WEST VIRGINIA CODE: §8-38-14

§8-38-14. Modification of included area; notice; hearing.

(a) General. -- The ordinance creating an economic opportunity development district may not be amended to include additional contiguous property until after the amendment is approved by the Executive Director of the Development Office in the same manner as an application to approve the establishment of the district is acted upon under section seven of this article. The order creating an economic opportunity development district may not be amended to remove property until after the amendment is approved by the executive director of the Development Office in the same manner as an application to approve the establishment of the district is acted upon under section seven of this article: Provided, That any such amendment for the purpose of removing property from an economic opportunity development district shall not require authorization from the Legislature and shall ensure that any such district after such an amendment remains contiguous. The order which is entered for the purpose of removing parcels from an existing economic opportunity development district may not be effective any earlier than the first day of the calendar month which begins at least thirty days following the entry of the order or such later date as may be specified by the county commission in the order.

(b) Limitations. -- Additional property may not be included in the district unless it is situated within the boundaries of the municipality and is contiguous to the then current boundaries of the district.

(c) Public hearing required. --

(1) The council of any municipality desiring to amend its ordinance shall designate a time and place for a public hearing upon the proposal to include additional property. The notice shall meet the requirements set forth in section six of this article.

(2) At the time and place set forth in the notice, the municipality shall afford the opportunity to be heard to any owners of real property either currently included in or proposed to be added to the existing district and to any other residents of the municipality.

(d) Application to West Virginia Development Office. -- Following the hearing, the municipality may, by resolution, approve the filing of an application with the Development Office for the inclusion of the additional property in the district or for the removal of the applicable parcels from the district.

(e) Consideration by the Executive Director of the Development Office. -- Before the Executive Director of the Development Office approves inclusion of the additional property in the district, the Development Office shall determine the amount of taxes levied by article fifteen, chapter eleven of this code that were collected by businesses located in the area the municipality proposes to add to the district in the same manner as the base amount of tax

WV Legislature

was determined when the district was first created. The State Treasurer shall also deposit one twelfth of this additional tax base amount into the General Revenue Fund each month, as provided in section twelve of this article.

(f) Legislative action required to include additional property. -- After the Executive Director of the Development Office approves amending the boundaries of the district to include additional property, the Legislature must amend section nine of this article to allow levy of the special district excise tax on business located in geographic area to be included in the district. After the Legislature amends said section, the municipality may then amend its ordinance: Provided, That the ordinance may not be effective any earlier than the first day of the calendar month that begins sixty days after the effective date of the amended ordinance imposing the levy of the special district excise tax on businesses located in the geographic area to be added to the boundaries of the district for which the tax is levied or the first day of a later calendar month as set forth in the ordinance of the municipality.

(g) Collection of special district excise tax. -- All businesses included in a district because of the boundary amendment shall on the effective date of the ordinance, determined as provided in subsection (f) of this section, collect the special district excise tax on all sales on tangible property or services made from locations in the district on or after the effective date of the municipality's ordinance or a later date as set forth in the ordinance.

(h) Minor modifications. -- Notwithstanding any provision of this article to contrary, a municipality may amend the ordinance creating an economic opportunity development district to make, and may make, modifications to the boundaries of the economic opportunity development district without holding a public hearing or receiving approval of the executive director of the West Virginia Development Office or authorization by the Legislature if the modifications do not increase the total acreage of the economic opportunity development district or result in a change to the base tax revenue amount. The municipality is authorized to levy special district excise taxes on sales of tangible personal property and services made from business locations within the modified boundaries of the economic opportunity development district.

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