WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 439

(Senators Fitzsimmons, Kessler (Mr. President), Beach, Edgell and Yost, original sponsors)

[Passed March 8, 2014; in effect from passage.]
AN ACT to amend and reenact §7-22-9 and §7-22-15 of the Code of West Virginia, 1931, as amended, all relating to county economic opportunity development district; increasing the Fort Henry economic opportunity development project district from three hundred to five hundred contiguous acres of land; providing when the Fort Henry Economic Opportunity Development District may be abolished or terminated; providing time period during which certain economic opportunity development districts may exist and when abolished by operation of law; providing definitions; providing for the authority of the Tax Commissioner; and providing effect of cessation and abolishment of a county economic opportunity development district.

Be it enacted by the Legislature of West Virginia:

That §7-22-9 and §7-22-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

(a) General. - County commissions have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically extended, and intends by this article, to exercise certain relevant powers expressed in section six-a, article X of the Constitution of this state as follows: (1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission or agency thereof, or any other source, to any county, municipality or other political subdivision of the state, under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law; and (2) the Legislature may impose or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities or other political subdivisions of the state for public purposes, the proceeds of any such tax or taxes or portion thereof to be distributed to such counties, municipalities or other political subdivisions of the state under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe.

Because a special district excise tax would have the effect of diverting, for a specified period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars currently paid into the General Revenue Fund of the state, the Legislature finds that in order to substantially ensure that such special district excise taxes will not adversely impact the current level of the General Revenue Fund of the state, it is necessary for the Legislature to separately consider and act upon each and every economic development district which is proposed, including the unique characteristics of location, current condition and activity of
and within the area included in such proposed economic opportunity development district and that for such reasons a statute more general in ultimate application is not feasible for accomplishment of the intention and purpose of the Legislature in enacting this article. Therefore, no economic opportunity development district excise tax may be levied by a county commission until after the Legislature expressly authorizes the county commission to levy a special district excise tax on sales of tangible personal property and services made within district boundaries approved by the Legislature.

(b) Authorizations. – The Legislature authorizes the following county commissions to levy special district excise taxes on sales of tangible personal property and services made from business locations in the following economic opportunity development districts:

(1) The Ohio County Commission may levy a special district excise tax for the benefit of the Fort Henry Economic Opportunity Development District which comprises five hundred contiguous acres of land. Notwithstanding the time limitations provisions of subdivision two, subsection (a), section fifteen of this article, the Fort Henry Economic Opportunity Development District shall not be abolished under subdivision two, subsection (a), section fifteen of this article until the year 2044, unless sooner abolished and terminated in accordance with the provisions of subdivision one, subsection (a), section fifteen of this article or any other provision of this code, or sooner abolished for any other reason: Provided, That on December 31, 2044, the provisions of subdivision two, subsection (a), section fifteen of this article shall apply to abolish the Fort Henry Economic Opportunity Development District, if the district has not been abolished prior to that date.

(2) The Harrison County commission may levy a special district excise tax for the benefit of the Charles Pointe
Economic Opportunity Development District which comprises four hundred thirty-seven acres of land; and

(3) The Monongalia County commission may levy a special district excise tax for the benefit of the University Town Centre Economic Opportunity District which comprises approximately one thousand four hundred fifty contiguous acres of land.

§7-22-15. Abolishment and dissolution of district; notice; hearing.

(a) General. — (1) Except upon the express written consent of the Executive Director of the Development Office and of all the holders or obligees of any indebtedness or other instruments the proceeds of which were applied to any development expenditures or any indebtedness the payment of which is secured by revenues payable into the fund provided under section eight of this article or by any public property, a district may only be abolished by the county commission when there is no outstanding indebtedness, the proceeds of which were applied to any development expenditures or the payment of which is secured by revenues payable into the fund provided under section eight of this article, or by any public property, and following a public hearing upon the proposed abolishment.

(2) Thirty-year limitations. —

(A) Thirty-year limitation on new districts. — Notwithstanding subdivision (1) of this subsection, and notwithstanding any other provision of this code to the contrary, any district for which the date of initial enactment was after December 31, 2013, shall cease to exist and shall be abolished by operation of law, at 11:59 P.M., United States eastern time zone, on December 31 of the thirtieth calendar
(B) Thirty-year limitation on preexisting districts receiving authorization for boundary changes or other changes after December 31, 2013. — Notwithstanding subdivision (1) of this subsection, notwithstanding any other provision of this code to the contrary and notwithstanding a date of initial enactment for a district that is prior to December 31, 2013, if legislative authorization is enacted after December 31, 2013, to expand or amend the previously authorized boundary, size or acreage of the district, or make any other amendment or change relating to the district, such district shall cease to exist and shall be abolished by operation of law, at 11:59 P.M., United States eastern time zone, on December 31 of the thirtieth calendar year subsequent to the initial year of enactment. Special district excise tax may not be levied, imposed or collected in or from the district so abolished or from or on any business located therein or any transaction occurring therein after the cessation and abolishment of the district.

(C) Definitions. — For purposes of this subdivision:

(i) The term "date of initial enactment" means the date of passage of legislation whereby legislative authorization was first enacted for the county commission to levy special district excise taxes for a district, and prior to enactment of any legislative authorization to expand or amend the authorized boundary, size or acreage of the district, or make any other amendment or change relating to the district as originally authorized.
(ii) The term "initial year of enactment" means the calendar year during which the date of initial enactment occurred.

(D) This section shall not be interpreted to abrogate or hinder the authority of the Tax Commissioner to collect, receive, process or administer any special district excise tax accrued, due or payable for any tax period prior to the cessation and abolishment of the district, or to audit and issue assessments of tax, interest, additions to tax and penalties for the collection, remittance and enforcement thereof.

(E) Upon cessation and abolishment of a district under this section or any provision of this code, or any cessation or abolishment of a district for any reason, the consumers sales and service tax and use tax and municipal consumers sales and service tax and use tax, if applicable, shall be imposed, collected, levied and remitted, as provided by law for sales and uses in the previously authorized district.

(b) Notice of public hearing. — Notice of the public hearing required by subsection (a) of this section shall be provided by first-class mail to all owners of real property within the district and shall be published as a Class I-0 legal advertisement in compliance with article three, chapter fifty-nine of this code at least twenty days prior to the public hearing.

(c) Transfer of district assets and funds. — Upon the abolishment of any economic opportunity development district, any funds or other assets, contractual rights or obligations, claims against holders of indebtedness or other financial benefits, liabilities or obligations existing after full payment has been made on all existing contracts, bonds, notes or other obligations of the district are transferred to and assumed by the county commission. Any funds or other
assets transferred shall be used for the benefit of the area included in the district being abolished.

(d) Reinstatement of district. — Following abolishment of a district pursuant to this section, its reinstatement requires compliance with all requirements and procedures set forth in this article for the initial development, approval, establishment and creation of an economic opportunity development district.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Member—Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect 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 "Day of... March...", 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 27 2014

Time 3:00 PM