

HB 4607

FILED

2008 MAR 28 PM 4: 28

OFFICE OF THE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2008



**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 4607**

(By Delegates White)



Passed March 7, 2008

In Effect Ninety Days from Passage

**ENROLLED**

FILED

2008 MAR 28 PM 4: 29

COMMITTEE SUBSTITUTE

OFFICE OF THE  
SECRETARY OF STATE

FOR

**H. B. 4607**

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(BY DELEGATE WHITE)

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[Passed March 7, 2008; in effect ninety days from passage.]

AN ACT to repeal §8-13B-1, §8-13B-2, §8-13B-3, §8-13B-4, §8-13B-5, §8-13B-6, §8-13B-7, §8-13B-8, §8-13B-9, §8-13B-10, §8-13B-11, §8-13B-12, §8-13B-13, §8-13B-14, §8-13B-15, §8-13B-16, §8-13B-17, §8-13B-18, §8-13B-19 and §8-13B-20 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-22-12 of said code; and to amend and reenact §8-38-12 of said code, all relating to special district excise taxes authorized for counties and municipalities; clarifying the rates of the tax; authorizing the Tax Commissioner to require the electronic filing of returns and electronic payment of the tax; providing for the sharing of tax information; and providing confidentiality requirements of shared information.

*Be it enacted by the Legislature of West Virginia:*

That §8-13B-1, §8-13B-2, §8-13B-3, §8-13B-4, §8-13B-5, §8-13B-6, §8-13B-7, §8-13B-8, §8-13B-9, §8-13B-10, §8-13B-11, §8-13B-12, §8-13B-13, §8-13B-14, §8-13B-15, §8-13B-16, §8-13B-17,

§8-13B-18, §8-13B-19 and §8-13B-20 of the Code of West Virginia, 1931, as amended, be repealed; that §7-22-12 of said code be amended and reenacted; and that §8-38-12 of said code be amended and reenacted, all to read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.**

**§7-22-12. Special district excise tax authorized.**

1 (a) *General.* -- The county commission of a county,  
2 authorized by the Legislature to levy a special district excise  
3 tax for the benefit of an economic opportunity development  
4 district, may, by order entered of record, impose that tax on  
5 the privilege of selling tangible personal property and  
6 rendering select services in the district in accordance with  
7 this section.

8 (b) *Tax base.* -- The base of a special district excise tax  
9 imposed pursuant to this section shall be identical to the base  
10 of the consumers sales and service tax imposed pursuant to  
11 article fifteen, chapter eleven of this code on sales made and  
12 services rendered within the boundaries of the district. Sales  
13 of gasoline and special fuel are not subject to special district  
14 excise tax but remain subject to the tax levied by article  
15 fifteen, chapter eleven of this code. Except for the exemption  
16 provided in section nine-f of said article, all exemptions and  
17 exceptions from the consumers sales and service tax shall  
18 also apply to the special district excise tax.

19 (c) *Tax rate.* -- The rate or rates of a special district  
20 excise tax levied pursuant to this section shall be identical to  
21 the rate or rates of the consumer sales and service tax  
22 imposed pursuant to article fifteen, chapter eleven of this

23 code on sales made and services rendered within the  
24 boundaries of the district authorized by this section.

25 (d) *Collection by Tax Commissioner.* -- The order of the  
26 county commission imposing a special district excise tax  
27 shall provide for the tax to be collected by the Tax  
28 Commissioner in the same manner as the tax levied by  
29 section three, article fifteen, chapter eleven of this code is  
30 administered, assessed, collected and enforced.

31 (1) The Tax Commissioner may require the electronic  
32 filing of returns related to the special district excise tax  
33 imposed pursuant to this section, and also may require the  
34 electronic payment of the special district excise tax imposed  
35 pursuant to this section. The Tax Commissioner may  
36 prescribe by rules promulgated pursuant to article three,  
37 chapter twenty-nine-a of this code, administrative notices,  
38 and forms and instructions, the procedures and criteria to be  
39 followed to electronically file returns and to electronically  
40 pay the special district excise tax imposed pursuant to this  
41 section.

42 (2) Any rules filed by the State Tax Commissioner  
43 relating to the special district excise tax imposed pursuant to  
44 this section shall set forth the following:

45 (A) Acceptable indicia of timely payment;

46 (B) Which type of electronic filing method or methods a  
47 particular type of taxpayer may or may not use;

48 (C) What type of electronic payment method or methods  
49 a particular type of taxpayer may or may not use;

50 (D) What, if any, exceptions are allowable, and  
51 alternative methods of payment that may be used for any  
52 exceptions;

53 (E) Procedures for making voluntary or mandatory  
54 electronic payments or both;

55 (F) Any other provisions necessary to ensure the timely  
56 electronic filing of returns related to the special district excise  
57 tax and the making of payments electronically of the special  
58 district excise tax imposed pursuant to this section.

59 (3)(A) Notwithstanding the provisions of section five-d,  
60 article ten, chapter eleven of this code: (i) So long as bonds  
61 are outstanding pursuant to this article, the Tax  
62 Commissioner shall provide on a monthly basis to the trustee  
63 for bonds issued pursuant to this article information on  
64 returns submitted pursuant to this article; and (ii) the trustee  
65 may share the information so obtained with the county  
66 commission that established the economic opportunity  
67 development district that issued the bonds pursuant to this  
68 article and with the bondholders and with bond counsel for  
69 bonds issued pursuant to this article. The Tax Commissioner  
70 and the trustee may enter into a written agreement in order to  
71 accomplish the exchange of information.

72 (B) Any confidential information provided pursuant to  
73 this subdivision shall be used solely for the protection and  
74 enforcement of the rights and remedies of the bondholders of  
75 bonds issued pursuant to this article. Any person or entity  
76 that is in possession of information disclosed by the Tax  
77 Commissioner or shared by the trustee pursuant to  
78 subdivision (a) of this subsection is subject to the provisions  
79 of section five-d, article ten, chapter eleven of this code as if  
80 that person or entity that is in possession of the tax  
81 information is an officer, employee, agent or representative  
82 of this state or of a local or municipal governmental entity or  
83 other governmental subdivision.

84 (e) *Deposit of net tax collected.* --

85 (1) The order of the county commission imposing a  
86 special district excise tax shall provide that the Tax  
87 Commissioner deposit the net amount of tax collected in the  
88 Special Economic Opportunity Development District Fund to  
89 the credit of the county commission's subaccount therein for  
90 the economic opportunity development district and that the  
91 money in the subaccount may only be used to pay for  
92 development expenditures as provided in this article except  
93 as provided in subsection (f) of this section.

94 (2) The State Treasurer shall withhold from the county  
95 commission's subaccount in the Economic Opportunity  
96 Development District Fund and shall deposit in the General  
97 Revenue Fund of this state, on or before the twentieth day of  
98 each calendar month next following the effective date of a  
99 special district excise tax, a sum equal to one twelfth of the  
100 base tax revenue amount last certified by the development  
101 office pursuant to section seven of this article.

102 (f) *Effective date of special district excise tax.* -- Any  
103 taxes imposed pursuant to the authority of this section shall  
104 be effective on the first day of the calendar month that begins  
105 sixty days after the date of adoption of an order entered of  
106 record imposing the tax or the first day of any later calendar  
107 month expressly designated in the order.

108 (g) *Copies of order.* -- Upon entry of an order levying a  
109 special district excise tax, a certified copy of the order shall  
110 be mailed to the State Auditor, as ex officio the chief  
111 inspector and supervisor of public offices, the State Treasurer  
112 and the Tax Commissioner.

## CHAPTER 8. MUNICIPAL CORPORATIONS.

### ARTICLE 38. MUNICIPAL ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

**§8-38-12. Special district excise tax authorized.**

1 (a) *General.* -- The council of a municipality, authorized  
2 by the Legislature to levy a special district excise tax for the  
3 benefit of an economic opportunity development district,  
4 may, by ordinance, impose that tax on the privilege of selling  
5 tangible personal property and rendering select services in the  
6 district in accordance with this section.

7 (b) *Tax base.* -- The base of a special district excise tax  
8 imposed pursuant to this section shall be identical to the base  
9 of the consumers sales and service tax imposed pursuant to  
10 article fifteen, chapter eleven of this code on sales made and  
11 services rendered within the boundaries of the district. Sales  
12 of gasoline and special fuel are not subject to special district  
13 excise tax but remain subject to the tax levied by article  
14 fifteen, chapter eleven of this code. Except for the exemption  
15 provided in section nine-f of article fifteen, chapter eleven of  
16 this code, all exemptions and exceptions from the consumers  
17 sales and service tax shall also apply to the special district  
18 excise tax.

19 (c) *Tax rate.* -- The rate or rates of a special district  
20 excise tax levied pursuant to this section shall be stated in an  
21 ordinance enacted by the municipality and identical to the  
22 rate or rates of the consumers sales and service tax imposed  
23 pursuant to article fifteen, chapter eleven of this code on sales  
24 rendered within the boundaries of the district authorized by  
25 this section.

26 (d) *Collection by Tax Commissioner.* -- The ordinance of  
27 the municipality imposing a special district excise tax shall  
28 provide for the tax to be collected by the Tax Commissioner  
29 in the same manner as the tax levied by section three, article  
30 fifteen, chapter eleven of this code is administered, assessed,  
31 collected and enforced.

32 (1) The Tax Commissioner may require the electronic  
33 filing of returns related to the special district excise tax  
34 imposed pursuant to this section, and may require the  
35 electronic payment of the special district excise tax imposed  
36 pursuant to this section. The Tax Commissioner may  
37 prescribe by rules promulgated pursuant to article three,  
38 chapter twenty-nine-a of this code, administrative notices,  
39 and forms and instructions, the procedures and criteria to be  
40 followed to electronically file returns and to electronically  
41 pay the special district excise tax imposed pursuant to this  
42 section.

43 (2) Any rules filed by the Tax Commissioner relating to  
44 the special district excise tax imposed pursuant to this section  
45 shall set forth the following:

46 (A) Acceptable indicia of timely payment;

47 (B) Which type of electronic filing method or methods a  
48 particular type of taxpayer may or may not use;

49 (C) What type of electronic payment method or methods  
50 a particular type of taxpayer may or may not use;

51 (D) What, if any, exceptions are allowable, and  
52 alternative methods of payment that may be used for any  
53 exceptions;

54 (E) Procedures for making voluntary or mandatory  
55 electronic payments or both;

56 (F) Any other provisions necessary to ensure the timely  
57 electronic filing of returns related to the special district excise  
58 tax and the making of payments electronically of the special  
59 district excise tax imposed pursuant to this section.



60 (3) (A) Notwithstanding the provisions of section five-d,  
61 article ten, chapter eleven of this code: (i) So long as bonds  
62 are outstanding pursuant to this article, the Tax  
63 Commissioner shall provide on a monthly basis to the trustee  
64 for bonds issued pursuant to this article information on  
65 returns submitted pursuant to this article; and (ii) the trustee  
66 may share the information so obtained with the county  
67 commission that established the economic opportunity  
68 development district that issued the bonds pursuant to this  
69 article and with the bondholders and with bond counsel for  
70 bonds issued pursuant to this article. The Tax Commissioner  
71 and the trustee may enter into a written agreement in order to  
72 accomplish the exchange of information.

73 (B) Any confidential information provided pursuant to  
74 this subdivision shall be used solely for the protection and  
75 enforcement of the rights and remedies of the bondholders of  
76 bonds issued pursuant to this article. Any person or entity  
77 that is in possession of information disclosed by the Tax  
78 Commissioner or shared by the trustee pursuant to  
79 subdivision (a) of this subsection is subject to the provisions  
80 of section five-d, article ten, chapter eleven of this code as if  
81 the person or entity that is in possession of the tax  
82 information is an officer, employee, agent or representative  
83 of this state or of a local or municipal governmental entity or  
84 other governmental subdivision.

85 (e) *Deposit of net tax collected.* --

86 (1) The ordinance of the municipality imposing a special  
87 district excise tax shall provide that the Tax Commissioner  
88 deposit the net amount of tax collected in the Special  
89 Economic Opportunity Development District Fund to the  
90 credit of the municipality's subaccount therein for the  
91 economic opportunity development district and that the  
92 money in the subaccount may only be used to pay for

93 development expenditures as provided in this article except  
94 as provided in subsection (f) of this section.

95 (2) The State Treasurer shall withhold from the  
96 municipality's subaccount in the Economic Opportunity  
97 Development District Fund and shall deposit in the General  
98 Revenue Fund of this state, on or before the twentieth day of  
99 each calendar month next following the effective date of a  
100 special district excise tax, a sum equal to one twelfth of the  
101 base tax revenue amount last certified by the development  
102 office pursuant to section seven of this article.

103 (f) *Effective date of special district excise tax.* -- Any  
104 taxes imposed pursuant to the authority of this section shall  
105 be effective on the first day of the calendar month that begins  
106 at least sixty days after the date of enactment of the ordinance  
107 imposing the tax or at any later date expressly designated in  
108 the ordinance that begins on the first day of a calendar month.

109 (g) *Copies of ordinance.* -- Upon enactment of an  
110 ordinance levying a special district excise tax, a certified  
111 copy of the ordinance shall be mailed to the State Auditor, as  
112 ex officio the chief inspector and supervisor of public offices,  
113 the State Treasurer and the Tax Commissioner.


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

  
Chairman Senate Committee

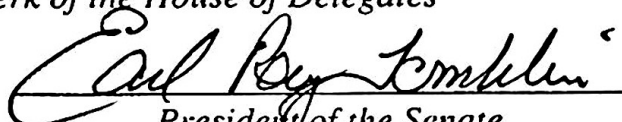
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 28<sup>th</sup>  
day of March, 2008.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 19 2008

Time 10:15 am