1 H. B. 2228 2 3 (By Delegate Doyle) [Introduced January 12, 2011; referred to the 4 5 Committee on Political Subdivisions then the Judiciary.] 6 7 8 9 10 A BILL to repeal §7-1-3nn of the Code of West Virginia, 1931, as 11 amended; and to amend and reenact §7-1-3mm of said code, all 12 relating to permitting county commissions to establish a 13 program for transfer of development rights without the 14 requirement of a county election. 15 Be it enacted by the Legislature of West Virginia: That §7-1-3nn of the Code of West Virginia, 1931, as amended, 16 17 be repealed; and that \$7-1-3mm of said code be amended and 18 reenacted, all to read as follows: 19 ARTICLE 1. COUNTY COMMISSIONS GENERALLY. 20 §7-1-3mm. Transfer of development rights in growth counties. (a) In addition to all other powers and duties now conferred 21 22 by law upon county commissions, if a county has been designated as 23 a growth county as that term is defined in section three, article

- 1 twenty of this chapter, those the county commissions upon approval
- 2 by a majority of the legal votes cast at an election as provided in
- 3 section three-nn of this article, are hereby commission of the
- 4 county so designated as a growth county is authorized to, as part
- 5 of a county-wide zoning ordinance, establish a program for the
- 6 transfer of development rights in order to:
- 7 (1) Encourage the preservation of natural resources;
- 8 (2) Protect the historic, scenic, recreational and
- 9 agricultural qualities of open lands; and
- 10 (3) Facilitate orderly growth and development in the county.
- 11 (b) The program for the transfer of development rights may
- 12 provide for:
- 13 (1) The voluntary transfer of the development rights permitted
- 14 on any parcel of land to another parcel of land for use in
- 15 accordance with the zoning and subdivision ordinance;
- 16 (2) Restricting or prohibiting further development of the
- 17 parcel from which development rights are severed; and
- 18 (3) Increasing the density or intensity of development of the
- 19 parcel to which such rights are transferred.
- 20 (c) The program for the transfer of development rights shall:
- 21 (1) Designate a program for which development rights may be
- 22 transferred from any parcel of land to any other parcel of land for
- 23 use in accordance with the zoning and subdivision ordinance;
- 24 (2) Provide that any rights transferred under this section be

- 1 for a period of ten years and may be renewed for additional ten
- 2 year periods; and
- 3 (3) Any rights which expire before being used for development,
- 4 revert to the original parcel of land from which the rights were
- 5 first severed.
- 6 (d) The county commission may not set a price for any
- 7 development rights that are proposed to be transferred or received.
- 8 (e) "Transferable development rights" means an interest in
- 9 real property that constitutes the right to develop and use
- 10 property under the zoning ordinance which is made severable from
- 11 the parcel to which the interest is appurtenant and transferable to
- 12 another parcel of land for development and use in accordance with
- 13 the zoning ordinance.
- (f) Transferable development rights may be transferred by deed
- 15 from the owner of the parcel from which the development rights are
- 16 derived and upon the transfer shall vest in the grantee and be
- 17 freely alienable.
- 18 (g) The zoning ordinance may provide for:
- 19 (1) The method of transfer of development rights;
- 20 (2) Recordation of the date of each transfer;
- 21 (3) The names of the transferor and transferee;
- 22 (4) A description of the property;
- 23 (5) The granting of easements;
- 24 (6) Reasonable regulations to effect and control transfers and

- 1 assure compliance with the provisions of the ordinance; and
- 2 (7) Any other information necessary to administer the program.

NOTE: The purpose of this bill is to provide that a county commission may establish a program for transfer of development rights without the requirement for an election on an ordinance for the program.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.