

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 540**

4 (By Senators Kessler (Mr. President), Edgell, Fitzsimmons, Yost  
5 and Beach

6 \_\_\_\_\_  
7 [Originating in the Committee on Government Organization;  
8 reported March 20, 2013.]  
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11 A BILL to amend and reenact §7-22-9 of the Code of West Virginia,  
12 1931, as amended, relating to permitting the Ohio county  
13 commission to levy a special district excise tax; increasing  
14 the Fort Henry economic opportunity development project  
15 district from three hundred to five hundred contiguous acres  
16 of land; and permitting the Monongalia county commission to  
17 levy a special district excise tax for University Towne Center  
18 comprising approximately one thousand four hundred fifty  
19 contiguous acres of land.

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

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

23 **ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.**

24 **§7-22-9. Authorization to levy special district excise tax.**

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

21           Because a special district excise tax would have the effect of  
22 diverting, for a specified period of years, tax dollars which to  
23 the extent, if any, are not essentially incremental to tax dollars  
24 currently paid into the General Revenue Fund of the state, the

1 Legislature finds that in order to substantially ensure that such  
2 special district excise taxes will not adversely impact the current  
3 level of the General Revenue Fund of the state, it is necessary for  
4 the Legislature to separately consider and act upon each and every  
5 economic development district which is proposed, including the  
6 unique characteristics of location, current condition and activity  
7 of and within the area included in such proposed economic  
8 opportunity development district and that for such reasons a  
9 statute more general in ultimate application is not feasible for  
10 accomplishment of the intention and purpose of the Legislature in  
11 enacting this article. Therefore, no economic opportunity  
12 development district excise tax may be levied by a county  
13 commission until after the Legislature expressly authorizes the  
14 county commission to levy a special district excise tax on sales of  
15 tangible personal property and services made within district  
16 boundaries approved by the Legislature.

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

22 (1) The Ohio County Commission may levy a special district  
23 excise tax for the benefit of the "Fort Henry" economic opportunity  
24 development project district which comprises ~~three~~ five hundred

1 contiguous acres of land;

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

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

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