

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 4612

FISCAL  
NOTE

BY DELEGATES E. NELSON, MR. SPEAKER, MR.  
ARMSTEAD, GEARHEART, HAMRICK, HOUSEHOLDER,  
ANDERSON, SHOTT, STORCH, ESPINOSA, HOWELL AND  
BOGGS

[Introduced February 18, 2016; Referred  
to the Committee on Finance.]

1 A BILL to repeal §11-10-26 and §11-10-27 of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §7-11B-3, §7-11B-4, §7-11B-14, §7-11b-21 and §7-11B-22 of said  
3 code; to amend said code by adding thereto two new sections, designated §7-11B-29 and  
4 §7-11B-30; to amend and reenact §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of  
5 said code; to amend said code by adding thereto three new sections, designated  
6 §7-22-23, §7-22-24 and §7-22-25; to amend and reenact §8-38-5, §8-38-7, §8-38-8, §8-  
7 38-12 and §8-38-14 of said code; to amend said code by adding thereto three new  
8 sections, designated §8-38-23, §8-38-24 and §8-38-25; and to amend and reenact §11-  
9 10-11a and §11-10-11c of said code, all relating generally to tax increment financing and  
10 economic opportunity development districts and expanding its use for financing and  
11 funding road projects in West Virginia; permitting certain agreements between the Division  
12 of Highways and counties or municipalities regarding development districts; permitting  
13 financing of certain projects be with the proceeds of tax increment financing obligations;  
14 permitting road construction projects be done jointly by counties and municipalities;  
15 establishing procedures; permitting the Division of Highways to propose a joint project;  
16 establishing procedures for the West Virginia Development Office and the Tax  
17 Commissioner; permitting audits; establishing a procedure for adding or removing property  
18 from an economic opportunity development district; requiring procedures relating to  
19 taxpayers; providing for confidentiality; providing that roads to be part of the state road  
20 system; permitting a fee to be assessed; making findings; establishing an effective date;  
21 and defining terms.

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

1 That §11-10-26 and §11-10-27 of the Code of West Virginia, 1931, as amended, be  
2 repealed; that §7-11B-3, §7-11B-4, §7-11b-14, §7-11B-21 and §7-11B-22 of said code be  
3 amended and reenacted; that said code be amended by adding thereto two new sections,  
4 designated §7-11B-29 and §7-11B-30; that §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of

5 said code be amended and reenacted; that said code be amended by adding thereto three new  
6 sections, designated §7-22-23, §7-22-24 and §7-22-25; that §8-38-5, §8-38-7, §8-38-8, §8-38-12  
7 and §8-38-14 of said code be amended and reenacted; that said code be amended by adding  
8 thereto three new sections, designated §8-38-23, §8-38-24 and §8-38-25; and that §11-10-11a  
9 and §11-10-11c of said code be amended and reenacted, all to read as follows:

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 11B. WEST VIRGINIA TAX INCREMENT FINANCING ACT.**

#### **§7-11B-3. Definitions.**

1 (a) *General.* -- When used in this article, words and phrases defined in this section have  
2 the meanings ascribed to them in this section unless a different meaning is clearly required either  
3 by the context in which the word or phrase is used or by specific definition in this article.

4 (b) *Words and phrases defined.* --

5 (4) "Agency" includes a municipality, a county or municipal development agency  
6 established pursuant to authority granted in section one, article twelve of this chapter, a port  
7 authority, an airport authority or any other entity created by this state or an agency or  
8 instrumentality of this state that engages in economic development activity or the Division of  
9 Highways.

10 (2) "Base assessed value" means the taxable assessed value of all real and tangible  
11 personal property, excluding personal motor vehicles, having a tax situs within a development or  
12 redevelopment district as shown upon the landbooks and personal property books of the assessor  
13 on July 1 of the calendar year preceding the effective date of the order or ordinance creating and  
14 establishing the development or redevelopment district: *Provided*, That for any development or  
15 redevelopment district approved after the effective date of the amendments to this section  
16 enacted during the regular session of the Legislature in 2014, personal trailers, personal boats,  
17 personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax

18 situs within a development or redevelopment district are excluded from the base assessed value.

19 ~~(3)~~ "Blighted area" means an area within the boundaries of a development or  
20 redevelopment district located within the territorial limits of a municipality or county in which the  
21 structures, buildings or improvements, by reason of dilapidation, deterioration, age or  
22 obsolescence, inadequate provision for access, ventilation, light, air, sanitation, open spaces,  
23 high density of population and overcrowding or the existence of conditions which endanger life or  
24 property, are detrimental to the public health, safety, morals or welfare. "Blighted area" includes  
25 any area which, by reason of the presence of a substantial number of substandard, slum,  
26 deteriorated or deteriorating structures, predominance of defective or inadequate street layout,  
27 faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe  
28 conditions, deterioration of site or other improvements, diversity of ownership, defective or  
29 unusual conditions of title or the existence of conditions which endanger life or property by fire  
30 and other causes, or any combination of such factors, substantially impairs or arrests the sound  
31 growth of a municipality, retards the provision of housing accommodations or constitutes an  
32 economic or social liability and is a menace to the public health, safety, morals or welfare in its  
33 present condition and use, or any area which is predominantly open and which because of lack  
34 of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site  
35 improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

36 "Commissioner of Highways" means the Commissioner of the Division of Highways.

37 (4) "Conservation area" means any improved area within the boundaries of a development  
38 or redevelopment district located within the territorial limits of a municipality or county in which  
39 fifty percent or more of the structures in the area have an age of thirty-five years or more. A  
40 conservation area is not yet a blighted area but is detrimental to the public health, safety, morals  
41 or welfare and may become a blighted area because of any one or more of the following factors:  
42 Dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of

43 structures below minimum code standards; abandonment; excessive vacancies; overcrowding of  
44 structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate  
45 utilities; excessive land coverage; deleterious land use or layout; depreciation of physical  
46 maintenance; and lack of community planning. A conservation area shall meet at least three of  
47 the factors provided in this subdivision.

48 ~~(5)~~ "County commission" means the governing body of a county of this state and, for  
49 purposes of this article only, includes the governing body of a Class I or II municipality in this  
50 state.

51 ~~(6)~~ "Current assessed value" means the annual taxable assessed value of all real and  
52 tangible personal property, excluding personal motor vehicles, having a tax situs within a  
53 development or redevelopment district as shown upon the landbook and personal property  
54 records of the assessor: *Provided*, That for any development or redevelopment district approved  
55 after the effective date of the amendments to this section enacted during the regular session of  
56 the Legislature in 2014, personal trailers, personal boats, personal campers, personal motor  
57 homes, personal ATVs and personal motorcycles having a tax situs within a development or  
58 redevelopment district are excluded from the current assessed value.

59 ~~(7)~~ "Development office" means the West Virginia Development Office created in section  
60 one, article two, chapter five-b of this code.

61 ~~(8)~~ "Development project" or "redevelopment project" means a project undertaken in a  
62 development or redevelopment district for eliminating or preventing the development or spread of  
63 slums or deteriorated, deteriorating or blighted areas, for discouraging the loss of commerce,  
64 industry or employment, for increasing employment or for any combination thereof in accordance  
65 with a tax increment financing plan. A development or redevelopment project may include one or  
66 more of the following:

67 (A) The acquisition of land and improvements, if any, within the development or

68 redevelopment district and clearance of the land so acquired; or

69 (B) The development, redevelopment, revitalization or conservation of the project area  
70 whenever necessary to provide land for needed public facilities, public housing or industrial or  
71 commercial development or revitalization, to eliminate unhealthful, unsanitary or unsafe  
72 conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards,  
73 eliminate obsolete or other uses detrimental to public welfare or otherwise remove or prevent the  
74 spread of blight or deterioration;

75 (C) The financial or other assistance in the relocation of persons and organizations  
76 displaced as a result of carrying out the development or redevelopment project and other  
77 improvements necessary for carrying out the project plan, together with those site improvements  
78 that are necessary for the preparation of any sites and making any land or improvements acquired  
79 in the project area available, by sale or lease, for public housing or for development,  
80 redevelopment or rehabilitation by private enterprise for commercial or industrial uses in  
81 accordance with the plan;

82 (D) The construction of capital improvements within a development or redevelopment  
83 district designed to increase or enhance the development of commerce, industry or housing within  
84 the development project area; or

85 (E) Any other projects the county commission or the agency deems appropriate to carry  
86 out the purposes of this article.

87 ~~(9)~~ "Development or redevelopment district" means an area proposed by one or more  
88 agencies as a development or redevelopment district which may include one or more counties,  
89 one or more municipalities or any combination thereof, that has been approved by the county  
90 commission of each county in which the project area is located if the project is located outside the  
91 corporate limits of a municipality, or by the governing body of a municipality if the project area is  
92 located within a municipality, or by both the county commission and the governing body of the

93 municipality when the development or redevelopment district is located both within and without a  
94 municipality.

95 “Division of Highways” means the state Department of Transportation, Division of  
96 Highways.

97 ~~(10)~~ “Economic development area” means any area or portion of an area within the  
98 boundaries of a development or redevelopment district located within the territorial limits of a  
99 municipality or county that does not meet the requirements of subdivisions (3) and (4) of this  
100 subsection and for which the county commission finds that development or redevelopment will  
101 not be solely used for development of commercial businesses that will unfairly compete in the  
102 local economy and that development or redevelopment is in the public interest because it will:

103 (A) Discourage commerce, industry or manufacturing from moving their operations to  
104 another state;

105 (B) Result in increased employment in the municipality or county, whichever is applicable;  
106 or

107 (C) Result in preservation or enhancement of the tax base of the county or municipality.

108 ~~(14)~~ “Governing body of a municipality” means the city council of a Class I or Class II  
109 municipality in this state.

110 ~~(12)~~ “Incremental value”, for any development or redevelopment district, means the  
111 difference between the base assessed value and the current assessed value. The incremental  
112 value will be positive if the current value exceeds the base value and the incremental value will  
113 be negative if the current value is less than the base assessed value.

114 ~~(13)~~ “Includes” and “including”, when used in a definition contained in this article, shall not  
115 exclude other things otherwise within the meaning of the term being defined.

116 “Intergovernmental agreement” means a written agreement that is made between two or  
117 more county commissions, or between two or more municipalities, or between a county

118 commission and a municipality, in the singular and the plural, or between two or more government  
119 entities and the Commissioner of Highways to cooperate in some specific way with regard to a  
120 road improvement district or a road project plan in a road improvement district; provided, however,  
121 such written agreement shall not be subject to provisions governing intergovernmental  
122 agreements set forth in other provisions of this code, including, but not limited to, article twenty-  
123 three, chapter eight of this code.

124       (14) “Local levying body” means the county board of education and the county commission  
125 and includes the governing body of a municipality when the development or redevelopment district  
126 is located, in whole or in part, within the boundaries of the municipality.

127       (15) “Obligations” or “tax increment financing obligations” means bonds, loans,  
128 debentures, notes, special certificates or other evidences of indebtedness issued by a county  
129 commission or municipality pursuant to this article to carry out a development or redevelopment  
130 project or to refund outstanding obligations under this article.

131       (16) “Order” means an order of the county commission adopted in conformity with the  
132 provisions of this article and as provided in this chapter.

133       (17) “Ordinance” means a law adopted by the governing body of a municipality in  
134 conformity with the provisions of this article and as provided in chapter eight of this code.

135       (18) “Payment in lieu of taxes” means those estimated revenues from real property and  
136 tangible personal property having a tax situs in the area selected for a development or  
137 redevelopment project which revenues, according to the development or redevelopment project  
138 or plan, are to be used for a private use, which levying bodies would have received had a county  
139 or municipality not adopted one or more tax increment financing plans and which would result  
140 from levies made after the date of adoption of a tax increment financing plan during the time the  
141 current assessed value of all taxable real and tangible personal property in the area selected for  
142 the development or redevelopment project exceeds the total base assessed value of all taxable



143 real and tangible personal property in the development or redevelopment district until the  
144 designation is terminated as provided in this article.

145 ~~(19)~~ "Person" means any natural person, and any corporation, association, partnership,  
146 limited partnership, limited liability company or other entity, regardless of its form, structure or  
147 nature, other than a government agency or instrumentality.

148 ~~(20)~~ "Private project" means any project that is subject to ad valorem property taxation in  
149 this state or to a payment in lieu of tax agreement that is undertaken by a project developer in  
150 accordance with a tax increment financing plan in a development or redevelopment district.

151 ~~(21)~~ "Project" means any capital improvement, facility or both, as specifically set forth and  
152 defined in the project plan, requiring an investment of capital including, but not limited to,  
153 extensions, additions or improvements to existing facilities, including water or wastewater  
154 facilities, and the remediation of contaminated property as provided for in article twenty-two,  
155 chapter twenty-two of this code, but does not include performance of any governmental service  
156 by a county or municipal government.

157 ~~(22)~~ "Project area" means an area within the boundaries of a development or  
158 redevelopment district in which a development or redevelopment project is undertaken as  
159 specifically set forth and defined in the project plan.

160 ~~(23)~~ "Project costs" means expenditures made in preparation of the development or  
161 redevelopment project plan and made, or estimated to be made, or monetary obligations incurred,  
162 or estimated to be incurred, by the county commission which are listed in the project plan as  
163 capital improvements within a development or redevelopment district, plus any costs incidental  
164 thereto. "Project costs" include, but are not limited to:

165 (A) Capital costs, including, but not limited to, the actual costs of the construction of public  
166 works or improvements, capital improvements and facilities, new buildings, structures and  
167 fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings,

168 structures and fixtures, environmental remediation, parking and landscaping, the acquisition of  
169 equipment and site clearing, grading and preparation;

170 (B) Financing costs, including, but not limited to, an interest paid to holders of evidences  
171 of indebtedness issued to pay for project costs, all costs of issuance and any redemption  
172 premiums, credit enhancement or other related costs;

173 (C) Real property assembly costs, meaning any deficit incurred resulting from the sale or  
174 lease as lessor by the county commission of real or personal property having a tax situs within a  
175 development or redevelopment district for consideration that is less than its cost to the county  
176 commission;

177 (D) Professional service costs including, but not limited to, those costs incurred for  
178 architectural planning, engineering and legal advice and services;

179 (E) Imputed administrative costs including, but not limited to, reasonable charges for time  
180 spent by county employees or municipal employees in connection with the implementation of a  
181 project plan;

182 (F) Relocation costs including, but not limited to, those relocation payments made  
183 following condemnation and job training and retraining;

184 (G) Organizational costs including, but not limited to, the costs of conducting  
185 environmental impact and other studies and the costs of informing the public with respect to the  
186 creation of a development or redevelopment district and the implementation of project plans;

187 (H) Payments made, in the discretion of the county commission or the governing body of  
188 a municipality, which are found to be necessary or convenient to creation of development or  
189 redevelopment districts or the implementation of project plans; and

190 (I) That portion of costs related to the construction of environmental protection devices,  
191 storm or sanitary sewer lines, water lines, amenities or streets or the rebuilding or expansion of  
192 streets, or the construction, alteration, rebuilding or expansion of which is necessitated by the

193 project plan for a development or redevelopment district, whether or not the construction,  
194 alteration, rebuilding or expansion is within the area or on land contiguous thereto.

195 ~~(24)~~ "Project developer" means any person who engages in the development of projects  
196 in the state.

197 ~~(25)~~ "Project plan" means the plan for a development or redevelopment project that is  
198 adopted by a county commission or governing body of a municipality in conformity with the  
199 requirements of this article and this chapter or chapter eight of this code.

200 ~~(26)~~ "Real property" means all lands, including improvements and fixtures on them and  
201 property of any nature appurtenant to them or used in connection with them and every estate,  
202 interest and right, legal or equitable, in them, including terms of years and liens by way of  
203 judgment, mortgage or otherwise, and indebtedness secured by the liens.

204 ~~(27)~~ "Redevelopment area" means an area designated by a county commission or the  
205 governing body of a municipality in respect to which the commission or governing body has made  
206 a finding that there exist conditions which cause the area to be classified as a blighted area, a  
207 conservation area, an economic development area or a combination thereof, which area includes  
208 only those parcels of real property directly and substantially benefitted by the proposed  
209 redevelopment project located within the development or redevelopment district or land  
210 contiguous thereto.

211 ~~(28)~~ "Redevelopment plan" means the comprehensive program under this article of a  
212 county or municipality for redevelopment intended by the payment of redevelopment costs to  
213 reduce or eliminate those conditions, the existence of which qualified the redevelopment area as  
214 a blighted area, conservation area, economic development area or combination thereof, and to  
215 thereby enhance the tax bases of the levying bodies which extend into the redevelopment area.  
216 Each redevelopment plan shall conform to the requirements of this article.

217 ~~(29)~~ "Tax increment" means the amount of regular levy property taxes attributable to the

218 amount by which the current assessed value of real and tangible personal property having a tax  
 219 situs in a development or redevelopment district exceeds the base assessed value of the property.

220 ~~(30)~~ "Tax increment financing fund" means a separate fund for a development or  
 221 redevelopment district established by the county commission or governing body of the  
 222 municipality into which all tax increment revenues and other pledged revenues are deposited and  
 223 from which projected project costs, debt service and other expenditures authorized by this article  
 224 are paid.

225 ~~(34)~~ "This code" means the Code of West Virginia, 1931, as amended by the Legislature.

226 ~~(32)~~ "Total ad valorem property tax regular levy rate" means the aggregate levy rate of all  
 227 levying bodies on all taxable property having a tax situs within a development or redevelopment  
 228 district in a tax year but does not include excess levies, levies for general obligation bonded  
 229 indebtedness or any other levies that are not regular levies.

**§7-11B-4. Powers generally.**

1 In addition to any other powers conferred by law, a county commission or governing body  
 2 of a Class I or II municipality may exercise any powers necessary and convenient to carry out the  
 3 purpose of this article, including the power to:

4 (1) Create development and redevelopment areas or districts and to define the boundaries  
 5 of those areas or districts;

6 (2) Cause project plans to be prepared, to approve the project plans, and to implement  
 7 the provisions and effectuate the purposes of the project plans;

8 (3) Establish tax increment financing funds for each development or redevelopment  
 9 district;

10 (4) Issue tax increment financing obligations and pledge tax increments and other  
 11 revenues for repayment of the obligations;

12 (5) Deposit moneys into the tax increment financing fund for any development or

13 redevelopment district;

14 (6) Enter into any contracts or agreements, including, but not limited to, agreements with  
15 project developers, consultants, professionals, financing institutions, trustees and bondholders  
16 determined by the county commission to be necessary or convenient to implement the provisions  
17 and effectuate the purposes of project plans;

18 (7) Receive from the federal government or the state loans and grants for, or in aid of, a  
19 development or redevelopment project and to receive contributions from any other source to  
20 defray project costs;

21 (8) Exercise the right of eminent domain to condemn property for the purposes of  
22 implementing the project plan. The rules and procedures set forth in chapter fifty-four of this code  
23 shall govern all condemnation proceedings authorized in this article;

24 (9) Make relocation payments to those persons, businesses, or organizations that are  
25 displaced as a result of carrying out the development or redevelopment project;

26 (10) Clear and improve property acquired by the county commission pursuant to the  
27 project plan and construct public facilities on it or contract for the construction, development,  
28 redevelopment, rehabilitation, remodeling, alteration or repair of the property;

29 (11) Cause parks, playgrounds or water, sewer or drainage facilities or any other public  
30 improvements, including, but not limited to, fire stations, community centers and other public  
31 buildings, which the county commission is otherwise authorized to undertake to be laid out,  
32 constructed or furnished in connection with the development or redevelopment project. When the  
33 public improvement of the county commission is to be located, in whole or in part, within the  
34 corporate limits of a municipality, the county commission shall consult with the mayor and the  
35 governing body of the municipality regarding the public improvement and shall pay for the cost of  
36 the public improvement from the tax increment financing fund;

37 (12) Lay out and construct, alter, relocate, change the grade of, make specific repairs upon

38 or discontinue public ways and construct sidewalks in, or adjacent to, the project area: *Provided,*  
39 That when the public way or sidewalk is located within a municipality, the governing body of the  
40 municipality shall consent to the same and if the public way is a state road, the consent of the  
41 commissioner of highways shall be necessary;

42 (13) Cause private ways, sidewalks, ways for vehicular travel, playgrounds or water, sewer  
43 or drainage facilities and similar improvements to be constructed within the project area for the  
44 particular use of the development or redevelopment district or those dwelling or working in it;

45 (14) Construct, or cause to be constructed, any capital improvements of a public nature;

46 (15) Construct capital improvements to be leased or sold to private entities in connection  
47 with the goals of the development or redevelopment project;

48 (16) Cause capital improvements owned by one or more private entities to be constructed  
49 within the development or redevelopment district;

50 (17) Designate one or more official or employee of the county commission to make  
51 decisions and handle the affairs of development and redevelopment project areas or districts  
52 created by the county commission pursuant to this article;

53 (18) Adopt orders, ordinances or bylaws or repeal or modify such ordinances or bylaws or  
54 establish exceptions to existing ordinances and bylaws regulating the design, construction and  
55 use of buildings within the development or redevelopment district created by a county commission  
56 or governing body of a municipality under this article;

57 (19) Enter orders, adopt bylaws or repeal or modify such orders or bylaws or establish  
58 exceptions to existing orders and bylaws regulating the design, construction and use of buildings  
59 within the development or redevelopment district created by a county commission or governing  
60 body of a municipality under this article;

61 (20) Sell, mortgage, lease, transfer or dispose of any property or interest therein, by  
62 contract or auction, acquired by it pursuant to the project plan for development, redevelopment or

63 rehabilitation in accordance with the project plan;

64 (21) Expend project revenues as provided in this article; and

65 (22) Enter into one or more intergovernmental agreements or memorandums of  
66 understanding with the Commissioner of Highways or with other county commissions or  
67 municipalities regarding development or redevelopment districts;

68 (23) Designate one or more officials or employees of the county commission or  
69 municipality that created the development or redevelopment district to sign documents, to make  
70 decisions and handle the affairs of the development or redevelopment district. When two or more  
71 county commissions, or municipalities, or any combination of thereof, established the  
72 development or redevelopment district, the government entities shall enter into one or more  
73 intergovernmental agreements regarding administration of the development or redevelopment  
74 district and the handling of its affairs; and

75 ~~(22)~~ (24) Do all things necessary or convenient to carry out the powers granted in this  
76 article.

**§7-11B-14. Projects financed by tax increment financing considered to be public  
improvements subject to prevailing wage, local labor preference and competitive  
bid requirements.**

1 (a) Any project acquired, constructed, or financed, in whole or in part, by a county  
2 commission or municipality under this article shall be considered to be a "public improvement"  
3 within the meaning of the provisions of articles one-c and five-a, chapter twenty-one of this code.

4 (b) The county commission or municipality shall, except as provided in subsection (c) of  
5 this section, solicit or require solicitation of competitive bids and require the payment of prevailing  
6 wage rates as provided in article five-a, chapter twenty-one of this code and compliance with  
7 article one-c of said chapter for every project or infrastructure project funded pursuant to this  
8 article exceeding \$25,000 in total cost.

9 (c) Following the solicitation of the bids, the construction contract shall be awarded to the  
10 lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond:  
11 *Provided*, That the county commission, municipality or other person soliciting the bids may reject  
12 all bids and solicit new bids on the project.

13 (d) No officer or employee of this state or of any public agency, public authority, public  
14 corporation, or other public entity, and no person acting or purporting to act on behalf of such  
15 officer or employee or public entity shall require that any performance bond, payment bond, or  
16 bid bond required or permitted by this section be obtained from any particular surety company,  
17 agent, broker or producer.

18 (e) This section does not:

19 (1) Apply to work performed on construction projects not exceeding a total cost of \$50,000  
20 by regular full-time employees of the county commission or the municipality: *Provided*, That no  
21 more than \$50,000 shall be expended on an individual project in a single location in a twelve-  
22 month period;

23 (2) Prevent students enrolled in vocational educational schools from being used in  
24 construction or repair projects when such use is a part of the students' training program;

25 (3) Apply to emergency repairs to building components and systems: *Provided*, That the  
26 term "emergency repairs" means repairs that, if not made immediately, will seriously impair the  
27 use of the building components and systems or cause danger to those persons using the building  
28 components and systems; or

29 (4) Apply to any situation where the county commission or municipality comes to an  
30 agreement with volunteers, or a volunteer group, by which the governmental body will provide  
31 construction or repair materials, architectural, engineering, technical or any other professional  
32 services and the volunteers will provide the necessary labor without charge to, or liability upon,  
33 the governmental body: *Provided*, That the total cost of the construction or repair projects does



34 not exceed \$50,000.

35 (f) The provisions of subsection (b) of this section apply to privately owned projects or  
36 infrastructure projects constructed on lands not owned by the county commission, a municipality  
37 or a government agency or instrumentality when the owner or the owner's agent or person  
38 financing the owner's project receives money from the tax increment financing fund for the owner's  
39 project.

40 (g) Notwithstanding any provision in this section to the contrary and to clarify the  
41 requirements of this section, this section only applies to specific projects included in a project plan  
42 for the district that are financed or to be financed with the proceeds of tax increment financing  
43 obligations.

**§7-11B-21. Tax increment financing obligations -- authorizing ~~resolution~~ order or ordinance.**

1 (a) Issuance of tax increment financing obligations shall be authorized by order of the  
2 county commission, or ~~resolution~~ ordinance of the municipality, that created the development or  
3 redevelopment district.

4 (b) The order, or ~~resolution~~ ordinance, shall state the name of the development or  
5 redevelopment district, the amount of tax increment financing obligations authorized, the type of  
6 obligation authorized and the interest rate or rates to be borne by the bonds, notes or other tax  
7 increment financing obligations.

8 (c) The order or ordinance may prescribe the terms, form and content of the tax increment  
9 financing obligations and other particulars or information the county commission, or governing  
10 body of the municipality, issuing the obligations deems useful or it may include by reference the  
11 terms and conditions set forth in a trust indenture or other document securing the development  
12 or redevelopment project tax increment financing obligations.

**§7-11B-22. Tax increment financing obligations -- terms, conditions.**

1 (a) Tax increment financing obligations may not be issued in an amount exceeding the  
2 estimated aggregate project costs, including all costs of issuance of the tax increment financing  
3 obligations.

4 (b) Tax increment financing obligations shall not be included in the computation of the  
5 Constitutional debt limitation of the county commission or municipality issuing the tax increment  
6 financing obligations.

7 (c) Tax increment financing obligations shall mature over a period not exceeding thirty  
8 years from the date of entry of the county commission's order, or the effective date of the  
9 municipal ordinance, creating the development or redevelopment district and approving the  
10 development or redevelopment plan, or a period terminating with the date of termination of the  
11 development or redevelopment district, whichever period terminates earlier.

12 (d) Tax increment financing obligations may contain a provision authorizing their  
13 redemption, in whole or in part, at stipulated prices, at the option of the county commission or  
14 municipality issuing the obligations, and, if so, the obligations shall provide the method of selecting  
15 the tax increment financing obligations to be redeemed.

16 (e) The principal and interest on tax increment financing obligations may be payable at  
17 any place set forth in the resolution, trust indenture or other document governing the obligations.

18 (f) Bonds or notes shall be issued in registered form.

19 (g) Bonds or notes may be issued in any denomination.

20 (h) Each tax increment financing obligation issued under this article is declared to be a  
21 negotiable instrument.

22 (i) The tax increment financing obligations may be sold at public or private sale.

23 (j) Insofar as they are consistent with subsections (a), (b) and (c) of this section, the  
24 procedures for issuance, form, contents, execution, negotiation and registration of county and  
25 municipal industrial or commercial revenue bonds set forth in article two-c, chapter thirteen of this

26 code are incorporated by reference herein.

27 (k) The bonds may be refunded or refinanced and refunding bonds may be issued in any  
28 principal amount. ~~Provided, That the last maturity of the refunding bonds shall not be later than~~  
29 ~~the last maturity of the bonds being refunded~~

**§7-11B-29. Joint development or redevelopment districts.**

1 (a) The Legislature hereby finds and declares that the citizens of the state would benefit  
2 from coordinated road construction efforts by county commissions and municipalities.

3 (b) Notwithstanding any other section of this code to the contrary, any two or more county  
4 commissions, any two or more municipalities, or any combination thereof, may: (1) Create a  
5 combined development or redevelopment district; (2) propose joint project plans; (3) propose joint  
6 amendments to an existing project plan for combined development or redevelopment district; and  
7 (4) enter into one or more intergovernmental agreements between themselves and/or the  
8 Commissioner of Highways to share: (A) Project expenses; and (B) certain property tax  
9 collections, on a pro rata or other basis, to facilitate construction of projects within the combined  
10 development or redevelopment district and to jointly take such other actions as are authorized in  
11 the West Virginia Tax Increment Financing Act.

12 (c) When a project begins in one county and ends in another county of this state, the  
13 county commission of each county included in a multicounty project may, by resolution, adopt a  
14 written intergovernmental agreement with each county and/or the Commissioner of Highways  
15 regarding the proposed multicounty project. When the project begins or passes through the  
16 corporate limits of a municipality, the governing body of that municipality may by resolution adopt  
17 a written intergovernmental agreement with the county or counties in which the project is located.

18 (d) No county commission or municipality may withdraw from an intergovernmental  
19 agreement as long as tax increment financing obligations remain outstanding the proceeds of  
20 which were used by any party to the intergovernmental agreement to finance construction of the

21 project for which the written intergovernmental agreement was executed.

22 (e) No withdrawing county commission or municipality shall be entitled to the return of any  
23 money or property advanced to the project.

24 (f) Notwithstanding any provision of this code to the contrary, any county commission or  
25 municipality that creates a development or redevelopment district may enter into one or more  
26 intergovernmental agreements with one or more other counties or municipalities that also create  
27 a development or redevelopment district to finance, in whole or in part, one or more projects, to  
28 pool tax increment and other revenues to finance, in whole or in part, contiguous projects on a  
29 cash basis or to pay debt service on tax increment financing obligations.

30 (g) The obligations of the parties under any intergovernmental agreement executed  
31 pursuant to this article is not debt within the meaning of sections six or eight, article X of the  
32 Constitution of West Virginia.

33 (h) Any intergovernmental agreement must be approved by resolution adopted by a  
34 majority vote of the county commission of each county participating in the agreement, by a  
35 majority vote of the governing body of each municipality participating in the agreement and by the  
36 Commissioner of Highways.

37 (i) The Commissioner of Highways is authorized to enter into intergovernmental  
38 agreements with county commissions and municipalities of this state, or with the federal  
39 government or any agency thereof, respecting the financing, planning, and construction of state  
40 roads and bridges, including related infrastructure if any, constructed, in whole or in part, pursuant  
41 to this article.

**§7-11B-30. Application by Division of Highways.**

1 (a) The Commissioner of Highways may propose creation of a project plan for a  
2 development or redevelopment district established by the county or municipality, or propose an  
3 amendment to an existing project plan for that district. This plan may include related infrastructure

4 that is necessary or convenient to economic development adjacent to the proposed project.

5 (b) Project plans proposed by the Commissioner of Highways are limited to those related  
6 to the construction, reconstruction, improvement or modernization of state roads, as defined in  
7 article four, chapter seventeen of this code, that are part of the state road system, as defined in  
8 that article or that will become part of the state road system upon completion of the construction.  
9 All construction, reconstruction, improvement or modernization and maintenance of state roads  
10 shall be done by or under the supervision of the Commissioner of Highways.

11 (c) All road projects that are accepted as part of the state road system, and all real property  
12 interests and appurtenances, is under the exclusive jurisdiction and control of the Commissioner  
13 of Highways, who may exercise the same rights and authority as he or she has over other  
14 transportation facilities in the state road system.

15 (d) Except as provided in an intergovernmental agreement executed by one or more  
16 county commissions, municipalities and/or the Commissioner of Highways and as provided in this  
17 article, a county commission or municipality may not be required to pay for the cost of  
18 constructing, reconstructing, improving, maintaining a road that is part of the state road system  
19 as defined in article four, chapter seventeen of this code or to pay any other expense fairly related  
20 to that road.

21 (e) The powers conferred by this article on the Commissioner of Highways or the Division  
22 of Highways are in addition and supplemental to the powers conferred upon the Commissioner of  
23 Highways, the Division of Highways, and the Department of Transportation by the Legislature  
24 elsewhere in this code.

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

### **§7-22-5. Development expenditures.**

1 Any county commission that has established an economic opportunity development

2 district under this article may make, or authorize to be made by a district board and other public  
3 or private parties, development expenditures as will promote the economic vitality of the district  
4 and the general welfare of the county, including, but not limited to, expenditures for the following  
5 purposes:

6 (1) Beautification of the district by means including landscaping and construction and  
7 erection of fountains, shelters, benches, sculptures, signs, lighting, decorations and similar  
8 amenities;

9 (2) Provision of special or additional public services such as sanitation, security for  
10 persons and property and the construction and maintenance of public facilities, including, but not  
11 limited to, sidewalks, parking lots, parking garages and other public areas;

12 (3) Making payments for principal, interest, issuance costs, any of the costs described in  
13 section twenty of this article and appropriate reserves for bonds and other instruments and  
14 arrangements issued or entered into by the county commission for financing the expenditures of  
15 the district described in this section and to otherwise implement the purposes of this article;

16 (4) Providing financial support for public transportation and vehicle parking facilities open  
17 to the general public, whether physically situate within the district's boundaries or on adjacent  
18 land;

19 (5) Acquiring, building, demolishing, razing, constructing, repairing, reconstructing,  
20 refurbishing, renovating, rehabilitating, expanding, altering, otherwise developing, operating and  
21 maintaining real property generally, parking facilities, commercial structures and other capital  
22 improvements to real property, fixtures and tangible personal property, whether or not physically  
23 situate within the district's boundaries, including, but not limited to, state road improvements  
24 pursuant to an intergovernmental agreement with the Commissioner of Highways: *Provided*, That  
25 the expenditure directly benefits the district;

26 (6) Developing plans for the architectural design of the district and portions thereof and

27 developing plans and programs for the future development of the district;

28 (7) Developing, promoting and supporting community events and activities open to the  
29 general public that benefit the district;

30 (8) Providing the administrative costs for a district management program;

31 (9) Providing for the usual and customary maintenance and upkeep of all improvements  
32 and amenities in the district as are commercially reasonable and necessary to sustain its  
33 economic viability on a permanent basis;

34 (10) Providing any other services that the county commission or district board is authorized  
35 to perform and which the county commission does not also perform to the same extent on a  
36 countywide basis;

37 (11) Making grants to the owners or tenants of economic opportunity development district  
38 for the purposes described in this section;

39 (12) Making grants to the Division of Highways for road projects benefitting an economic  
40 opportunity development district;

41 ~~(12)~~ (13) Acquiring an interest in any entity or entities that own any portion of the real  
42 property situate in the district and contributing capital to any entity or entities;

43 ~~(13)~~ (14) Remediation of publicly or privately owned landfills, former coal or other mining  
44 sites, solid waste facilities or hazardous waste sites to facilitate commercial development which  
45 would not otherwise be economically feasible; and

46 ~~(14)~~ (15) To do any and all things necessary, desirable or appropriate to carry out and  
47 accomplish the purposes of this article notwithstanding any provision of this code to the contrary.

**§7-22-7. Application to Development Office for approval of an economic opportunity  
development district project.**

1 (a) *General.* -- The Development Office shall receive and act on applications filed with it  
2 by county commissions pursuant to section six of this article. Each application must include:

- 3 (1) A true copy of the notice described in section six of this article;
- 4 (2) The total cost of the project;
- 5 (3) A reasonable estimate of the number of months needed to complete the project;
- 6 (4) A general description of the capital improvements, additional or extended services and  
7 other proposed development expenditures to be made in the district as part of the project;
- 8 (5) A description of the proposed method of financing the development expenditures,  
9 together with a description of the reserves to be established for financing ongoing development  
10 expenditures necessary to permanently maintain the optimum economic viability of the district  
11 following its inception: *Provided*, That the amounts of the reserves may not exceed the amounts  
12 that would be required by prevailing commercial capital market considerations;
- 13 (6) A description of the sources and anticipated amounts of all financing, including, but not  
14 limited to, proceeds from the issuance of any bonds or other instruments, revenues from the  
15 special district excise tax and enhanced revenues from property taxes and fees;
- 16 (7) A description of the financial contribution of the county commission to the funding of  
17 development expenditures;
- 18 (8) Identification of any businesses that the county commission expects to relocate their  
19 business locations from the district to another place in the state in connection with the  
20 establishment of the district or from another place in this state to the district: *Provided*, That for  
21 purposes of this article, any entities shall be designated "relocated entities";
- 22 (9) Identification of any businesses currently conducting business in the proposed  
23 economic opportunity development district that the county commission expects to continue doing  
24 business there after the district is created;
- 25 (10) A good faith estimate of the aggregate amount of consumers sales and service tax  
26 that was actually remitted to the Tax Commissioner by all business locations identified as provided  
27 in subdivisions (8) and (9) of this subsection with respect to their sales made and services



28 rendered from their then current business locations that will be relocated from, or to, or remain in  
29 the district, for the twelve full calendar months next preceding the date of the application:  
30 *Provided*, That for purposes of this article, the aggregate amount is designated as “the base tax  
31 revenue amount”;

32 (11) A good faith estimate of the gross annual district tax revenue amount;

33 (12) The proposed application of any surplus from all funding sources to further the  
34 objectives of this article; and

35 ~~(13) The Tax Commissioner's certification of: (i) The amount of consumers sales and~~  
36 ~~service taxes collected from businesses located in the economic opportunity district during the~~  
37 ~~twelve calendar months preceding the calendar quarter during which the application will be~~  
38 ~~submitted to the Development Office; (ii) the estimated amount of economic opportunity district~~  
39 ~~excise tax that will be collected during the first twelve months after the month in which the Tax~~  
40 ~~Commissioner would first begin to collect that tax; and (iii) the estimated amount of economic~~  
41 ~~opportunity district excise tax that will be collected during the first thirty-six months after the month~~  
42 ~~in which the Tax Commissioner would first begin to collect that tax; and~~

43 ~~(14)~~ (13) Any additional information the Development Office may require.

44 (b) *Review of applications.* -- The Development Office shall review all project proposals  
45 for conformance to statutory and regulatory requirements, the reasonableness of the project's  
46 budget and timetable for completion and the following criteria:

47 (1) The quality of the proposed project and how it addresses economic problems in the  
48 area in which the project will be located;

49 (2) The merits of the project determined by a cost-benefit analysis that incorporates all  
50 costs and benefits, both public and private;

51 (3) Whether the project is supported by significant private sector investment and  
52 substantial credible evidence that, but for the existence of sales tax increment financing, the

53 project would not be feasible;

54 (4) Whether the economic opportunity district excise tax dollars will leverage or be the  
55 catalyst for the effective use of private, other local government, state or federal funding that is  
56 available;

57 (5) Whether there is substantial and credible evidence that the project is likely to be started  
58 and completed in a timely fashion;

59 (6) Whether the project will, directly or indirectly, improve the opportunities in the area  
60 where the project will be located for the successful establishment or expansion of other industrial  
61 or commercial businesses;

62 (7) Whether the project will, directly or indirectly, assist in the creation of additional long-  
63 term employment opportunities in the area and the quality of jobs created in all phases of the  
64 project, to include, but not be limited to, wages and benefits;

65 (8) Whether the project will fulfill a pressing need for the area, or part of the area, in which  
66 the economic opportunity district is located;

67 (9) Whether the county commission has a strategy for economic development in the  
68 county and whether the project is consistent with that strategy;

69 (10) Whether the project helps to diversify the local economy;

70 (11) Whether the project is consistent with the goals of this article;

71 (12) Whether the project is economically and fiscally sound using recognized business  
72 standards of finance and accounting; and

73 (13) (A) The ability of the county commission and the project developer or project team to  
74 carry out the project: *Provided*, That no project may be approved by the Development Office  
75 unless the amount of all development expenditures proposed to be made in the first twenty-four  
76 months following the creation of the district results in capital investment of more than \$75 million  
77 in the district and the county submits clear and convincing information, to the satisfaction of the

78 Development Office, that the investment will be made if the Development Office approves the  
79 project and the Legislature authorizes the county commission to levy an excise tax on sales of  
80 goods and services made within the economic opportunity district as provided in this article:  
81 Provided, however, That such minimum capital investment does not apply to projects proposed  
82 by the Commissioner of Highways in accordance with section twenty-three, article twenty-two,  
83 chapter seven of this code.

84 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, no  
85 project involving remediation may be approved by the Development Office unless the amount of  
86 all development expenditures proposed to be made in the first forty-eight months following the  
87 creation of the district results in capital investment of more than \$75 million in the district. In  
88 addition to the remaining provisions of paragraph (A) of this subdivision the Development Office  
89 may not approve a project involving remediation authorized under section five of this article unless  
90 the county commission submits clear and convincing information, to the satisfaction of the  
91 Development Office, that the proposed remediation expenditures to be financed by the issuance  
92 of bonds or notes pursuant to section sixteen of this article do not constitute more than twenty-  
93 five percent of the total development expenditures associated with the project.

94 (c) *Additional criteria.* -- The Development Office may establish other criteria for  
95 consideration when approving the applications.

96 (d) *Action on the application.* -- Upon receipt of an application, the Development Office  
97 shall promptly request a certification from the Tax Commissioner of the base tax revenue amount  
98 and the gross annual district tax revenue amount, and the Tax Commissioner shall provide the  
99 certification to the Development Office within thirty days. The Executive Director of the  
100 Development Office shall act to approve or not approve any application within thirty days following  
101 the receipt of the application and the certification from the Tax Commissioner required by this  
102 subsection or the receipt of any additional information requested by the Development Office,

103 whichever is the later.

104 (e) *Certification of project.* -- If the Executive Director of the Development Office approves  
105 a county's economic opportunity district project application, he or she shall issue to the county  
106 commission a written certificate evidencing the approval.

107 The certificate shall expressly state a base tax revenue amount, the gross annual district  
108 tax revenue amount and the estimated net annual district tax revenue amount which, for purposes  
109 of this article, is the difference between the gross annual district tax revenue amount and the base  
110 tax revenue amount, all of which the Development Office has determined with respect to the  
111 district's application based on any investigation it considers reasonable and necessary, including,  
112 but not limited to, any relevant information the Development Office requests from the Tax  
113 Commissioner and the Tax Commissioner provides to the Development Office: *Provided*, That in  
114 determining the net annual district tax revenue amount, the Development Office may not use a  
115 base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of  
116 confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the  
117 Development Office may use the estimate of the gross annual district tax revenue amount  
118 provided by the county commission pursuant to subsection (a) of this section.

119 (f) *Certification of enlargement or reduction of geographic boundaries of previously*  
120 *certified district.* -- If the Executive Director of the Development Office approves a county's  
121 economic opportunity district project application to expand or reduce the geographic boundaries  
122 of a previously certified district, he or she shall issue to the county commission a written certificate  
123 evidencing the approval.

124 The certificate shall expressly state a base tax revenue amount, the gross annual district  
125 tax revenue amount and the estimated net annual district tax revenue amount which, for purposes  
126 of this article, is the difference between the gross annual district tax revenue amount and the base  
127 tax revenue amount, all of which the Development Office has determined with respect to the

128 district's application based on any investigation it considers reasonable and necessary, including,  
129 but not limited to, any relevant information the Development Office requests from the Tax  
130 Commissioner and the Tax Commissioner provides to the Development Office: *Provided*, That in  
131 determining the net annual district tax revenue amount, the Development Office may not use a  
132 base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of  
133 confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the  
134 Development Office may use the estimate of the gross annual district tax revenue amount  
135 provided by the county commission pursuant to subsection (a) of this section.

136 (g) *Promulgation of rules.* -- The Executive Director of the Development Office may  
137 promulgate rules to implement the economic opportunity development district project application  
138 approval process and to describe the criteria and procedures it has established in connection  
139 therewith. These rules are not subject to the provisions of chapter twenty-nine-a of this code but  
140 shall be filed with the Secretary of State.

**§7-22-8. Establishment of the economic opportunity development district fund.**

1 (a) *General.* -- There is hereby created a special revenue account in the State Treasury  
2 designated the "Economic Opportunity Development District Fund" which is an interest-bearing  
3 account and shall be invested in the manner described in section nine-c, article six, chapter twelve  
4 of this code with the interest income a proper credit to the Fund.

5 (b) *District subaccount.* -- A separate and segregated subaccount within the account shall  
6 be established for each economic opportunity development district and each joint economic  
7 opportunity development district that is approved by the Executive Director of the Development  
8 Office. In addition to the economic opportunity district excise tax levied and collected as provided  
9 in this article, funds paid into the account for the credit of any subaccount may also be derived  
10 from the following sources:

11 (1) All interest or return on the investment accruing to the subaccount;

- 12 (2) Any gifts, grants, bequests, transfers, appropriations or donations which are received  
13 from any governmental entity or unit or any person, firm, foundation or corporation; and  
14 (3) Any appropriations by the Legislature which are made for this purpose.

**§7-22-12. Special district excise tax authorized.**

1 (a) *General.* -- The county commission of a county, authorized by the Legislature to levy  
2 a special district excise tax for the benefit of an economic opportunity development district, may,  
3 by order entered of record, impose that tax on the privilege of selling tangible personal property  
4 and rendering select services in the district in accordance with this section.

5 (b) *Tax base.* -- The base of a special district excise tax imposed pursuant to this section  
6 shall be identical to the base of the consumers sales and service tax imposed pursuant to article  
7 fifteen, chapter eleven of this code on sales made and services rendered within the boundaries  
8 of the district. Sales of gasoline and special fuel are not subject to special district excise tax but  
9 remain subject to the tax levied by article fifteen, chapter eleven of this code. Except for the  
10 exemption provided in section nine-f of that article, all exemptions and exceptions from the  
11 consumers sales and service tax also apply to the special district excise tax.

12 (c) *Tax rate.* -- The rate or rates of a special district excise tax levied pursuant to this  
13 section shall be identical to the rate or rates of the consumer sales and service tax imposed  
14 pursuant to article fifteen, chapter eleven of this code on sales made and services rendered within  
15 the boundaries of the district authorized by this section.

16 (d) *Collection by Tax Commissioner.* -- The order of the county commission imposing a  
17 special district excise tax shall provide for the tax to be collected by the Tax Commissioner in the  
18 same manner as the tax levied by section three, article fifteen, chapter eleven of this code is  
19 administered, assessed, collected and enforced.

20 (1) The Tax Commissioner may require the electronic filing of returns related to the special  
21 district excise tax imposed pursuant to this section, and also may require the electronic payment

22 of the special district excise tax imposed pursuant to this section. The Tax Commissioner may  
23 prescribe by rules adopted or proposed pursuant to article three, chapter twenty-nine-a of this  
24 code, administrative notices, and forms and instructions, the procedures and criteria to be  
25 followed to electronically file those returns and to electronically pay the special district excise tax  
26 imposed pursuant to this section.

27 (2) Any rules filed by the State Tax Commissioner relating to the special district excise tax  
28 imposed pursuant to this section shall set forth the following:

29 (A) Acceptable indicia of timely payment;

30 (B) Which type of electronic filing method or methods a particular type of taxpayer may or  
31 may not use;

32 (C) What type of electronic payment method or methods a particular type of taxpayer may  
33 or may not use;

34 (D) What, if any, exceptions are allowable, and alternative methods of payment that may  
35 be used for any exceptions;

36 (E) Procedures for making voluntary or mandatory electronic payments or both; ~~and~~

37 (F) Procedures for ensuring that taxpayers new to an economic opportunity development  
38 district are included within the Tax Commissioner's database;

39 (G) Procedures for ensuring that taxpayers with multiple locations properly allocate their  
40 special district excise taxes to the appropriate economic opportunity development district and  
41 reflect the allocation of their returns; and

42 ~~(F)~~ (H) Any other provisions necessary to ensure the timely electronic filing of returns  
43 related to the special district excise tax and the making of payments electronically of the special  
44 district excise tax imposed pursuant to this section.

45 (3)(A) Notwithstanding the provisions of section five-d, article ten, chapter eleven of this  
46 code: (i) So long as bonds are outstanding pursuant to this article, the Tax Commissioner shall

47 provide on a monthly basis to the trustee for bonds issued pursuant to this article information on  
48 returns submitted pursuant to this article; and (ii) the trustee may share the information so  
49 obtained with the county commission that established the economic opportunity development  
50 district that issued the bonds pursuant to this article and with the bondholders and with bond  
51 counsel for bonds issued pursuant to this article. The Tax Commissioner and the trustee may  
52 enter into a written agreement in order to accomplish exchange of the information.

53 (B) Any confidential information provided pursuant to this subdivision shall be used solely  
54 for the protection and enforcement of the rights and remedies of the bondholders of bonds issued  
55 pursuant to this article. Any person or entity that is in possession of information disclosed by the  
56 Tax Commissioner or shared by the trustee pursuant to subdivision (a) of this subsection is  
57 subject to the provisions of section five-d, article ten, chapter eleven of this code as if the person  
58 or entity that is in possession of the tax information is an officer, employee, agent or representative  
59 of this state or of a local or municipal governmental entity or other governmental subdivision.

60 (C) Notwithstanding any provision of this code to the contrary, so long as bonds are  
61 outstanding pursuant to this article, the Tax Commissioner shall allow a designated representative  
62 of the county commission that established the economic opportunity development district for  
63 which the bonds were issued to audit the returns filed by the taxpayers in the economic  
64 opportunity development district no less often than once each quarter of the fiscal year. The Tax  
65 Commissioner may require the audit to be conducted at the Tax Commissioner's office, may  
66 prohibit copying of any returns, and may require the representatives to enter into a written  
67 confidentiality agreement. The Tax Commissioner shall promptly investigate any questions raised  
68 by an audit, shall promptly take all actions required to correct any errors, and shall report to the  
69 applicable county commission the results of its investigation and actions.

70 (e) *Deposit of net tax collected.* --

71 (1) The order of the county commission imposing a special district excise tax shall provide



72 that the Tax Commissioner deposit the net amount of tax collected in the Special Economic  
73 Opportunity Development District Fund to the credit of the county commission's subaccount  
74 therein for the economic opportunity development district and that the money in the subaccount  
75 may only be used to pay for development expenditures as provided in this article except as  
76 provided in subsection (f) of this section.

77 (2) The State Treasurer shall withhold from the county commission's subaccount in the  
78 Economic Opportunity Development District Fund and shall deposit in the General Revenue Fund  
79 of this state, on or before the twentieth day of each calendar month next following the effective  
80 date of a special district excise tax, a sum equal to one twelfth of the base tax revenue amount  
81 last certified by the Development Office pursuant to section seven of this article.

82 (f) *Effective date of special district excise tax.* -- Any taxes imposed pursuant to the  
83 authority of this section are effective on the first day of the calendar month that begins sixty days  
84 after the date of adoption of an order entered of record imposing the tax or the first day of any  
85 later calendar month expressly designated in the order.

86 (g) *Copies of order.* -- Upon entry of an order levying a special district excise tax, a certified  
87 copy of the order shall be mailed to the State Auditor, as ex officio the chief inspector and  
88 supervisor of public offices, the State Treasurer and the Tax Commissioner.

**§7-22-14. Modification of Included area; notice; hearing.**

1 (a) *General.* -- The order creating an economic opportunity development district may not  
2 be amended to include additional contiguous property until after the amendment is approved by  
3 the executive director of the Development Office in the same manner as an application to approve  
4 the establishment of the district is acted upon under section seven of this article and the  
5 amendment is authorized by the Legislature. The order creating an economic opportunity  
6 development district may not be amended to remove property until after the amendment is  
7 approved by the executive director of the Development Office in the same manner as an

8 application to approve the establishment of the district is acted upon under section seven of this  
9 article: *Provided*, That any amendment for the purpose of removing property from an economic  
10 opportunity development district may not require authorization from the Legislature and shall  
11 ensure that any such district after such an amendment remains contiguous. The order which is  
12 entered for the purpose of removing parcels from an existing economic opportunity development  
13 district may not be effective any earlier than the first day of the calendar month which begins at  
14 least thirty days following the entry of the order or such later date as may be specified by the  
15 county commission in the order.

16 (b) *Limitations.* -- Additional property may not be included in the district unless it is situated  
17 within the boundaries of the county and is contiguous to the then current boundaries of the district.

18 (c) *Public hearing required.* --

19 (1) The county commission of any county desiring to amend its order shall designate a  
20 time and place for a public hearing upon the proposal to include additional property. The notice  
21 shall meet the requirements set forth in section six of this article.

22 (2) At the time and place set forth in the notice, the county commission shall afford the  
23 opportunity to be heard to any owners of real property either currently included in or proposed to  
24 be added to the existing district and to any other residents of the county.

25 (d) *Application to West Virginia Development Office.* -- Following the hearing, the county  
26 commission may, by resolution, ~~apply~~ approve the filing of an application with the Development  
27 Office ~~to approve for the~~ inclusion of the additional property in the district ~~or for the removal of the~~  
28 applicable parcels from the district.

29 (e) *Consideration by the Executive Director of the Development Office.* -- Before the  
30 executive director of the Development Office approves inclusion of the additional property in the  
31 district, the Development Office shall determine the amount of taxes levied by article fifteen,  
32 chapter eleven of this code that were collected by businesses located in the area the county

33 commission proposes to add to the district in the same manner as the base amount of tax was  
34 determined when the district was first created. The State Treasurer shall also deposit one twelfth  
35 of this additional tax base amount into the General Revenue Fund each month, as provided in  
36 section twelve of this article.

37 (f) *Legislative action required to include additional property*. -- After the Executive Director  
38 of the Development Office approves amending the boundaries of the district to include additional  
39 property, the Legislature must amend section nine of this article to allow levy of the special district  
40 excise tax on business located in geographic area to be included in the district. After the  
41 Legislature amends said section, the county commission may then amend its order: *Provided,*  
42 That the order may not be effective any earlier than the first day of the calendar month that begins  
43 sixty days after the effective date of the act of the Legislature authorizing the levy on the special  
44 district excise tax on businesses located in the geographic area to be added to the boundaries of  
45 the district for which the tax is levied or a later date as set forth in the order of the county  
46 commission.

47 (g) *Collection of special district excise tax*. -- All businesses included in a district because  
48 of the boundary amendment shall on the effective date of the order, determined as provided in  
49 subsection (f) of this section, collect the special district excise tax on all sales on tangible property  
50 or services made from locations in the district on or after the effective date of the county  
51 commission's order or a later date as set forth in the order.

52 (h) *Minor Modifications*. Notwithstanding any provision of this article to contrary, a county  
53 commission may amend the order creating an economic opportunity development district to make,  
54 and may make, modifications to the boundaries of the economic opportunity development district  
55 without holding a public hearing or receiving approval of the executive director of the West Virginia  
56 Development Office or authorization by the Legislature if the modifications do not increase the  
57 total acreage of the economic opportunity development district or result in a change to the base

58 tax revenue amount. The county commission is authorized to levy special district excise taxes on  
59 sales of tangible personal property and services made from business locations within the modified  
60 boundaries of the economic opportunity development district.

**§7-22-23. Determination of district special excise tax certifications.**

1 (a) Notwithstanding any provision of this code to the contrary, the Tax Commissioner may  
2 not hide behind the confidentiality rules in section five-d, article ten, chapter eleven of this code,  
3 and refuse to provide the certifications and other information required by article twenty-two,  
4 chapter seven of this code.

5 (b) The Tax Commissioner shall certify the base tax revenue amount to: (1) The county  
6 commission proposing to impose a special district excise tax; (2) the State Treasurer; and (3) the  
7 Legislature's Joint Committee On Government and Finance.

**§7-22-24. Joint economic opportunity development districts.**

1 (a) The Legislature hereby finds and declares that the citizens of the state would benefit  
2 from coordinated road construction efforts by county commissions and municipalities.

3 (b) Notwithstanding any other section of this code to the contrary, any two or more county  
4 commissions, any two or more municipalities, or any combination thereof, may: (1) Create a  
5 combined economic opportunity development district; (2) propose joint applications for the  
6 districts; (3) enter into one or more intergovernmental agreements between themselves and/or  
7 the Commissioner of Highways to share: (A) Project expenses; and (B) certain excise tax  
8 collections, on a pro rata or other basis, to facilitate construction of projects within the combined  
9 economic opportunity development district and to jointly take such other actions as are authorized  
10 in the County Economic Opportunity Development District Act.

11 (c) When a project begins in one county and ends in another county of this state, the  
12 county commission of each county included in a multicounty project may, by resolution, adopt a  
13 written intergovernmental agreement with each county and/or the Commissioner of Highways

14 regarding the proposed multicounty project. When the project begins or passes through the  
15 corporate limits of a municipality, the governing body of that municipality may by resolution adopt  
16 a written intergovernmental agreement with the county or counties in which the project is located.

17 (d) No county commission or municipality may withdraw from an intergovernmental  
18 agreement if bonds or notes, remain outstanding the proceeds of which were used to finance  
19 construction of the project for which the written intergovernmental agreement was executed.

20 (e) No withdrawing county commission or municipality is entitled to the return of any money  
21 or property advanced to the project.

22 (f) Notwithstanding any provision of this code to the contrary, any county commission or  
23 municipality that creates an economic opportunity development district may enter into one or more  
24 intergovernmental agreements with one or more other counties or municipalities that also create  
25 an economic opportunity development district to finance, in whole or in part, one or more projects,  
26 to pool tax increment and other revenues to finance, in whole or in part, contiguous projects on a  
27 cash basis or to pay debt service on bonds or notes.

28 (g) The obligations of the parties under any intergovernmental agreement executed  
29 pursuant to this article is not debt within the meaning of sections six or eight, article X of the  
30 Constitution of West Virginia.

31 (h) Any intergovernmental agreement must be approved by resolution adopted by a  
32 majority vote of the county commission of each county participating in the agreement, by a  
33 majority vote of the governing body of each municipality participating in the agreement and by the  
34 Commissioner of Highways.

35 (i) The Commissioner of Highways is authorized to enter into intergovernmental  
36 agreements with county commissions and municipalities of this state, or with the federal  
37 government or any agency thereof, respecting the financing, planning, and construction of state  
38 roads and bridges, including related infrastructure if any, constructed, in whole or in part, pursuant

39 to this article.

**§7-22-25. Application by Division of Highways.**

1 (a) The Commissioner of Highways may propose a project for an economic opportunity  
2 development district established, or to be established, by a county commission. This plan may  
3 include related infrastructure that is necessary or convenient to economic development adjacent  
4 to the proposed project.

5 (b) Projects proposed by the Commissioner of Highways are limited to those related to the  
6 construction, reconstruction, improvement or modernization of state roads, as defined in article  
7 four, chapter seventeen of this code, that are part of the state road system, as defined in that  
8 article, or that will become part of the state road system upon completion of the construction. All  
9 construction, reconstruction, improvement or modernization and maintenance of state roads shall  
10 be done by or under the supervision of the Commissioner of Highways.

11 (c) All road projects that are accepted as part of the state road system, and all real property  
12 interests and appurtenances, shall be under the exclusive jurisdiction and control of the  
13 Commissioner of Highways, who may exercise the same rights and authority as he or she has  
14 over other transportation facilities in the state road system.

15 (d) Except as provided in an intergovernmental agreement executed by one or more  
16 county commissions, municipalities and/or the Commissioner of Highways and as provided in this  
17 article, a county commission or municipality may not be required to pay for the cost of  
18 constructing, reconstructing, improving, maintaining a road that is part of the state road system  
19 as defined in article four, chapter seventeen of this code or to pay any other expense fairly related  
20 to that road.

21 (e) The powers conferred by this article on the Commissioner of Highways or the Division  
22 of Highways are in addition and supplemental to the powers conferred upon the Commissioner of  
23 Highways, the Division of Highways, and the Department of Transportation by the Legislature

24 elsewhere in this code.

## CHAPTER 8. MUNICIPAL CORPORATIONS.

### ARTICLE 38. MUNICIPAL ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

#### §8-38-5. Development expenditures.

1 Any municipality that has established an economic opportunity development district under  
2 this article may make, or authorize to be made by a district board and other public or private  
3 parties, development expenditures as will promote the economic vitality of the district and the  
4 general welfare of the municipality, including, but not limited to, expenditures for the following  
5 purposes:

6 (1) Beautification of the district by means including landscaping and construction and  
7 erection of fountains, shelters, benches, sculptures, signs, lighting, decorations and similar  
8 amenities;

9 (2) Provision of special or additional public services such as sanitation, security for  
10 persons and property and the construction and maintenance of public facilities, including, but not  
11 limited to, sidewalks, parking lots, parking garages and other public areas;

12 (3) Making payments for principal, interest, issuance costs, any of the costs described in  
13 section twenty of this article and appropriate reserves for bonds and other instruments and  
14 arrangements issued or entered into by the municipality for financing the expenditures of the  
15 district described in this section and to otherwise implement the purposes of this article;

16 (4) Providing financial support for public transportation and vehicle parking facilities open  
17 to the general public, whether physically situate within the district's boundaries or on adjacent  
18 land;

19 (5) Acquiring, building, demolishing, razing, constructing, repairing, reconstructing,  
20 refurbishing, renovating, rehabilitating, expanding, altering, otherwise developing, operating and

21 maintaining real property generally, parking facilities, commercial structures and other capital  
22 improvements to real property, fixtures and tangible personal property, whether or not physically  
23 situate within the district's boundaries including, but not limited to, state road improvements  
24 pursuant to an intergovernmental agreement with the Commissioner of Highways: *Provided*, That  
25 the expenditure directly benefits the district;

26 (6) Developing plans for the architectural design of the district and portions thereof and  
27 developing plans and programs for the future development of the district;

28 (7) Developing, promoting and supporting community events and activities open to the  
29 general public that benefit the district;

30 (8) Providing the administrative costs for a district management program;

31 (9) Providing for the usual and customary maintenance and upkeep of all improvements  
32 and amenities in the district as are commercially reasonable and necessary to sustain its  
33 economic viability on a permanent basis;

34 (10) Providing any other services that the municipality or district board is authorized to  
35 perform and which the municipality does not also perform to the same extent on a countywide  
36 basis;

37 (11) Making grants to the owners or tenants of economic opportunity development district  
38 for the purposes described in this section;

39 (12) Making grants to the Division of Highways for road projects benefitting an economic  
40 opportunity development district;

41 ~~(12)~~ (13) Acquiring an interest in any entity or entities that own any portion of the real  
42 property situate in the district and contributing capital to any entity or entities;

43 ~~(13)~~ (14) Remediation of publicly or privately owned landfills, former coal or other mining  
44 sites, solid waste facilities or hazardous waste sites to facilitate commercial development which  
45 would not otherwise be economically feasible; and



46           ~~(14)~~ (15) To do any and all things necessary, desirable or appropriate to carry out and  
47 accomplish the purposes of this article notwithstanding any provision of this code to the contrary.

**§8-38-7. Application to Development Office for approval of an economic opportunity  
development district project.**

1           (a) *General.* -- The Development Office shall receive and act on applications filed with it  
2 by municipalities pursuant to section six of this article. Each application must include:

- 3           (1) A true copy of the notice described in section six of this article;
- 4           (2) The total cost of the project;
- 5           (3) A reasonable estimate of the number of months needed to complete the project;
- 6           (4) A general description of the capital improvements, additional or extended services and  
7 other proposed development expenditures to be made in the district as part of the project;
- 8           (5) A description of the proposed method of financing the development expenditures,  
9 together with a description of the reserves to be established for financing ongoing development  
10 expenditures necessary to permanently maintain the optimum economic viability of the district  
11 following its inception: *Provided*, That the amounts of the reserves may not exceed the amounts  
12 that would be required by prevailing commercial capital market considerations;
- 13           (6) A description of the sources and anticipated amounts of all financing, including, but not  
14 limited to, proceeds from the issuance of any bonds or other instruments, revenues from the  
15 special district excise tax and enhanced revenues from property taxes and fees;
- 16           (7) A description of the financial contribution of the municipality to the funding of  
17 development expenditures;
- 18           (8) Identification of any businesses that the municipality expects to relocate their business  
19 locations from the district to another place in the state in connection with the establishment of the  
20 district or from another place in this state to the district: *Provided*, That for purposes of this article,  
21 any entities shall be designated “relocated entities”;

22 (9) Identification of any businesses currently conducting business in the proposed  
23 economic opportunity development district that the municipality expects to continue doing  
24 business there after the district is created;

25 (10) A good faith estimate of the aggregate amount of consumers sales and service tax  
26 that was actually remitted to the Tax Commissioner by all business locations identified as provided  
27 in subdivisions (8) and (9) of this subsection with respect to their sales made and services  
28 rendered from their then current business locations that will be relocated from, or to, or remain in  
29 the district for the twelve full calendar months next preceding the date of the application: *Provided,*  
30 That for purposes of this article, the aggregate amount is designated as “the base tax revenue  
31 amount”;

32 (11) A good faith estimate of the gross annual district tax revenue amount;

33 (12) The proposed application of any surplus from all funding sources to further the  
34 objectives of this article; and

35 ~~(13) The Tax Commissioner’s certification of: (i) The amount of consumers sales and~~  
36 ~~service taxes collected from businesses located in the economic opportunity district during the~~  
37 ~~twelve calendar months preceding the calendar quarter during which the application will be~~  
38 ~~submitted to the Development Office; (ii) the estimated amount of economic opportunity district~~  
39 ~~excise tax that will be collected during the first twelve months after the month in which the Tax~~  
40 ~~Commissioner would first begin to collect that tax; and (iii) the estimated amount of economic~~  
41 ~~opportunity district excise tax that will be collected during the first thirty-six months after the month~~  
42 ~~in which the Tax Commissioner would first begin to collect that tax; and~~

43 ~~(14)~~ (13) Any additional information the Development Office may require.

44 (b) *Review of applications.* -- The Development Office shall review all project proposals  
45 for conformance to statutory and regulatory requirements, the reasonableness of the project’s  
46 budget and timetable for completion and the following criteria:

47 (1) The quality of the proposed project and how it addresses economic problems in the  
48 area in which the project will be located;

49 (2) The merits of the project determined by a cost-benefit analysis that incorporates all  
50 costs and benefits, both public and private;

51 (3) Whether the project is supported by significant private sector investment and  
52 substantial credible evidence that, but for the existence of sales tax increment financing, the  
53 project would not be feasible;

54 (4) Whether the economic opportunity development district excise tax dollars will leverage  
55 or be the catalyst for the effective use of private, other local government, state or federal funding  
56 that is available;

57 (5) Whether there is substantial and credible evidence that the project is likely to be started  
58 and completed in a timely fashion;

59 (6) Whether the project will, directly or indirectly, improve the opportunities in the area  
60 where the project will be located for the successful establishment or expansion of other industrial  
61 or commercial businesses;

62 (7) Whether the project will, directly or indirectly, assist in the creation of additional long-  
63 term employment opportunities in the area and the quality of jobs created in all phases of the  
64 project, to include, but not be limited to, wages and benefits;

65 (8) Whether the project will fulfill a pressing need for the area, or part of the area, in which  
66 the economic opportunity district is located; ~~Provided, That the Development Office should~~  
67 ~~consider whether the economic development project is large enough to require that it contain a~~  
68 ~~mixed use development provision consisting of a housing component with at least ten percent of~~  
69 ~~housing units in the district allocated for affordable housing;~~

70 (9) Whether the municipality has a strategy for economic development in the municipality  
71 and whether the project is consistent with that strategy;

72 (10) Whether the project helps to diversify the local economy;

73 (11) Whether the project is consistent with the goals of this article;

74 (12) Whether the project is economically and fiscally sound using recognized business  
75 standards of finance and accounting; and

76 (13)(A) The ability of the municipality and the project developer or project team to carry  
77 out the project: *Provided*, That no project may be approved by the Development Office unless the  
78 amount of all development expenditures proposed to be made in the first twenty-four months  
79 following the creation of the district results in capital investment of more than \$75 million in the  
80 district and the municipality submits clear and convincing information, to the satisfaction of the  
81 Development Office, that the investment will be made if the Development Office approves the  
82 project and the Legislature authorizes the municipality to levy an excise tax on sales of goods and  
83 services made within the economic opportunity development district as provided in this article:  
84 Provided, however, That such minimum capital investment does not apply to projects proposed  
85 by the Commissioner of Highways in accordance with section twenty-three, article twenty-two,  
86 chapter seven of this code.

87 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, no  
88 project involving remediation may be approved by the Development Office unless the amount of  
89 all development expenditures proposed to be made in the first forty-eight months following the  
90 creation of the district results in capital investment of more than \$75 million in the district. In  
91 addition to the remaining provisions of paragraph (A) of this subdivision the Development Office  
92 may not approve a project involving remediation authorized under section five of this article unless  
93 the municipality submits clear and convincing information, to the satisfaction of the Development  
94 Office, that the proposed remediation expenditures to be financed by the issuance of bonds or  
95 notes pursuant to section sixteen of this article do not constitute more than twenty-five percent of  
96 the total development expenditures associated with the project.

97           (c) *Additional criteria.* -- The Development Office may establish other criteria for  
98 consideration when approving the applications.

99           (d) *Action on the application.* -- The Executive Director of the Development Office shall act  
100 to approve or not approve any application within thirty days following the receipt of the application  
101 or the receipt of any additional information requested by the Development Office, whichever is  
102 the later.

103           (e) *Certification of project.* -- If the Executive Director of the Development Office approves  
104 a municipality's economic opportunity district project application, he or she shall issue to the  
105 municipality a written certificate evidencing the approval.

106           The certificate shall expressly state a base tax revenue amount, the gross annual district  
107 tax revenue amount and the estimated net annual district tax revenue amount which, for purposes  
108 of this article, is the difference between the gross annual district tax revenue amount and the base  
109 tax revenue amount, all of which the Development Office has determined with respect to the  
110 district's application based on any investigation it considers reasonable and necessary, including,  
111 but not limited to, any relevant information the Development Office requests from the Tax  
112 Commissioner and the Tax Commissioner provides to the Development Office: *Provided*, That in  
113 determining the net annual district tax revenue amount, the Development Office may not use a  
114 base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of  
115 confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the  
116 Development Office may use the estimate of the gross annual district tax revenue amount  
117 provided by the municipality pursuant to subsection (a) of this section.

118           (f) *Certification of enlargement or reduction of geographic boundaries of previously*  
119 *certified district.* -- If the Executive Director of the Development Office approves a municipality's  
120 economic opportunity district project application to expand or reduce the geographic boundaries  
121 of a previously certified district, he or she shall issue to the municipality a written certificate

122 evidencing the approval.

123           The certificate shall expressly state a base tax revenue amount, the gross annual district  
124 tax revenue amount and the estimated net annual district tax revenue amount which, for purposes  
125 of this article, is the difference between the gross annual district tax revenue amount and the base  
126 tax revenue amount, all of which the Development Office has determined with respect to the  
127 district's application based on any investigation it considers reasonable and necessary, including,  
128 but not limited to, any relevant information the Development Office requests from the Tax  
129 Commissioner and the Tax Commissioner provides to the Development Office: *Provided*, That in  
130 determining the net annual district tax revenue amount, the Development Office may not use a  
131 base tax revenue amount less than that amount certified by the Tax Commissioner, but, in lieu of  
132 confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the  
133 Development Office may use the estimate of the gross annual district tax revenue amount  
134 provided by the municipality pursuant to subsection (a) of this section.

135           (g) *Promulgation of rules.* -- The Executive Director of the Development Office may  
136 promulgate rules to implement the economic opportunity development district project application  
137 approval process and to describe the criteria and procedures it has established in connection  
138 therewith. These rules are not subject to the provisions of chapter twenty-nine-a of this code but  
139 shall be filed with the Secretary of State.

**§8-38-8. Establishment of the Economic Opportunity Development District Fund.**

1           (a) *General.* -- There is hereby created a special revenue account in the State Treasury  
2 designated the "Economic Opportunity Development District Fund" which is an interest-bearing  
3 account and shall be invested in the manner described in section nine-c, article six, chapter twelve  
4 of this code with the interest income a proper credit to the Fund.

5           (b) *District subaccount.* -- A separate and segregated subaccount within the account shall  
6 be established for each economic opportunity development district and each joint economic

7 opportunity development district that is approved by the Executive Director of the Development  
8 Office. In addition to the economic opportunity district excise tax levied and collected as provided  
9 in this article, funds paid into the account for the credit of any subaccount may also be derived  
10 from the following sources:

- 11 (1) All interest or return on the investment accruing to the subaccount;  
12 (2) Any gifts, grants, bequests, transfers, appropriations or donations which are received  
13 from any governmental entity or unit or any person, firm, foundation or corporation; and  
14 (3) Any appropriations by the Legislature which are made for this purpose

**§8-38-12. Special district excise tax authorized.**

1 (a) *General.* -- The council of a municipality, authorized by the Legislature to levy a special  
2 district excise tax for the benefit of an economic opportunity development district, may, by  
3 ordinance, impose that tax on the privilege of selling tangible personal property and rendering  
4 select services in the district in accordance with this section.

5 (b) *Tax base.* -- The base of a special district excise tax imposed pursuant to this section  
6 shall be identical to the base of the consumers sales and service tax imposed pursuant to article  
7 fifteen, chapter eleven of this code on sales made and services rendered within the boundaries  
8 of the district. Sales of gasoline and special fuel are not subject to special district excise tax, but  
9 remain subject to the tax levied by article fifteen, chapter eleven of this code. Except for the  
10 exemption provided in section nine-f of article fifteen, chapter eleven of this code, all exemptions  
11 and exceptions from the consumers sales and service tax also apply to the special district excise  
12 tax.

13 (c) *Tax rate.* -- The rate or rates of a special district excise tax levied pursuant to this  
14 section shall be stated in an ordinance enacted by the municipality and identical to the rate or  
15 rates of the consumers sales and service tax imposed pursuant to article fifteen, chapter eleven  
16 of this code on sales rendered within the boundaries of the district authorized by this section.

17 (d) *Collection by Tax Commissioner.* -- The ordinance of the municipality imposing a  
18 special district excise tax shall provide for the tax to be collected by the Tax Commissioner in the  
19 same manner as the tax levied by section three, article fifteen, chapter eleven of this code is  
20 administered, assessed, collected and enforced.

21 (1) The State Tax Commissioner may require the electronic filing of returns related to the  
22 special district excise tax imposed pursuant to this section and may require the electronic payment  
23 of the special district excise tax imposed pursuant to this section. The State Tax Commissioner  
24 may prescribe by rules adopted or proposed pursuant to article three, chapter twenty-nine-a of  
25 this code, administrative notices, and forms and instructions, the procedures and criteria to be  
26 followed to electronically file those returns and to electronically pay the special district excise tax  
27 imposed pursuant to this section.

28 (2) Any rules filed by the State Tax Commissioner relating to the special district excise tax  
29 imposed pursuant to this section shall set forth the following:

30 (A) Acceptable indicia of timely payment;

31 (B) Which type of electronic filing method or methods a particular type of taxpayer may or  
32 may not use;

33 (C) What type of electronic payment method or methods a particular type of taxpayer may  
34 or may not use;

35 (D) What, if any, exceptions are allowable and alternative methods of payment that may  
36 be used for any exceptions;

37 (E) Procedures for making voluntary or mandatory electronic payments or both; ~~and~~

38 (F) Procedures for ensuring that taxpayers new to an economic opportunity development  
39 district are included within the Tax Commissioner's database;

40 (G) Procedures for ensuring that taxpayers with multiple locations properly allocate their  
41 special district excise taxes to the appropriate economic opportunity development district and



42 reflect the allocation of their returns; and

43 ~~(F)~~ (H) Any other provisions necessary to ensure the timely electronic filing of returns  
44 related to the special district excise tax and the making of payments electronically of the special  
45 district excise tax imposed pursuant to this section.

46 (3)(A) Notwithstanding the provisions of section five-d, article ten, chapter eleven of this  
47 code: (i) So long as bonds are outstanding pursuant to this article, the Tax Commissioner shall  
48 provide on a monthly basis to the trustee for bonds issued pursuant to this article information on  
49 returns submitted pursuant to this article; and (ii) the trustee may share the information so  
50 obtained with the municipality that established the economic opportunity development district that  
51 issued the bonds pursuant to this article and with the bondholders and with bond counsel for  
52 bonds issued pursuant to this article. The Tax Commissioner and the trustee may enter into a  
53 written agreement in order to accomplish exchange of the information.

54 (B) Any confidential information provided pursuant to this subdivision shall be used solely  
55 for the protection and enforcement of the rights and remedies of the bondholders of bonds issued  
56 pursuant to this article. Any person or entity that is in possession of information disclosed by the  
57 Tax Commissioner or shared by the trustee pursuant to subdivision (a) of this subsection is  
58 subject to the provisions of section five-d, article ten, chapter eleven of this code as if the person  
59 or entity that is in possession of the tax information is an officer, employee, agent or representative  
60 of this state or of a local or municipal governmental entity or other governmental subdivision.

61 (C) Notwithstanding any provision of this code to the contrary, so long as bonds are  
62 outstanding pursuant to this article, the Tax Commissioner shall allow a designated representative  
63 of the municipality that established the economic opportunity development district for which the  
64 bonds were issued to audit the returns filed by the taxpayers in the economic opportunity  
65 development district no less often than once each quarter of the fiscal year. The Tax  
66 Commissioner may require the audit to be conducted at the Tax Commissioner's office, may

67 prohibit copying of any returns, and may require the representatives to enter into a written  
68 confidentiality agreement. The Tax Commissioner shall promptly investigate any questions raised  
69 by an audit, shall promptly take all actions required to correct any errors, and shall report to the  
70 applicable municipality the results of its investigation and actions.

71 (e) *Deposit of net tax collected.* --

72 (1) The ordinance of the municipality imposing a special district excise tax shall provide  
73 that the Tax Commissioner deposit the net amount of tax collected in the special Economic  
74 Opportunity Development District Fund to the credit of the municipality's subaccount therein for  
75 the economic opportunity development district and that the money in the subaccount may only be  
76 used to pay for development expenditures as provided in this article except as provided in  
77 subsection (f) of this section.

78 (2)(A) The State Treasurer shall withhold from the municipality's subaccount in the  
79 Economic Opportunity Development District Fund and shall deposit in the General Revenue Fund  
80 of this state, on or before the twentieth day of each calendar month next following the effective  
81 date of a special district excise tax, a sum equal to one twelfth of the base tax revenue amount  
82 last certified by the Development Office pursuant to section seven of this article.

83 (B) In addition to the amounts described in paragraph (A) of this subdivision, the Tax  
84 Commissioner shall deposit in the General Revenue Fund of this state on the dates specified in  
85 paragraph (A) not less than twenty percent nor more than fifty percent of the excess of the special  
86 district excise taxes collected during the preceding month above one twelfth of the base tax  
87 revenue, said percentage to be fixed by the Development Office in conjunction with its approval  
88 of an application in accordance with section seven of this article based on the amount of state  
89 funds, if any, to be expended in conjunction with the respective economic opportunity  
90 development district project for items including, but not limited to, the acquisition, construction,  
91 reconstruction, improvement, enlargement or extension of roadways, rights-of-way, sidewalks,

92 traffic signals, water or sewer lines and other public infrastructure and such other expenditures of  
93 state funds identified by the Development Office: *Provided*, That the Development Office has the  
94 discretion to reduce the minimum percentage of the excess special district excise taxes deposited  
95 by the Tax Commissioner in the General Revenue Fund as outlined above from twenty percent  
96 to ten percent in conjunction with its approval of an application in accordance with section seven  
97 of this article based on its determination that:

98 (i) The economic development project provides for expenditures in excess of \$100 million;

99 (ii) The economic opportunity development district project does not require the state to  
100 expend any additional state funds for items within the district including, but not limited to, the  
101 acquisition, construction, reconstruction, improvement, enlargement or extension of roadways,  
102 rights-of-way, sidewalks, traffic signals, water or sewer lines and other public infrastructure; and

103 (iii) The economic development project contains a provision for a mixed use development  
104 with a housing component with at least ten percent of housing units in the district allocated as  
105 affordable housing.

106 (f) *Effective date of special district excise tax.* -- Any taxes imposed pursuant to the  
107 authority of this section are effective on the first day of the calendar month that begins at least  
108 sixty days after the date of enactment of the ordinance imposing the tax or at any later date  
109 expressly designated in the ordinance that begins on the first day of a calendar month.

110 (g) *Copies of ordinance.* -- Upon enactment of an ordinance levying a special district  
111 excise tax, a certified copy of the ordinance shall be mailed to the State Auditor, as ex officio the  
112 chief inspector and supervisor of public offices, the State Treasurer and the Tax Commissioner.

**§8-38-14. Modification of included area; notice; hearing.**

1 (a) *General.* -- The ordinance creating an economic opportunity development district may  
2 not be amended to include additional contiguous property until after the amendment is approved  
3 by the Executive Director of the Development Office in the same manner as an application to

4 approve the establishment of the district is acted upon under section seven of this article. The  
5 order creating an economic opportunity development district may not be amended to remove  
6 property until after the amendment is approved by the executive director of the Development  
7 Office in the same manner as an application to approve the establishment of the district is acted  
8 upon under section seven of this article: *Provided, That any such amendment for the purpose of*  
9 *removing property from an economic opportunity development district shall not require*  
10 *authorization from the Legislature and shall ensure that any such district after such an amendment*  
11 *remains contiguous. The order which is entered for the purpose of removing parcels from an*  
12 *existing economic opportunity development district may not be effective any earlier than the first*  
13 *day of the calendar month which begins at least thirty days following the entry of the order or such*  
14 *later date as may be specified by the county commission in the order.*

15 (b) *Limitations.* -- Additional property may not be included in the district unless it is situated  
16 within the boundaries of the municipality and is contiguous to the then current boundaries of the  
17 district.

18 (c) *Public hearing required.* --

19 (1) The council of any municipality desiring to amend its ordinance shall designate a time  
20 and place for a public hearing upon the proposal to include additional property. The notice shall  
21 meet the requirements set forth in section six of this article.

22 (2) At the time and place set forth in the notice, the municipality shall afford the opportunity  
23 to be heard to any owners of real property either currently included in or proposed to be added to  
24 the existing district and to any other residents of the municipality.

25 (d) *Application to West Virginia Development Office.* -- Following the hearing, the  
26 municipality may, by resolution, ~~apply to~~ approve the filing of an application with the Development  
27 Office ~~to approve for the~~ inclusion of the additional property in the district ~~or for the removal of the~~  
28 applicable parcels from the district.

29           (e) *Consideration by the Executive Director of the Development Office.* -- Before the  
30 Executive Director of the Development Office approves inclusion of the additional property in the  
31 district, the Development Office shall determine the amount of taxes levied by article fifteen,  
32 chapter eleven of this code that were collected by businesses located in the area the municipality  
33 proposes to add to the district in the same manner as the base amount of tax was determined  
34 when the district was first created. The State Treasurer shall also deposit one twelfth of this  
35 additional tax base amount into the General Revenue Fund each month, as provided in section  
36 twelve of this article.

37           (f) *Legislative action required to include additional property.* -- After the Executive Director  
38 of the Development Office approves amending the boundaries of the district to include additional  
39 property, the Legislature must amend section nine of this article to allow levy of the special district  
40 excise tax on business located in geographic area to be included in the district. After the  
41 Legislature amends said section, the municipality may then amend its ordinance: *Provided, That*  
42 the ordinance may not be effective any earlier than the first day of the calendar month that begins  
43 sixty days after the effective date of the amended ordinance imposing the levy of the special  
44 district excise tax on businesses located in the geographic area to be added to the boundaries of  
45 the district for which the tax is levied or the first day of a later calendar month as set forth in the  
46 ordinance of the municipality.

47           (g) *Collection of special district excise tax.* -- All businesses included in a district because  
48 of the boundary amendment shall on the effective date of the ordinance, determined as provided  
49 in subsection (f) of this section, collect the special district excise tax on all sales on tangible  
50 property or services made from locations in the district on or after the effective date of the  
51 municipality's ordinance or a later date as set forth in the ordinance

52           (h) *Minor modifications.* -- Notwithstanding any provision of this article to contrary, a  
53 municipality may amend the ordinance creating an economic opportunity development district to

54 make, and may make, modifications to the boundaries of the economic opportunity development  
55 district without holding a public hearing or receiving approval of the executive director of the West  
56 Virginia Development Office or authorization by the Legislature if the modifications do not increase  
57 the total acreage of the economic opportunity development district or result in a change to the  
58 base tax revenue amount. The municipality is authorized to levy special district excise taxes on  
59 sales of tangible personal property and services made from business locations within the modified  
60 boundaries of the economic opportunity development district.

**8-38-23. Determination of district special excise tax certifications.**

1 (a) Notwithstanding any provision of this code to the contrary, the Tax Commissioner may  
2 not hide behind the confidentiality rules in section five-d, article ten, chapter eleven of this code,  
3 and refuse to provide the certifications and other information required by article twenty-two,  
4 chapter seven of this code.

5 (b) The Tax Commissioner shall certify the base tax revenue amount to: (1) The  
6 municipality proposing to impose a special district excise tax; (2) the State Treasurer; and (3) the  
7 Legislature's Joint Committee On Government and Finance.

**§8-38-24. Joint economic opportunity development districts.**

1 (a) The Legislature hereby finds and declares that the citizens of the state would benefit  
2 from coordinated road construction efforts by county commissions and municipalities.

3 (b) Notwithstanding any other section of this code to the contrary, any two or more county  
4 commissions, any two or more municipalities, or any combination thereof, may: (1) Create a  
5 combined economic opportunity development district; (2) propose joint applications for the  
6 districts; and (3) enter into one or more intergovernmental agreements between themselves  
7 and/or the Commissioner of Highways to share: (A) Project expenses; and (B) certain excise tax  
8 collections, on a pro rata or other basis, to facilitate construction of projects within the combined  
9 economic opportunity development district and to jointly take such other actions as are authorized

10 in the County Economic Opportunity Development District Act.

11 (c) When a project begins in one county and ends in another county of this state, the  
12 county commission of each county included in a multicounty project may, by resolution, adopt a  
13 written intergovernmental agreement with each county and/or the Commissioner of Highways  
14 regarding the proposed multicounty project. When the project begins or passes through the  
15 corporate limits of a municipality, the governing body of that municipality may by resolution adopt  
16 a written intergovernmental agreement with the county or counties in which the project is located.

17 (d) No county commission or municipality may withdraw from an intergovernmental  
18 agreement as long as bonds or notes, remain outstanding the proceeds of which were used to  
19 finance construction of the project for which the written intergovernmental agreement was  
20 executed.

21 (e) No withdrawing county commission or municipality is entitled to the return of any money  
22 or property advanced to the project.

23 (f) Notwithstanding any provision of this code to the contrary, any county commission or  
24 municipality that creates an economic opportunity development district may enter into one or more  
25 intergovernmental agreements with one or more other counties or municipalities that also create  
26 an economic opportunity development district to finance, in whole or in part, one or more projects,  
27 to pool tax increment and other revenues to finance, in whole or in part, contiguous projects on a  
28 cash basis or to pay debt service on bonds or notes.

29 (g) The obligations of the parties under any intergovernmental agreement executed  
30 pursuant to this article is not debt within the meaning of sections six or eight, article X of the  
31 Constitution of West Virginia.

32 (h) Any intergovernmental agreement must be approved by resolution adopted by a  
33 majority vote of the county commission of each county participating in the agreement, by a  
34 majority vote of the governing body of each municipality participating in the agreement and by the

35 Commissioner of Highways.

36 (i) The Commissioner of Highways is authorized to enter into intergovernmental  
37 agreements with county commissions and municipalities of this state, or with the federal  
38 government or any agency thereof, respecting the financing, planning, and construction of state  
39 roads and bridges, including related infrastructure if any, constructed, in whole or in part, pursuant  
40 to this article.

**§8-38-25. Application by Division of Highways.**

1 (a) The Commissioner of Highways may propose a project for an economic opportunity  
2 development district established, or to be established, by a municipality. This plan may include  
3 related infrastructure that is necessary or convenient to economic development adjacent to the  
4 proposed project.

5 (b) Projects proposed by the Commissioner of Highways are limited to those related to the  
6 construction, reconstruction, improvement or modernization of state roads, as defined in article  
7 four, chapter seventeen of this code, that are part of the state road system, as defined in that  
8 article or that will become part of the state road system upon completion of the construction. All  
9 construction, reconstruction, improvement or modernization and maintenance of state roads shall  
10 be done by or under the supervision of the Commissioner of Highways.

11 (c) All road projects that are accepted as part of the state road system, and all real property  
12 interests and appurtenances, shall be under the exclusive jurisdiction and control of the  
13 Commissioner of Highways, who may exercise the same rights and authority as he or she has  
14 over other transportation facilities in the state road system.

15 (d) Except as provided in an intergovernmental agreement executed by one or more  
16 county commissions, municipalities and/or the Commissioner of Highways and as provided in this  
17 article, a county commission or municipality may not be required to pay for the cost of  
18 constructing, reconstructing, improving, maintaining a road that is part of the state road system



19 as defined in article four, chapter seventeen of this code or to pay any other expense fairly related  
20 to that road.

21 (e) The powers conferred by this article on the Commissioner of Highways or the Division  
22 of Highways are in addition and supplemental to the powers conferred upon the Commissioner of  
23 Highways, the Division of Highways, and the Department of Transportation by the Legislature  
24 elsewhere in this code.

## CHAPTER 11. TAXATION.

### ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

#### §11-10-11a. Administration of special district excise tax; commission authorized.

1 (a) Any municipality or county commission which, pursuant to section twelve, article  
2 twenty-two, chapter seven of this code, ~~section eleven, article thirteen-b, chapter eight of this~~  
3 ~~code~~ or section twelve, article thirty-eight, chapter eight of this code imposes a special district  
4 excise tax shall, by express provision in the order or ordinance imposing that tax, authorize the  
5 State Tax Commissioner to administer, assess, collect and enforce that tax on behalf of and as  
6 its agent.

7 (1) The county commission or municipality shall make such authorization by the adoption  
8 of a provision in its order or ordinance levying a special district excise tax stating its purpose and  
9 referring to this section and providing that the order or ordinance shall be effective on the first day  
10 of a month at least sixty days after its adoption.

11 (2) A certified copy of the order or ordinance shall be forwarded to the State Auditor, the  
12 State Treasurer and the Tax Commissioner so that it will be received within five days after its  
13 adoption or enactment.

14 (b) Any special district excise tax administered under this section shall be administered  
15 and collected by the Tax Commissioner in the same manner and subject to the same interest,

16 additions to tax and penalties as provided for the tax imposed in article fifteen of this chapter.

17 (c) All special district excise tax moneys collected by the Tax Commissioner under this  
18 section shall be paid into the State Treasury to the credit of each county commission's subaccount  
19 in the economic opportunity development district fund created pursuant to section nine, article  
20 twenty-two, chapter seven of this code, or to the credit of each municipality's subaccount in the  
21 economic opportunity development district fund created pursuant to section nine, article thirty-  
22 eight, chapter eight of this code, for the particular economic opportunity development district. The  
23 special district excise tax moneys shall be credited to the subaccount of each particular county  
24 commission or municipality levying a special district excise tax being administered under this  
25 section. The credit shall be made to the subaccount of the county commission or municipality for  
26 the economic opportunity development district in which the taxable sales were made and taxable  
27 services rendered as shown by the records of the Tax Commissioner and certified by him or her  
28 monthly to the State Treasurer, namely, the location of each place of business of every vendor  
29 collecting and paying the tax to the Tax Commissioner without regard to the place of possible use  
30 by the purchaser.

31 (d) As soon as practicable after the special district excise tax moneys have been paid into  
32 the State Treasury in any month for the preceding reporting period, the district board or the county  
33 commission or municipality imposing the tax may issue a requisition to the State Auditor  
34 requesting issuance of a state warrant for the proper amount in favor of each county commission  
35 or municipality entitled to the monthly remittance of its special district excise tax moneys.

36 (1) Upon receipt of the requisition, the Auditor shall issue his or her warrant on the State  
37 Treasurer for the funds requested and the State Treasurer shall pay the warrant out of the  
38 subaccount.

39 (2) If errors are made in any payment, or adjustments are otherwise necessary, whether  
40 attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and

41 adjustments made in the payments for the next six months as follows: One sixth of the total  
42 adjustment shall be included in the payments for the next six months. In addition, the payment  
43 shall include a refund of amounts erroneously not paid to the county commission or the  
44 municipality and not previously remitted during the three years preceding the discovery of the  
45 error.

46 (3) A correction and adjustment in payments described in this subsection due to the  
47 misallocation of funds by the vendor shall be made within three years of the date of the payment  
48 error.

49 (e) Notwithstanding any other provision of this code to the contrary, the Tax Commissioner  
50 shall deduct and retain for the benefit of his or her office for expenditure pursuant to appropriation  
51 of the Legislature from each payment into the State Treasury, as provided in subsection (c) of this  
52 section, one percent thereof as a commission to compensate his or her office for the discharge of  
53 the duties described in this section.

**§11-10-11c. State administration of local sales and use taxes and excise taxes; jurisdiction  
and standing before the office of tax appeals; rule-making authority.**

1 (a) The Tax Commissioner has exclusive responsibility for administering, collecting and  
2 enforcing all local sales and use taxes and excise taxes imposed pursuant to article twenty-two,  
3 chapter seven of this code, section five-a, article one, chapter eight of this code, article thirteen-  
4 c, chapter eight of this code and article thirty-eight, chapter eight of this code.

5 (b) Pursuant to, and limited by, the provisions of section eight, article ten-a of this chapter,  
6 the Office of Tax Appeals has exclusive and original jurisdiction to hear disputes arising from any  
7 local sales and use taxes and excise taxes for which the Tax Commissioner has exclusive  
8 administration, enforcement and collection responsibility. No municipality or county has standing  
9 before the Office of Tax Appeals in any dispute arising under any local sales and use tax and  
10 excise tax upon which the Tax Commissioner has exclusive responsibility for administration,

11 enforcement and collection.

12 (c) Notwithstanding any other provision of this code to the contrary, the Tax Commissioner  
13 may assess a fee ~~to be established by legislative rule pursuant to the provisions of article three,~~  
14 ~~chapter twenty nine-a of this code, to be retained from collections authorized by section five-a,~~  
15 ~~article one, chapter eight of this code, and section six, article thirteen-c, chapter eight of this code:~~  
16 ~~Provided, That the fee may not exceed five percent of such collections in total including any fee~~  
17 ~~otherwise authorized by this code or any duly enacted ordinance~~ equal to one percent of the taxes  
18 administered, collected and enforced on behalf of the county or municipality.

19 (d) Establishment of special revenue account.

20 (1) There is created in the State Treasury a special revenue revolving fund account known  
21 as the "Local Sales Tax and Excise Tax Administration Fund". Expenditures from the fund shall  
22 be for the purposes set forth in this section and are not authorized from collections but are to be  
23 made only in accordance with appropriation by the Legislature and in accordance with the  
24 provisions of article three, chapter twelve of this code: *Provided*, That for the fiscal year ending  
25 June 30, 2014, expenditures are authorized from collections rather than pursuant to appropriation  
26 by the Legislature. The fund shall consist of:

27 (A) Any funds collected pursuant to section (c) of this section; and

28 (B) Any funds received on and after July 1, 2013, from fees retained by the Tax  
29 Commissioner pursuant to section six, article thirteen-c, chapter eight of this code; and

30 (C) Amounts deducted and retained by the Tax Commissioner under subsection (e),  
31 section eleven-a of this article; and

32 (D) Any future funds appropriated by the Legislature or transferred by any public agency  
33 as contemplated or permitted by applicable federal or state law; and

34 (E) Any accrued interest or other return on the moneys in the fund.

35 (2) On July 1, 2013, all moneys in the Tax Department "Municipal Sales and Use Tax

36 Operations Fund” established under section six, article thirteen-c, chapter eight of this code shall  
37 be transferred to the Local Sales Tax and Excise Tax Administration Fund established in this  
38 section.

39 (3) On July 1, 2013, all moneys in the "Special District Excise Tax Administration Fund"  
40 established under section eleven-b of this article shall be transferred to the Local Sales Tax and  
41 Excise Tax Administration Fund established in this section.

42 (4) Amounts deposited in the Local Sales Tax and Excise Tax Administration Fund may  
43 be expended by the Tax Commissioner, after appropriation by the Legislature, for the general  
44 administration, collection and enforcement of all local sales and use taxes and excise taxes  
45 imposed pursuant to ~~article~~ articles eleven-c and twenty-two, chapter seven of this code, section  
46 five-a, article one, chapter eight of this code, article thirteen-c, chapter eight of this code and  
47 article thirty-eight, chapter eight of this code.

48 (e) Notwithstanding the provisions of section eleven-b of this article, The Tax  
49 Commissioner may prescribe by rule the schedule and manner for deposits of moneys into the  
50 Local Sales Tax and Excise Tax Administration Fund and any other administrative and procedural  
51 requirements as may be useful or necessary for the management and handling of the fund.

52 (f) Effective Date - The provisions of this section enacted in ~~2013~~ 2016 are effective on  
53 and after July 1, ~~2013~~ 2016.

NOTE: The purpose of this bill generally concerns tax increment financing and economic opportunity development districts and expanding its use for financing and funding road projects in West Virginia. The bill permits certain agreements between the Division of Highways and counties or municipalities regarding the development of districts. The bill permits financing of certain projects be with the proceeds of tax increment financing obligations. The bill permits road construction projects be done jointly by counties and municipalities. The bill establishes procedures. The bill permits the Division of Highways to propose a joint project. The bill establishes procedures for the West Virginia Development Office and the Tax Commissioner. The bill permits audits. The bill establishes a procedure for adding or removing property from an economic opportunity development district. The bill requires procedures relating to taxpayers. The bill provides for confidentiality. The bill provides for roads to be part of the state road system. The bill permits a fee to be assessed.

The bill provides findings. The bill establishes an effective date. The bill defines terms.

§11-10-26 and §11-10-27 are repealed.

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