

ENROLLED

Senate Bill No. 518

(By Senators Blair, Carmichael, Snyder,
Trump and Unger)

[Passed March 14, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §7-12-7 of the Code of West Virginia, 1931, as amended, relating generally to granting county and municipal economic development authorities the authority to invest funds received from the sale, lease or other disposition of real or personal property owned by such authority in a manner determined by the authority's board of directors to be in the best interest of the authority under an investment policy adopted and maintained by the board that is consistent with the standards of the Uniform Prudent Investor Act; requiring that for short-term investments the board of directors shall consult with the State Treasurer prior to investing funds; and requiring that for long-term investments, the board shall consult with the Investment Management Board and compare the rate of return on investment for the previous three years and compare the expense loads for the past three years, and if the comparison for the Investment Management Board is more favorable, the board must invest the funds with the Investment Management Board.

Be it enacted by the Legislature of West Virginia:

That §7-12-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.

§7-12-7. Powers generally.

1 (a) The development authority is hereby given power and authority as follows: (1) To make
2 and adopt all necessary bylaws and rules for its organization and operations not inconsistent with
3 laws; (2) to elect its own officers, to appoint committees and to employ and fix compensation for
4 personnel necessary for its operation; (3) to enter into contracts with any person, agency,
5 governmental department, firm or corporation, including both public and private corporations, and
6 generally to do any and all things necessary or convenient for the purpose of promoting, developing
7 and advancing the business prosperity and economic welfare of the county in which it is intended
8 to operate, its citizens and industrial complex, including, without limiting any of the foregoing, the
9 construction of any building or structure for lease to the federal government or any of its agencies
10 or departments, and in connection therewith to prepare and submit bids and negotiate with the
11 federal government or such agencies or departments in accordance with plans and specifications and
12 in the manner and on the terms and conditions and subject to any requirements, regulations, rules
13 and laws of the United States of America for the construction of said buildings or structures and the
14 leasing thereof to the federal government or such agencies or departments; (4) to amend or
15 supplement any contracts or leases or to enter into new, additional or further contracts or leases upon
16 such terms and conditions, for such consideration and for such term of duration, with or without
17 option of renewal, as may be agreed upon by the authority and such person, agency, governmental
18 department, firm or corporation; (5) unless otherwise provided for in, and subject to the provisions
19 of, such contracts, or leases, to operate, repair, manage and maintain such buildings and structures
20 and provide adequate insurance of all types and in connection with the primary use thereof and
21 incidental thereto to provide such services, such as barber shops, newsstands, drugstores and
22 restaurants, and to effectuate such incidental purposes, grant leases, permits, concessions or other

1 authorizations to any person or persons, upon such terms and conditions, for such consideration and
2 for such term of duration as may be agreed upon by the authority and such person, agency,
3 governmental department, firm or corporation; (6) to delegate any authority given to it by law to any
4 of its officers, committees, agents or employees; (7) to apply for, receive and use grants-in-aid,
5 donations and contributions from any source or sources and to accept and use bequests, devises, gifts
6 and donations from any person, firm or corporation; (8) to acquire real property by gift, purchase or
7 construction, or in any other lawful manner, and hold title thereto in its own name and to sell, lease
8 or otherwise dispose of all or part of such real property which it may own, either by contract or at
9 public auction, upon the approval by the board of directors of the development authority: *Provided,*
10 That the funds received by the authority as a result of selling, leasing or otherwise disposing of all
11 or part of such real property owned by the authority may be invested by the authority in a manner
12 determined by the authority's board of directors to be in the best interest of the authority under an
13 investment policy adopted and maintained by the board that is consistent with the standards of the
14 Uniform Prudent Investor Act set forth in article six-c, chapter forty-four of this code: *Provided,*
15 *however,* That for short-term investments the board of directors shall consult with the State Treasurer
16 prior to investing funds; for long-term investments, the board shall consult with the Investment
17 Management Board and compare the rate of return on investment for the previous three years and
18 compare the expense loads for the past three years; if the comparison for the Investment
19 Management Board is more favorable, the Board must invest the funds with the Investment
20 Management Board; (9) to purchase or otherwise acquire, own, hold, sell, lease and dispose of all
21 or part of any personal property which it may own, either by contract or at public auction: *Provided*
22 *further,* That the funds received by the authority as a result of selling, leasing or otherwise disposing
23 of all or part of such personal property owned by the authority may be invested by the authority in

1 a manner determined by the authority's board of directors to be in the best interest of the authority
2 under an investment policy adopted and maintained by the board that is consistent with the standards
3 of the Uniform Prudent Investor Act set forth in article six-c, chapter forty-four of this code: *And*
4 *provided further*, That for short-term investments the board of directors shall consult with the State
5 Treasurer prior to investing funds; for long-term investments, the board shall consult with the
6 Investment Management Board and compare the rate of return on investment for the previous three
7 years and compare the expense loads for the past three years; if the comparison for the Investment
8 Management Board is more favorable, the board must invest the funds with the Investment
9 Management Board; (10) pursuant to a determination by the board that there exists a continuing need
10 for programs to alleviate and prevent unemployment within the county in which the authority is
11 intended to operate or aid in the rehabilitation of areas in said county which are underdeveloped,
12 decaying or otherwise economically depressed and that moneys or funds of the authority are
13 necessary therefor, to borrow money and execute and deliver the authority's negotiable notes,
14 mortgage bonds, other bonds, debentures and other evidences of indebtedness therefor, on such terms
15 as the authority shall determine and give such security therefor as shall be requisite, including giving
16 a mortgage or deed of trust on its real or personal property and facilities in connection with the
17 issuance of mortgage bonds; (11) to raise funds by the issuance and sale of revenue bonds in the
18 manner provided by the applicable provisions of article sixteen, chapter eight of this code, it being
19 hereby expressly provided that a development authority created under this article is a governing body
20 within the definition of that term as used in article sixteen, chapter eight of this code; and (12) to
21 expend its funds in the execution of the powers and authority herein given, which expenditures, by
22 the means authorized herein, are hereby determined and declared as a matter of legislative finding
23 to be for a public purpose and use, in the public interest, and for the general welfare of the people

1 of West Virginia, to alleviate and prevent economic deterioration and to relieve the existing critical
2 condition of unemployment existing within the state.

3 (b) The amendment of this section enacted in the year 1998 is intended to clarify the intent
4 of the Legislature as to the manner in which an authority may sell, lease or otherwise dispose of real
5 and personal property owned by an authority and shall be retroactive to the date of the prior
6 enactment of this section.

7 (c) Notwithstanding any provision of this code to the contrary, any development authority
8 participating in the Appalachian Region Interstate Compact pursuant to chapter seven-a of this code
9 may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and
10 other income and revenues generated by any facility owned by an authority. Any development
11 authority or member locality may be located in any jurisdiction participating in the Appalachian
12 Region Interstate Compact or a similar agreement for interstate cooperation for economic and
13 workforce development authorized by law. The obligations of the parties to any such agreement
14 shall not be debt within the meaning of section eight, article X of the Constitution of West Virginia.
15 Any such agreement shall be approved by a majority vote of the governing bodies of the member
16 localities reaching such an agreement but does not require any other approval.

17 (d) "Member localities" means the counties, municipalities or combination thereof which are
18 members of an authority.

19