WEST VIRGINIA CODE: §7-18-14

§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 this section.

(b) Required expenditures. — At least 50 percent of the net revenue receivable during the fiscal year by a county or a municipality pursuant to this article shall be expended in the following manner for the promotion of conventions and tourism:

(1) Municipalities. — If a convention and visitor's bureau is located within the municipality, county, or region, and has complied with the requirements of §7-18-13a of this code, the governing body of such municipality shall appropriate the percentage required by this subsection to that bureau. If a convention and visitor's bureau is not located within such municipality, county or region, or a bureau located within such municipality has not complied with the requirements of §7-18-13a of this code, then the percentage appropriation required by this subsection shall be appropriated as follows:

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

(B) If there is more than one convention and visitor's bureau that is in compliance with the requirements of §7-18-13a of this code located within a municipality, the city council may allocate the tax authorized by this article to one or more of such bureaus in such portion as the city council in its sole discretion determines.

(2) Counties. — If a convention and visitor's bureau is located within a county or region and has complied with the requirements of §7-18-13a of this code, the county commission shall appropriate the percentage required by this subsection to that convention and visitor's bureau. If a convention and visitor's bureau is not located within such county or region, or a bureau located within the county or region has not complied with the requirements of §7-18-13a of this code, then the percentage appropriation required by this subsection shall be appropriated as follows:

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

(B) If there is more than one convention and visitor's bureau that is in compliance with the requirements of §7-18-13a of this code located within a county or region, the county commission may allocate the tax authorized by this article to one or more of the bureaus in such portion as the county commission in its sole discretion determines.

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

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

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

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

(3) The promotion of conventions;

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

(5) The promotion of the arts;

(6) Historic sites;

(7) Beautification projects;

(8) Demolition of unsafe and unsanitary structures pursuant to §8-12-16 and §7-1-3ff of this code;

(9) Planning for reuse or improvement of property owned by municipalities and county commissions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Net proceeds. — "Net proceeds" means the gross amount of tax collections less the amount of tax lawfully refunded.

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

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

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

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

(e) Any member of a governing body who willingly and knowingly votes to or causes to be expended moneys generated by the provisions of this section for purposes other than specifically set forth in this section, or who approves of or otherwise facilitates the distribution of net proceeds to a convention and visitor's bureau failing to meet the

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requirements of §7-18-13a(b) of this code, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100.

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