

SB 178 S

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WEST VIRGINIA LEGISLATURE
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REGULAR SESSION, 2007

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 178

(SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed March 10, 2007; in effect ninety days from passage.]

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(SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
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[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §7-18-2 and §7-18-14 of the Code of West Virginia, 1931, as amended, all relating to hotel occupancy tax; allowing counties to increase the hotel occupancy tax to not more than six percent; requiring public hearing prior to enacting increase; and including incentives for passenger air service within the state, emergency services in certain areas and the support of the Hatfield-McCoy Recreational Authority, its purposes

and operations by participating counties as permissible expenditures of the proceeds from the hotel occupancy tax.

Be it enacted by the Legislature of West Virginia:

That §7-18-2 and §7-18-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-2. Rate of tax.

1 (a) The rate of tax imposed shall be three percent of
2 the consideration paid for the use or occupancy of a
3 hotel room.

4 (b) On and after the first day of July, two thousand
5 five, a municipality may by ordinance increase the rate
6 of tax imposed in this section to not more than six
7 percent of the consideration paid for the use or
8 occupancy of a hotel room: *Provided*, That
9 notwithstanding any other provision of this article to
10 the contrary, a municipality may not impose any tax
11 authorized by this article on a hotel located within its
12 corporate limits upon which a county was imposing a
13 tax authorized by this article on or after the first day of
14 January, two thousand five, and continuously thereafter
15 to and including the effective date of annexation of the
16 territory in which the hotel is located pursuant to article
17 six, chapter eight of this code and, as to that hotel, the
18 county is authorized to continue to impose and collect
19 the tax authorized by this article at the rate of rate of
20 three percent of the consideration paid for the use or
21 occupancy of a hotel room: *Provided, however*, That
22 after the thirtieth day of June, two thousand seven, the

23 county is authorized to continue to impose and collect
24 the tax authorized by this article at the rate of not more
25 than six percent of the consideration paid for the use or
26 occupancy of a hotel room: *Provided, further*, That prior
27 to any increase in the rate of tax, the county shall
28 comply with the requirements of subsection (c) of this
29 section: *And provided further*, That in the event the
30 county commission duly enters an order of record that
31 ceases to impose the tax authorized by this article on
32 that hotel, then, as to that hotel, the municipality in
33 which the hotel is located by reason of the annexation
34 may impose the tax authorized by this article. Prior to
35 the second reading of an ordinance proposed by a
36 municipality to increase the rate of tax, the
37 municipality shall conduct a properly noticed public
38 hearing on the issue.

39 (c) On and after the first day of July, two thousand
40 seven, a county may by ordinance increase the rate of
41 tax imposed in this section to not more than six percent
42 of the consideration paid for the use or occupancy of a
43 hotel room. At least ten days prior to the final vote of a
44 county commission on an ordinance proposed by a
45 county commission to increase the rate of tax, the
46 county commission shall conduct a properly noticed
47 public hearing on the issue.

48 (d) The consideration paid for the use or occupancy of
49 a hotel room shall not include the amount of tax
50 imposed on the transaction under article fifteen,
51 chapter eleven of this code or charges for meals, valet
52 service, room service, telephone service or other charges
53 or consideration not paid for use or occupancy of a hotel
54 room.

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

1 (a) *Application of proceeds.* — The net proceeds of the
2 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 of
9 the net revenue receivable during the fiscal year by a
10 county or a municipality pursuant to this article shall
11 be expended in the following manner for the promotion
12 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 (A) Any hotel located within such municipality,
22 county or region may apply to such municipality for an
23 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,
27 including advertising, salaries, travel, office expenses,
28 publications and similar expenses. The portion of such
29 tax allocable to such hotel shall not exceed seventy-five
30 percent of that portion of such tax collected and

31 remitted by such hotel which is required to be expended
32 pursuant to this subsection: *Provided*, That prior to
33 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 (B) If there is more than one convention and visitor's
38 bureau located within a municipality, county or region,
39 the city council may allocate the tax authorized by this
40 article to one or more of such bureaus in such portion as
41 the city council in its sole discretion determines.

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

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

54 (A) Any hotel located within such county or region
55 may apply to such county for an appropriation to such
56 hotel of a portion of the tax authorized by this article
57 and collected by such hotel and remitted to such county,
58 for uses directly related to the promotion of tourism and
59 travel, including advertising, salaries, travel, office
60 expenses, publications and similar expenses. The
61 portion of such tax allocable to such hotel shall not

62 exceed seventy-five percent of that portion of such tax
63 collected and remitted by such hotel which is required
64 to be expended pursuant to this subsection: *Provided*,
65 That prior to appropriating any moneys to such hotel
66 such county shall require the submission of, and give
67 approval to, a budget setting forth the proposed uses of
68 such moneys.

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

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

78 (3) *Legislative finding.* — The Legislature hereby finds
79 and declares that in order to attract new business and
80 industry to this state and to retain existing business and
81 industry all to provide the citizens of the state with
82 economic security, and to advance the business
83 prosperity and economic welfare of this state, it is
84 necessary to enhance recreational and tourism
85 opportunities. Therefore, in order to promote recreation
86 and tourism, the Legislature finds that public financial
87 support should be provided for constructing, equipping,
88 improving and maintaining projects, agencies and
89 facilities which promote recreation and tourism. The
90 Legislature also finds that the support of convention
91 and visitor's bureaus, hotels and regional travel councils
92 is a public purpose for which funds may be expended.
93 Local convention and visitor's bureaus, hotels and

94 regional travel councils receiving funds under this
95 subsection may expend such funds for the payment of
96 administrative expenses, and for the direct or indirect
97 promotion of conventions and tourism, and for any
98 other uses and purposes authorized by subdivisions (1)
99 and (2) of this subsection.

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

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

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

117 (3) The promotion of conventions;

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

121 (5) The promotion of the arts;

122 (6) Historic sites;

123 (7) Beautification projects;

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

127 (9) Medical care and emergency services, in an amount
128 not exceeding two hundred thousand dollars, in any
129 county where:

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

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

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

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

141 (E) There is an inadequate economic base directly
142 related to low population in the county, specifically, a
143 population of less than ten thousand persons according
144 to the census of the year one thousand nine hundred
145 ninety;

146 (F) There is one and only one hospital within the
147 county; and

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

151 (10) Support and operation of the Hatfield-McCoy
152 Recreation Area by the participating county
153 commissions in the Hatfield-McCoy Regional
154 Recreational Authority.

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

157 (1) *Convention and visitor's bureau and visitor's and*
158 *convention bureau.* — “Convention and visitor's
159 bureau” and “visitor's and convention bureau” are
160 interchangeable and either shall mean a nonstock,
161 nonprofit corporation with a full-time staff working
162 exclusively to promote tourism and to attract
163 conventions, conferences and visitors to the
164 municipality, county or region in which such convention
165 and visitor's bureau or visitor's and convention bureau
166 is located or engaged in business within.

167 (2) *Convention center.* — “Convention center” means
168 a convention facility owned by the state, a county, a
169 municipality or other public entity or instrumentality
170 and shall include all facilities, including armories,
171 commercial, office, community service and parking
172 facilities and publicly owned facilities constructed or
173 used for the accommodation and entertainment of
174 tourists and visitors, constructed in conjunction with
175 the convention center and forming reasonable
176 appurtenances thereto.

177 (3) *Fiscal year.* — “Fiscal year” means the year

178 beginning the first day of July and ending the thirtieth
179 day of June of the next calendar year.

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

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

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

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

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

206 (9) *Historic site*. — “Historic site” means any site

207 listed on the United States national register of historic
208 places, or listed by a local historical landmarks
209 commission, established under state law, when such
210 sites are owned by a city, a county or a nonprofit
211 historical association and are open, from time to time,
212 to accommodate visitors.

213 (e) Any member of a governing body who willingly
214 and knowingly votes to or causes to be expended
215 moneys generated by the provisions of this section for
216 purposes other than specifically set forth in this section
217 is guilty of a misdemeanor and, upon conviction thereof,
218 shall be fined not more than one hundred dollars.

Enr. Com. Sub. for S. B. No. 178] 12

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


.....
Chairman Senate Committee



.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this
the 4th Day of April, 2007.


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 02 2007

Time 3:25 pm