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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

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## ENROLLED

*Committee Substitute for*  
**SENATE BILL NO. 93**

(By Senator Wootton)

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**PASSED** March 9, 1991

In Effect July 1, 1991 ~~Message~~

# ENROLLED

## COMMITTEE SUBSTITUTE FOR

### Senate Bill No. 93

(SENATOR WOOTON, *original sponsor*)

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[Passed March 9, 1991; to take effect July 1, 1991.]

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AN ACT to amend and reenact section fourteen, article eighteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section thirteen-a, all relating to the hotel occupancy tax; requirement of filing annual reports by convention and visitor's bureaus; proceeds of the tax; application of the tax; providing that convention and visitor's bureaus may be located in a region as well as a municipality or county; adding to permissible expenditures by municipalities and counties; providing for allocation of funds where a convention and visitor's bureau is not located in a municipality, county or region; providing for allocation of funds by a municipality where more than one convention and visitor's bureau is located in a municipality, county or region; and defining certain terms.

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

That section fourteen, article eighteen, chapter seven of the code of West Virginia, one thousand nine hundred

thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section thirteen-a, all to read as follows:

**ARTICLE 18. HOTEL OCCUPANCY TAX.**

**§7-18-13a. Annual reports by convention and visitor's bureaus.**

1 Each year, on or before the fifteenth day of August,  
2 every convention and visitor's bureau which receives  
3 any appropriation of hotel occupancy tax from one or  
4 more counties or municipalities shall file with each  
5 such county or municipality a statement, including an  
6 income statement and balance sheet, showing all  
7 amounts of hotel occupancy tax appropriated to the  
8 convention and visitor's bureau and all expenditures  
9 of hotel occupancy tax made by the convention and  
10 visitor's bureau for the prior fiscal year.

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

1 (a) *Application of proceeds.* — The net proceeds of  
2 the tax collected and remitted to the taxing authority  
3 pursuant to this article shall be deposited into the  
4 general revenue fund of such municipality or county  
5 commission and, after appropriation thereof, shall be  
6 expended only as provided in subsections (b) and (c) of  
7 this section.

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

13 (1) *Municipalities.* — If a convention and visitor's  
14 bureau is located within the municipality, county or  
15 region, the governing body of such municipality shall  
16 appropriate the percentage required by this subsection  
17 (b) to that bureau. If a convention and visitor's bureau  
18 is not located within such municipality, county or  
19 region, then the percentage appropriation required by  
20 this subsection (b) shall be appropriated as follows:

21 (i) Any hotel located within such municipality,  
22 county or region may apply to such municipality for  
23 an appropriation to such hotel of a portion of the tax  
24 authorized by this article and collected by such hotel  
25 and remitted to such municipality, for uses directly  
26 related to the promotion of tourism and travel, includ-  
27 ing advertising, salaries, travel, office expenses,  
28 publications and similar expenses. The portion of such  
29 tax allocable to such hotel shall not exceed seventy-  
30 five percent of that portion of such tax collected and  
31 remitted by such hotel which is required to be  
32 expended pursuant to subsection (b) of this section:  
33 *Provided*, That prior to appropriating any moneys to  
34 such hotel such municipality shall require the submis-  
35 sion of, and give approval to, a budget setting forth the  
36 proposed uses of such moneys.

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

43 (iii) The balance of net revenue required to be  
44 expended by subsection (b) of this section shall be  
45 appropriated to the regional travel council serving the  
46 area in which the municipality is located.

47 (2) *Counties.* — If a convention and visitor's bureau  
48 is located within a county or region, the county  
49 commission shall appropriate the percentage required  
50 by this subsection (b) to that convention and visitor's  
51 bureau. If a convention and visitor's bureau is not  
52 located within such county or region, then the per-  
53 centage appropriation required by this subsection (b)  
54 shall be appropriated as follows:

55 (i) Any hotel located within such county or region  
56 may apply to such county for an appropriation to such  
57 hotel of a portion of the tax authorized by this article  
58 and collected by such hotel and remitted to such  
59 county, for uses directly related to the promotion of  
60 tourism and travel, including advertising, salaries,

61 travel, office expenses, publications and similar  
62 expenses. The portion of such tax allocable to such  
63 hotel shall not exceed seventy-five percent of that  
64 portion of such tax collected and remitted by such  
65 hotel which is required to be expended pursuant to  
66 subsection (b) of this section: *Provided*, That prior to  
67 appropriating any moneys to such hotel such county  
68 shall require the submission of, and give approval to,  
69 a budget setting forth the proposed uses of such  
70 moneys.

71 (ii) If there is more than one convention and  
72 visitor's bureau located within a county or region, the  
73 county commission may allocate the tax authorized by  
74 this article to one or more of such bureaus in such  
75 portion as the county commission in its sole discretion  
76 determines.

77 (iii) The balance of net revenue required to be  
78 expended by subsection (b) of this section shall be  
79 appropriated to the regional travel council serving the  
80 area in which the county is located.

81 (3) *Legislative finding.* — The Legislature hereby  
82 finds that the support of convention and visitor's  
83 bureaus, hotels and regional travel councils is a public  
84 purpose for which funds may be expended. Local  
85 convention and visitor's bureaus, hotels and regional  
86 travel councils receiving funds under this subsection  
87 (b) may expend such funds for the payment of admin-  
88 istrative expenses, and for the direct or indirect  
89 promotion of conventions and tourism, and for any  
90 other uses and purposes authorized by subdivisions  
91 one and two of this subsection (b).

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

101 (1) The planning, construction, reconstruction,  
102 establishment, acquisition, improvement, renovation,  
103 extension, enlargement, equipment, maintenance,  
104 repair and operation of publicly owned convention  
105 facilities including, but not limited to, arenas, audito-  
106 riums, civic centers and convention centers;

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

110 (3) The promotion of conventions;

111 (4) The construction, operation or maintenance of  
112 public parks, tourist information centers and recre-  
113 ation facilities (including land acquisition);

114 (5) The promotion of the arts;

115 (6) Historic sites; or

116 (7) Beautification projects.

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

119 (1) *Convention and visitor's bureau and visitor's and*  
120 *convention bureau.* — "Convention and visitor's  
121 bureau" and "visitor's and convention bureau" are  
122 interchangeable, and either shall mean a nonstock,  
123 nonprofit corporation with a full-time staff working  
124 exclusively to promote tourism and to attract conven-  
125 tions, conferences and visitors to the municipality,  
126 county or region in which such convention and  
127 visitor's bureau or visitor's and convention bureau is  
128 located or engaged in business within.

129 (2) *Convention center.* — "Convention center"  
130 means a convention facility owned by the state, a  
131 county, a municipality or other public entity or  
132 instrumentality and shall include all facilities, includ-  
133 ing armories, commercial, office, community service  
134 and parking facilities, and publicly owned facilities  
135 constructed or used for the accommodation and enter-  
136 tainment of tourist and visitors, constructed in con-  
137 junction with the convention center and forming  
138 reasonable appurtenances thereto.

139 (3) *Fiscal year*. — “Fiscal year” means the year  
140 beginning the first day of July and ending the thir-  
141 tieth day of June of the next calendar year.

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

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

151 (6) *Recreational facilities*. — “Recreational facilities”  
152 means and includes any public park, parkway, play-  
153 ground, public recreation center, athletic field, sports  
154 arena, stadium, skating rink or arena, golf course,  
155 tennis courts and other park and recreation facilities,  
156 whether of a like or different nature, that are owned  
157 by a county or municipality.

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

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

168 (9) *Historic site*. — “Historic site” means any site  
169 listed on the United States national register of historic  
170 places, or listed by a local historical landmarks com-  
171 mission, established under state law, when such sites  
172 are owned by a city, a county or a nonprofit historical  
173 association, and are open from time to time to accom-  
174 modate visitors.

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

*Homer Luck*  
.....  
Chairman Senate Committee

*Elliott C. Middle*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1991.

*Darrell E. Holmes*  
.....  
Clerk of the Senate

*Donald L. Hopp*  
.....  
Clerk of the House of Delegates

*Walt Rindette*  
.....  
President of the Senate

*Bob C. Chiles*  
.....  
Speaker House of Delegates

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The within ~~is approved~~ this the ~~1st~~ .....  
day of ~~April~~ ....., 1991.

*Gaston Caperton*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/18/91

Time 3:00 pm