourism
6 destinations in this state;

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

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

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

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

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

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

22 (F) There is one and only one hospital within the county; and

23 (G) The county commission makes specific findings, by
24 resolution, that all of the foregoing conditions within the county

1 exist; or

2 (10) Support and operation of the Hatfield-McCoy Recreation
3 Area by the participating county commissions in the Hatfield-McCoy
4 Regional Recreational Authority.

5 (d) *Definitions.* -- For purposes of this section, the
6 following terms are defined:

7 (1) *Convention and visitor's bureau and visitor's and*
8 *convention bureau.* -- "Convention and visitor's bureau" and
9 "visitor's and convention bureau" are interchangeable and either
10 shall mean a nonstock, nonprofit corporation with a full-time staff
11 working exclusively to promote tourism and to attract conventions,
12 conferences and visitors to the municipality, county or region in
13 which such convention and visitor's bureau or visitor's and
14 convention bureau is located or engaged in business within.

15 (2) *Convention center.* -- "Convention center" means a
16 convention facility owned by the state, a county, a municipality or
17 other public entity or instrumentality and shall include all
18 facilities, including armories, commercial, office, community
19 service and parking facilities and publicly owned facilities
20 constructed or used for the accommodation and entertainment of
21 tourists and visitors, constructed in conjunction with the
22 convention center and forming reasonable appurtenances thereto.

23 (3) *Fiscal year.* -- "Fiscal year" means the year beginning
24 July 1, and ending June 30 of the next calendar year.

1 (4) *Net proceeds.* -- "Net proceeds" means the gross amount of
2 tax collections less the amount of tax lawfully refunded.

3 (5) *Promotion of the arts.* -- "Promotion of the arts" means
4 activity to promote public appreciation and interest in one or more
5 of the arts. It includes the promotion of music for all types, the
6 dramatic arts, dancing, painting and the creative arts through
7 shows, exhibits, festivals, concerts, musicals and plays.

8 (6) *Recreational facilities.* -- "Recreational facilities"
9 means and includes any public park, parkway, playground, public
10 recreation center, athletic field, sports arena, stadium, skating
11 rink or arena, golf course, tennis courts and other park and
12 recreation facilities, whether of a like or different nature, that
13 are owned by a county or municipality.

14 (7) *Region.* -- "Region" means an area consisting of one or
15 more counties that have agreed by contract to fund a convention and
16 visitor's bureau to promote those counties.

17 (8) *Regional travel council.* -- "Regional travel council"
18 means a nonstock, nonprofit corporation, with a full-time staff
19 working exclusively to promote tourism and to attract conventions,
20 conferences and visitors to the region of this state served by the
21 regional travel council.

22 (9) *Historic site.* -- "Historic site" means any site listed on
23 the United States national register of historic places, or listed
24 by a local historical landmarks commission, established under state

1 law, when such sites are owned by a city, a county or a nonprofit
2 historical association and are open, from time to time, to
3 accommodate visitors.

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

NOTE: The purpose of this bill is to permit municipalities and
counties to use proceeds from the hotel occupancy tax to fund
public libraries.

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