WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

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.]
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.

(a) The development authority is hereby given power and authority as follows: (1) To make and adopt all necessary bylaws and rules for its organization and operations not inconsistent with laws; (2) to elect its own officers, to appoint committees and to employ and fix compensation for personnel necessary for its operation; (3) to enter into contracts with any person, agency, governmental department, firm or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of promoting, developing and advancing the business prosperity and economic
welfare of the county in which it is intended to operate, its citizens and industrial complex, including, without limiting any of the foregoing, the construction of any building or structure for lease to the federal government or any of its agencies or departments, and in connection therewith to prepare and submit bids and negotiate with the federal government or such agencies or departments in accordance with plans and specifications and in the manner and on the terms and conditions and subject to any requirements, regulations, rules and laws of the United States of America for the construction of said buildings or structures and the leasing thereof to the federal government or such agencies or departments; (4) to amend or supplement any contracts or leases or to enter into new, additional or further contracts or leases upon such terms and conditions, for such consideration and for such term of duration, with or without option of renewal, as may be agreed upon by the authority and such person, agency, governmental department, firm or corporation; (5) unless otherwise provided for in, and subject to the provisions of, such contracts, or leases, to operate, repair, manage and maintain such buildings and structures and provide adequate insurance of all types and in connection with the primary use thereof and incidental thereto to provide such services, such as barber shops, newsstands, drugstores and restaurants, and to effectuate such incidental purposes, grant leases, permits, concessions or other authorizations to any person or persons, upon such terms and conditions, for such consideration and for such term of duration as may be agreed upon by the authority and such person, agency, governmental department, firm or corporation; (6) to delegate any authority given to it by law to any of its officers, committees, agents or employees; (7) to
apply for, receive and use grants-in-aid, donations and
contributions from any source or sources and to accept
and use bequests, devises, gifts and donations from any
person, firm or corporation; (8) to acquire real property
by gift, purchase or construction, or in any other lawful
manner, and hold title thereto in its own name and to
sell, lease or otherwise dispose of all or part of such real
property which it may own, either by contract or at
public auction, upon the approval by the board of
directors of the development authority; (9) to purchase
or otherwise acquire, own, hold, sell, lease and dispose
of all or part of any personal property which it may
own, either by contract or at public auction; (10)
pursuant to a determination by the board that there
exists a continuing need for programs to alleviate and
prevent unemployment within the county in which the
authority is intended to operate or aid in the
rehabilitation of areas in said county which are
underdeveloped, decaying or otherwise economically
depressed and that moneys or funds of the authority are
necessary therefor, to borrow money and execute and
deliver the authority's negotiable notes, mortgage
bonds, other bonds, debentures and other evidences of
indebtedness therefor, on such terms as the authority
shall determine and give such security therefor as shall
be requisite, including giving a mortgage or deed of
trust on its real or personal property and facilities in
connection with the issuance of mortgage bonds; (11) to
raise funds by the issuance and sale of revenue bonds in
the manner provided by the applicable provisions of
article sixteen, chapter eight of this code, it being
hereby expressly provided that a development authority
created under this article is a "governing body" within
the definition of that term as used in said article sixteen,
chapter eight of this code; and (12) to expend its funds
in the execution of the powers and authority herein
given, which expenditures, by the means authorized
herein, are hereby determined and declared as a matter
of legislative finding to be for a public purpose and use,
in the public interest, and for the general welfare of the
people of West Virginia, to alleviate and prevent
economic deterioration and to relieve the existing
critical condition of unemployment existing within the
state.

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

(c) Notwithstanding any provision of this code to the
contrary, any development authority participating in
the Appalachian Region Interstate Compact pursuant to
chapter seven-a of this code may agree to a revenue and
economic growth-sharing arrangement with respect to
tax revenues and other income and revenues generated
by any facility owned by an authority. Any
development authority or member locality may be
located in any jurisdiction participating in the
Appalachian Region Interstate Compact or a similar
agreement for interstate cooperation for economic and
workforce development authorized by law. The
obligations of the parties to any such agreement shall
not be debt within the meaning of section eight, article
X of the Constitution of West Virginia. Any such
agreement shall be approved by a majority vote of the
governing bodies of the member localities reaching such
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116 an agreement but does not require any other approval.

117 (d) "Member localities" means the counties, municipalities or combination thereof which are 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 compact) is hereby created and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. SHORT TITLE.

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

ARTICLE II. COMPACT ESTABLISHED.

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

ARTICLE III. AGREEMENT.
The State of West Virginia may enter into agreement with one or more signatory states and, upon adoption of this compact, agree as follows:

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

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

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

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

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

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

Each signatory state to the compact shall establish a compact commission. In West Virginia, the
The Appalachian Region Interstate Compact Commission shall consist of six members from each of the other signatory states to be appointed pursuant to the laws of the signatory states and six members of the West Virginia delegation to the commission to be appointed as follows: Three members to be appointed by the President of the Senate and three members to be appointed by the Speaker of the House of Delegates. Members of the West Virginia delegation to the compact commission shall serve terms coincident with their terms of office if an elected state or local representative, and may be reappointed. Members who are not elected officials shall serve a term of four years and may be reappointed. The chairman of the commission shall be elected by the members of the commission from among its membership. The chairman shall serve for a term of two years and the chairmanship shall rotate among the signatory states.

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

ARTICLE V. POWERS AND DUTIES OF THE COMMISSION.

The commission is vested with the powers of a body corporate, including the power to sue and be sued in its own name, plead and be impleaded and adopt and use a common seal and alter the same as may be deemed
expedient. In addition to the powers set forth elsewhere in this chapter, the commission may:

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

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

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

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

5. Invest and reinvest funds of the commission;

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

7. Expend such funds as may be available to it for the purpose of developing facilities, including, but not limited to: (i) Purchasing real estate; (ii) grading sites; (iii) improving, replacing and extending water, sewer,
natural gas, electrical and other utility lines; (iv) constructing, rehabilitating and expanding buildings; (v) constructing parking facilities; (vi) constructing access roads, streets and rail lines; (vii) purchasing or leasing machinery and tools; and (viii) making any other improvements deemed necessary by the commission to meet its objectives;

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

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

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

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

12. Apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter and expend or use the same in accordance with the directions and
requirements attached thereto or imposed thereon by any such federal agency;

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

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

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

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

ARTICLE VI. FUNDING AND COMPENSATION.

The commission may utilize for its operation and expenses: (i) Funds that may be generated by borrowing, gifts and grants; (ii) funds appropriated to it for such purposes by the West Virginia Legislature and the legislatures of the other signatory states; (iii) federal funds; and (iv) revenues collected for the use of any facility approved by the commission.
Members of the West Virginia delegation to the commission shall not receive compensation but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties to the commission. All such expenses shall be paid from existing appropriations, gifts, grants, federal funds or other revenues collected for the use of any facility approved by the commission. Members of the commission representing other signatory states shall receive compensation and reimbursement of expenses incurred in the performance of their duties to the commission in accordance with the applicable laws of the respective signatory states.

The provisions of this act shall become effective upon the enactment of the Appalachian Region Interstate Compact as authorized by this article and upon the enactment of this compact by at least one other state in accordance with its terms and federal law.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this
the Day of , 2007.

Governor