

1 **H. B. 4249**

2  
3 (By Delegates R. Smith, Canterbury,  
4 Ambler, Cooper, Barill, Poling, M.,  
5 Overington, Frich, Williams, Hamilton and  
6 Craig)  
7

8 Introduced January 21, 2014; referred to the

9 Committee on Health and Human Resources then Finance.]

10 A BILL to amend and reenact §7-18-14 of the Code of West Virginia,  
11 1931, as amended, relating to allowing proceeds of a hotel  
12 occupancy tax not exceeding \$200,000 per fiscal year to be  
13 expended for medical care and emergency services in any county  
14 in which there is not more than one hospital, subject to other  
15 qualifications.

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

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

19 **ARTICLE 18. HOTEL OCCUPANCY TAX.**

20 **§7-18-14. Proceeds of tax; application of proceeds.**

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

1 this section.

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

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

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

1 forth the proposed uses of such moneys.

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

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

10 (2) *Counties.* -- If a convention and visitor's bureau is  
11 located within a county or region, the county commission shall  
12 appropriate the percentage required by this subsection to that  
13 convention and visitor's bureau. If a convention and visitor's  
14 bureau is not located within such county or region, then the  
15 percentage appropriation required by this subsection shall be  
16 appropriated as follows:

17 (A) Any hotel located within such county or region may apply  
18 to such county for an appropriation to such hotel of a portion of  
19 the tax authorized by this article and collected by such hotel and  
20 remitted to such county, for uses directly related to the promotion  
21 of tourism and travel, including advertising, salaries, travel,  
22 office expenses, publications and similar expenses. The portion of  
23 such tax allocable to such hotel shall not exceed seventy-five  
24 percent of that portion of such tax collected and remitted by such

1 hotel which is required to be expended pursuant to this subsection:  
2 *Provided*, That prior to appropriating any moneys to such hotel such  
3 county shall require the submission of, and give approval to, a  
4 budget setting forth the proposed uses of such moneys.

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

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

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

1 which funds may be expended. Local convention and visitor's  
2 bureaus, hotels and regional travel councils receiving funds under  
3 this subsection may expend such funds for the payment of  
4 administrative expenses, and for the direct or indirect promotion  
5 of conventions and tourism, and for any other uses and purposes  
6 authorized by subdivisions (1) and (2) of this subsection.

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

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

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

21 (3) The promotion of conventions;

22 (4) The construction, operation or maintenance of public parks,  
23 tourist information centers and recreation facilities, including  
24 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 from  
17 any source other than tourism to preserve the delivery of acute  
18 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~~ not more than one hospital within the  
23 county; and

24 (G) The county commission makes specific findings, by

1 resolution, that all of the foregoing conditions within the county  
2 exist; or

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

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

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

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

24 (3) *Fiscal year*. -- "Fiscal year" means the year beginning July

11, and ending June 30 of the next calendar year.

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

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

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

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

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

23 (9) *Historic site*. -- "Historic site" means any site listed on  
24 the United States national register of historic places, or listed



1 by a local historical landmarks commission, established under state  
2 law, when such sites are owned by a city, a county or a nonprofit  
3 historical association and are open, from time to time, to  
4 accommodate visitors.

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

NOTE: The purpose of this bill is to change language allowing  
proceeds of the hotel occupancy tax not exceeding \$200,000 per  
fiscal year to be expended for medical care and emergency services  
in any county in which there is not more than one hospital, subject  
to other qualifications. Language change is needed to accommodate  
a county that has no hospital.

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