WEST VIRGINIA CODE: §7-22-9

§7-22-9. Authorization to levy special district excise tax.

(a) General. — County commissions have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically extended, and intends by this article, to exercise certain relevant powers expressed in section six-a, article X of the Constitution of this state as follows: (1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission, or agency thereof, or any other source, to any county, municipality, or other political subdivision of the state, under such circumstances and subject to such terms, conditions, and restrictions as the Legislature may prescribe by law; and (2) the Legislature may impose a state tax or taxes, or dedicate a state tax or taxes, or any portion thereof for the benefit of, and use by, counties, municipalities, or other political subdivisions of the state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities, or other political subdivisions of the state under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe.

Because a special district excise tax would have the effect of diverting, for a specified period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars currently paid into the General Revenue Fund of the state, the Legislature finds that in order to substantially ensure that such special district excise taxes will not adversely impact the current level of the General Revenue Fund of the state, it is necessary for the Legislature to separately consider and act upon each and every economic development district which is proposed, including the unique characteristics of location, current condition and activity of and within the area included in such proposed economic opportunity development district and that for such reasons a statute more general in ultimate application is not feasible for accomplishment of the intention and purpose of the Legislature in enacting this article. Therefore, no economic opportunity development district excise tax may be levied by a county commission until after the Legislature expressly authorizes the county commission to levy a special district excise tax on sales of tangible personal property and services made within district boundaries approved by the Legislature.

(b) Authorizations. — The Legislature authorizes the following county commissions to levy special district excise taxes on sales of tangible personal property and services made from business locations in the following economic opportunity development districts:

(1) The Ohio County Commission may levy a special district excise tax for the benefit of the Fort Henry Economic Opportunity Development District which comprises 500 contiguous acres of land. Notwithstanding the time limitations provisions of subdivision (2), subsection (a), section fifteen of this article, the Fort Henry Economic Opportunity Development District shall not be abolished under §7-22-15(a)(2) of this code until the year 2054, unless sooner abolished and terminated in accordance with the §7-22-15(a)(1) of this code or any other

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provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, 2054, the provisions of §7-22-15(a)(2) of this code shall apply to abolish the Fort Henry Economic Opportunity Development District, if the district has not been abolished prior to that date.

(2) The Harrison County Commission may levy a special district excise tax for the benefit of the Charles Pointe Economic Opportunity Development District which comprises 437 acres of land.

(3) The Monongalia County Commission may levy a special district excise tax for the benefit of the University Town Centre Economic Opportunity Development District which comprises approximately 1,450 contiguous acres of land. Notwithstanding the time limitations provisions of §7-22-15(a)(2) of this code, the University Town Centre Economic Opportunity Development District shall not be abolished pursuant to §7-22-15(a)(2) of this code until the year 2053, unless sooner abolished and terminated in accordance with the provisions of subdivision §7-22-15(a)(1) of this code or any other provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, 2053, the provisions of §7-22-15(a)(2) of this code shall apply to abolish the University Town Centre Economic Opportunity Development District, if the district has not been abolished prior to that date.

(4) The Jefferson County Commission may levy a special district excise tax for the benefit of the Hill Top House Hotel Economic Opportunity District which comprises approximately 11 contiguous acres of land: *Provided*, That notwithstanding any other provision of this article to the contrary:

(A) The Jefferson County Commission may create the district and levy the special district excise tax by order entered of record as provided in §7-22-10 of this code without the approval of the executive director of the development office; and

(B) The Jefferson County Commission may determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount, and the estimated net annual district tax revenue amount in lieu of that determination by the development office as provided in §7-22-7 of this code. For purposes of determining the base tax revenue amount, the Jefferson County Commission shall promptly request a certification from the Tax Commissioner of the base tax revenue amount and the Tax Commissioner shall provide the certification to the Jefferson County Commission within 30 days.

(5) The Mercer County Commission may levy a special district excise tax for the benefit of The Ridges Economic Opportunity Development District which comprises approximately 420 contiguous acres of land, subject to holding a public hearing as provided in §7-22-14(c) of this code, submitting the application required by §7-22-14(d) of this code, and obtaining the approval of the West Virginia Development Office as provided in §7-22-14(e) of this code.

(6) The Raleigh County Commission may levy a special district excise tax for the benefit of the Raleigh County Economic Opportunity Development District which comprises

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approximately 1,600 contiguous acres of land, subject to holding a public hearing as provided in §7-22-6 of this code, submitting the application required by §7-22-6 and §7-22-7 of this code, and obtaining the approval of the West Virginia Development Office as provided in §7-22-7 of this code.

(7) The Mason County Commission may levy a special district excise tax for the benefit of the Town of Henderson Economic Opportunity District which comprises approximately 150 contiguous acres of land, subject to holding a public hearing as provided in §7-22-6 of this code, submitting the application required by §7-22-6 and §7-22-7 of this code, and obtaining the approval of the West Virginia Development Office as provided in §7-22-7 of this code.

(8) The Berkeley County Commission may levy a special district excise tax for the benefit of the Berkeley County Economic Opportunity Development District which comprises approximately 275 contiguous acres of land, subject to holding a public hearing as provided in §7-22-6 of this code, submitting the application required by §7-22-6 and §7-22-7 of this code, and obtaining the approval of the West Virginia Development Office as provided in §7-22-7 of this code.

(c) Annual reports. — Notwithstanding any other provision of this code to the contrary, any jurisdiction that imposes a special district excise tax shall compile and issue an annual report for each fiscal year of operation, such year beginning on July 1 and ending on June 30. The annual report shall be issued on or before the next succeeding December 31 after the close of each fiscal year.

(1) The annual report shall be filed with the Governor, the Secretary of Commerce, the Secretary of Revenue, and the Joint Committee on Government and Finance.

(2) The annual report shall set forth in detail the following information:

(A) The amount of special district excise tax collected during the fiscal year;

(B) The total assessed value of all property located in the district at the inception of the district;

(C) The total assessed value of all property for the most recent property tax year in the district;

(D) A list of all businesses operating in the special district during the report year;

(E) The amount of indebtedness attributed to the sales tax increment financing project;

(F) The date of maturity for debts and annual amortization payment schedules for debt financed with the sales tax increment financing project;

(G) The projected date for retirement of all debt financed with the sales tax increment financing project; and

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(H) The projected date of dissolution of the special district.

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