

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2573**

BY DELEGATES G. FOSTER, HIGGINBOTHAM, FAST,  
ZATEZALO, KELLY, HANSHAW, HAMRICK, WILSON AND  
HARSHBARGER

[Introduced February 20, 2017; Referred  
to the Committee on Political Subdivisions then  
Government Organization.]

1 A BILL to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating  
2 to ensuring that local Convention and Visitor Center Bureaus have a board that is elected  
3 by a governing body.

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

1 That §7-18-14 of the Code of West Virginia, 1931, as amended, be amended and  
2 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 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 fifty 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: Provided, That the members of the aforementioned  
11 bureau are appointed by the county commission or governing municipal body. If a convention and  
12 visitor's bureau is not located within such municipality, county or region, then the percentage  
13 appropriation required by this subsection shall be appropriated as follows:

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

19 percent of that portion of such tax collected and remitted by such hotel which is required to be  
20 expended pursuant to this subsection: *Provided*, That prior to appropriating any moneys to such  
21 hotel, such municipality shall require the submission of, and give approval to, a budget setting  
22 forth the proposed uses of such moneys.

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

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

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

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

42 (B) If there is more than one convention and visitor's bureau located within a county or  
43 region, the county commission may allocate the tax authorized by this article to one or more of

44 such bureaus in such portion as the county commission in its sole discretion determines.

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

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

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

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

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

- 69 convention facilities;
- 70 (3) The promotion of conventions;
- 71 (4) The construction, operation or maintenance of public parks, tourist information centers
- 72 and recreation facilities, including land acquisition;
- 73 (5) The promotion of the arts;
- 74 (6) Historic sites;
- 75 (7) Beautification projects;
- 76 (8) Passenger air service incentives and subsidies directly related to increasing passenger
- 77 air service availability to tourism destinations in this state;
- 78 (9) Medical care and emergency services, in an amount not exceeding \$200,000, in any
- 79 county where:
- 80 (A) There is an urgent necessity to preserve the delivery of acute medical care and
- 81 emergency services;
- 82 (B) There is an increase in need for acute medical care and emergency services directly
- 83 related to tourism;
- 84 (C) Recurrent flooding in the county significantly disrupts, on a periodic basis, the delivery
- 85 of acute medical care and emergency services;
- 86 (D) There is an inadequate economic base within the county from any source other than
- 87 tourism to preserve the delivery of acute medical care and emergency services;
- 88 (E) There is an inadequate economic base directly related to low population in the county,
- 89 specifically, a population of less than ten thousand persons according to the most recent
- 90 decennial census taken under the authority of the United States;
- 91 (F) There is no more than one hospital within the county; and
- 92 (G) The county commission makes specific findings, by resolution, that all of the foregoing
- 93 conditions within the county exist; or

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

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

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

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

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

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

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

117 (6) *Recreational facilities.* -- "Recreational facilities" means and includes any public park,  
118 parkway, playground, public recreation center, athletic field, sports arena, stadium, skating rink

119 or arena, golf course, tennis courts and other park and recreation facilities, whether of a like or  
120 different nature, that are owned by a county or municipality.

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

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

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

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

NOTE: The purpose of this bill is to ensure that local Convention and Visitor Center  
Bureaus have a board that is elected by a governing body.

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