Committee Substitute

for

House Bill 4612

(BY DELEGATES E. NELSON, MR. SPEAKER,
(MR. ARMSTEAD), GEARHEART, HAMRICK,
HOUSEHOLDER, ANDERSON, SHOTT, STORCH,
ESPINOSA, HOWELL AND BOGGS)

[Passed March 11, 2016; in effect ninety days from passage.]
WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4612

(By Delegates E. Nelson, Mr. Speaker,
(Mr. Armstead), Gearheart, Hamrick,
Householder, Anderson, Shott, Storch,
Espinosa, Howell and Boggs)

[Passed March 11, 2016; in effect ninety days from passage.]
AN ACT to amend and reenact §7-118-3, §7-118-4, §7-118-14, §7-118-21 and §7-118-22 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §7-118-29 and §7-118-30; to amend and reenact §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of said code; to amend said code by adding thereto two new sections, designated §7-22-23 and §7-22-24; to amend and reenact §8-38-5, §8-38-7, §8-38-8, §8-38-12 and §8-38-14 of said code; to amend said code by adding thereto two new sections, designated §8-38-23 and §8-38-24; and to amend and reenact §11-10-11a of said code, all relating generally to tax increment financing; authorizing tax increment financing for funding road projects in West Virginia; permitting certain agreements between the Division of Highways and counties or municipalities regarding development districts; permitting financing of certain projects by proceeds of tax increment financing obligations; permitting road construction projects be done jointly by counties and municipalities under certain circumstances; establishing procedures and requirements for applications and the management of projects and districts; providing that projects are public improvements and subject to certain requirements; permitting the Division of Highways to propose certain projects; establishing procedures for the West Virginia Development Office and the Tax Commissioner regarding applications and their review; permitting audits in certain circumstances; establishing a procedure for adding or removing property from an economic opportunity development district; requiring procedures relating to taxpayers; providing for confidentiality; providing that roads to be part of the state road system; requiring legislative rulemaking; permitting a fee to be assessed; making findings; and defining terms.

Be it enacted by the Legislature of West Virginia:

That §7-118-3, §7-118-4, §7-118-14, §7-118-21 and §7-118-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto two new sections, designated §7-118-29 and §7-118-30; that §7-22-5, §7-22-7, §7-22-8,
§7-22-12 and §7-22-14 of said code be amended and reenacted; that said code be amended by adding thereto two new sections, designated §7-22-23 and §7-22-24; that §8-38-5, §8-38-7, §8-38-8, §8-38-12 and §8-38-14 of said code be amended and reenacted; that said code be amended by adding thereto two new sections, designated §8-38-23 and §8-38-24; and that §11-10-11a of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 11B. WEST VIRGINIA TAX INCREMENT FINANCING ACT.

§7-11B-3. Definitions.

(a) General. — When used in this article, words and phrases defined in this section have the meanings ascribed to them in this section unless a different meaning is clearly required either by the context in which the word or phrase is used or by specific definition in this article.

(b) Words and phrases defined. —

"Agency" includes a municipality, a county or municipal development agency established pursuant to authority granted in section one, article twelve of this chapter, a port authority, an airport authority or any other entity created by this state or an agency or instrumentality of this state that engages in economic development activity or the Division of Highways.

"Base assessed value" means the taxable assessed value of all real and tangible personal property, excluding personal motor vehicles, having a tax situs within a development or redevelopment district as shown upon the landbooks and personal property books of the assessor on July 1 of the calendar year preceding the effective date of the order or ordinance creating and establishing the development or redevelopment district: Provided, That for any development or redevelopment district approved after the effective date of the amendments to this section enacted during the regular session of the Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax situs within a development or redevelopment district are excluded from the base assessed value.
"Blighted area" means an area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county in which the structures, buildings or improvements, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation, open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals or welfare. "Blighted area" includes any area which, by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, defective or unusual conditions of title or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, or any area which is predominantly open and which because of lack of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

"Commissioner of Highways" means the Commissioner of the Division of Highways.

"Conservation area" means any improved area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county in which fifty percent or more of the structures in the area have an age of thirty-five years or more. A conservation area is not yet a blighted area but is detrimental to the public health, safety, morals or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate
utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this subdivision.

"County commission" means the governing body of a county of this state and, for purposes of this article only, includes the governing body of a Class I or II municipality in this state.

"Current assessed value" means the annual taxable assessed value of all real and tangible personal property, excluding personal motor vehicles, having a tax situs within a development or redevelopment district as shown upon the landbook and personal property records of the assessor: Provided, That for any development or redevelopment district approved after the effective date of the amendments to this section enacted during the regular session of the Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax situs within a development or redevelopment district are excluded from the current assessed value.

"Development office" means the West Virginia Development Office created in section one, article two, chapter five-b of this code.

"Development project" or "redevelopment project" means a project undertaken in a development or redevelopment district for eliminating or preventing the development or spread of slums or deteriorated, deteriorating or blighted areas, for discouraging the loss of commerce, industry or employment, for increasing employment or for any combination thereof in accordance with a tax increment financing plan. A development or redevelopment project may include one or more of the following:

(A) The acquisition of land and improvements, if any, within the development or redevelopment district and clearance of the land so acquired; or

(B) The development, redevelopment, revitalization or conservation of the project area whenever necessary to provide land for needed public facilities, public housing or industrial or
commercial development or revitalization, to eliminate unhealthful, unsanitary or unsafe conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to public welfare or otherwise remove or prevent the spread of blight or deterioration;

(C) The financial or other assistance in the relocation of persons and organizations displaced as a result of carrying out the development or redevelopment project and other improvements necessary for carrying out the project plan, together with those site improvements that are necessary for the preparation of any sites and making any land or improvements acquired in the project area available, by sale or lease, for public housing or for development, redevelopment or rehabilitation by private enterprise for commercial or industrial uses in accordance with the plan;

(D) The construction of capital improvements within a development or redevelopment district designed to increase or enhance the development of commerce, industry or housing within the development project area; or

(E) Any other project the county commission or the agency deems appropriate to carry out the purposes of this article.

"Development or redevelopment district" means an area proposed by one or more agencies as a development or redevelopment district which may include one or more counties, one or more municipalities or any combination thereof, that has been approved by the county commission of each county in which the project area is located if the project is located outside the corporate limits of a municipality, or by the governing body of a municipality if the project area is located within a municipality, or by both the county commission and the governing body of the municipality when the development or redevelopment district is located both within and without a municipality.

"Division of Highways" means the state Department of Transportation, Division of Highways.
"Economic development area" means any area or portion of an area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county that is neither a blighted area nor a conservation area and for which the county commission finds that development or redevelopment will not be solely used for development of commercial businesses that will unfairly compete in the local economy and that development or redevelopment is in the public interest because it will:

(A) Discourage commerce, industry or manufacturing from moving their operations to another state;

(B) Result in increased employment in the municipality or county, whichever is applicable;

or

(C) Result in preservation or enhancement of the tax base of the county or municipality.

"Governing body of a municipality" means the city council of a Class I or Class II municipality in this state.

"Incremental value", for any development or redevelopment district, means the difference between the base assessed value and the current assessed value. The incremental value will be positive if the current value exceeds the base value and the incremental value will be negative if the current value is less than the base assessed value.

"Includes" and "including", when used in a definition contained in this article, shall not exclude other things otherwise within the meaning of the term being defined.

"Intergovernmental agreement" means any written agreement that may be entered into by and between two or more county commissions, or between two or more municipalities, or between a county commission and a municipality, in the singular and the plural, or between two or more government entities and the Commissioner of Highways. Provided, That any intergovernmental agreement shall not be subject to provisions governing intergovernmental agreements set forth in other provisions of this code, including, but not limited to, article twenty-three, chapter eight of this code, but shall be subject to the provisions of this article.
"Local levying body" means the county board of education and the county commission and includes the governing body of a municipality when the development or redevelopment district is located, in whole or in part, within the boundaries of the municipality.

"Obligations" or "tax increment financing obligations" means bonds, loans, debentures, notes, special certificates or other evidences of indebtedness issued by a county commission or municipality pursuant to this article to carry out a development or redevelopment project or to refund outstanding obligations under this article.

"Order" means an order of the county commission adopted in conformity with the provisions of this article and as provided in this chapter.

"Ordinance" means a law adopted by the governing body of a municipality in conformity with the provisions of this article and as provided in chapter eight of this code.

"Payment in lieu of taxes" means those estimated revenues from real property and tangible personal property having a tax situs in the area selected for a development or redevelopment project which revenues, according to the development or redevelopment project or plan, are to be used for a private use, which levying bodies would have received had a county or municipality not adopted one or more tax increment financing plans and which would result from levies made after the date of adoption of a tax increment financing plan during the time the current assessed value of all taxable real and tangible personal property in the area selected for the development or redevelopment project exceeds the total base assessed value of all taxable real and tangible personal property in the development or redevelopment district until the designation is terminated as provided in this article.

"Person" means any natural person, and any corporation, association, partnership, limited partnership, limited liability company or other entity, regardless of its form, structure or nature, other than a government agency or instrumentality.
“Real property” means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest and right, legal or equitable, in them, including terms of years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by the liens.

“Redevelopment area” means an area designated by a county commission or the governing body of a municipality in respect to which the commission or governing body has made a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, an economic development area or a combination thereof, which area includes only those parcels of real property directly and substantially benefitted by the proposed redevelopment project located within the development or redevelopment district or land contiguous thereto.

“Redevelopment plan” means the comprehensive program under this article of a county or municipality for redevelopment intended by the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment area as a blighted area, conservation area, economic development area or combination thereof, and to thereby enhance the tax bases of the levying bodies which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of this article.

“Tax increment” means the amount of regular levy property taxes attributable to the amount by which the current assessed value of real and tangible personal property having a tax situs in a development or redevelopment district exceeds the base assessed value of the property.

“Tax increment financing fund” means a separate fund for a development or redevelopment district established by the county commission or governing body of the municipality into which all tax increment revenues and other pledged revenues are deposited and from which projected project costs, debt service and other expenditures authorized by this article are paid.

“This code” means the Code of West Virginia, 1931, as amended by the Legislature.
“Total ad valorem property tax regular levy rate” means the aggregate levy rate of all levying bodies on all taxable property having a tax situs within a development or redevelopment district in a tax year but does not include excess levies, levies for general obligation bonded indebtedness or any other levies that are not regular levies.

§7-11B-4. Powers generally.

In addition to any other powers conferred by law, a county commission or governing body of a Class I or II municipality may exercise any powers necessary and convenient to carry out the purpose of this article, including the power to:

(1) Create development and redevelopment areas or districts and to define the boundaries of those areas or districts;

(2) Cause project plans to be prepared, to approve the project plans, and to implement the provisions and effectuate the purposes of the project plans;

(3) Establish tax increment financing funds for each development or redevelopment district;

(4) Issue tax increment financing obligations and pledge tax increments and other revenues for repayment of the obligations;

(5) Deposit moneys into the tax increment financing fund for any development or redevelopment district;

(6) Enter into any contracts or agreements, including, but not limited to, agreements with project developers, consultants, professionals, financing institutions, trustees and bondholders determined by the county commission to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;

(7) Receive from the federal government or the state loans and grants for, or in aid of, a development or redevelopment project and to receive contributions from any other source to defray project costs;
(8) Exercise the right of eminent domain to condemn property for the purposes of implementing the project plan. The rules and procedures set forth in chapter fifty-four of this code shall govern all condemnation proceedings authorized in this article;

(9) Make relocation payments to those persons, businesses, or organizations that are displaced as a result of carrying out the development or redevelopment project;

(10) Clear and improve property acquired by the county commission pursuant to the project plan and construct public facilities on it or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration or repair of the property;

(11) Cause parks, playgrounds or water, sewer or drainage facilities or any other public improvements, including, but not limited to, fire stations, community centers and other public buildings, which the county commission is otherwise authorized to undertake to be laid out, constructed or furnished in connection with the development or redevelopment project. When the public improvement of the county commission is to be located, in whole or in part, within the corporate limits of a municipality, the county commission shall consult with the mayor and the governing body of the municipality regarding the public improvement and shall pay for the cost of the public improvement from the tax increment financing fund;

(12) Lay out and construct, alter, relocate, change the grade of, make specific repairs upon or discontinue public ways and construct sidewalks in, or adjacent to, the project area: Provided, That when the public way or sidewalk is located within a municipality, the governing body of the municipality shall consent to the same and if the public way is a state road, the consent of the commissioner of highways shall be necessary;

(13) Cause private ways, sidewalks, ways for vehicular travel, playgrounds or water, sewer or drainage facilities and similar improvements to be constructed within the project area for the particular use of the development or redevelopment district or those dwelling or working in it;

(14) Construct, or cause to be constructed, any capital improvements of a public nature;
(15) Construct capital improvements to be leased or sold to private entities in connection with the goals of the development or redevelopment project;

(16) Cause capital improvements owned by one or more private entities to be constructed within the development or redevelopment district;

(17) Designate one or more official or employee of the county commission to make decisions and handle the affairs of development and redevelopment project areas or districts created by the county commission pursuant to this article;

(18) Adopt orders, ordinances or bylaws or repeal or modify such ordinances or bylaws or establish exceptions to existing ordinances and bylaws regulating the design, construction and use of buildings within the development or redevelopment district created by a county commission or governing body of a municipality under this article;

(19) Enter orders, adopt bylaws or repeal or modify such orders or bylaws or establish exceptions to existing orders and bylaws regulating the design, construction and use of buildings within the development or redevelopment district created by a county commission or governing body of a municipality under this article;

(20) Sell, mortgage, lease, transfer or dispose of any property or interest therein, by contract or auction, acquired by it pursuant to the project plan for development, redevelopment or rehabilitation in accordance with the project plan;

(21) Expend project revenues as provided in this article;

(22) Enter into one or more intergovernmental agreements or memorandums of understanding with the Commissioner of Highways or with other county commissions or municipalities regarding development or redevelopment districts;

(23) Designate one or more officials or employees of the county commission or municipality that created the development or redevelopment district to sign documents, to make decisions and handle the affairs of the development or redevelopment district. When two or more county commissions, or municipalities, or any combination thereof, established the development
or redevelopment district, the government entities shall enter into one or more intergovernmental
agreements regarding administration of the development or redevelopment district and the
handling of its affairs; and

(24) Do all things necessary or convenient to carry out the powers granted in this article.

§7-11B-14. Projects financed by tax increment financing considered to be public
improvements subject to prevailing wage, local labor preference and
competitive bid requirements.

(a) Any project acquired, constructed, or financed, in whole or in part, by a county
commission or municipality under this article shall be considered to be a "public improvement"
within the meaning of the provisions of articles one-c, chapter twenty-one of this code.

(b) The county commission or municipality shall, except as provided in subsection (c) of
this section, solicit or require solicitation of competitive bids and require compliance with article
one-c, chapter twenty-one of this code for every project or infrastructure project funded pursuant
to this article exceeding $25,000 in total cost: Provided, That the provisions of article two-d,
chapter seventeen of this code may apply where applicable to projects subject to an
intergovernmental agreement with the Commissioner of Highways.

(c) Following the solicitation of the bids, the construction contract shall be awarded to the
lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond:
Provided, That the county commission, municipality or other person soliciting the bids may reject
all bids and solicit new bids on the project.

(d) No officer or employee of this state or of any public agency, public authority, public
corporation, or other public entity, and no person acting or purporting to act on behalf of such
officer or employee or public entity shall require that any performance bond, payment bond, or
bid bond required or permitted by this section be obtained from any particular surety company,
agent, broker or producer.

(e) This section does not:
(1) Apply to work performed on construction projects not exceeding a total cost of $50,000 by regular full-time employees of the county commission or the municipality: Provided, That no more than $50,000 shall be expended on an individual project in a single location in a twelve-month period;

(2) Prevent students enrolled in vocational educational schools from being used in construction or repair projects when such use is a part of the students’ training program;

(3) Apply to emergency repairs to building components and systems: Provided, That the term “emergency repairs” means repairs that, if not made immediately, will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems; or

(4) Apply to any situation where the county commission or municipality comes to an agreement with volunteers, or a volunteer group, by which the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body: Provided, That the total cost of the construction or repair projects does not exceed $50,000.

(f) The provisions of subsections (a) and (b) of this section apply to any specific project, whether privately or publicly owned or constructed on private or public lands, that are financed or to be financed, in whole or in part, with tax increment or proceeds of tax increment financing obligations: Provided, That, the provisions of subsections (a) and (b) of this section do not apply to any project or part of a project that is privately owned and financed without any tax increment or proceeds of tax increment financing obligations.

§7-11B-21. Tax Increment financing obligations — authorizing order or ordinance.

(a) Issuance of tax increment financing obligations shall be authorized by order of the county commission, or ordinance of the municipality, that created the development or redevelopment district.
Enr. CS for H.B. 4612

(b) The order, or ordinance, shall state the name of the development or redevelopment district, the amount of tax increment financing obligations authorized, the type of obligation authorized and the interest rate or rates to be borne by the bonds, notes or other tax increment financing obligations.

(c) The order or ordinance may prescribe the terms, form and content of the tax increment financing obligations and other particulars or information the county commission, or governing body of the municipality, issuing the obligations deems useful or it may include by reference the terms and conditions set forth in a trust indenture or other document securing the development or redevelopment project tax increment financing obligations.

§7-11B-22. Tax increment financing obligations — terms, conditions.

(a) Tax increment financing obligations may not be issued in an amount exceeding the estimated aggregate project costs, including all costs of issuance of the tax increment financing obligations.

(b) Tax increment financing obligations shall not be included in the computation of the Constitutional debt limitation of the county commission or municipality issuing the tax increment financing obligations.

(c) Tax increment financing obligations shall mature over a period not exceeding thirty years from the date of entry of the county commission's order, or the effective date of the municipal ordinance, creating the development or redevelopment district and approving the development or redevelopment plan, or a period terminating with the date of termination of the development or redevelopment district, whichever period terminates earlier.

(d) Tax increment financing obligations may contain a provision authorizing their redemption, in whole or in part, at stipulated prices, at the option of the county commission or municipality issuing the obligations, and, if so, the obligations shall provide the method of selecting the tax increment financing obligations to be redeemed.
Enr. CS for H.B. 4612

(e) The principal and interest on tax increment financing obligations may be payable at any place set forth in the resolution, trust indenture or other document governing the obligations.

(f) Bonds or notes shall be issued in registered form.

(g) Bonds or notes may be issued in any denomination.

(h) Each tax increment financing obligation issued under this article is declared to be a negotiable instrument.

(i) The tax increment financing obligations may be sold at public or private sale.

(j) Insofar as they are consistent with subsections (a), (b) and (c) of this section, the procedures for issuance, form, contents, execution, negotiation and registration of county and municipal industrial or commercial revenue bonds set forth in article two-c, chapter thirteen of this code are incorporated by reference herein.

(k) The bonds may be refunded or refinanced and refunding bonds may be issued in any principal amount: Provided, That the last maturity of the refunding bonds shall not be later than the last maturity of the bonds being refunded

§7-11B-29. Joint development or redevelopment districts.

(a) The Legislature hereby finds and declares that the citizens of the state would benefit from coordinated road construction efforts by county commissions, municipalities and the division of highways.

(b) Notwithstanding any other section of this code to the contrary, any two or more county commissions, any two or more municipalities, or any combination thereof, may: (1) Create a combined development or redevelopment district; (2) propose joint project plans; (3) propose joint amendments to an existing project plan for combined development or redevelopment district; and (4) enter into one or more intergovernmental agreements between themselves and/or the Commissioner of Highways to share: (A) Project expenses; and (B) certain property tax collections, on a pro rata or other basis, to facilitate construction of projects within the combined...
development or redevelopment district and to jointly take such other actions as are authorized in this article.

(c) When a project begins in one county and ends in another county of this state, the county commission of each county included in a multicounty project may, by resolution, adopt a written intergovernmental agreement with each county and/or the Commissioner of Highways regarding the proposed multicounty project. When the project begins or passes through the corporate limits of a municipality, the governing body of that municipality may by resolution adopt a written intergovernmental agreement with the county or counties in which the project is located.

(d) No county commission or municipality may withdraw from an intergovernmental agreement as long as tax increment financing obligations remain outstanding for which the proceeds were used by any party to the intergovernmental agreement to finance construction of the project for which the written intergovernmental agreement was executed.

(e) No withdrawing county commission or municipality shall be entitled to the return of any money or property advanced to the project.

(f) Notwithstanding any provision of this code to the contrary, any county commission or municipality that creates a development or redevelopment district may enter into one or more intergovernmental agreements with one or more other counties or municipalities that also create a development or redevelopment district to finance, in whole or in part, one or more projects, to pool tax increment and other revenues to finance, in whole or in part, contiguous projects on a cash basis or to pay debt service on tax increment financing obligations.

(g) The obligations of the parties under any intergovernmental agreement executed pursuant to this article are not debt within the meaning of sections six or eight, article X of the Constitution of West Virginia.

(h) Any intergovernmental agreement must be approved by resolution adopted by a majority vote of the county commission of each county participating in the agreement, by a
majority vote of the governing body of each municipality participating in the agreement and by the
Commissioner of Highways.

(i) The Commissioner of Highways is authorized to enter into intergovernmental
agreements with county commissions and municipalities of this state, or with the federal
government or any agency thereof, respecting the financing, planning, and construction of state
roads and bridges, including related infrastructure if any, constructed, in whole or in part, pursuant
to this article.

§7-11B-30. Application by Division of Highways.

(a) The Commissioner of Highways may propose creation by a county commission or
municipality of development or redevelopment areas or districts and project plans, or propose
amendments to an existing project plans. This plan may include related infrastructure that is
necessary or convenient to economic development adjacent to the proposed project.

(b) Project plans proposed by the Commissioner of Highways are limited to those related
to the construction, reconstruction, improvement or modernization of state roads, as defined in
article four, chapter seventeen of this code, that are part of the state road system, as defined in
that article or that will become part of the state road system upon completion of the construction.
All construction, reconstruction, improvement or modernization and maintenance of state roads
shall be done by or under the supervision of the Commissioner of Highways.

(c) All road projects that are accepted as part of the state road system, and all real property
interests and appurtenances, is under the exclusive jurisdiction and control of the Commissioner
of Highways, who may exercise the same rights and authority as he or she has over other
transportation facilities in the state road system.

(d) Except as provided in an intergovernmental agreement executed by one or more
county commissions, municipalities and/or the Commissioner of Highways and as provided in this
article, a county commission or municipality may not be required to pay for the cost of
constructing, reconstructing, improving, maintaining a road that is part of the state road system.
as defined in article four, chapter seventeen of this code or to pay any other expense fairly related to that road.

(e) The powers conferred by this article on the Commissioner of Highways or the Division of Highways are in addition and supplemental to the powers conferred upon the Commissioner of Highways, the Division of Highways, and the Department of Transportation by the Legislature elsewhere in this code.

ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.


Any county commission that has established an economic opportunity development district under this article may make, or authorize to be made by a district board and other public or private parties, development expenditures as will promote the economic vitality of the district and the general welfare of the county, including, but not limited to, expenditures for the following purposes:

(1) Beautification of the district by means including landscaping and construction and erection of fountains, shelters, benches, sculptures, signs, lighting, decorations and similar amenities;

(2) Provision of special or additional public services such as sanitation, security for persons and property and the construction and maintenance of public facilities, including, but not limited to, sidewalks, parking lots, parking garages and other public areas;

(3) Making payments for principal, interest, issuance costs, any of the costs described in section twenty of this article and appropriate reserves for bonds and other instruments and arrangements issued or entered into by the county commission for financing the expenditures of the district described in this section and to otherwise implement the purposes of this article;

(4) Providing financial support for public transportation and vehicle parking facilities open to the general public, whether physically situate within the district's boundaries or on adjacent land;
19 (5) Acquiring, building, demolishing, razing, constructing, repairing, reconstructing, refurbishing, renovating, rehabilitating, expanding, altering, otherwise developing, operating and maintaining real property generally, parking facilities, commercial structures and other capital improvements to real property, fixtures and tangible personal property, whether or not physically situate within the district's boundaries, including, but not limited to, state road improvements pursuant to an intergovernmental agreement with the Commissioner of Highways: Provided, That the expenditure directly benefits the district;

(6) Developing plans for the architectural design of the district and portions thereof and developing plans and programs for the future development of the district;

(7) Developing, promoting and supporting community events and activities open to the general public that benefit the district;

(8) Providing the administrative costs for a district management program;

(9) Providing for the usual and customary maintenance and upkeep of all improvements and amenities in the district as are commercially reasonable and necessary to sustain its economic viability on a permanent basis;

(10) Providing any other services that the county commission or district board is authorized to perform and which the county commission does not also perform to the same extent on a countywide basis;

(11) Making grants to the owners or tenants of economic opportunity development district for the purposes described in this section;

(12) Making grants to the Division of Highways for road projects benefitting an economic opportunity development district;

(13) Acquiring an interest in any entity or entities that own any portion of the real property situate in the district and contributing capital to any entity or entities;
(14) Remediation of publicly or privately owned landfills, former coal or other mining sites, solid waste facilities or hazardous waste sites to facilitate commercial development which would not otherwise be economically feasible; and

(15) To do any and all things necessary, desirable or appropriate to carry out and accomplish the purposes of this article notwithstanding any provision of this code to the contrary.

§7-22-7. Application to Development Office for approval of an economic opportunity development district project.

(a) General. — The Development Office shall receive and act on applications filed with it by county commissions pursuant to section six of this article. Each application must include:

(1) A true copy of the notice described in section six of this article;

(2) The total cost of the project;

(3) A reasonable estimate of the number of months needed to complete the project;

(4) A general description of the capital improvements, additional or extended services and other proposed development expenditures to be made in the district as part of the project;

(5) A description of the proposed method of financing the development expenditures, together with a description of the reserves to be established for financing ongoing development expenditures necessary to permanently maintain the optimum economic viability of the district following its inception: Provided, That the amounts of the reserves may not exceed the amounts that would be required by prevailing commercial capital market considerations;

(6) A description of the sources and anticipated amounts of all financing, including, but not limited to, proceeds from the issuance of any bonds or other instruments, revenues from the special district excise tax and enhanced revenues from property taxes and fees;

(7) A description of the financial contribution of the county commission to the funding of development expenditures;

(8) Identification of any businesses that the county commission expects to relocate their business locations from the district to another place in the state in connection with the
establishment of the district or from another place in this state to the district: Provided, That for purposes of this article, any entities shall be designated "relocated entities";

(9) identification of any businesses currently conducting business in the proposed economic opportunity development district that the county commission expects to continue doing business there after the district is created;

(10) A good faith estimate of the aggregate amount of consumers sales and service tax that was actually remitted to the Tax Commissioner by all business locations identified as provided in subdivisions (8) and (9) of this subsection with respect to their sales made and services rendered from their then current business locations that will be relocated from, or to, or remain in the district, for the twelve full calendar months next preceding the date of the application: Provided, That for purposes of this article, the aggregate amount is designated as "the base tax revenue amount";

(11) A good faith estimate of the gross annual district tax revenue amount;

(12) The proposed application of any surplus from all funding sources to further the objectives of this article; and

(13) Any additional information the Development Office may require.

(b) Review of applications. — The Development Office shall review all project proposals for conformance to statutory and regulatory requirements, the reasonableness of the project's budget and timetable for completion and the following criteria:

(1) The quality of the proposed project and how it addresses economic problems in the area in which the project will be located;

(2) The merits of the project determined by a cost-benefit analysis that incorporates all costs and benefits, both public and private;

(3) Whether the project is supported by significant private sector investment and substantial credible evidence that, but for the existence of sales tax increment financing, the project would not be feasible;
(4) Whether the economic opportunity district excise tax dollars will leverage or be the catalyst for the effective use of private, other local government, state or federal funding that is available;

(5) Whether there is substantial and credible evidence that the project is likely to be started and completed in a timely fashion;

(6) Whether the project will, directly or indirectly, improve the opportunities in the area where the project will be located for the successful establishment or expansion of other industrial or commercial businesses;

(7) Whether the project will, directly or indirectly, assist in the creation of additional long-term employment opportunities in the area and the quality of jobs created in all phases of the project, to include, but not be limited to, wages and benefits;

(8) Whether the project will fulfill a pressing need for the area, or part of the area, in which the economic opportunity district is located;

(9) Whether the county commission has a strategy for economic development in the county and whether the project is consistent with that strategy;

(10) Whether the project helps to diversify the local economy;

(11) Whether the project is consistent with the goals of this article;

(12) Whether the project is economically and fiscally sound using recognized business standards of finance and accounting; and

(13) (A) The ability of the county commission and the project developer or project team to carry out the project: Provided, That no project may be approved by the Development Office unless the amount of all development expenditures proposed to be made in the first twenty-four months following the creation of the district results in capital investment of more than $75 million in the district and the county submits clear and convincing information, to the satisfaction of the Development Office, that the investment will be made if the Development Office approves the project and the Legislature authorizes the county commission to levy an excise tax on sales of
goods and services made within the economic opportunity district as provided in this article:

Provided, however, That such minimum capital investment does not apply to projects proposed by the Commissioner of Highways in accordance with section twenty-three, article twenty-two, chapter seven of this code.

(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, no project involving remediation may be approved by the Development Office unless the amount of all development expenditures proposed to be made in the first forty-eight months following the creation of the district results in capital investment of more than $75 million in the district. In addition to the remaining provisions of paragraph (A) of this subdivision the Development Office may not approve a project involving remediation authorized under section five of this article unless the county commission submits clear and convincing information, to the satisfaction of the Development Office, that the proposed remediation expenditures to be financed by the issuance of bonds or notes pursuant to section sixteen of this article do not constitute more than twenty-five percent of the total development expenditures associated with the project.

(c) Additional criteria. — The Development Office may establish other criteria for consideration when approving the applications.

(d) Action on the application. — Upon receipt of an application, the Development Office shall promptly request a certification from the Tax Commissioner of the base tax revenue amount and the Tax Commissioner shall provide the certification to the Development Office within thirty days. The Executive Director of the Development Office shall act to approve or not approve any application within thirty days following the receipt of the application and the certification from the Tax Commissioner required by this subsection or the receipt of any additional information requested by the Development Office, whichever is the later.

(e) Certification of project. — If the Executive Director of the Development Office approves a county's economic opportunity district project application, he or she shall issue to the county commission a written certificate evidencing the approval.
The certificate shall expressly state a base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount which, for purposes of this article, is the difference between the gross annual district tax revenue amount and the base tax revenue amount, all of which the Development Office has determined with respect to the district’s application based on any investigation it considers reasonable and necessary, including, but not limited to, any relevant information the Development Office requests from the Tax Commissioner and the Tax Commissioner provides to the Development Office: Provided, That in determining the net annual district tax revenue amount, the Development Office may not use a base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the Development Office may use the estimate of the gross annual district tax revenue amount provided by the county commission pursuant to subsection (a) of this section.

(f) Certification of enlargement or reduction of geographic boundaries of previously certified district. — If the Executive Director of the Development Office approves a county’s economic opportunity district project application to expand or reduce the geographic boundaries of a previously certified district, he or she shall issue to the county commission a written certificate evidencing the approval.

The certificate shall expressly state a base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount which, for purposes of this article, is the difference between the gross annual district tax revenue amount and the base tax revenue amount, all of which the Development Office has determined with respect to the district’s application based on any investigation it considers reasonable and necessary, including, but not limited to, any relevant information the Development Office requests from the Tax Commissioner and the Tax Commissioner provides to the Development Office: Provided, That in determining the net annual district tax revenue amount, the Development Office may not use a base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of
confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the Development Office may use the estimate of the gross annual district tax revenue amount provided by the county commission pursuant to subsection (a) of this section.

(g) Promulgation of rules. — The Executive Director of the Development Office may promulgate rules to implement the economic opportunity development district project application approval process and to describe the criteria and procedures it has established in connection therewith. These rules are not subject to the provisions of chapter twenty-nine-a of this code but shall be filed with the Secretary of State.

§7-22-8. Establishment of the economic opportunity development district fund.

(a) General. — There is hereby created a special revenue account in the State Treasury designated the “Economic Opportunity Development District Fund” which is an interest-bearing account and shall be invested in the manner described in section nine-c, article six, chapter twelve of this code with the interest income a proper credit to the Fund.

(b) District subaccount. — A separate and segregated subaccount within the account shall be established for each economic opportunity development district and each joint economic opportunity development district that is approved by the Executive Director of the Development Office. In addition to the economic opportunity district excise tax levied and collected as provided in this article, funds paid into the account for the credit of any subaccount may also be derived from the following sources:

(1) All interest or return on the investment accruing to the subaccount;

(2) Any gifts, grants, bequests, transfers, appropriations or donations which are received from any governmental entity or unit or any person, firm, foundation or corporation; and

(3) Any appropriations by the Legislature which are made for this purpose.

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

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

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

c) Tax rate. — The rate or rates of a special district excise tax levied pursuant to this
section shall be identical to the rate or rates of the consumer sales and service tax imposed
pursuant to article fifteen, chapter eleven of this code on sales made and services rendered within
the boundaries of the district authorized by this section.

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

(1) The Tax Commissioner may require the electronic filing of returns related to the special
district excise tax imposed pursuant to this section, and also may require the electronic payment
of the special district excise tax imposed pursuant to this section. The Tax Commissioner may
prescribe by rules adopted or proposed pursuant to article three, chapter twenty-nine-a of this
code, administrative notices, and forms and instructions, the procedures and criteria to be
followed to electronically file those returns and to electronically pay the special district excise tax
imposed pursuant to this section.

(2) Any rules filed by the State Tax Commissioner relating to the special district excise tax
imposed pursuant to this section shall set forth the following:
(A) Acceptable indicia of timely payment;

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

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

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

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

(F) Procedures for ensuring that taxpayers new to an economic opportunity development district are included within the Tax Commissioner's database;

(G) Procedures for ensuring that taxpayers with multiple locations properly allocate their special district excise taxes to the appropriate economic opportunity development district and reflect the allocation of their returns; and

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

(A) Notwithstanding the provisions of section five-d, article ten, chapter eleven of this code: (I) So long as bonds are outstanding pursuant to this article, the Tax Commissioner shall provide on a monthly basis to the trustee for bonds issued pursuant to this article information on returns submitted pursuant to this article; and (II) the trustee may share the information so obtained with the county commission that established the economic opportunity development district that issued the bonds pursuant to this article and with the bondholders and with bond counsel for bonds issued pursuant to this article. The Tax Commissioner and the trustee may enter into a written agreement in order to accomplish exchange of the information.

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

(C) Notwithstanding any provision of this code to the contrary, so long as bonds are
outstanding pursuant to this article, the Tax Commissioner shall allow a designated representative
of the county commission that established the economic opportunity development district for
which the bonds were issued to audit the returns filed by the taxpayers in the economic
opportunity development district no less often than once each quarter of the fiscal year. The Tax
Commissioner may require the audit to be conducted at the Tax Commissioner's office, may
prohibit copying of any returns, and may require the representatives to enter into a written
confidentiality agreement. The Tax Commissioner shall promptly investigate any questions raised
by an audit, shall promptly take all actions required to correct any errors, and shall report to the
applicable county commission the results of its investigation and actions.

(e) Deposit of net tax collected. —

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

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

(f) Effective date of special district excise tax. — Any taxes imposed pursuant to the
authority of this section are effective on the first day of the calendar month that begins sixty days
after the date of adoption of an order entered of record imposing the tax or the first day of any
later calendar month expressly designated in the order.

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

§7-22-14. Modification of included area; notice; hearing.

(a) General. — The order creating an economic opportunity development district may not
be amended to include additional contiguous property until after the amendment is approved by
the executive director of the Development Office in the same manner as an application to approve
the establishment of the district is acted upon under section seven of this article and the
amendment is authorized by the Legislature. The order creating an economic opportunity
development district may not be amended to remove property until after the amendment is
approved by the executive director of the Development Office in the same manner as an
application to approve the establishment of the district is acted upon under section seven of this
article: Provided, That any amendment for the purpose of removing property from an economic
opportunity development district may not require authorization from the Legislature and shall
ensure that any such district after such an amendment remains contiguous. The order which is
entered for the purpose of removing parcels from an existing economic opportunity development
district may not be effective any earlier than the first day of the calendar month which begins at
least thirty days following the entry of the order or such later date as may be specified by the
county commission in the order.
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(b) Limitations. — Additional property may not be included in the district unless it is situated within the boundaries of the county and is contiguous to the then current boundaries of the district.

(c) Public hearing required. —

(1) The county commission of any county desiring to amend its order shall designate a time and place for a public hearing upon the proposal to include additional property. The notice shall meet the requirements set forth in section six of this article.

(2) At the time and place set forth in the notice, the county commission shall afford the opportunity to be heard to any owners of real property either currently included in or proposed to be added to the existing district and to any other residents of the county.

(d) Application to West Virginia Development Office. — Following the hearing, the county commission may, by resolution, approve the filing of an application with the Development Office for the inclusion of the additional property in the district or for the removal of the applicable parcels from the district.

(e) Consideration by the Executive Director of the Development Office. — Before the executive director of the Development Office approves inclusion of the additional property in the district, the Development Office shall determine the amount of taxes levied by article fifteen, chapter eleven of this code that were collected by businesses located in the area the county commission proposes to add to the district in the same manner as the base amount of tax was determined when the district was first created. The State Treasurer shall also deposit one twelfth of this additional tax base amount into the General Revenue Fund each month, as provided in section twelve of this article.

(f) Legislative action required to include additional property. — After the Executive Director of the Development Office approves amending the boundaries of the district to include additional property, the Legislature must amend section nine of this article to allow levy of the special district excise tax on business located in geographic area to be included in the district. After the Legislature amends said section, the county commission may then amend its order: Provided,
That the order may not be effective any earlier than the first day of the calendar month that begins sixty days after the effective date of the act of the Legislature authorizing the levy on the special district excise tax on businesses located in the geographic area to be added to the boundaries of the district for which the tax is levied or a later date as set forth in the order of the county commission.

(g) Collection of special district excise tax. — All businesses included in a district because of the boundary amendment shall on the effective date of the order, determined as provided in subsection (f) of this section, collect the special district excise tax on all sales on tangible property or services made from locations in the district on or after the effective date of the county commission’s order or a later date as set forth in the order.

(h) Minor Modifications. — Notwithstanding any provision of this article to contrary, a county commission may amend the order creating an economic opportunity development district to make, and may make, modifications to the boundaries of the economic opportunity development district without holding a public hearing or receiving approval of the executive director of the West Virginia Development Office or authorization by the Legislature if the modifications do not increase the total acreage of the economic opportunity development district or result in a change to the base tax revenue amount. The county commission is authorized to levy special district excise taxes on sales of tangible personal property and services made from business locations within the modified boundaries of the economic opportunity development district.

§7-22-23. Joint economic opportunity development districts.

(a) The Legislature hereby finds and declares that the citizens of the state would benefit from coordinated road construction efforts by county commissions and municipalities.

(b) Notwithstanding any other section of this code to the contrary, any two or more county commissions, any two or more municipalities, or any combination thereof, may: (1) Create a combined economic opportunity development district; (2) propose joint applications for the
districts; (3) enter into one or more intergovernmental agreements between themselves and/or
the Commissioner of Highways to share: (A) Project expenses; and (B) certain excise tax
collections, on a pro rata or other basis, to facilitate construction of projects within the combined
economic opportunity development district and to jointly take such other actions as are authorized
in the County Economic Opportunity Development District Act.

(c) When a project begins in one county and ends in another county of this state, the
county commission of each county included in a multicounty project may, by resolution, adopt a
written intergovernmental agreement with each county and/or the Commissioner of Highways
regarding the proposed multicounty project. When the project begins or passes through the
corporate limits of a municipality, the governing body of that municipality may by resolution adopt
a written intergovernmental agreement with the county or counties in which the project is located.

(d) No county commission or municipality may withdraw from an intergovernmental
agreement if bonds or notes, remain outstanding the proceeds of which were used to finance
construction of the project for which the written intergovernmental agreement was executed.

(e) No withdrawing county commission or municipality is entitled to the return of any money
or property advanced to the project.

(f) Notwithstanding any provision of this code to the contrary, any county commission or
municipality that creates an economic opportunity development district may enter into one or more
intergovernmental agreements with one or more other counties or municipalities that also create
an economic opportunity development district to finance, in whole or in part, one or more projects,
to pool tax increment and other revenues to finance, in whole or in part, contiguous projects on a
cash basis or to pay debt service on bonds or notes.

(g) The obligations of the parties under any intergovernmental agreement executed
pursuant to this article is not debt within the meaning of sections six or eight, article X of the
Constitution of West Virginia.
(h) Any intergovernmental agreement must be approved by resolution adopted by a majority vote of the county commission of each county participating in the agreement, by a majority vote of the governing body of each municipality participating in the agreement and by the Commissioner of Highways.

(i) The Commissioner of Highways is authorized to enter into intergovernmental agreements with county commissions and municipalities of this state, or with the federal government or any agency thereof, respecting the financing, planning, and construction of state roads and bridges, including related infrastructure if any, constructed, in whole or in part, pursuant to this article.


(a) The Commissioner of Highways may propose the creation by a county commission of an economic opportunity development district and project plans, or propose amendments to existing project plans. This plan may include related infrastructure that is necessary or convenient to economic development adjacent to the proposed project.

(b) Projects proposed by the Commissioner of Highways are limited to those related to the construction, reconstruction, improvement or modernization of state roads, as defined in article four, chapter seventeen of this code, that are part of the state road system, as defined in that article, or that will become part of the state road system upon completion of the construction. All construction, reconstruction, improvement or modernization and maintenance of state roads shall be done by or under the supervision of the Commissioner of Highways.

(c) All road projects that are accepted as part of the state road system, and all real property interests and appurtenances, shall be under the exclusive jurisdiction and control of the Commissioner of Highways, who may exercise the same rights and authority as he or she has over other transportation facilities in the state road system.

(d) Except as provided in an intergovernmental agreement executed by one or more county commissions, municipalities and/or the Commissioner of Highways and as provided in this
article, a county commission or municipality may not be required to pay for the cost of constructing, reconstructing, improving, maintaining a road that is part of the state road system as defined in article four, chapter seventeen of this code or to pay any other expense fairly related to that road.

(e) The powers conferred by this article on the Commissioner of Highways or the Division of Highways are in addition and supplemental to the powers conferred upon the Commissioner of Highways, the Division of Highways, and the Department of Transportation by the Legislature elsewhere in this code.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 38. MUNICIPAL ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.


Any municipality that has established an economic opportunity development district under this article may make, or authorize to be made by a district board and other public or private parties, development expenditures as will promote the economic vitality of the district and the general welfare of the municipality, including, but not limited to, expenditures for the following purposes:

(1) Beautification of the district by means including landscaping and construction and erection of fountains, shelters, benches, sculptures, signs, lighting, decorations and similar amenities;

(2) Provision of special or additional public services such as sanitation, security for persons and property and the construction and maintenance of public facilities, including, but not limited to, sidewalks, parking lots, parking garages and other public areas;

(3) Making payments for principal, interest, issuance costs, any of the costs described in section twenty of this article and appropriate reserves for bonds and other instruments and
arrangements issued or entered into by the municipality for financing the expenditures of the
district described in this section and to otherwise implement the purposes of this article;

(4) Providing financial support for public transportation and vehicle parking facilities open
to the general public, whether physically situate within the district's boundaries or on adjacent
land;

(5) Acquiring, building, demolishing, razing, constructing, repairing, reconstructing,
refurbishing, renovating, rehabilitating, expanding, altering, otherwise developing, operating and
withstanding real property generally, parking facilities, commercial structures and other capital
improvements to real property, fixtures and tangible personal property, whether or not physically
situating within the district's boundaries including, but not limited to, state road improvements
pursuant to an intergovernmental agreement with the Commissioner of Highways: Provided, That
the expenditure directly benefits the district;

(6) Developing plans for the architectural design of the district and portions thereof and
developing plans and programs for the future development of the district;

(7) Developing, promoting and supporting community events and activities open to the
general public that benefit the district;

(8) Providing the administrative costs for a district management program;

(9) Providing for the usual and customary maintenance and upkeep of all improvements
and amenities in the district as are commercially reasonable and necessary to sustain its
economic viability on a permanent basis;

(10) Providing any other services that the municipality or district board is authorized to
perform and which the municipality does not also perform to the same extent on a countywide
basis;

(11) Making grants to the owners or tenants of economic opportunity development district
for the purposes described in this section;
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(12) Making grants to the Division of Highways for road projects benefitting an economic opportunity development district;

(13) Acquiring an interest in any entity or entities that own any portion of the real property situate in the district and contributing capital to any entity or entities;

(14) Remediation of publicly or privately owned landfills, former coal or other mining sites, solid waste facilities or hazardous waste sites to facilitate commercial development which would not otherwise be economically feasible; and

(15) To do any and all things necessary, desirable or appropriate to carry out and accomplish the purposes of this article notwithstanding any provision of this code to the contrary.

§8-38-7. Application to Development Office for approval of an economic opportunity development district project.

(a) General. — The Development Office shall receive and act on applications filed with it by municipalities pursuant to section six of this article. Each application must include:

(1) A true copy of the notice described in section six of this article;

(2) The total cost of the project;

(3) A reasonable estimate of the number of months needed to complete the project;

(4) A general description of the capital improvements, additional or extended services and other proposed development expenditures to be made in the district as part of the project;

(5) A description of the proposed method of financing the development expenditures, together with a description of the reserves to be established for financing ongoing development expenditures necessary to permanently maintain the optimum economic viability of the district following its inception: Provided, That the amounts of the reserves may not exceed the amounts that would be required by prevailing commercial capital market considerations;

(6) A description of the sources and anticipated amounts of all financing, including, but not limited to, proceeds from the issuance of any bonds or other instruments, revenues from the special district excise tax and enhanced revenues from property taxes and fees;
(7) A description of the financial contribution of the municipality to the funding of development expenditures;

(8) Identification of any businesses that the municipality expects to relocate their business locations from the district to another place in the state in connection with the establishment of the district or from another place in this state to the district: Provided, That for purposes of this article, any entities shall be designated “relocated entities”;

(9) Identification of any businesses currently conducting business in the proposed economic opportunity development district that the municipality expects to continue doing business there after the district is created;

(10) A good faith estimate of the aggregate amount of consumers sales and service tax that was actually remitted to the Tax Commissioner by all business locations identified as provided in subdivisions (8) and (9) of this subsection with respect to their sales made and services rendered from their then current business locations that will be relocated from, or to, or remain in the district for the twelve full calendar months next preceding the date of the application: Provided, That for purposes of this article, the aggregate amount is designated as “the base tax revenue amount”;

(11) A good faith estimate of the gross annual district tax revenue amount;

(12) The proposed application of any surplus from all funding sources to further the objectives of this article; and

(13) Any additional information the Development Office may require.

(b) Review of applications. — The Development Office shall review all project proposals for conformance to statutory and regulatory requirements, the reasonableness of the project’s budget and timetable for completion and the following criteria:

(1) The quality of the proposed project and how it addresses economic problems in the area in which the project will be located;
(2) The merits of the project determined by a cost-benefit analysis that incorporates all
costs and benefits, both public and private;

(3) Whether the project is supported by significant private sector investment and
substantial credible evidence that, but for the existence of sales tax increment financing, the
project would not be feasible;

(4) Whether the economic opportunity development district excise tax dollars will leverage
or be the catalyst for the effective use of private, other local government, state or federal funding
that is available;

(5) Whether there is substantial and credible evidence that the project is likely to be started
and completed in a timely fashion;

(6) Whether the project will, directly or indirectly, improve the opportunities in the area
where the project will be located for the successful establishment or expansion of other industrial
or commercial businesses;

(7) Whether the project will, directly or indirectly, assist in the creation of additional long-
term employment opportunities in the area and the quality of jobs created in all phases of the
project, to include, but not be limited to, wages and benefits;

(8) Whether the project will fulfill a pressing need for the area, or part of the area, in which
the economic opportunity district is located;

(9) Whether the municipality has a strategy for economic development in the municipality
and whether the project is consistent with that strategy;

(10) Whether the project helps to diversify the local economy;

(11) Whether the project is consistent with the goals of this article;

(12) Whether the project is economically and fiscally sound using recognized business
standards of finance and accounting; and

(13)(A) The ability of the municipality and the project developer or project team to carry
out the project: Provided, That no project may be approved by the Development Office unless the
amount of all development expenditures proposed to be made in the first twenty-four months following the creation of the district results in capital investment of more than $75 million in the district and the municipality submits clear and convincing information, to the satisfaction of the Development Office, that the investment will be made if the Development Office approves the project and the Legislature authorizes the municipality to levy an excise tax on sales of goods and services made within the economic opportunity development district as provided in this article:

Provided, however, That such minimum capital investment does not apply to projects proposed by the Commissioner of Highways in accordance with section twenty-three, article twenty-two, chapter seven of this code.

(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, no project involving remediation may be approved by the Development Office unless the amount of all development expenditures proposed to be made in the first forty-eight months following the creation of the district results in capital investment of more than $75 million in the district. In addition to the remaining provisions of paragraph (A) of this subdivision the Development Office may not approve a project involving remediation authorized under section five of this article unless the municipality submits clear and convincing information, to the satisfaction of the Development Office, that the proposed remediation expenditures to be financed by the issuance of bonds or notes pursuant to section sixteen of this article do not constitute more than twenty-five percent of the total development expenditures associated with the project.

(c) Additional criteria. — The Development Office may establish other criteria for consideration when approving the applications.

(d) Action on the application. — The Executive Director of the Development Office shall act to approve or not approve any application within thirty days following the receipt of the application or the receipt of any additional information requested by the Development Office, whichever is the later.
(e) Certification of project. — If the Executive Director of the Development Office approves a municipality's economic opportunity district project application, he or she shall issue to the municipality a written certificate evidencing the approval.

The certificate shall expressly state a base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount which, for purposes of this article, is the difference between the gross annual district tax revenue amount and the base tax revenue amount, all of which the Development Office has determined with respect to the district's application based on any investigation it considers reasonable and necessary, including, but not limited to, any relevant information the Development Office requests from the Tax Commissioner and the Tax Commissioner provides to the Development Office: Provided, That in determining the net annual district tax revenue amount, the Development Office may not use a base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the Development Office may use the estimate of the gross annual district tax revenue amount provided by the municipality pursuant to subsection (a) of this section.

(f) Certification of enlargement or reduction of geographic boundaries of previously certified district. — If the Executive Director of the Development Office approves a municipality's economic opportunity district project application to expand or reduce the geographic boundaries of a previously certified district, he or she shall issue to the municipality a written certificate evidencing the approval.

The certificate shall expressly state a base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount which, for purposes of this article, is the difference between the gross annual district tax revenue amount and the base tax revenue amount, all of which the Development Office has determined with respect to the district's application based on any investigation it considers reasonable and necessary, including, but not limited to, any relevant information the Development Office requests from the Tax Commissioner and the Tax Commissioner provides to the Development Office.
Commissioner and the Tax Commissioner provides to the Development Office: Provided, That in determining the net annual district tax revenue amount, the Development Office may not use a base tax revenue amount less than that amount certified by the Tax Commissioner, but, in lieu of confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the Development Office may use the estimate of the gross annual district tax revenue amount provided by the municipality pursuant to subsection (a) of this section.

(g) Promulgation of rules. — The Executive Director of the Development Office may promulgate rules to implement the economic opportunity development district project approval process and to describe the criteria and procedures it has established in connection therewith. These rules are not subject to the provisions of chapter twenty-nine-a of this code but shall be filed with the Secretary of State.


(a) General. — There is hereby created a special revenue account in the State Treasury designated the "Economic Opportunity Development District Fund" which is an interest-bearing account and shall be invested in the manner described in section nine-c, article six, chapter twelve of this code with the interest income a proper credit to the Fund.

(b) District subaccount. — A separate and segregated subaccount within the account shall be established for each economic opportunity development district and each joint economic opportunity development district that is approved by the Executive Director of the Development Office. In addition to the economic opportunity district excise tax levied and collected as provided in this article, funds paid into the account for the credit of any subaccount may also be derived from the following sources:

(1) All interest or return on the investment accruing to the subaccount;

(2) Any gifts, grants, bequests, transfers, appropriations or donations which are received from any governmental entity or unit or any person, firm, foundation or corporation; and

(3) Any appropriations by the Legislature which are made for this purpose.
§8-38-12. Special district excise tax authorized.

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

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

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

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

(1) The State Tax Commissioner may require the electronic filing of returns related to the special district excise tax imposed pursuant to this section and may require the electronic payment of the special district excise tax imposed pursuant to this section. The State Tax Commissioner may prescribe by rules adopted or proposed pursuant to article three, chapter twenty-nine-a of this code, administrative notices, and forms and instructions, the procedures and criteria to be
followed to electronically file those returns and to electronically pay the special district excise tax
imposed pursuant to this section.

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

(A) Acceptable indicia of timely payment;

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

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

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

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

(F) Procedures for ensuring that taxpayers new to an economic opportunity development
district are included within the Tax Commissioner's database;

(G) Procedures for ensuring that taxpayers with multiple locations properly allocate their
special district excise taxes to the appropriate economic opportunity development district and
reflect the allocation of their returns; and

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

(3)(A) Notwithstanding the provisions of section five-d, article ten, chapter eleven of this
code: (I) So long as bonds are outstanding pursuant to this article, the Tax Commissioner shall
provide on a monthly basis to the trustee for bonds issued pursuant to this article information on
returns submitted pursuant to this article; and (ii) the trustee may share the information so
obtained with the municipality that established the economic opportunity development district that
issued the bonds pursuant to this article and with the bondholders and with bond counsel for
bonds issued pursuant to this article. The Tax Commissioner and the trustee may enter into a
written agreement in order to accomplish exchange of the information.

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

(C) Notwithstanding any provision of this code to the contrary, so long as bonds are
outstanding pursuant to this article, the Tax Commissioner shall allow a designated representative
of the municipality that established the economic opportunity development district for which the
bonds were issued to audit the returns filed by the taxpayers in the economic opportunity
development district no less often than once each quarter of the fiscal year. The Tax
Commissioner may require the audit to be conducted at the Tax Commissioner's office, may
prohibit copying of any returns, and may require the representatives to enter into a written
confidentiality agreement. The Tax Commissioner shall promptly investigate any questions raised
by an audit, shall promptly take all actions required to correct any errors, and shall report to the
applicable municipality the results of its investigation and actions.

(e) Deposit of net tax collected. —

(1) The ordinance of the municipality imposing a special district excise tax shall provide
that the Tax Commissioner deposit the net amount of tax collected in the special Economic
Opportunity Development District Fund to the credit of the municipality's subaccount therein for
the economic opportunity development district and that the money in the subaccount may only be
used to pay for development expenditures as provided in this article except as provided in
subsection (f) of this section.
(2)(A) The State Treasurer shall withhold from the municipality's subaccount in the Economic Opportunity Development District Fund and shall deposit in the General Revenue Fund of this state, on or before the twentieth day of each calendar month next following the effective date of a special district excise tax, a sum equal to one twelfth of the base tax revenue amount last certified by the Development Office pursuant to section seven of this article.

(B) In addition to the amounts described in paragraph (A) of this subdivision, the Tax Commissioner shall deposit in the General Revenue Fund of this state on the dates specified in paragraph (A) not less than twenty percent nor more than fifty percent of the excess of the special district excise taxes collected during the preceding month above one twelfth of the base tax revenue, said percentage to be fixed by the Development Office in conjunction with its approval of an application in accordance with section seven of this article based on the amount of state funds, if any, to be expended in conjunction with the respective economic opportunity development district project for items including, but not limited to, the acquisition, construction, reconstruction, improvement, enlargement or extension of roadways, rights-of-way, sidewalks, traffic signals, water or sewer lines and other public infrastructure and such other expenditures of state funds identified by the Development Office: Provided, That the Development Office has the discretion to reduce the minimum percentage of the excess special district excise taxes deposited by the Tax Commissioner in the General Revenue Fund as outlined above from twenty percent to ten percent in conjunction with its approval of an application in accordance with section seven of this article based on its determination that:

(i) The economic development project provides for expenditures in excess of $100 million;

(ii) The economic opportunity development district project does not require the state to expend any additional state funds for items within the district including, but not limited to, the acquisition, construction, reconstruction, improvement, enlargement or extension of roadways, rights-of-way, sidewalks, traffic signals, water or sewer lines and other public infrastructure; and
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(iii) The economic development project contains a provision for a mixed use development with a housing component with at least ten percent of housing units in the district allocated as affordable housing.

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

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

§8-38-14. Modification of included area; notice; hearing.

(a) **General.** — The ordinance creating an economic opportunity development district may not be amended to include additional contiguous property until after the amendment is approved by the Executive Director of the Development Office in the same manner as an application to approve the establishment of the district is acted upon under section seven of this article. The order creating an economic opportunity development district may not be amended to remove property until after the amendment is approved by the executive director of the Development Office in the same manner as an application to approve the establishment of the district is acted upon under section seven of this article: *Provided, That any such amendment for the purpose of removing property from an economic opportunity development district shall not require authorization from the Legislature and shall ensure that any such district after such an amendment remains contiguous. The order which is entered for the purpose of removing parcels from an existing economic opportunity development district may not be effective any earlier than the first day of the calendar month which begins at least thirty days following the entry of the order or such later date as may be specified by the county commission in the order.*
(b) **Limitations.** — Additional property may not be included in the district unless it is situated within the boundaries of the municipality and is contiguous to the then current boundaries of the district.

(c) **Public hearing required.** —

(1) The council of any municipality desiring to amend its ordinance shall designate a time and place for a public hearing upon the proposal to include additional property. The notice shall meet the requirements set forth in section six of this article.

(2) At the time and place set forth in the notice, the municipality shall afford the opportunity to be heard to any owners of real property either currently included in or proposed to be added to the existing district and to any other residents of the municipality.

(d) **Application to West Virginia Development Office.** — Following the hearing, the municipality may, by resolution, approve the filing of an application with the Development Office for the inclusion of the additional property in the district or for the removal of the applicable parcels from the district.

(e) **Consideration by the Executive Director of the Development Office.** — Before the Executive Director of the Development Office approves inclusion of the additional property in the district, the Development Office shall determine the amount of taxes levied by article fifteen, chapter eleven of this code that were collected by businesses located in the area the municipality proposes to add to the district in the same manner as the base amount of tax was determined when the district was first created. The State Treasurer shall also deposit one twelfth of this additional tax base amount into the General Revenue Fund each month, as provided in section twelve of this article.

(f) **Legislative action required to include additional property.** — After the Executive Director of the Development Office approves amending the boundaries of the district to include additional property, the Legislature must amend section nine of this article to allow levy of the special district excise tax on business located in geographic area to be included in the district. After the
Legislature amends said section, the municipality may then amend its ordinance: Provided, That the ordinance may not be effective any earlier than the first day of the calendar month that begins sixty days after the effective date of the amended ordinance imposing the levy of the special district excise tax on businesses located in the geographic area to be added to the boundaries of the district for which the tax is levied or the first day of a later calendar month as set forth in the ordinance of the municipality.

(g) Collection of special district excise tax. — All businesses included in a district because of the boundary amendment shall on the effective date of the ordinance, determined as provided in subsection (f) of this section, collect the special district excise tax on all sales on tangible property or services made from locations in the district on or after the effective date of the municipality's ordinance or a later date as set forth in the ordinance.

(h) Minor modifications. — Notwithstanding any provision of this article to contrary, a municipality may amend the ordinance creating an economic opportunity development district to make, and may make, modifications to the boundaries of the economic opportunity development district without holding a public hearing or receiving approval of the executive director of the West Virginia Development Office or authorization by the Legislature if the modifications do not increase the total acreage of the economic opportunity development district or result in a change to the base tax revenue amount. The municipality is authorized to levy special district excise taxes on sales of tangible personal property and services made from business locations within the modified boundaries of the economic opportunity development district.

§8-38-23. Joint economic opportunity development districts.

(a) The Legislature hereby finds and declares that the citizens of the state would benefit from coordinated road construction efforts by county commissions and municipalities.

(b) Notwithstanding any other section of this code to the contrary, any two or more county commissions, any two or more municipalities, or any combination thereof, may: (1) Create a combined economic opportunity development district; (2) propose joint applications for the
districts; and (3) enter into one or more intergovernmental agreements between themselves
and/or the Commissioner of Highways to share: (A) Project expenses; and (B) certain excise tax
collections, on a pro rata or other basis, to facilitate construction of projects within the combined
economic opportunity development district and to jointly take such other actions as are authorized
in the County Economic Opportunity Development District Act.

(c) When a project begins in one county and ends in another county of this state, the
county commission of each county included in a multicounty project may, by resolution, adopt a
written intergovernmental agreement with each county and/or the Commissioner of Highways
regarding the proposed multicounty project. When the project begins or passes through the
corporate limits of a municipality, the governing body of that municipality may by resolution adopt
a written intergovernmental agreement with the county or counties in which the project is located.

(d) No county commission or municipality may withdraw from an intergovernmental
agreement as long as bonds or notes, remain outstanding the proceeds of which were used to
finance construction of the project for which the written intergovernmental agreement was
executed.

(e) No withdrawing county commission or municipality is entitled to the return of any money
or property advanced to the project.

(f) Notwithstanding any provision of this code to the contrary, any county commission or
municipality that creates an economic opportunity development district may enter into one or more
intergovernmental agreements with one or more other counties or municipalities that also create
an economic opportunity development district to finance, in whole or in part, one or more projects,
to pool tax increment and other revenues to finance, in whole or in part, contiguous projects on a
cash basis or to pay debt service on bonds or notes.

(g) The obligations of the parties under any intergovernmental agreement executed
pursuant to this article is not debt within the meaning of sections six or eight, article X of the
Constitution of West Virginia.
(h) Any intergovernmental agreement must be approved by resolution adopted by a majority vote of the county commission of each county participating in the agreement, by a majority vote of the governing body of each municipality participating in the agreement and by the Commissioner of Highways.

(i) The Commissioner of Highways is authorized to enter into intergovernmental agreements with county commissions and municipalities of this state, or with the federal government or any agency thereof, respecting the financing, planning, and construction of state roads and bridges, including related infrastructure if any, constructed, in whole or in part, pursuant to this article.


(a) The Commissioner of Highways may propose the creation by a county commission of an economic opportunity development district and project plans, or propose amendments to existing project plans.

(b) Projects proposed by the Commissioner of Highways are limited to those related to the construction, reconstruction, improvement or modernization of state roads, as defined in article four, chapter seventeen of this code, that are part of the state road system, as defined in that article or that will become part of the state road system upon completion of the construction. All construction, reconstruction, improvement or modernization and maintenance of state roads shall be done by or under the supervision of the Commissioner of Highways.

(c) All road projects that are accepted as part of the state road system, and all real property interests and appurtenances, shall be under the exclusive jurisdiction and control of the Commissioner of Highways, who may exercise the same rights and authority as he or she has over other transportation facilities in the state road system.

(d) Except as provided in an intergovernmental agreement executed by one or more county commissions, municipalities and/or the Commissioner of Highways and as provided in this article, a county commission or municipality may not be required to pay for the cost of
constructing, reconstructing, improving, maintaining a road that is part of the state road system
as defined in article four, chapter seventeen of this code or to pay any other expense fairly related
to that road.

(e) The powers conferred by this article on the Commissioner of Highways or the Division
of Highways are in addition and supplemental to the powers conferred upon the Commissioner of
Highways, the Division of Highways, and the Department of Transportation by the Legislature
elsewhere in this code.

CHAPTER 11. TAXATION.

ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-11a. Administration of special district excise tax; commission authorized.

(a) Any municipality or county commission which, pursuant to section twelve, article
twenty-two, chapter seven of this code, or section twelve, article thirty-eight, chapter eight of this
code imposes a special district excise tax shall, by express provision in the order or ordinance
imposing that tax, authorize the State Tax Commissioner to administer, assess, collect and
enforce that tax on behalf of and as its agent.

(1) The county commission or municipality shall make such authorization by the adoption
of a provision in its order or ordinance levying a special district excise tax stating its purpose and
referring to this section and providing that the order or ordinance shall be effective on the first day
of a month at least sixty days after its adoption.

(2) A certified copy of the order or ordinance shall be forwarded to the State Auditor, the
State Treasurer and the Tax Commissioner so that it will be received within five days after its
adoption or enactment.

(b) Any special district excise tax administered under this section shall be administered
and collected by the Tax Commissioner in the same manner and subject to the same interest,
additions to tax and penalties as provided for the tax imposed in article fifteen of this chapter.
(c) All special district excise tax moneys collected by the Tax Commissioner under this section shall be paid into the State Treasury to the credit of each county commission's subaccount in the economic opportunity development district fund created pursuant to section nine, article twenty-two, chapter seven of this code, or to the credit of each municipality's subaccount in the economic opportunity development district fund created pursuant to section nine, article thirty-eight, chapter eight of this code, for the particular economic opportunity development district. The special district excise tax moneys shall be credited to the subaccount of each particular county commission or municipality levying a special district excise tax being administered under this section. The credit shall be made to the subaccount of the county commission or municipality for the economic opportunity development district in which the taxable sales were made and taxable services rendered as shown by the records of the Tax Commissioner and certified by him or her monthly to the State Treasurer, namely, the location of each place of business of every vendor collecting and paying the tax to the Tax Commissioner without regard to the place of possible use by the purchaser.

(d) As soon as practicable after the special district excise tax moneys have been paid into the State Treasury in any month for the preceding reporting period, the district board or the county commission or municipality imposing the tax may issue a requisition to the State Auditor requesting issuance of a state warrant for the proper amount in favor of each county commission or municipality entitled to the monthly remittance of its special district excise tax moneys.

(1) Upon receipt of the requisition, the Auditor shall issue his or her warrant on the State Treasurer for the funds requested and the State Treasurer shall pay the warrant out of the subaccount.

(2) If errors are made in any payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next six months as follows: One sixth of the total adjustment shall be included in the payments for the next six months. In addition, the payment
shall include a refund of amounts erroneously not paid to the county commission or the
municipality and not previously remitted during the three years preceding the discovery of the
error.

(3) A correction and adjustment in payments described in this subsection due to the
misallocation of funds by the vendor shall be made within three years of the date of the payment
error.

(e) Notwithstanding any other provision of this code to the contrary, the Tax Commissioner
shall deduct and retain for the benefit of his or her office for expenditure pursuant to appropriation
of the Legislature from each payment into the State Treasury, as provided in subsection (c) of this
section, one percent thereof as a commission to compensate his or her office for the discharge of
the duties described in this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within bill approved this the 24th day of March, 2016.

Governor
PRESENTED TO THE GOVERNOR

MAR 22 2013

Time 3:26 pm