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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992

ENROLLED

SENATE BILL NO. 385

(By Senator Selmer)

PASSED March 2, 1992

In Effect from Passage

ENROLLED
Senate Bill No. 385
(BY SENATOR HELMICK)

[Passed March 7, 1992; in effect from passage.]

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, relating to the application of the proceeds from the hotel occupancy tax; and permitting the expenditure of up to one hundred thousand dollars for medical care.

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 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
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 to that bureau. If a convention and visitor's bureau is
18 not located within such municipality, county or region,
19 then the percentage appropriation required by this
20 subsection 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 this subsection: *Provided, That*
33 prior to appropriating any moneys to such hotel such
34 municipality shall require the submission of, and give
35 approval to, a budget setting forth the proposed uses of
36 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 this subsection shall be appropriated to
45 the regional travel council serving the area in which
46 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 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 shall
54 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 this subsection: *Provided*, That prior to appropriating
67 any moneys to such hotel such county shall require
68 the submission of, and give approval to, a budget
69 setting forth the proposed uses of such moneys.

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

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

80 (3) *Legislative finding.* — The Legislature hereby
81 finds that the support of convention and visitor's
82 bureaus, hotels and regional travel councils is a public
83 purpose for which funds may be expended. Local
84 convention and visitor's bureaus, hotels and regional
85 travel councils receiving funds under this subsection
86 may expend such funds for the payment of adminis-
87 trative expenses, and for the direct or indirect promo-
88 tion of conventions and tourism, and for any other

89 uses and purposes authorized by subdivisions (1) and
90 (2) of this subsection.

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

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

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

109 (3) The promotion of conventions;

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

113 (5) The promotion of the arts;

114 (6) Historic sites;

115 (7) Beautification projects; or

116 (8) Medical care, in an amount not exceeding one
117 hundred thousand dollars, in any county where: (i)
118 There is an urgent necessity to preserve the delivery
119 of acute medical care services; (ii) there is an increase
120 in need for acute medical care services directly related
121 to tourism; (iii) recurrent flooding in the county
122 significantly disrupts, on a periodic basis, the delivery
123 of acute medical care services; (iv) there is an inade-
124 quate economic base within the county from any
125 source other than tourism to preserve the delivery of
126 acute medical care services; (v) there is an inadequate

127 economic base directly related to low population in the
128 county, specifically, a population of less than ten
129 thousand persons according to the census of the year
130 one thousand nine hundred ninety; and (vi) there is
131 one and only one hospital within the county; and the
132 county commission makes specific findings, by resolu-
133 tion, that all of the foregoing conditions within the
134 county exist.

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

137 (1) *Convention and visitor's bureau and visitor's and*
138 *convention bureau.* — “Convention and visitor's
139 bureau” and “visitor's and convention bureau” are
140 interchangeable and either shall mean a nonstock,
141 nonprofit corporation with a full-time staff working
142 exclusively to promote tourism and to attract conven-
143 tions, conferences and visitors to the municipality,
144 county or region in which such convention and
145 visitor's bureau or visitor's and convention bureau is
146 located or engaged in business within.

147 (2) *Convention center.* — “Convention center”
148 means a convention facility owned by the state, a
149 county, a municipality or other public entity or
150 instrumentality and shall include all facilities, includ-
151 ing armories, commercial, office, community service
152 and parking facilities and publicly owned facilities
153 constructed or used for the accommodation and enter-
154 tainment of tourist and visitors, constructed in con-
155 junction with the convention center and forming
156 reasonable appurtenances thereto.

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

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

163 (5) *Promotion of the arts.* — “Promotion of the arts”
164 means activity to promote public appreciation and
165 interest in one or more of the arts. It includes the

166 promotion of music for all types, the dramatic arts,
167 dancing, painting and the creative arts through shows,
168 exhibits, festivals, concerts, musicals and plays.

169 (6) *Recreational facilities*. — “Recreational facilities”
170 means and includes any public park, parkway, play-
171 ground, public recreation center, athletic field, sports
172 arena, stadium, skating rink or arena, golf course,
173 tennis courts and other park and recreation facilities,
174 whether of a like or different nature, that are owned
175 by a county or municipality.

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

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

186 (9) *Historic site*. — “Historic site” means any site
187 listed on the United States national register of historic
188 places, or listed by a local historical landmarks com-
189 mission, established under state law, when such sites
190 are owned by a city, a county or a nonprofit historical
191 association and are open from time to time to accom-
192 modate visitors.

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

Homer Leck
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Samuel E. Helms
.....
Clerk of the Senate

Donald L. Vopp
.....
Clerk of the House of Delegates

Paul Bantula
.....
President of the Senate

Bob C. ...
.....
Speaker House of Delegates

The within *is approved* this the *27th*
day of *March*, 1992.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/92

Time 3:30pm