

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Senate Bill 28

BY SENATORS BLAIR, BOSO, AND CLEMENTS

[Passed March 9, 2019; in effect 90 days from passage]

1 A BILL to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating
2 generally to the purposes for which expenditures may be made by county commissions
3 and municipalities from a certain portion of the net proceeds of hotel occupancy taxes;
4 removing the limitation on the amount that may be expended for medical care and
5 emergency services; and allowing a new purpose for those expenditures for the support
6 and operation of economic development activities, including site development, facilities,
7 and infrastructure.

Be it enacted by the Legislature of West Virginia:

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 this section.

5 (b) *Required expenditures.* — At least 50 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. If a convention and visitor’s bureau is not located within
11 such municipality, county or region, then the percentage appropriation required by this subsection
12 shall be appropriated as follows:

13 (A) Any hotel located within such municipality, county, or region may apply to such
14 municipality for an appropriation to such hotel of a portion of the tax authorized by this article and
15 collected by such hotel and remitted to such municipality for uses directly related to the promotion
16 of tourism and travel, including advertising, salaries, travel, office expenses, publications, and

17 similar expenses. The portion of such tax allocable to such hotel shall not exceed 75 percent of
18 that portion of such tax collected and remitted by such hotel which is required to be expended
19 pursuant to this subsection: *Provided*, That prior to appropriating any moneys to such hotel, such
20 municipality shall require the submission of, and give approval to, a budget setting forth the
21 proposed uses of such moneys.

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

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

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

32 (A) Any hotel located within such county or region may apply to such county for an
33 appropriation to such hotel of a portion of the tax authorized by this article and collected by such
34 hotel and remitted to such county for uses directly related to the promotion of tourism and travel,
35 including advertising, salaries, travel, office expenses, publications, and similar expenses. The
36 portion of such tax allocable to such hotel shall not exceed 75 percent of that portion of such tax
37 collected and remitted by such hotel which is required to be expended pursuant to this subsection:
38 *Provided*, That prior to appropriating any moneys to such hotel, such county shall require the
39 submission of, and give approval to, a budget setting forth the proposed uses of such moneys.

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

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

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

57 (c) *Permissible expenditures.* — After making the appropriation required by §7-18-14(b)
58 of this code, the remaining portion of the net revenues receivable during the fiscal year by such
59 county or municipality, pursuant to this article, may be expended for one or more of the purposes
60 set forth in this subsection, but for no other purpose. The purposes for which expenditures may
61 be made pursuant to this subsection are as follows:

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

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

68 (3) The promotion of conventions;

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

71 (5) The promotion of the arts;

72 (6) Historic sites;

73 (7) Beautification projects;

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

76 (9) Medical care and emergency services in any county where:

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

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

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

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

85 (E) There is an inadequate economic base directly related to low population in the county,
86 specifically, a population of less than 10,000 persons according to the most recent decennial
87 census taken under the authority of the United States;

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

89 (G) The county commission makes specific findings, by resolution, that all of the foregoing
90 conditions within the county exist;

91 (10) Support and operation of the Hatfield-McCoy Recreation Area by the participating
92 county commissions in the Hatfield-McCoy Regional Recreational Authority; or

93 (11) Support and operation of economic development activities, including site
94 development, facilities and infrastructure in an amount not to exceed \$200,000.

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

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

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

108 (3) *Fiscal year.* — “Fiscal year” means the year beginning July 1 and ending June 30 of
109 the next calendar year.

110 (4) *Net proceeds.* — “Net proceeds” means the gross amount of tax collections less the
111 amount of tax lawfully refunded.

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

116 (6) *Recreational facilities.* — “Recreational facilities” means and includes any public park,
117 parkway, playground, public recreation center, athletic field, sports arena, stadium, skating rink
118 or arena, golf course, tennis courts, and other park and recreation facilities, whether of a like or
119 different nature, that are owned by a county or municipality.

120 (7) *Region*. — “Region” means an area consisting of one or more counties that have
121 agreed by contract to fund a convention and visitor’s bureau to promote those counties.

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2019.

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Governor