
WEST VIRGINIA CODE CHAPTER 7
ARTICLE 27

WV Legislature

§7-27-1. Short title.

This article shall be known as the "Letting Our Counties Act Locally Act."

WV Legislature

§7-27-2. Purpose and findings.

(a) The Legislature hereby makes the following findings:

(1) Roads maintained by the Department of Transportation include:

(A) Thirty-eight thousand six hundred eighty-four miles of public roads;

(B) Thirty-five thousand eight hundred ninety-three miles of state owned highways;

(C) Four hundred sixty-eight miles of state owned Interstate highway;

(D) Eighty-eight miles of West Virginia Turnpike;

(E) One thousand nine hundred seventy-two miles included in the National Highway System, twenty-three miles of which are connectors to other modes of transportation such as airports, trains and buses;

(F) Six thousand nine hundred fourteen bridges, thirty-three percent of which are more than one hundred feet in length;

(G) One all-American road;

(H) Five national byways;

(I) Fourteen state byways; and

(J) Eight backways.

(2) A 2012 road needs assessment prepared for Governor Tomblin's Blue Ribbon Commission by Wilbur Smith Associates reveals that:

(A) During the next seventeen years:

(i) Fifty-one thousand one hundred eight lane miles of road will need to be improved;

(ii) Ten thousand four hundred one lane miles will need modernization improvements including lane widening, road reconstruction, and shoulder improvements; and

(iii) Three thousand four hundred two lane miles will need to be constructed;

(B) Within the next twenty-five years:

(i) Eight hundred fourteen bridges will need to be replaced;

(ii) Five hundred seventy-seven bridges will need to be widened;

(iii) Eight bridges will need to be straightened; and

(iv) One bridge will need to be raised;

(C) The funding gap for road construction and maintenance over the next twenty-five years is estimated to be \$36.7 billion, excluding new road construction; and

(D) The funding gap for bridges construction and maintenance was \$2.4 billion, excluding new bridge construction.

(3) Modern, safe roads are critical to economic development.

(4) Modern, safe roads and bridges are essential to the growth of our communities and to the public health, welfare and safety.

(5) Counties need greater ability to influence when and where new roads are constructed and existing roads and bridges are modernized or upgraded, including the ability to recommend to the Division of Highways road and bridge construction projects and to assist in the financing of those projects.

(b) The purpose of this article is to provide county commissions with a source of funding to finance the accelerated construction of new roads and bridges in their respective counties; and the accelerated upgrading or modernizing of existing state roads and bridges in their counties, by allowing them to impose transportation sales and use taxes as provided in this article.

§7-27-3. Definitions.

For purposes of this article:

(1) "Business" means any activity engaged in by any person, or caused to be engaged in by any person, with the object of direct or indirect economic gain, benefit or advantage, and includes any purposeful revenue generating activity in a county of this state that imposes transportation sales and use taxes pursuant to this article.

(2) "Calendar quarter" means the three-month time period beginning on January 1, April 1, July 1 and October 1 of each year.

(3) "Commissioner of Highways" means the chief executive officer of the Division of Highways of the Department of Transportation provided in section one, article two-a, chapter seventeen of this code, or his or her designee. The term "designee" in the phrase "or his or her designee", when used in reference to the Commissioner of Highways, means any officer or employee of the Division of Highways duly authorized by the commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article or rules promulgated for this article.

(4) "Consumer" means any person purchasing tangible personal property, custom software or a taxable service from a retailer, as that term is defined in subdivision (14) of this section or from a seller, as that term is defined in section two, article fifteen-b, chapter eleven of this code.

(5) "County transportation sales tax" means the sales tax imposed by a county commission pursuant to this article.

(6) "County transportation sales and use taxes" means the transportation sales tax and the transportation use tax imposed by a county commission pursuant to this article.

(7) "County transportation use tax" means the use tax imposed by a county commission pursuant to this article.

(8) "Custom software" means software prepared for a particular customer to meet the specific needs or circumstances of the customer.

(9) "Executive Director of the West Virginia Economic Development Authority" means the chief executive officer of the West Virginia Economic Development Authority created in section five, article fifteen, chapter thirty-one, of this code.

(10) "Expansion projects" are road and bridge construction projects that add to the existing road system and include, but are not limited to, new roads, new bridges, new lanes and new interchanges.

(11) "Highway authority" or "highway association" means any entity created by the

Legislature for the advancement and improvement of the state road and highway system, including, but not limited to, the New River Parkway Authority, Midland Trail Scenic Highway Association, Shawnee Parkway Authority, Corridor G Regional Development Authority, Coalfields Expressway Authority, Robert C. Byrd Corridor H Highway Authority, West Virginia 2 and I-68 Authority, Little Kanawha River Parkway Authority, King Coal Highway Authority, Coal Heritage Highway Authority, Blue and Gray Intermodal Highway Authority and the West Virginia Eastern Panhandle Transportation Authority or, if an authority is abolished, any entity succeeding to the principal functions of the highway authority or to whom the powers given to the highway authority are given by law.

(12) "Modernization projects" are road and bridge construction projects that improve safety by improving the existing roadway including, but not limited to, shoulder improvements, reducing the grade of hills, straightening curves, and improving interchanges.

(13) "Person" includes any individual, firm, partnership, joint venture, joint stock company, association, public or private corporation, limited liability company, limited liability partnership, cooperative, estate, trust, business trust, receiver, executor, administrator, any other fiduciary, any representative appointed by order of any court or otherwise acting on behalf of others, or any other group or combination acting as a unit and the plural as well as the singular number.

(14) "Preservation projects" are road and bridge construction projects that take care of infrastructure already in place and include, but are not limited to, pavement rehabilitation and reconstruction, and bridge repairs and replacements.

(15) "Project costs" means capital costs, costs of financing, planning, designing, constructing, expanding, improving, or maintaining a road; the cost of land, equipment, machinery, installation of utilities and other similar expenditures; and all other charges or expenses necessary, appurtenant or incidental to the foregoing.

(16) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means, for a consideration.

(17) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(18) "Retailer" means and includes every person engaging in the business of selling, leasing or renting tangible personal property or custom software or furnishing a taxable service for use within the meaning of this article, or in the business of selling, at auction, tangible personal property or custom software owned by the person or others for use in the county imposing taxes pursuant to this article. However, when, in the opinion of the Tax Commissioner, it is necessary for the efficient administration of county use taxes imposed pursuant to this article to regard any salespersons, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employees or persons under whom they operate or from whom they obtain the tangible personal property sold by

them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors, employers or persons, the Tax Commissioner may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of county use taxes.

(19) "Retailer engaging in business in the county" or any like term, unless otherwise limited by federal statute, means and includes, but is not limited to:

(A) Any retailer having or maintaining, occupying or using, within the county, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent, however called, operating within the county under the authority of the retailer or its subsidiary, irrespective of whether the place of business or agent is located in the county permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to article fifteen, chapter thirty-one-d of this code or article fourteen, chapter thirty-one-e of this code; or

(B) Any retailer that is related to, or part of a unitary business with, a person, entity or business that, without regard to whether the retailer is admitted to do business in this state pursuant to article fifteen, chapter thirty-one-d of this code or article fourteen, chapter thirty-one-e of this code, is a subsidiary of the retailer, or is related to, or unitary with, the retailer as a related entity, a related member or part of a unitary business, all as defined in section three-a, article twenty four, chapter eleven of this code, that:

(i) Pursuant to an agreement with or in cooperation with the related retailer, maintains an office, distribution house, sales house, warehouse or other place of business in the county;

(ii) Performs services in the county in connection with tangible personal property or services sold by the retailer, or any related entity, related member or part of the unitary business;

(iii) By any agent, or representative (by whatever name called), or employee, performs services in the county in connection with tangible personal property or services sold by the retailer, or any related entity, related member or part of the unitary business; or

(iv) Directly or indirectly, through or by an agent, representative or employee located in, or present in, the county, solicits business in the county for or on behalf of the retailer, or any related entity, related member or part of the unitary business.

(C) For purposes of paragraph (B) of this subdivision, the term "service" means and includes, but is not limited to, customer support services, help desk services, call center services, repair services, engineering services, installation service, assembly service, delivery service by means other than common carrier or the United States Postal Service, technical assistance services, the service of investigating, handling or otherwise assisting in resolving customer issues or complaints while in the county, the service of operating a mail order business or telephone, Internet or other remote order business from facilities located within the county, the service of operating a website or internet-based business from a location

within the county imposing the use tax or any other service.

(20) "Road" means a public highway, road, bridge, tunnel, or overpass to be used for the transportation of persons or goods including bicycle and pedestrian facilities.

(21) "Road project" means any project to acquire, design, construct, expand, renovate, extend, enlarge, increase, equip, improve, maintain or operate a road in this state, including, but not limited to, providing bicycle and pedestrian facilities in conjunction with a road in this state, that is under the jurisdiction of the Division of Highways.

(22) "Road construction project" means and includes any road construction project included in a road construction project plan that is adopted by a county commission pursuant to this article and approved by the Commissioner of Highways as provided in this article.

(23) "Sale" means any transaction resulting in the purchase or lease of tangible personal property, custom software or a taxable service from a retailer.

(24) "Tax Commissioner" means the State Tax Commissioner provided in article one, chapter eleven of this code or his or her delegate. The term "delegate" in the phrase "or his or her delegate", when used in reference to the Tax Commissioner, means any officer or employee of the state Tax Division duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article or rules promulgated for this article.

(25) "Taxpayer" means a taxpayer, as that term is defined in section two, article fifteen-b, chapter eleven of this code, who is subject to a county transportation sales tax or county transportation use tax imposed by a county commission pursuant to this article, whether acting for himself or herself or as a fiduciary, and who is liable for payment of any additions to tax, penalties or interest imposed by article ten, chapter eleven of this code for failure to timely pay or remit the county transportation sales taxes or county transportation use taxes imposed by a county commission pursuant to this article.

(26) "Vendor" means any person furnishing services subject to a county's sales and use taxes imposed pursuant to this article, or making sales of tangible personal property or custom software subject to a county's sales and use taxes imposed pursuant to this article. The terms "vendor," "retailer" and "seller" are used interchangeably in this article.

(27) "West Virginia Economic Development Authority" or "Authority" means the governmental entity created in section five, article fifteen, chapter thirty-one, of this code.

As used in this article, the terms "computer software," "lease," "purchase price," "retail sale," "sale at retail," "sales price," "seller," "service," "selected service," and "tangible personal property" have the same meanings as those terms are given in section two, article fifteen-b, chapter eleven of this code.

PART II. COUNTY ROAD AND BRIDGE CONSTRUCTION PROJECTS.

§7-27-4. Creation of county road construction project plan.

A county commission may, upon its own initiative or upon application of: (1) a highway authority; (2) a local, county or regional economic development authority; or (3) any resident of the county, propose creation of a road construction project plan for the county, or propose an amendment to an existing road construction project plan of the county.

§7-27-5. Public hearing and notice requirements.

(a) General. -The county commission shall hold one or more public hearings at which interested persons may express their views on the county's proposed road construction project plan.

(b) Notice of public hearing. - Notice of the public hearing or hearings shall be published as a Class II legal advertisement in accordance with the requirements of article three, chapter fifty-nine of this code. The published notice shall include, at a minimum:

(1) The date, time, place and purpose of the public hearing or hearings;

(2) A description of each road construction project included in the proposed road construction project plan in sufficient detail to give the public notice of the contents of the proposed road construction project plan to cause residents of the county and other interested persons to examine the proposed road construction project plan and attend the public hearing or submit written comments thereon;

(3) The places in the county where the proposed road construction project plan may be viewed: Provided, That the county commission shall include the proposed road construction project plan on its webpage; and

(4) Information regarding how the county commission anticipates funding the road construction projects contained in the road construction project plan, including, but not limited to, whether one or more projects in the proposed road construction project plan, will be financed, in whole or in part, by the imposition of a county transportation sales and use tax and the proposed rate of the taxes the county finds necessary to finance, in whole or in part, the proposed road construction project plan, and any proposed road construction special revenue bonds to be issued to finance the road construction project plan.

(c) Notice by mail. - On or before the first day of publication of the public notice required in subsection (b) of this section, the county commission shall send a copy of the notice by first-class mail to the Commissioner of Highways, the Executive Director of the West Virginia Economic Development Authority and the mayor of each municipality located within the county. When the county commission reasonably anticipates that a proposed road construction project may affect one or more bordering counties, it shall send a copy of the notice by first-class mail to the president of the county commission of the bordering county or counties.

(d) Public Hearing. - All persons who appear at any public hearing held pursuant to this section shall be afforded a reasonable opportunity to express their views on all or any part of the proposed road construction project plan. Each public hearing shall be recorded by a court reporter, or be digitally recorded.

(e) Written comments. - Written comments may be submitted to the county commission

before, during, or within five business days after the last public hearing. Timely mailing of the written comments to the county commission, at the mailing address of the courthouse, postage prepaid, shall be deemed timely submission of the written comments.

WV Legislature

§7-27-6. Finalization of road construction project plan.

(a) Resolution of county commission. - After the public hearing or hearings are concluded and the public comment period is closed, and after receipt of any required resolution of the governing body of a municipality, as required in subsection (b) of this section, the county commission may, by resolution, finalize its road construction project plan: Provided, That if there is more than one road construction project in the road construction project plan, the road construction project plan shall include a prioritization of each road construction project.

(b) Consent of municipality in which project located. - No county commission may adopt a resolution approving a road construction project plan, any portion of which is located within the boundaries of a Class I, II, III or IV municipality, without the adoption of a resolution by the governing body of that municipality consenting to the road construction project.

§7-27-7. Submission of road construction project plan to Commissioner of Highways; contents of application.

(a) After the county commission has finalized its road construction project plan, the commission may submit the plan to the Commissioner of Highways.

(b) Each application submitted pursuant to this article shall include:

(1) A true copy of the county's proposed road construction project plan, or proposed amendment to a project plan previously approved by the Commissioner of Highways, that is adopted, after the public hearing, by resolution of the county commission;

(2) A true copy of the resolution adopted by the county commission approving submission of the adopted road construction project plan, or the proposed amendment to a project plan previously approved by the Commissioner of Highways, to the Commissioner of Highways for approval;

(3) A true copy of the notice of public hearing or hearings on the county's proposed road construction plan, or proposed amendment to a previously adopted project plan, and a true copy of the proposed plan, or the proposed amendment to an existing project plan that was the subject of the public hearing;

(4) An affidavit signed by the president of the county commission confirming publication of the notice of public hearing;

(5) A true copy of the transcript of the public hearing or hearings, or a true copy of the digital recording of the public hearing or hearings,

(6) True copies of any written comments received by the commission on the proposed road construction project plan, or the proposed amendment to an existing project plan;

(7) A statement generally describing each project included in the county's road construction project plan, or the proposed amendment to an existing project plan, and identifying:

(A) Type of project, as a road project, bridge project, or both road and bridge project;

(B) Location of the project;

(C) Length of the project (in miles or feet);

(D) Scope of the work;

(E) Classification of the project as a preservation project, modernization project, or expansion project;

(F) Estimated cost of the project;

(G) Method of financing the project; and

(H) Timeline for completion of the project.

(8) A map of the county showing the geographic location of each road construction project included in the county's road construction project plan;

(9) When the road construction project is located, in whole or in part, within the corporate limits of any municipality, a true copy of the resolution adopted by the governing body of the municipality consenting to the road construction project;

(10) Identification of any businesses or residents that the county commission anticipates will be displaced because of the road construction project;

(11) A good faith estimate of the annual net county transportation sales and use tax collections to be deposited in the county's sub-account in the County Road Improvement Account created pursuant to section fourteen of this article that will be available to finance the project, in whole or in part; and

(12) Any additional information the Commissioner of Highways may reasonably require to analyze a proposed road construction project.

§7-27-8. Application to Commissioner of Highways for approval of road construction project plans.

(a) Review of applications. - The Commissioner of Highways shall review all proposed road construction project plans for conformity to statutory and regulatory requirements, the reasonableness of the project's budget, and the timetable for completion using the following criteria:

(1) The quality of the proposed road construction project and how it addresses transportation problems in the area in which the road construction project will be located;

(2) Whether there is credible evidence that, unless county transportation sales and use tax revenues are used to finance the road construction project, in whole or in part, the project would not otherwise be feasible in the time line proposed by the county commission;

(3) Whether the county transportation sales and use tax revenues will leverage or be the catalyst for the effective use of state or federal funding that is available;

(4) Whether there is substantial and credible evidence that the proposed road construction project is likely to be started and completed in a timely fashion;

(5) Whether the proposed project will, directly or indirectly, improve transportation in the area where the road construction project will occur, thereby benefitting county residents and facilitating commercial business development and expansion in the county;

(6) Whether the proposed road construction project will, directly or indirectly, assist in the creation of additional long-term employment opportunities in the area and the quality of jobs created to include, but not be limited to, wages and benefits;

(7) Whether the proposed road construction project will fulfill a pressing transportation need for the county, or part of the county, in which the road construction project would be located;

(8) Whether the county commission has a strategy for road construction in the county and whether the proposed road construction project is consistent with that strategy;

(9) Whether the road construction project is consistent with the goals of this article;

(10) Whether the road construction project is economically and fiscally sound using recognized business standards of finance and accounting; and

(11) Any other additional criteria established by the Commissioner of Highways by legislative rule.

(b) Decision of Commissioner of Highways. - Within sixty days after receipt of the county commission's proposed road construction project plan or an amendment to a previously

approved project plan, the Commissioner of Highways shall either (1) approve the plan as submitted, in whole or in part; (2) reject the plan as submitted, in whole or in part; or (3) return the plan to the county commission for further development or review in accordance with instructions from the Commissioner of Highways. The decision of the commissioner is final and is not subject to judicial review.

(c) Certification of road construction project. - If the Commissioner of Highways approves a county's road construction project application, in whole or in part, the commissioner shall issue to the county commission a written certificate evidencing approval of each approved project.

(d) Assignment of project plan and individual projects. - Upon approval of a road construction project plan or an amendment to an existing project, the Commissioner of Highways shall:

(1) Assign a name to the road construction project for identification purposes, which name may include a geographic or other designation; and

(2) Assign each project within the road construction project plan a project number that begins with the federal information processing (FIPS) code number for the county, followed by a hyphen and a consecutive number beginning with the number "01," with each additional road construction project in the plan being assigned the next consecutive number.

(e) Rules. - The Commissioner of Highways may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement the county road construction project application approval process and to further identify and describe the criteria and procedures he or she has established in connection therewith.

§7-27-9. Requirement for referendum on final road construction project plan.

(a) After obtaining project certification from the Commissioner of Highways under section eight of this article the county commission shall submit the question of the adoption of a road construction project plan to the voters in a county-wide referendum to be held in conjunction with a primary or general election. The question to be voted on in the referendum shall identify the project plan by its name and location, its projected cost estimate and how the cost of the road construction project plan is to be financed. The question shall state if the road construction plan is to be financed in whole or in part by the imposition of a county transportation sales and use tax, including the rate of the tax to be imposed, and if it is to be financed in whole or in part by the issuance of special revenue bonds as authorized by this article.

(b) No county commission may proceed with a road construction plan which will be financed, in whole or in part, by the imposition of a transportation sales and use tax or by the issuance of special revenue bonds as authorized by this article unless a majority of voters casting votes in the referendum vote to approve the road construction project plan.

§7-27-10. Amendment of road construction project plan.

(a) General. - A road construction project plan adopted by order of the county commission may be amended by the county commission at any time to add one or more projects, delete one or more projects, or redesignate the order in which projects are to be completed as funds become available.

(b) Procedure to amend project plan. - The procedures that apply to creation of a road construction project plan shall also apply to each proposed amendment to the adopted road construction project plan.

§7-27-11. Termination of road construction project plan.

(a) General. - No road construction project plan may be in existence for a period longer than thirty years, except as otherwise provided in this section, and no revenue bond secured by collections of the taxes imposed by a county commission may have a final maturity date more than thirty years after date of issuance of the revenue bonds.

(b) Extension of plan. - Each amendment of a county's roads construction project plan approved by the Commissioner of Highways that results in execution of an intergovernmental agreement by the county commission and the Commissioner of Highways shall extend the term of the project plan for thirty years from the date on which the intergovernmental agreement is fully executed.

(c) Termination of county transportation sales and use taxes. - The county transportation sales and use tax imposed by a county commission pursuant to this article shall expire on the first day of the calendar quarter that begins one hundred twenty days after the following:

(1) If no special revenue bonds are issued as authorized by this article, the day the county commission notifies the Tax Commissioner in writing that its road construction projects financed, in whole or in part, with transportation sales and use tax revenue have been completed; or

(2) If special revenue bonds have been issued as authorized by this article, the West Virginia Economic Development Authority certifies to the county commission and to the Tax Commissioner that all principal and interest due, or to become due, on the bonds issued under this article has been paid or is otherwise provided for.

(d) Shorter period. - The county commission may set an earlier termination date for the county transportation sales and use tax imposed pursuant to this article: Provided, That no revenue bonds may have a final maturity date later than the termination date of the county transportation sales and use tax.

(e) Termination order. - Prior to expiration of the county transportation sales and use tax, the county commission shall adopt an order terminating the county transportation sales and use tax on the date specified therein: Provided, That the order may not extinguish any person's liability for payment of county transportation sales and use taxes that were assessed prior to termination of the taxes. With respect to any such taxes, the rights and duties of the taxpayer and of the State of West Virginia shall be fully and completely preserved.

(f) Prohibition on termination or rate reduction. - The county commission may not repeal the order imposing a county transportation sales and use tax pursuant to this article, or reduce the rate at which the county transportation sales and use taxes are imposed so long as any revenue bonds secured by the taxes remain outstanding, unless payment of the bonds has been secured in full.

PART III. IMPLEMENTATION OF ROAD CONSTRUCTION PROJECT PLAN.

§7-27-12. Order adopting road construction project plan or plan amendment.

Upon approval of a road construction project plan or an amendment to an existing project plan by the Commissioner of Highways, and approval of the voters in the referendum provided in section nine of this article, the county commission shall enter an order that:

- (1) Describes each approved road construction project sufficiently to identify with ordinary and reasonable certainty the geographic location in the county of each road construction project included in the county's plan;
- (2) Identifies the road construction project plan by the name assigned by the Commissioner of Highways, and identifies each project within the road construction project plan by the project number assigned by the Commissioner of Highways; and
- (3) Establishes a county transportation sales tax and a county transportation use tax as provided in this article at rates not to exceed one percent: Provided, That the rate of the sales tax and the rate of the use tax shall at all times be identical.

§7-27-13. Joint road construction projects.

(a) The Legislature hereby finds and declares that the citizens of the state would benefit from coordinated road construction efforts by county commissions funded by county transportation sales and use taxes imposed pursuant to this article.

(b) Notwithstanding any other section of this code to the contrary, any two or more county commissions may contract to share expenses and dedicate county funds or county transportation sales and use tax revenues, on a pro rata basis, to facilitate construction of one or more road construction projects: Provided, That each of the road construction projects must be a part of a road construction project plan created and approved pursuant to this article by each county commission contracting to share expenses and funds.

(c) When a road construction project begins in one county and ends in one or more other counties of this state, the county commission of each county may, by resolution, adopt a written intergovernmental agreement with each county and the Commissioner of Highways regarding the proposed multicounty road construction project.

(d) No county commission may withdraw from an intergovernmental agreement so long as revenue bonds, the proceeds of which were used by the Commissioner of Highways to finance construction of the road, remain outstanding.

(e) No county commission that withdraws from an intergovernmental agreement shall be entitled to the return of any money or property advanced to the road construction project.

(f) Notwithstanding any provision of this code to the contrary, any county commission imposing county transportation sales and use taxes pursuant to this article may enter into an intergovernmental agreement with one or more other counties that also impose transportation sales and use taxes pursuant to this article that have an interest in completion of a proposed road construction project, with respect to the pooling of county transportation sales and use tax revenues to finance construction of the road construction project either on a cash basis or to pay debt service on revenue bonds issued by the West Virginia Economic Development Authority to fund the road construction project.

(g) The obligations of the parties under any intergovernmental agreement executed pursuant to this article may not be considered debt within the meaning of sections six or eight, article X of the Constitution of West Virginia.

(h) Any intergovernmental agreement shall be approved by resolution adopted by a majority vote of the county commission of each county participating in the agreement and by the Commissioner of Highways. After the resolution is adopted, the agreement shall be signed by at least one member of the county commission and by the Commissioner of Highways.

(i) The Commissioner of Highways may enter into intergovernmental agreements with county commissions or other political subdivisions of the state, or with the federal

government or any agency thereof, respecting the financing, planning, and construction of roads and bridges constructed pursuant to this article.

WV Legislature

§7-27-14. Creation of County Road Improvement Account.

(a) Account created. - There is hereby created in the State Treasury a Special Revenue Revolving Fund account known as the "County Road Improvement Account" which is an interest-bearing account that shall be invested in the manner described in section nine-c, article six, chapter twelve of this code, with the interest income a proper credit to the account.

(b) County subaccount. - A separate and segregated subaccount within the account shall be established for each county that imposes a county transportation sales and use tax pursuant to this article.

(c) Additional funds. - In addition to the county transportation sales and use taxes levied and collected as provided in this article, funds paid into the account for the credit of any subaccount may also be derived from the following sources:

(1) All interest or return on the investment accruing to the subaccount;

(2) Any gifts, grants, bequests, transfers, appropriations or donations which are received from any governmental entity or unit or any person, firm, foundation or corporation; and

(3) Any appropriations by the Legislature which are made for this purpose.

(d) Expenditures from account. - The Commissioner of Highways may withdraw funds from a county's subaccount only in accordance with one or more intergovernmental agreements or contracts executed by the county commission of that county.

§7-27-15. Cash basis projects; issuance of road construction special revenue bonds by West Virginia Economic Development Authority.

(a) Cash basis projects. - Each county commission that has a subaccount in the County Road Improvement Account established pursuant to this article may, in its discretion and pursuant to an intergovernmental written agreement with the county commission, authorize the Commissioner of Highways to use the moneys in its subaccount to finance the costs of road construction projects in the county on a cash basis.

(b) Special revenue bonds. - The county commission may, by intergovernmental written agreement, authorize the West Virginia Economic Development Authority to issue, in the manner prescribed by this article, special revenue bonds secured by county transportation sales and use taxes imposed pursuant to this article to finance or refinance all or part of a road construction project in the county and pledge all or any part of the county transportation sales and use taxes for the payment of the principal of and interest on such bonds and the reserves therefor.

§7-27-16. Commissioner's authority over road construction projects accepted into the state road system; use of state road funds.

(a) Notwithstanding anything in this article to the contrary, the Commissioner of Highways has final approval of any road construction project. However, no state road funds may be used, singly or together with funds from any other source, for any purpose or in any manner contrary to or prohibited by the Constitution and laws of this state or the federal government or where such use, in the sole discretion of the Commissioner of Highways, would jeopardize receipt of federal funds.

(b) All road construction projects that shall be accepted as part of the state road system, and all real property interests and appurtenances, are under the exclusive jurisdiction and control of the Commissioner of Highways, who may exercise the same rights and authority as he or she has over other transportation facilities in the state road system.

§7-27-17. Qualifying a transportation project as a public improvement.

All road construction projects authorized under this article are public improvements subject to article one-c, chapter twenty-one of this code, and either article twenty-two, chapter five of this code or article two-d, chapter seventeen of this code.

WV Legislature

§7-27-18. Reports by Commissioner of Highways.

Each year, the Commissioner of Highways shall prepare a report giving the status of each road construction project being constructed pursuant to this article and file it by October 1 with the Governor, the Joint Committee on Government and Finance of the Legislature and with each county commission with which the Commissioner of Highways has an intergovernmental agreement executed pursuant to this article. The report shall include the following information:

- (1) The identification, by county, of each road construction project for which an intergovernmental agreement has been executed pursuant to this article, and the status of the road construction project as of June 30 preceding the due date of the report;
- (2) The estimated cost of each road construction project included in the report;
- (3) The source or sources of funding for each road construction project included in the report;
- (4) If revenue bonds have been issued by the West Virginia Economic Development Authority, the amount of the bonds issued that are outstanding as of June 30 preceding the due date of the report for each project included in the report;
- (5) The balance as of June 30 preceding the due date of the report of each county's subaccount in the County Improvement Account;
- (6) The amount of county transportation sales and use taxes deposited into each county's subaccount in the County Road Improvement Account during the fiscal year ending June 30 preceding the due date of the report; and
- (7) The amount the Commissioner of Highways withdrew from each county's subaccount in the County Road Improvement Account during the fiscal year ending June 30 preceding the due date of the report to pay debt service on revenue bonds issued pursuant to this article or to construct projects financed on a pay-as-you-go basis.

PART IV. COUNTY ROAD CONSTRUCTION SPECIAL REVENUE BONDS.

§7-27-19. Issuance of county road construction special revenue bonds.

Special revenue bonds may be issued by the West Virginia Economic Development Authority pursuant to an intergovernmental written agreement between the county commission and the Commissioner of Highways to finance or refinance, in whole or in part, road construction projects in an aggregate principal amount not exceeding the amount which the county commission(s) and the Authority mutually agree can be paid as to both principal and interest and reasonable margins for a reserve, if any, therefor from county transportation sales and use tax collections. In the discretion of the Authority, special revenue bonds issued pursuant to this article may be issued for road construction projects in two or more counties.

(1) The Authority shall establish a fund to deposit county transportation sales and use tax collections to pay debt service on the bonds.

(2) The State Treasurer shall thereafter transfer from the county's subaccount all county transportation sales and use tax revenues pledged to the payment of principal and interest of the road construction special revenue bonds into the fund established under subdivision (1) of this section.

(3) The road construction special revenue bonds shall be authorized to be issued by the Authority pursuant to this article, and shall be secured, shall bear such date and shall mature at such time, not exceeding thirty years from the date of issue, shall bear interest at such rate or rates, including variable rates, be in such denominations, be in such form, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times and be subject to such terms of redemption as the Authority may authorize. Road construction special revenue bonds may be sold by the West Virginia Economic Development Authority, at public or private sale, at or not less than the price the Authority determines. The road construction special revenue bonds shall be executed by manual or facsimile signature of an authorized officer of the West Virginia Economic Development Authority. In case any authorized officer whose signature, or a facsimile of whose signature, appears on any bond ceases to be an authorized officer before delivery of those bonds, the signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until the delivery.

§7-27-20. Trustee for bondholders; contents of trust agreement; pledge or assignment of revenues and funds.

For bonds issued pursuant to this article, any bonds, including refunding bonds issued by the Authority, may be secured by a trust agreement between the Authority and a corporate trustee, which trustee may be any bank or trust company within or without the state. Any such trust agreement may contain binding covenants with the holders of the bonds as to any matter or provisions as are considered necessary or advisable to the Authority to enhance the marketability and security of the bonds and may also contain such other provisions with respect thereto as the Authority may authorize and approve. Any trust agreement may contain a pledge or assignment of revenues to be received in connection with the financing.

§7-27-21. Refunding bonds.

Any bonds issued by the West Virginia Economic Development Authority pursuant to the provisions of this article or any other provision of this code and at any time outstanding may at any time and from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as it may consider necessary to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon, to provide additional funds to approved project costs and to pay any premiums and commissions necessary to be paid in connection therewith. Refunding may be effected by whether the bonds to be refunded have then matured or thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the redemption of the bonds to be refunded thereby or by exchange of the refunding bonds for the bonds to be refunded thereby. Refunding bonds shall be issued in conformance with the provisions of this article related to issuance of bonds.

§7-27-22. Obligations of the West Virginia Economic Development Authority undertaken pursuant to this article not debt of state, county, municipality or any political subdivision.

(a) Bonds, including refunding bonds, issued under this article and any other obligations undertaken by the West Virginia Economic Development Authority pursuant to this article, do not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state, and the holders and owners thereof have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon. The bonds and other obligations are payable solely from the revenues and funds pledged for their payment as authorized by this article unless the bonds are refunded by refunding bonds issued under the authority of this article, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by this article.

(b) All bonds, and all documents evidencing any other obligation, shall contain on the face thereof a statement to the effect that the bonds or other obligation as to both principal and interest are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment as authorized by this article.

§7-27-23. Negotiability of bonds issued pursuant to this article.

Whether or not the bonds issued pursuant to this article are of the form or character as to be negotiable instruments under the Uniform Commercial Code, the bonds are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds for registration.

WV Legislature

§7-27-24. Exemption from taxation.

All bonds issued by the Authority pursuant to this article, and all interest and income thereon, are exempt from all taxation by this state and any county, municipality, political subdivision or agency thereof, except inheritance taxes.

WV Legislature

§7-27-25. Personal liability; persons executing bonds issued pursuant to this article.

Neither the West Virginia Economic Development Authority, nor any officer or employee of the West Virginia Economic Development Authority, or any person executing the bonds issued pursuant to the provisions of this article, are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

WV Legislature

§7-27-26. Cumulative authority as to powers conferred; applicability of other statutes and charters; bonds issued pursuant to this article.

The provisions of this article relating to the issuance of bonds shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither the powers nor any bonds issued hereunder are affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided in this article, it being the purpose and intention of this article to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds are issued hereunder.

PART V. COUNTY TRANSPORTATION SALES AND USE TAXES.

§7-27-27. Criteria and requirements necessary to impose county transportation sales and use taxes.

As a prerequisite to imposing county transportation sales and use taxes, the county commission shall have entered into one or more intergovernmental agreements with the Commissioner of Highways pursuant to which the county commission agrees to finance one or more road construction projects in the county, in whole or in part, using collections of the county transportation sales and use taxes deposited in the county's subaccount in the County Road Improvement Account.

§7-27-28. Counties authorized to impose county transportation sales and use taxes.

(a) In addition to all other powers and duties now conferred by law upon county commissions, said county commissions, may, after first satisfying the requirements of the preceding section, adopt an order duly entered of record imposing county transportation sales and use taxes as provided in this article.

(b) Rate of county transportation sales and use taxes. - The rate of the county transportation sales tax and the rate of the county transportation use tax shall be identical and may not exceed one percent of the purchase price subject to tax under article fifteen, chapter eleven of this code, or one percent of the value upon which the county transportation use tax is imposed.

(c) County transportation sales tax base. - In general, the tax base of the county transportation sales tax imposed pursuant to this article shall be identical to the consumer sales and service tax base of this state, except that: (1) The exemption in section nine-f, article fifteen, chapter eleven of this code may not apply; (2) the county sales tax may not apply when taxation is prohibited by federal law; and (3) the county sales tax may not apply as provided in subsection (e) of this section.

(d) County transportation use tax base. - The base of a county transportation use tax imposed pursuant to this article shall be identical to the base of the use tax imposed pursuant to article fifteen-a, chapter eleven of this code, on the use of tangible personal property, custom software and taxable services, within the boundaries of the county, except that: (1) The exemption in section nine-f, article fifteen, chapter eleven of this code may not apply; (2) the county sales tax may not apply when taxation is prohibited by federal law; and (3) the county sales tax may not apply as provided in subsection (e) of this section.

(e) Exceptions. - County sales and use taxes may not apply to:

(1) Sales and uses of motor vehicles upon which the tax imposed by section three-c, article fifteen, chapter eleven of this code was paid or is payable;

(2) Sales and uses of motor fuel upon which or with respect to which the taxes imposed by articles fourteen-a and fourteen-c, chapter eleven of this code was paid or is payable;

(3) Any sale of tangible personal property or custom software or the furnishing of a service that is exempt from the tax imposed by article fifteen, chapter eleven of this code;

(4) Any use of tangible personal property, custom software or the results of a taxable service that is exempt from the tax imposed by article fifteen-a, chapter eleven of this code, except that this exception may not apply to any use within the county when the state consumer sales and service tax imposed by article fifteen, chapter eleven of this code, was paid to the seller at the time of purchase but the county transportation sales tax was not paid to the seller; and

(5) Any sale or use of tangible personal property, custom software, taxable service that the county is prohibited from taxing by federal law or the laws of this state.

(f) Whenever tangible personal property, custom software, or a taxable service is purchased in a county of this state that does not impose county transportation sales and use taxes pursuant to this article and the tangible personal property, custom software or results of a taxable service are used in a county that does impose county transportation sales and use taxes pursuant to this article:

(1) A vendor who delivers the tangible personal property, custom software or results of a taxable service to a purchaser, or the purchaser's donee, located in a county that imposes county transportation sales and use taxes pursuant to this article, shall collect, add the tax to the purchase price and collect the tax from the purchaser; and

(2) A person using tangible personal property or custom software in a county of this state that imposes sales and use taxes pursuant to this article, shall remit the county's use tax to the Tax Commissioner unless the amount of sales and use taxes imposed by the county in which the tangible personal property, custom software or taxable service was purchased were lawfully paid.

§7-27-29. Notification of Tax Commissioner, Auditor and Treasurer.

(a) Any county that imposes a county transportation sales and use tax pursuant to this article, or changes the rate of the taxes, shall notify the Tax Commissioner at least one hundred eighty days before the effective date of the imposition of the taxes or the change in the rate of taxation and provide the commissioner with a certified copy of the order of the county commission imposing the taxes or changing the rates of taxation.

(b) A copy of the notice shall at the same time be furnished to the State Auditor and the State Treasurer.

§7-27-30. State level administration of county transportation sales and use taxes required; fee for services.

(a) State administration required. - Any county commission that imposes a county transportation sales and use tax may not administer, collect or enforce those taxes.

Authority to administer, collect and enforce county transportation sales and use taxes is vested solely in the Tax Commissioner as required by article fifteen-b, chapter eleven of this code.

(b) Fee for services. - The Tax Commissioner may assess a fee to be retained from collections authorized by this article. Said fee shall not exceed the lesser of the cost of the service provided or five percent of the net amount of the taxes imposed pursuant to this article that are collected by the Tax Commissioner during any fiscal year, notwithstanding any provision of this code or rule to the contrary. For purposes of calculating the cost of the service provided, the provisions of section eleven-c, article ten, chapter eleven of this code and the legislative rules promulgated pursuant thereto shall be utilized.

(c) Deposit of fees in special revenue account. - The fees retained by the Tax Commissioner pursuant to subsection (b) of this section shall be deposited in the Local Sales Tax and Excise Tax Administration Fund, created pursuant to section eleven-c, article ten, chapter eleven of this code.

§7-27-31. County transportation sales tax collected from purchaser.

A vendor selling tangible personal property or custom software or furnishing a service in a county that imposes a county transportation sales tax pursuant to this article shall for the privilege of doing business in the county collect the county transportation sales tax from the purchaser at the same time and in the same manner that the tax imposed by article fifteen, chapter eleven of this code, is collected from the customer. All sales of tangible personal property and custom software made in the county and all services furnished in the county are presumed to be subject to the county transportation sales tax unless an exemption or exception applies.

§7-27-32. Payment of county transportation use tax.

A county transportation use tax imposed pursuant to this article shall be paid to the Tax Commissioner by the user of tangible personal property or custom software or the results of a taxable service in the county that imposes the county transportation use tax, unless the county's use tax is collected by a retailer located outside the county that is a retailer engaging in business in the county as defined in this article, or the retailer is an out-of-state retailer who is required to collect West Virginia state and local use taxes.

WV Legislature

§7-27-33. County transportation sales and use taxes in addition to other taxes.

County transportation sales and use taxes imposed pursuant to this article shall be collected and paid in addition to:

- (1) The state consumer sales and service tax imposed by article fifteen, chapter eleven of this code;
- (2) The state use tax imposed by article fifteen-a, chapter eleven of this code;
- (3) Any hotel occupancy tax imposed pursuant to section one, article eighteen of this chapter;
- (4) Any tax imposed pursuant to article twenty-two of this chapter;
- (5) Any municipal sales or use tax imposed pursuant to section five-a, article one, chapter eight of this code;
- (6) Any tax imposed pursuant to sections six and seven, article thirteen, chapter eight of this code;
- (7) Any tax imposed by article thirty-eight, chapter eight of this code; and
- (8) The tax imposed by section twenty-one, article three-a, chapter sixty of this code.

§7-27-34. Credit for sales tax paid to another county.

(a) A person is entitled to a credit against the use tax imposed by a county commission pursuant to this article on the use of tangible personal property, custom software or the results of a taxable service in the county equal to the amount, if any, of sales tax lawfully paid to another county for the acquisition of that tangible personal property, custom software or taxable service. However, the amount of credit allowed may not exceed the amount of use tax imposed on the use of the property or service in the county of use and no credit may be allowed for payment of county special district excise taxes imposed pursuant to article twenty-two of this chapter.

(b) For purposes of this section:

(1) "County" means a county in this state or a comparable unit of local government in another state;

(2) "Sales tax" includes a sales tax, or a compensating use tax, lawfully imposed on the sale or use of tangible personal property, custom software or a taxable service by the county, as appropriate, in which the sale or first use occurred; and

(3) "State" includes the fifty states of the United States and the District of Columbia but does not include any of the several territories organized by Congress.

(c) No credit is allowed under this section for payment of any sales or use taxes imposed by this state or by any other state.

§7-27-35. Sourcing rules for county transportation sales and use taxes.

Sales, purchases and uses of tangible personal property, custom software and taxable services shall be sourced for purposes of imposition and payment of county transportation sales and use taxes imposed pursuant to this article in accordance with the sourcing rules set forth in article fifteen-b, chapter eleven of this code applicable to the taxes imposed by articles fifteen and fifteen-a, chapter eleven of this code.

WV Legislature

§7-27-36. Application of state consumers sales and service tax provisions.

(a) Application of state sales tax. - The provision of article fifteen, chapter eleven of this code, and any subsequent amendments to that article and the administrative rules of the Tax Commissioner relating to article fifteen of chapter eleven shall apply to a county transportation sales tax imposed pursuant to this article to the extent that article and the rules are applicable to the tax imposed by the county.

(b) Application of state use tax law. - The provisions of article fifteen-a, chapter eleven of this code, and any subsequent amendments to that article and the rules of the Tax Commissioner relating to article fifteen-a of chapter eleven shall apply to a county transportation use tax imposed pursuant to this article to the extent the rules and laws are applicable.

(c) Definitions incorporated. - Any term used in this article or in an order adopted by a county commission pursuant to this article imposing county transportation sales and use taxes that is defined in articles fifteen, fifteen-a and fifteen-b, chapter eleven of this code and used in those articles in a similar context, shall have the same meaning when used in this article or in an order entered by the county commission pursuant to this article imposing county transportation sales and use taxes, unless the context in which the term is used clearly indicates that a different result is intended by the Legislature.

§7-27-37. Application of West Virginia Tax Procedure and Administration Act.

Every provision of the West Virginia Tax Procedure and Administration Act set forth in article ten, chapter eleven of this code, and as amended from time to time by the Legislature, applies to the taxes imposed pursuant to this article, except as otherwise expressly provided in this article, with like effect as if that act were applicable only to the taxes imposed by this article and were set forth in extensor in this article or the order entered by the county commission imposing the taxes pursuant to this article.

WV Legislature

§7-27-38. Application of West Virginia Tax Crimes and Penalties Act.

Every provision of the West Virginia Tax Crimes and Penalties Act set forth in article nine, chapter eleven of this code, and as amended from time to time by the Legislature, applies to the taxes imposed pursuant to this article with like effect as if that act were applicable only to the taxes imposed pursuant to this article and were set forth in extensor in this article or the order entered by the county commission imposing the taxes pursuant to this article.

WV Legislature

§7-27-39. Local rate and boundary changes.

(a) General. - New county transportation sales and use taxes and any change in the rate of existing county transportation sales and use taxes shall first apply and be collected and paid only on the first day of a calendar quarter that begins at least sixty days after the Tax Commissioner notifies sellers of the imposition of the county taxes, or a change in the rate of those taxes, except as provided in subsection (b) of this section.

(b) Printed catalogs. - County transportation sales and use taxes and any change in the rate of taxation shall first apply to purchases from printed catalogs where the purchaser computed the tax based upon the local tax rate published in the catalog only on and after the first day of a calendar quarter that begins after the Tax Commissioner provides sellers at least one hundred twenty days' notice of imposition of the tax or a change in the rate of taxation.

(c) County boundary changes. - A county boundary change shall first apply for purposes of computation of a county transportation sales and use taxes on the first day of a calendar quarter that begins at least sixty days after the Tax Commissioner notifies sellers of the boundary change.

§7-27-40. Deposit of county transportation sales and use taxes; payment to Division of Highways.

(a) All county sales and use taxes collected by the Tax Commissioner under this article shall be collected and paid to the credit of each county commission's subaccount in the "County Road Improvement Account" established pursuant to this article.

(b) The credit shall be made to the subaccount of the county commission of the county in which the taxable sales were made and services rendered or taxable uses occurred as shown by the records of the Tax Commissioner and certified by the Tax Commissioner to the State Treasurer, namely, the location of each place of business of every vendor collecting and paying sales and use taxes to the Tax Commissioner without regard to the place of possible use by the purchaser and by every person remitting county transportation use tax to the Tax Commissioner or paying the county's use tax to the Tax Commissioner.

(c) As soon as practicable after the county transportation sales and use taxes for a particular county have been paid into the county's subaccount of the "County Road Improvement Account" in any month for the preceding reporting period, the Commissioner of Highways or the West Virginia Economic Development Authority may issue a requisition to the Auditor requesting issuance of a state warrant for the funds of the county in its subaccount, as provided for by the intergovernmental agreement or agreements executed by the Commissioner of Highways and the county commission.

(1) Upon receipt of the requisition, the Auditor shall issue his or her warrant on the State Treasurer for the funds requested and the State Treasurer shall pay the warrant out of the subaccount.

(2) If errors are made in any payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next six months as follows: One sixth of the total adjustment shall be included in the payments for each month for the next six months, to be paid in full during this six months period. In addition, the payment shall include a refund of amounts erroneously not paid to the subaccount of the county commission and not previously remitted to the county's subaccount during the three years preceding the discovery of the error.

(3) A correction and adjustment in payments described in this subsection due to the misallocation of funds by the person remitting the tax shall be made within three years of the date of the payment error.

§7-27-41. Effective date of county transportation sales and use tax.

(a) Notwithstanding the effective date of an order of the county commission imposing a county transportation sales and use tax, or changing the rate of tax, the tax or a rate change may not become operational and no vendor may be required to collect the tax and no purchaser or user may be required to pay the tax until the first day of a calendar quarter that begins at least sixty days after the Tax Commissioner complies with the requirements of section thirty-five, article fifteen-b, chapter eleven of this code.

(b) The Tax Commissioner shall issue his or her notice to vendors and other persons required to collect sales and use taxes within thirty days after receiving notice from the county:

(1) A certified copy of the order of the county commission imposing a county transportation sales and use tax, or changing the rate of tax, notwithstanding any other provision of this code or rule to the contrary;

(2) The rate and boundary database of the county identifying all of the five digit zip codes and nine-digit zip codes located in the county in conformity with the requirements for West Virginia to maintain full membership in the Streamlined Sales Tax Governing Board pursuant to article fifteen-b, chapter eleven of this code; and

(3) Such other information as the Tax Commissioner may reasonably require.

§7-27-42. Early retirement of special revenue bonds; termination of county transportation sales and use taxes; excess funds.

(a) General. - When special revenue bonds have been issued as provided in this article and the amount of county transportation sales and use taxes collected, less costs of administration, collection and enforcement, exceeds the amount needed to pay project costs and annual debt service, including the funding of required debt service and maintenance reserves, if any, the additional amount remaining in the county's subaccount in the County Road Improvement Account shall be used to retire outstanding revenue bonds before their maturity date in accordance with the terms of such bonds.

(b) Termination of county transportation sales and use taxes. - Once the special revenue bonds issued as provided in this article are no longer outstanding or have been defeased, and no additional road construction projects have been requested and approved by the Commissioner of Highways, the county transportation sales and use taxes shall be discontinued by order adopted by the county commission as provided in this article.

Termination of the county transportation sales and use taxes as provided in this section may not bar or otherwise prevent the Tax Commissioner from collecting county transportation sales and use taxes that accrued before the termination date and the rights of the state and the taxpayers as to those taxes shall be preserved.

(c) Excess funds. - After all intergovernmental agreements with the Commissioner of Highways have ended and all debt service on special revenue bonds issued to finance, in whole or in part, the road construction projects has been paid or provided for, and county transportation sales and use taxes imposed by the county have terminated, the Commissioner of Highways shall forward the unencumbered balance of moneys remaining in the county's subaccount in the County Road Improvement Account to the county commission of that county for deposit in the county's general fund.

PART VI. MISCELLANEOUS.

§7-27-43. Powers supplemental.

(a) County commissions. - The powers conferred by this article are in addition and supplemental to the powers conferred upon county commissions by the Legislature elsewhere in this chapter.

(b) Commissioner of Highways. - The powers conferred by this article are in addition and supplemental to the powers conferred upon the Commissioner of Highways, the Division of Highways, and the Department of Transportation by the Legislature elsewhere in this code.

(c) West Virginia Economic Development Authority. - The powers conferred by this article are in addition and supplemental to the powers conferred upon the West Virginia Economic Development Authority by the Legislature elsewhere in this code.

§7-27-44. Public officials exempt from personal liability.

No member of a county commission or other county officer may be personally liable on any contract or obligation executed pursuant to the authority contained in this article, nor may these contracts or obligations or the issuance of revenue bonds by the Authority secured by county transportation sales and use taxes imposed by county commissions under this article be considered as misfeasance in office.

WV Legislature

§7-27-45. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article is for any reason held to be invalid, unlawful or unconstitutional, that decision does not affect the validity of the remaining portions of this article or any part thereof.

WV Legislature