

SB 697 S

FILED

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WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

OFFICE OF THE SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 697

(SENATORS CARUTH, FOSTER AND GUILLS,
original sponsors)

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

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AN ACT to amend and reenact §7-12-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §7-24-1, all relating to the Appalachian Regional Interstate Compact; authorizing revenue-sharing agreements between development authorities or similar authorities outside the state; providing that certain obligations of development authorities are not debts pursuant to section eight, article X of the Constitution of West Virginia; creating the

Appalachian Regional Interstate Compact; providing a short title; establishing the compact and authorizing membership under certain conditions; setting forth powers and duties of compact members; providing for six compact commissioners; authorizing appointment by the President of the Senate and the Speaker of the House of Delegates; specifying terms of service; providing for funding for operating expenses; providing that members will receive compensation and reimbursement for reasonable and necessary expenses as determined by each state; and providing that the act will become effective upon adoption of at least one other state.

Be it enacted by the Legislature of West Virginia:

That §7-12-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new article, designated §7-24-1, all to read as follows:

ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.

§7-12-7. Powers generally.

1 (a) The development authority is hereby given power
2 and authority as follows: (1) To make and adopt all
3 necessary bylaws and rules for its organization and
4 operations not inconsistent with laws; (2) to elect its
5 own officers, to appoint committees and to employ and
6 fix compensation for personnel necessary for its
7 operation; (3) to enter into contracts with any person,
8 agency, governmental department, firm or corporation,
9 including both public and private corporations, and
10 generally to do any and all things necessary or
11 convenient for the purpose of promoting, developing
12 and advancing the business prosperity and economic

13 welfare of the county in which it is intended to operate,
14 its citizens and industrial complex, including, without
15 limiting any of the foregoing, the construction of any
16 building or structure for lease to the federal government
17 or any of its agencies or departments, and in connection
18 therewith to prepare and submit bids and negotiate
19 with the federal government or such agencies or
20 departments in accordance with plans and
21 specifications and in the manner and on the terms and
22 conditions and subject to any requirements, regulations,
23 rules and laws of the United States of America for the
24 construction of said buildings or structures and the
25 leasing thereof to the federal government or such
26 agencies or departments; (4) to amend or supplement
27 any contracts or leases or to enter into new, additional
28 or further contracts or leases upon such terms and
29 conditions, for such consideration and for such term of
30 duration, with or without option of renewal, as may be
31 agreed upon by the authority and such person, agency,
32 governmental department, firm or corporation; (5)
33 unless otherwise provided for in, and subject to the
34 provisions of, such contracts, or leases, to operate,
35 repair, manage and maintain such buildings and
36 structures and provide adequate insurance of all types
37 and in connection with the primary use thereof and
38 incidental thereto to provide such services, such as
39 barber shops, newsstands, drugstores and restaurants,
40 and to effectuate such incidental purposes, grant leases,
41 permits, concessions or other authorizations to any
42 person or persons, upon such terms and conditions, for
43 such consideration and for such term of duration as may
44 be agreed upon by the authority and such person,
45 agency, governmental department, firm or corporation;
46 (6) to delegate any authority given to it by law to any of
47 its officers, committees, agents or employees; (7) to

48 apply for, receive and use grants-in-aid, donations and
49 contributions from any source or sources and to accept
50 and use bequests, devises, gifts and donations from any
51 person, firm or corporation; (8) to acquire real property
52 by gift, purchase or construction, or in any other lawful
53 manner, and hold title thereto in its own name and to
54 sell, lease or otherwise dispose of all or part of such real
55 property which it may own, either by contract or at
56 public auction, upon the approval by the board of
57 directors of the development authority; (9) to purchase
58 or otherwise acquire, own, hold, sell, lease and dispose
59 of all or part of any personal property which it may
60 own, either by contract or at public auction; (10)
61 pursuant to a determination by the board that there
62 exists a continuing need for programs to alleviate and
63 prevent unemployment within the county in which the
64 authority is intended to operate or aid in the
65 rehabilitation of areas in said county which are
66 underdeveloped, decaying or otherwise economically
67 depressed and that moneys or funds of the authority are
68 necessary therefor, to borrow money and execute and
69 deliver the authority's negotiable notes, mortgage
70 bonds, other bonds, debentures and other evidences of
71 indebtedness therefor, on such terms as the authority
72 shall determine and give such security therefor as shall
73 be requisite, including giving a mortgage or deed of
74 trust on its real or personal property and facilities in
75 connection with the issuance of mortgage bonds; (11) to
76 raise funds by the issuance and sale of revenue bonds in
77 the manner provided by the applicable provisions of
78 article sixteen, chapter eight of this code, it being
79 hereby expressly provided that a development authority
80 created under this article is a "governing body" within
81 the definition of that term as used in said article sixteen,
82 chapter eight of this code; and (12) to expend its funds

83 in the execution of the powers and authority herein
84 given, which expenditures, by the means authorized
85 herein, are hereby determined and declared as a matter
86 of legislative finding to be for a public purpose and use,
87 in the public interest, and for the general welfare of the
88 people of West Virginia, to alleviate and prevent
89 economic deterioration and to relieve the existing
90 critical condition of unemployment existing within the
91 state.

92 (b) The amendment of this section enacted in the year
93 one thousand nine hundred ninety-eight is intended to
94 clarify the intent of the Legislature as to the manner in
95 which an authority may sell, lease or otherwise dispose
96 of real and personal property owned by an authority
97 and shall be retroactive to the date of the prior
98 enactment of this section.

99 (c) Notwithstanding any provision of this code to the
100 contrary, any development authority participating in
101 the Appalachian Region Interstate Compact pursuant to
102 chapter seven-a of this code may agree to a revenue and
103 economic growth-sharing arrangement with respect to
104 tax revenues and other income and revenues generated
105 by any facility owned by an authority. Any
106 development authority or member locality may be
107 located in any jurisdiction participating in the
108 Appalachian Region Interstate Compact or a similar
109 agreement for interstate cooperation for economic and
110 workforce development authorized by law. The
111 obligations of the parties to any such agreement shall
112 not be debt within the meaning of section eight, article
113 X of the Constitution of West Virginia. Any such
114 agreement shall be approved by a majority vote of the
115 governing bodies of the member localities reaching such

116 an agreement but does not require any other approval.

117 (d)“Member localities” means the counties,
118 municipalities or combination thereof which are
119 members of an authority.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

§7-24-1. Appalachian Regional Interstate Compact; form of compact.

1 The Appalachian Region Interstate Compact (the
2 compact) is hereby created and entered into with all
3 other jurisdictions legally joining therein in the form
4 substantially as follows:

ARTICLE I. SHORT TITLE.

1 This act shall be known and may be cited as the
2 Appalachian Region Interstate Compact.

ARTICLE II. COMPACT ESTABLISHED.

1 Pursuant to section ten, article I of the Constitution of
2 the United States, the signatories hereby provide a
3 mechanism for the creation of one or more authorities
4 for the purpose of developing one or more facilities to
5 enhance the regional economy that shall constitute
6 instrumentalities of the signatories. For purposes of this
7 chapter, “Appalachian Region” means the areas
8 included in “region” as defined in §403 of the
9 Appalachian Regional Development Act of 1965, as
10 amended (40 U. S. C. §14102 (a)(1)).

ARTICLE III. AGREEMENT.

1 The State of West Virginia may enter into agreement
2 with one or more signatory states and, upon adoption of
3 this compact, agree as follows:

4 1. To study, develop and promote a plan for the
5 design, construction, financing and operation of
6 interstate facilities of strategic interest to the signatory
7 states;

8 2. To coordinate efforts to establish a common legal
9 framework in all the signatory states to authorize and
10 facilitate design, construction, financing and operation
11 of such facilities either as publicly operated facilities or
12 through other structures authorized by law;

13 3. To advocate for federal and other public and
14 private funding to support the establishment of
15 interstate facilities of interest to all signatory states;

16 4. To make available to such interstate facilities
17 funding and resources that are or may be appropriated
18 and allocated for that purpose; and

19 5. To do all things necessary or convenient to
20 facilitate and coordinate the economic and workforce
21 development plans and programs of the State of West
22 Virginia and the other signatory states to the extent
23 such plans and programs are not inconsistent with
24 federal law and the laws of the State of West Virginia or
25 other signatory states.

**ARTICLE IV. COMPACT COMMISSION ESTABLISHED; MEMBERSHIP;
CHAIRMAN; MEETINGS; AND REPORT.**

1 Each signatory state to the compact shall establish a
2 compact commission. In West Virginia, the

3 Appalachian Region Interstate Compact Commission
4 (the commission) shall be established as a regional
5 instrumentality and agency of the State of West Virginia
6 and the signatory states. The compact commissions of
7 the signatory states shall be empowered to carry out the
8 purposes of their respective compacts.

9 The Appalachian Region Interstate Compact
10 Commission shall consist of six members from each of
11 the other signatory states to be appointed pursuant to
12 the laws of the signatory states and six members of the
13 West Virginia delegation to the commission to be
14 appointed as follows: Three members to be appointed by
15 the President of the Senate and three members to be
16 appointed by the Speaker of the House of Delegates.
17 Members of the West Virginia delegation to the compact
18 commission shall serve terms coincident with their
19 terms of office if an elected state or local representative,
20 and may be reappointed. Members who are not elected
21 officials shall serve a term of four years and may be
22 reappointed. The chairman of the commission shall be
23 elected by the members of the commission from among
24 its membership. The chairman shall serve for a term of
25 two years and the chairmanship shall rotate among the
26 signatory states.

27 The commission shall meet not less than twice
28 annually; however, the commission shall not meet more
29 than once consecutively in the same state.

ARTICLE V. POWERS AND DUTIES OF THE COMMISSION.

1 The commission is vested with the powers of a body
2 corporate, including the power to sue and be sued in its
3 own name, plead and be impleaded and adopt and use
4 a common seal and alter the same as may be deemed

5 expedient. In addition to the powers set forth elsewhere
6 in this chapter, the commission may:

7 1. Adopt bylaws, rules and regulations to carry out
8 the provisions of this chapter;

9 2. Employ, either as regular employees or as
10 independent contractors, consultants, engineers,
11 architects, accountants, attorneys, financial experts,
12 construction experts and personnel, superintendents,
13 managers and other professional personnel, personnel
14 and agents as may be necessary in the judgment of the
15 commission and fix their compensation;

16 3. Determine the locations of, develop, establish,
17 construct, erect, repair, remodel, add to, extend,
18 improve, equip, operate, regulate and maintain facilities
19 to the extent necessary or convenient to accomplish the
20 purposes of the compact;

21 4. Acquire, own, hold, lease, use, sell, encumber,
22 transfer, or dispose of, in its own name, any real or
23 personal property or interests therein;

24 5. Invest and reinvest funds of the commission;

25 6. Enter into contracts of any kind and execute all
26 instruments necessary or convenient with respect to its
27 carrying out the powers in this chapter to accomplish
28 the purposes of the compact;

29 7. Expend such funds as may be available to it for the
30 purpose of developing facilities, including, but not
31 limited to: (i) Purchasing real estate; (ii) grading sites;
32 (iii) improving, replacing and extending water, sewer,

33 natural gas, electrical and other utility lines; (iv)
34 constructing, rehabilitating and expanding buildings;
35 (v) constructing parking facilities; (vi) constructing
36 access roads, streets and rail lines; (vii) purchasing or
37 leasing machinery and tools; and (viii) making any other
38 improvements deemed necessary by the commission to
39 meet its objectives;

40 8. Fix and revise, from time to time, and charge and
41 collect rates, rents, fees or other charges for the use of
42 facilities or for services rendered in connection with the
43 facilities in accordance with applicable state and
44 federal laws and as approved by the commission;

45 9. Borrow money from any source for any valid
46 purpose, including working capital for its operations,
47 reserve funds or interest; mortgage, pledge or otherwise
48 encumber the property or funds of the commission; and
49 contract with or engage the services of any person in
50 connection with any financing, including financial
51 institutions, issuers of letters of credit or insurers;

52 10. Issue bonds the principal and interest on which
53 are payable exclusively from the revenues and receipts
54 of a specific facility in accordance with applicable laws;

55 11. Accept funds and property from the state and
56 other signatory jurisdictions, persons, counties, cities
57 and towns and use the same for any of the purposes for
58 which the commission is created;

59 12. Apply for and accept grants or loans of money or
60 other property from any federal agency for any of the
61 purposes authorized in this chapter and expend or use
62 the same in accordance with the directions and

63 requirements attached thereto or imposed thereon by
64 any such federal agency;

65 13. Make loans or grants to, and enter into
66 cooperative arrangements with, any person,
67 partnership, association, corporation, business or
68 governmental entity in furtherance of the purposes of
69 this chapter for the purposes of promoting economic
70 and workforce development, provided that such loans or
71 grants shall be made only from revenues of the
72 commission that have not been pledged or assigned for
73 the payment of any of the commission's bonds, and to
74 enter into such contracts, instruments and agreements
75 as may be expedient to provide for such loans, and any
76 security therefor. The word "revenues" as used in this
77 subdivision includes grants, loans, funds and property
78 as set out in subdivisions (11) and (12) of this article;

79 14. Enter into agreements with political subdivisions
80 of the state for joint or cooperative action;

81 15. Exercise any additional powers granted to it by
82 subsequent legislation; and

83 16. Do all things necessary or convenient to carry out
84 the purposes of this chapter.

ARTICLE VI. FUNDING AND COMPENSATION.

1 The commission may utilize for its operation and
2 expenses: (i) Funds that may be generated by borrowing,
3 gifts and grants; (ii) funds appropriated to it for such
4 purposes by the West Virginia Legislature and the
5 legislatures of the other signatory states; (iii) federal
6 funds; and (iv) revenues collected for the use of any
7 facility approved by the commission.

8 Members of the West Virginia delegation to the
9 commission shall not receive compensation but shall be
10 reimbursed for reasonable and necessary expenses
11 incurred in the performance of their duties to the
12 commission. All such expenses shall be paid from
13 existing appropriations, gifts, grants, federal funds or
14 other revenues collected for the use of any facility
15 approved by the commission. Members of the
16 commission representing other signatory states shall
17 receive compensation and reimbursement of expenses
18 incurred in the performance of their duties to the
19 commission in accordance with the applicable laws of
20 the respective signatory states.

21 The provisions of this act shall become effective upon
22 the enactment of the Appalachian Region Interstate
23 Compact as authorized by this article and upon the
24 enactment of this compact by at least one other state in
25 accordance with its terms and federal law.

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

Churhite
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell G. Glavin
.....
Clerk of the Senate

Sammy R. Smith
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

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

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 02 2007

3:30 pm