

1 **Senate Bill No. 489**

2 (By Senators Facemire, Cann, Chafin, Edgell, Kirkendoll, Snyder
3 and Stollings)

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5 [Introduced March 8, 2013; referred to the Committee on
6 Government Organization.]

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10 A BILL to amend and reenact §16-13E-6 of the Code of West Virginia,
11 1931, as amended, relating to permitting community enhancement
12 districts to decrease the amounts of annual property
13 assessments; providing a process that a community enhancement
14 board is to use to certify the decrease to the county sheriff;
15 requiring that any decrease be included in the tax ticket or
16 a modified tax ticket; and specifying that the process may not
17 be used for increases in the annual assessments.

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

19 That §16-13E-6 of the Code of West Virginia, 1931, as amended,
20 be amended and reenacted to read as follows:

21 **ARTICLE 13E. COMMUNITY ENHANCEMENT ACT.**

22 **§16-13E-6. Creation of community enhancement district; community**
23 **enhancement district to be a public corporation and**

1 **political subdivision; powers thereof; community**
2 **enhancement boards.**

3 (a) Each community enhancement district shall be created by
4 adoption or enactment of an order or ordinance.

5 (b) From and after the date of the adoption or enactment of
6 the order or ordinance creating a community enhancement district,
7 it shall thereafter be a public corporation and political
8 subdivision of this state, but without any power to levy or collect
9 ad valorem taxes. Each community enhancement district is hereby
10 empowered and authorized, in addition to any other rights, powers
11 and authorities conferred upon it in this article or elsewhere in
12 this code, to:

13 (1) Acquire, own and hold, in its corporate name, by purchase,
14 lease, right of eminent domain, gift or otherwise, such property,
15 both real and personal and other interests in real estate, or any
16 other property, whether tangible or intangible, as may be necessary
17 or incident to the planning, financing, development, construction,
18 acquisition, extension, improvement and completion of a project;

19 (2) Design, plan, finance, develop, construct, acquire,
20 extend, improve and complete one or more projects and assess the
21 cost of all or any portion of a project on real property located
22 within the community enhancement district;

23 (3) Sue or be sued;

24 (4) Establish a bank account or accounts in its name;

1 (5) Enter into agreements or other transactions with any
2 person or governmental agency necessary or incident to the
3 development, planning, construction, acquisition or improvement of
4 a project or for the operation, maintenance or disposition of a
5 project or for any other services required by a project;

6 (6) Annually, on or before June 7, certify to the sheriff of
7 the county in which the property is located the assessments granted
8 against all property in the district for inclusion in the tax
9 ticket;

10 (7) Decrease the amount of the assessments certified to the
11 county sheriff for collection following the June 7 certification of
12 those assessments by the community enhancement district to the
13 sheriff as provided by subdivision (6) of this subsection, upon a
14 finding or determination of the community enhancement board as
15 established by subsection (c) of this section that the decrease is
16 necessary or appropriate under the circumstances, and so certify to
17 the sheriff of the county where the property is located the
18 modified assessments granted against all property in the district
19 for inclusion in the tax ticket or the preparation of modified tax
20 tickets by that sheriff for the affected parcels. However, an
21 increase of the assessments following the June 7 certification to
22 the county sheriff is not permitted in this manner, but rather
23 shall follow the procedures for the original imposition or increase
24 of assessments provided by section eight of this article;

1 ~~(7)~~ (8) Expend funds to acquire, or construct part of a
2 project on property located outside of a community enhancement
3 district, and for any work undertaken thereon, as may be necessary
4 or incident to the completion of a project;

5 ~~(8)~~ (9) Enter into agreements with one or more counties,
6 municipalities, public service districts or community enhancement
7 districts to plan, develop, construct, acquire or improve a project
8 jointly;

9 ~~(9)~~ (10) Accept appropriations, gifts, grants, bequests and
10 devises and use or dispose of the same to carry out its corporate
11 purpose;

12 ~~(10)~~ (11) Make and execute contracts, releases, assignments,
13 compromises and other instruments necessary or convenient for the
14 exercise of its powers, or to carry out its corporate purpose;

15 ~~(11)~~ (12) Have a seal and alter the same;

16 ~~(12)~~ (13) Raise funds by the issuance and sale of assessment
17 bonds;

18 ~~(13)~~ (14) Obtain options to acquire real property, or any
19 interest therein, by purchase, lease or otherwise, which is found
20 by the board to be suitable as a site, or part of a site, for the
21 construction of a project;

22 ~~(14)~~ (15) Pledge funds generated by assessments in a district
23 or proceeds from the sale of assessment bonds to payment of debt
24 service on tax increment financing obligations issued under article

1 eleven-b, chapter seven of this code for the period of time
2 determined by the community enhancement board; and

3 ~~(15)~~ (16) Take any and all other actions consistent with the
4 purpose of this article and not in violation of the Constitution of
5 this state as may be necessary or incident to the construction and
6 completion of a project.

7 (c) The powers of each community enhancement district shall be
8 vested in and exercised by a community enhancement board which
9 shall be composed of five members, four of whom shall be appointed
10 by the governing body of the county or municipality in which the
11 community enhancement district is located and one of whom shall be
12 the sheriff or his or her designee of the county or the treasurer
13 or his or her designee of the municipality (or such other person
14 serving in an equivalent capacity if there is no treasurer), as the
15 case may be, in which the community enhancement district is
16 located. At least three members of the board shall be residents of
17 the assessment district: *Provided*, That should less than three
18 persons reside within the boundaries of the community enhancement
19 district, then at least three members of the board shall be
20 residents of the county or municipality, as the case may be:
21 *Provided, however*, That if no persons reside within the boundaries
22 of the community enhancement district then at least three members
23 must be approved by the owner or owners of the land. No more than
24 three initial members of the board may be from the same political

1 party.

2 (d) The four members appointed by the governing body shall be
3 appointed for overlapping terms of four years each and thereafter
4 until their respective successors have been appointed and have
5 qualified. For the purpose of initial appointments, one member
6 shall be appointed for a term of four years; one member shall be
7 appointed for a term of three years; one member shall be appointed
8 for a term of two years; and one member shall be appointed for a
9 term of one year. Members may be reappointed for any number of
10 terms. Before entering upon the performance of his or her duties,
11 each member shall take and subscribe to the oath required by
12 section five, article IV of the Constitution of this state.
13 Vacancies shall be filled by appointment by the governing body of
14 the county or municipality creating the assessment district for the
15 unexpired term of the member whose office shall be vacant and such
16 appointment shall be made within thirty days of the occurrence of
17 such vacancy. Any such member may be removed by the governing body
18 which appointed such member in case of incompetency, neglect of
19 duty, gross immorality or malfeasance in office. Members shall be
20 entitled to no more than \$50 per meeting and reasonable expenses
21 associated with their services.

22 (e) The board shall organize within thirty days following the
23 first appointments and annually thereafter at its first meeting
24 after January 1 of each year by selecting one of its members to

1 serve as chairman, one to serve as treasurer and one to serve as
2 secretary. The secretary, or his or her designee, shall keep a
3 record of all proceedings of the board which shall be available for
4 inspection as other public records and the treasurer, or his or her
5 designee, shall maintain records of all financial matters relating
6 to the community enhancement district, which shall also be
7 available for inspection as other public records. Duplicate
8 records shall be filed with the clerk or recorder, as the case may
9 be, of the county or municipality which created the community
10 enhancement district and shall include the minutes of all board
11 meetings. The secretary and treasurer shall perform such other
12 duties pertaining to the affairs of the community enhancement
13 district as shall be prescribed by the board.

14 (f) The members of the board, and the chairman, secretary and
15 treasurer thereof, shall make available to the governing body
16 responsible for appointing the board, at all times, all of its
17 books and records pertaining to the community enhancement
18 district's operation, finances and affairs for inspection and
19 audit. The board shall meet at least semiannually.

20 (g) A majority of the members of the board constitutes a
21 quorum and meetings shall be held at the call of the chairman.

22 (h) Staff, office facilities and costs of operation of the
23 board may be provided by the county or municipality which created
24 the community enhancement district or by contract and said costs of

1 operations shall be funded from assessments collected within the
2 district.

3 (i) The chairman shall preside at all meetings of the board
4 and shall vote as any other members of the board, but if he or she
5 should be absent from any meeting the remaining members may select
6 a temporary chairman, and if the member selected as chairman
7 resigns as such or ceases for any reason to be a member of the
8 board, the board shall select one of its members as chairman to
9 serve until the next annual organizational meeting.

10 (j) The board shall, by resolution, determine its own rules of
11 procedure, fix the time and place of its meetings and the manner in
12 which special meetings may be called. The members of the board
13 shall not be personally liable or responsible for any obligations
14 of the assessment district or the board but are answerable only for
15 willful misconduct in the performance of their duties.

16 (k) The official name of a community enhancement district
17 created under the provisions of this article may contain the name
18 of the county or municipality, as the case may be, in which it is
19 located.

20 (l) Notwithstanding any provision in this code to the
21 contrary, the power and authority hereby conferred on community
22 enhancement districts may extend within the territory of a public
23 service district created under section two, article thirteen-a of
24 this chapter.

(NOTE: The purpose of this bill is to permit community enhancement districts to decrease the amounts of annual property assessments. The bill provides a process that a community enhancement board is to use to certify the decrease to the county sheriff. The bill requires that any decrease be included in the tax ticket or a modified tax ticket. The bill specifies that the process may not be used for increases in the annual assessments, but rather another established procedure shall be used.

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