

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 25, 2010

The Honorable Natalie E. Tennant
Secretary of State
State Capitol
Charleston, West Virginia

Dear Secretary Tennant:

Pursuant to the provisions of Section 14, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill No. 42.

Enrolled Senate Bill No. 42 amends article thirty-eight, chapter eight of the West Virginia Code, which relates to economic opportunity development districts. The bill would expand the scope of entities that may apply for economic opportunity development districts to include Class III municipalities and Class IV towns or villages; require the Development Office to determine whether a project is large enough to require mixed-use development that includes an affordable housing component; change the standard for the Development Office when calculating project financing reserves to a "prevailing commercial capital market considerations" standard; and grant the Development Office discretion to reduce the minimum percentage of special district excise taxes to be deposited by the Tax Commissioner in the state general revenue fund from

twenty percent to ten percent on certain projects.

There are at least four reasons for me to veto this bill. First, and foremost, this administration does not favor the use of sales tax increment financing because, in many applications, such financing sacrifices long-term economic viability for short-term sales tax growth. Furthermore, the consumer sales tax supports many services that assist the citizens of this state, and I cannot endorse the erosion of this tax base. The Development Office has not approved any sales tax increment financing since I became Governor, which alone warrants my disapproval of this bill given that the Development Office would be encumbered with applications that are unlikely to be approved under any circumstance. Second, the term "prevailing commercial capital market considerations" as it relates to calculating financial reserves is undefined, ambiguous and could lead to unintended consequences. Third, the bill expands to smaller municipalities, yet their ability to put forth applications that would meet the established criteria for economic opportunity development districts is unclear. Moreover, this expansion also could lead to unintended consequences or undue burdens on incumbent sales tax providers. Fourth, the latitude this bill gives the Development Office to reduce the minimum percentage of special district excise taxes deposited by the Tax Commissioner in the state general revenue fund is overly broad. I am appreciative that this discretion is limited by the bill to projects that are in excess of \$100 million, require no further

state funds, and contain a mixed-use housing component. However, the Development Office, an agency with no responsibility for or expertise in managing the state fisc, should not make decisions affecting the state's general revenue fund outside of the established minimum requirements for special district excise taxes. At the very least, the approval of the Governor must be required before such discretion is exercised.

For these reasons, I must veto Enrolled Senate Bill No. 42.

Very truly yours,

Joe Manchin III,

Governor.

cc: The Honorable Earl Ray Tomblin

The Honorable Richard Thompson