

FILE

2008 MAR 20 PM 5: 31

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2008**

SECRETARY OF STATE

---

COMMITTEE SUBSTITUTE  
FOR

**ENROLLED**  
**Senate Bill No. 88**

(SENATORS OLIVERIO AND UNGER, *original sponsors*)

---

[Passed March 6, 2008; in effect ninety days from passage.]

2008 MAR 20 PM 5:31

OFFICE OF THE  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 88**

(SENATORS OLIVERIO AND UNGER, *original sponsors*)

[Passed March 6, 2008; in effect ninety days from passage.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-6a, relating to the creation of brownfield economic development districts; providing eligibility criteria; exempting brownfield economic development districts from land-use planning provisions; and requiring the development office to promulgate emergency rules by the first day of July, two thousand eight, to implement this new section.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5B-2-6a, to read as follows:

**ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.**

**§5B-2-6a. Brownfield economic development districts; applications; fees; rules.**

1 (a) Any property owner of a tract of land that is a  
2 brownfield or voluntary remediated site pursuant to  
3 article twenty-two, chapter twenty-two of this code  
4 may, if the site and surrounding area were involved in  
5 the extraction and processing of coal, limestone or other  
6 natural resources, apply to the development office to  
7 become a brownfield economic development district.

8 (1) Applicants for a brownfield economic development  
9 district must demonstrate that the district when  
10 designated will create significant economic development  
11 activity;

12 (2) Applicants shall submit a development plan that  
13 provides specific details on proposed financial  
14 investment, direct and indirect jobs to be created and  
15 the viability of the district;

16 (3) Brownfield economic development districts:

17 (A) May not contain single-family housing;

18 (B) Shall provide all the infrastructure within the  
19 district without cost to the state, county, public service  
20 district or local municipal government;

21 (4) Applicants shall demonstrate that were it not for  
22 this designation, the contemplated development would  
23 not be possible and that the development is in the best  
24 interest of the state;

25 (5) The applicant shall own or control the property  
26 within the district;

27 (6) All costs for the application process shall be borne  
28 by the applicant;

29 (7) An applicant shall demonstrate that the applicant  
30 has attempted to work in good faith with local officials  
31 in regard to land-use issues;

32 (8) Brownfield economic development districts are not  
33 subject to the provisions of chapter eight-a of this code;

34 (9) Prior to granting a designation of brownfield  
35 economic development district, the applicant shall  
36 provide documentation that the applicant has met all  
37 the requirements set forth in article twenty-two,  
38 chapter twenty-two of this code to be designated as a  
39 brownfield site or voluntary remediated site and is in  
40 compliance with the remediation plan;

41 (10) Nothing may be construed by this section to  
42 exempt brownfield economic districts from  
43 environmental regulation that would pertain to the  
44 development;

45 (11) The decision of the development office in regard  
46 to an application is final; and

47 (12) Once designated, the district shall work in

48 conjunction with the regional brownfield assistance  
49 centers of Marshall University and West Virginia  
50 University as specified in section seven, article eleven,  
51 chapter eighteen-b of this code.

52 (b) The development office shall propose rules for  
53 legislative approval in accordance with the provisions  
54 of article three, chapter twenty-nine-a of this code to  
55 implement this section and the rules shall include, but  
56 not be limited to, the application and time line process,  
57 notice provisions, additional application consideration  
58 criteria and application fees sufficient to cover the costs  
59 of the consideration of an application. The development  
60 office shall promulgate emergency rules pursuant to the  
61 provisions of section fifteen, article three, chapter  
62 twenty-nine-a of this code by the first day of October,  
63 two thousand eight, to facilitate the initial  
64 implementation of this section.

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

*Randy White*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell Holmbeck*  
.....  
Clerk of the Senate

*Gregg B. B.*  
.....  
Clerk of the House of Delegates

*Carl Kay Tomblin*  
.....  
President of the Senate

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

The within *is approved* ..... this  
the *20th* Day of *August* ....., 2008.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 14 2008

Time 11:25 AM