

1 **ENROLLED**

2 **Senate Bill No. 314**

3 (BY SENATORS WILLIAMS AND SYPOLT)

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5 [Passed March 5, 2014; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §7-18-14 of the Code of West Virginia,
11 1931, as amended, relating to proceeds of the hotel occupancy
12 tax; allowing expenditure of the proceeds for medical care and
13 emergency services in certain counties with no more than one
14 hospital; and measuring county populations according to most
15 recent decennial census for these purposes.

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

1 municipality or county commission and, after appropriation thereof,
2 shall be expended only as provided in subsections (b) and (c) of
3 this section.

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

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

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

1 appropriating any moneys to such hotel, such municipality shall
2 require the submission of, and give approval to, a budget setting
3 forth the proposed uses of such moneys.

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

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

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

19 (A) Any hotel located within such county or region may apply
20 to such county for an appropriation to such hotel of a portion of
21 the tax authorized by this article and collected by such hotel and
22 remitted to such county, for uses directly related to the promotion
23 of tourism and travel, including advertising, salaries, travel,
24 office expenses, publications and similar expenses. The portion of

1 such tax allocable to such hotel shall not exceed seventy-five
2 percent of that portion of such tax collected and remitted by such
3 hotel which is required to be expended pursuant to this subsection:
4 *Provided*, That prior to appropriating any moneys to such hotel such
5 county shall require the submission of, and give approval to, a
6 budget setting forth the proposed uses of such moneys.

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

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

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

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

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

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

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

24 (3) The promotion of conventions;

1 (4) The construction, operation or maintenance of public
2 parks, tourist information centers and recreation facilities,
3 including land acquisition;

4 (5) The promotion of the arts;

5 (6) Historic sites;

6 (7) Beautification projects;

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

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

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

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

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

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

22 (E) There is an inadequate economic base directly related to
23 low population in the county, specifically, a population of less
24 than ten thousand persons according to the most recent decennial

1 census taken under the authority of the United States;

2 (F) There is no more than one hospital within the county; and

3 (G) The county commission makes specific findings, by
4 resolution, that all of the foregoing conditions within the county
5 exist; or

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

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

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

19 (2) *Convention center.* -- "Convention center" means a
20 convention facility owned by the state, a county, a municipality or
21 other public entity or instrumentality and shall include all
22 facilities, including armories, commercial, office, community
23 service and parking facilities and publicly owned facilities
24 constructed or used for the accommodation and entertainment of

1 tourists and visitors, constructed in conjunction with the
2 convention center and forming reasonable appurtenances thereto.

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

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

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

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

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

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

1 regional travel council.

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

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