

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 534

BY SENATORS PALUMBO, GAUNCH, JEFFRIES, ROMANO,

STOLLINGS, TAKUBO AND CLINE

[Introduced March 7, 2017; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §7-11B-3, §7-11B-4 and §7-11B-7 of the Code of West Virginia,
 2 1931, as amended; to amend and reenact §7A-2-4 of said code; to amend said code by
 3 adding thereto a new section, designated §7A-2-5; to amend and reenact §11-22-2 of said
 4 code; and to amend and reenact §31-20-10a of said code, all relating to incentives for
 5 consolidating local governments; amending certain terms to include municipalities that
 6 successfully consolidated; authorizing municipalities that successfully consolidate to be
 7 eligible for tax increment financing; allowing consolidation of local governments to include
 8 public school districts, library districts and fire districts; creating certain incentives for
 9 municipalities that consolidate; creating certain incentives for counties that consolidate;
 10 creating certain incentives for municipalities and counties that form metro governments by
 11 consolidation; setting an expiration date for the incentives created; authorizing counties
 12 that consolidate to impose an additional county excise tax on the transfer of real estate;
 13 and requiring the Division of Corrections to pay for regional jail bills of counties that
 14 consolidate from the point of a felony conviction, rather than after sentencing.

Be it enacted by the Legislature of West Virginia:

1 That §7-11B-3, §7-11B-4 and §7-11B-7 of the Code of West Virginia, 1931, as amended,
 2 be amended and reenacted; that §7A-2-4 of said code be amended and reenacted; that said code
 3 be amended by adding thereto a new section, designated §7A-2-5; that §11-22-2 of said code be
 4 amended and reenacted; and that §31-20-10a of said code be amended and reenacted, all to
 5 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 "Agency" includes a municipality, a county or municipal development agency established
6 pursuant to authority granted in section one, article twelve of this chapter, a port authority, an
7 airport authority or any other entity created by this state or an agency or instrumentality of this
8 state that engages in economic development activity or the Division of Highways.

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

18 "Blighted area" means an area within the boundaries of a development or redevelopment
19 district located within the territorial limits of a municipality or county in which the structures,
20 buildings or improvements, by reason of dilapidation, deterioration, age or obsolescence,
21 inadequate provision for access, ventilation, light, air, sanitation, open spaces, high density of
22 population and overcrowding or the existence of conditions which endanger life or property, are
23 detrimental to the public health, safety, morals or welfare. "Blighted area" includes any area which,
24 by reason of the presence of a substantial number of substandard, slum, deteriorated or
25 deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in
26 relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions,
27 deterioration of site or other improvements, diversity of ownership, defective or unusual conditions
28 of title or the existence of conditions which endanger life or property by fire and other causes, or

29 any combination of such factors, substantially impairs or arrests the sound growth of a
30 municipality, retards the provision of housing accommodations or constitutes an economic or
31 social liability and is a menace to the public health, safety, morals or welfare in its present
32 condition and use, or any area which is predominantly open and which because of lack of
33 accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site
34 improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

35 “Commissioner of Highways” means the Commissioner of the Division of Highways.

36 “Conservation area” means any improved area within the boundaries of a development or
37 redevelopment district located within the territorial limits of a municipality or county in which fifty
38 percent or more of the structures in the area have an age of thirty-five years or more. A
39 conservation area is not yet a blighted area but is detrimental to the public health, safety, morals
40 or welfare and may become a blighted area because of any one or more of the following factors:
41 Dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of
42 structures below minimum code standards; abandonment; excessive vacancies; overcrowding of
43 structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate
44 utilities; excessive land coverage; deleterious land use or layout; depreciation of physical
45 maintenance; and lack of community planning. A conservation area shall meet at least three of
46 the factors provided in this subdivision.

47 “County commission” means the governing body of a county of this state and, for purposes
48 of this article only, includes the governing body of a Class I or II municipality in this state, or the
49 governing body of a municipality that successfully consolidated pursuant to chapter seven-a of
50 this code.

51 “Current assessed value” means the annual taxable assessed value of all real and tangible
52 personal property, excluding personal motor vehicles, having a tax situs within a development or
53 redevelopment district as shown upon the landbook and personal property records of the
54 assessor: *Provided*, That for any development or redevelopment district approved after the

55 effective date of the amendments to this section enacted during the regular session of the
56 Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes,
57 personal ATVs and personal motorcycles having a tax situs within a development or
58 redevelopment district are excluded from the current assessed value.

59 “Development office” means the West Virginia Development Office created in section one,
60 article two, chapter five-b of this code.

61 “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 "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 "Economic development area" means any area or portion of an area within the boundaries
98 of a development or redevelopment district located within the territorial limits of a municipality or
99 county that is neither a blighted area nor a conservation area and for which the county
100 commission finds that development or redevelopment will not be solely used for development of
101 commercial businesses that will unfairly compete in the local economy and that development or
102 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 "Governing body of a municipality" means the city council of a Class I or Class II
109 municipality in this state, or of a municipality that successfully consolidated pursuant to chapter
110 seven-a of this code.

111 "Incremental value", for any development or redevelopment district, means the difference
112 between the base assessed value and the current assessed value. The incremental value will be
113 positive if the current value exceeds the base value and the incremental value will be negative if
114 the current value is less than the base assessed value.

115 "Includes" and "including", when used in a definition contained in this article, shall not
116 exclude other things otherwise within the meaning of the term being defined.

117 "Intergovernmental agreement" means any written agreement that may be entered into by
118 and between two or more county commissions, or between two or more municipalities, or between
119 a county commission and a municipality, in the singular and the plural, or between two or more
120 government entities and the Commissioner of Highways: *Provided*, That any intergovernmental
121 agreement shall not be subject to provisions governing intergovernmental agreements set forth
122 in other provisions of this code, including, but not limited to, article twenty-three, chapter eight of
123 this code, but shall be subject to the provisions of this article.

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

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

135 “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 “Person” means any natural person, and any corporation, association, partnership, limited
146 partnership, limited liability company or other entity, regardless of its form, structure or nature,
147 other than a government agency or instrumentality.

148 “Private project” means any project that is subject to ad valorem property taxation in this
149 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 “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 “Project area” means an area within the boundaries of a development or redevelopment
158 district in which a development or redevelopment project is undertaken as specifically set forth

159 and defined in the project plan.

160 “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 "Project developer" means any person who engages in the development of projects in the
196 state.

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

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

217 “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 “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 “This code” means the Code of West Virginia, 1931, as amended by the Legislature.

226 “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, or of a municipality that successfully consolidated pursuant to
3 chapter seven-a of this code, may exercise any powers necessary and convenient to carry out
4 the purpose of this article, including the power to:

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

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

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

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

13 (5) Deposit moneys into the tax increment financing fund for any development or
14 redevelopment district;

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

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

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

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

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

30 (11) Cause parks, playgrounds or water, sewer or drainage facilities or any other public
31 improvements, including, but not limited to, fire stations, community centers and other public
32 buildings, which the county commission is otherwise authorized to undertake to be laid out,

33 constructed or furnished in connection with the development or redevelopment project. When the
34 public improvement of the county commission is to be located, in whole or in part, within the
35 corporate limits of a municipality, the county commission shall consult with the mayor and the
36 governing body of the municipality regarding the public improvement and shall pay for the cost of
37 the public improvement from the tax increment financing fund;

38 (12) Lay out and construct, alter, relocate, change the grade of, make specific repairs upon
39 or discontinue public ways and construct sidewalks in, or adjacent to, the project area: *Provided,*
40 That when the public way or sidewalk is located within a municipality, the governing body of the
41 municipality shall consent to the same and if the public way is a state road, the consent of the
42 commissioner of highways shall be necessary;

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

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

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

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

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

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

58 (19) Enter orders, adopt bylaws or repeal or modify such orders or bylaws or establish

59 exceptions to existing orders and bylaws regulating the design, construction and use of buildings
60 within the development or redevelopment district created by a county commission or governing
61 body of a municipality under this article;

62 (20) Sell, mortgage, lease, transfer or dispose of any property or interest therein, by
63 contract or auction, acquired by it pursuant to the project plan for development, redevelopment or
64 rehabilitation in accordance with the project plan;

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

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

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

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

§7-11B-7. Creation of a development or redevelopment or district.

1 (a) County commissions and the governing bodies of Class I and II municipalities, or of a
2 municipality that successfully consolidated pursuant to chapter seven-a of this code, upon their
3 own initiative or upon application of an agency or a developer, may propose creation of a
4 development or redevelopment district and designate the boundaries of the district: *Provided,*
5 That a district may not include noncontiguous land.

6 (b) The county commission or municipality proposing creation of a development or
7 redevelopment district shall then hold a public hearing at which interested parties are afforded a

8 reasonable opportunity to express their views on the proposed creation of a development or
9 redevelopment district and its proposed boundaries.

10 (1) Notice of the hearing shall be published as a Class II legal advertisement in accordance
11 with section two, article three, chapter fifty-nine of this code.

12 (2) The notice shall include the time, place and purpose of the public hearing, describe in
13 sufficient detail the tax increment financing plan, the proposed boundaries of the development or
14 redevelopment district and, when a development or redevelopment project plan is being
15 proposed, the proposed tax increment financing obligations to be issued to finance the
16 development or redevelopment project costs.

17 (3) Prior to the first day of publication, a copy of the notice shall be sent by first-class mail
18 to the director of the Development Office and to the chief executive officer of all other local levying
19 bodies having the power to levy taxes on real and tangible personal property located within the
20 proposed development or redevelopment district.

21 (4) All parties who appear at the hearing shall be afforded an opportunity to express their
22 views on the proposal to create the development or redevelopment district and, if applicable, the
23 development or redevelopment project plan and proposed tax increment financing obligations.

24 (c) After the public hearing, the county commission, or the governing body of the
25 municipality, shall finalize the boundaries of the development or redevelopment district, the
26 development or redevelopment project plan, or both, and submit the same to the director of the
27 Development Office for his or her review and approval. The director, within sixty days after receipt
28 of the application, shall approve the application as submitted, reject the application or return the
29 application to the county commission or governing body of the municipality for further
30 development or review in accordance with instructions of the director of the Development Office.
31 A development or redevelopment district or development or redevelopment project plan may not
32 be adopted by the county commission or the governing body of a municipality until after it has
33 been approved by the executive director of the Development Office.

34 (d) Upon approval of the application by the Development Office, the county commission
35 may enter an order and the governing body of the municipality proposing the district or
36 development or redevelopment project plan may adopt an ordinance, that:

37 (1) Describes the boundaries of a development or redevelopment district sufficiently to
38 identify with ordinary and reasonable certainty the territory included in the district, which
39 boundaries shall create a contiguous district;

40 (2) Creates the development or redevelopment district as of a date provided in the order
41 or ordinance;

42 (3) Assigns a name to the development or redevelopment district for identification
43 purposes.

44 (A) The name may include a geographic or other designation, shall identify the county or
45 municipality authorizing the district and shall be assigned a number, beginning with the number
46 one.

47 (B) Each subsequently created district in the county or municipality shall be assigned the
48 next consecutive number;

49 (4) Contains findings that the real property within the development or redevelopment
50 district will be benefitted by eliminating or preventing the development or spread of slums or
51 blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry or
52 employment, increasing employment or any combination thereof;

53 (5) Approves the development or redevelopment project plan, if applicable;

54 (6) Establishes a tax increment financing fund as a separate fund into which all tax
55 increment revenues and other revenues designated by the county commission, or governing body
56 of the municipality, for the benefit of the development or redevelopment district shall be deposited,
57 and from which all project costs shall be paid, which may be assigned to and held by a trustee for
58 the benefit of bondholders if tax increment financing obligations are issued by the county
59 commission or the governing body of the municipality; and

60 (7) Provides that ad valorem property taxes on real and tangible personal property having
61 a tax situs in the development or redevelopment district shall be assessed, collected and allocated
62 in the following manner, commencing upon the date of adoption of such order or ordinance and
63 continuing for so long as any tax increment financing obligations are payable from the tax
64 increment financing fund, hereinafter authorized, are outstanding and unpaid:

65 (A) For each tax year, the county assessor shall record in the land and personal property
66 books both the base assessed value and the current assessed value of the real and tangible
67 personal property having a tax situs in the development or redevelopment district;

68 (B) Ad valorem taxes collected from regular levies upon real and tangible personal
69 property having a tax situs in the district that are attributable to the lower of the base assessed
70 value or the current assessed value of real and tangible personal property located in the
71 development project area shall be allocated to the levying bodies in the same manner as
72 applicable to the tax year in which the development or redevelopment project plan is adopted by
73 order of the county commission or by ordinance adopted by the governing body of the
74 municipality;

75 (C) The tax increment with respect to real and tangible personal property in the
76 development or redevelopment district shall be allocated and paid into the tax increment financing
77 fund and shall be used to pay the principal of and interest on tax increment financing obligations
78 issued to finance the costs of the development or redevelopment projects in the development or
79 redevelopment district. Any levying body having a development or redevelopment district within
80 its taxing jurisdiction shall not receive any portion of the annual tax increment except as otherwise
81 provided in this article; and

82 (D) In no event shall the tax increment include any taxes collected from excess levies,
83 levies for general obligation bonded indebtedness or any levies other than the regular levies
84 provided for in article eight, chapter eleven of this code.

85 (e) Proceeds from tax increment financing obligations issued under this article may only

86 be used to pay for costs of development and redevelopment projects to foster economic
87 development in the development or redevelopment district or land contiguous thereto.

88 (f) Notwithstanding subsection (e) of this section, a county commission may not enter an
89 order approving a development or redevelopment project plan unless the county commission
90 expressly finds and states in the order that the development or redevelopment project is not
91 reasonably expected to occur without the use of tax increment financing.

92 (g) Notwithstanding subsection (e) of this section, the governing body of a municipality
93 may not adopt an ordinance approving a development or redevelopment project plan unless the
94 governing body expressly finds and states in the ordinance that the development or
95 redevelopment project is not reasonably expected to occur without the use of tax increment
96 financing.

97 (h) No county commission shall establish a development or redevelopment district any
98 portion of which is within the boundaries of a Class I, II, III or IV municipality without the formal
99 consent of the governing body of such municipality.

100 (i) A tax increment financing plan that has been approved by a county commission or the
101 governing body of a municipality may be amended by following the procedures set forth in this
102 article for adoption of a new development or redevelopment project plan.

103 (j) The county commission may modify the boundaries of the development or
104 redevelopment district, from time to time, by entry of an order modifying the order creating the
105 development or redevelopment district.

106 (k) The governing body of a municipality may modify the boundaries of the development
107 or redevelopment district, from time to time, by amending the ordinance establishing the
108 boundaries of the district.

109 (l) Before a county commission or the governing body of a municipality may amend such
110 an order or ordinance, the county commission or municipality shall give the public notice, hold a
111 public hearing and obtain the approval of the director of the Development Office, following the

112 procedures for establishing a new development or redevelopment district. In the event any tax
 113 increment financing obligations are outstanding with respect to the development or
 114 redevelopment district, any change in the boundaries shall not reduce the amount of tax increment
 115 available to secure the outstanding tax increment financing obligations.

CHAPTER 7A. CONSOLIDATED LOCAL GOVERNMENT.

ARTICLE 2. POWERS AND LIMITATIONS.

§7A-2-4. Limitations of a consolidated local government.

1 (a) ~~Public school districts, library districts, fire districts, special~~ Special taxing districts and
 2 public service districts are not affected by consolidation under this chapter.

3 (b) The adoption of a charter does not alter any right or liability of an affected municipality,
 4 county or metro government in effect at the time the charter becomes effective. Ordinances and
 5 resolutions relating to public improvements to be paid for, in whole or in part, by special
 6 assessments remain in effect until paid in full.

§7A-2-5. Incentives for consolidation.

1 (a) Any municipalities that successfully complete municipal consolidation pursuant to the
 2 provisions of article five of this chapter, shall be entitled to:

3 (1) A matching payment from the state in the amount of twenty percent of the annual
 4 municipal actuarial contribution to the benefit fund created in article twenty-two, chapter eight of
 5 this code, for a period of ten years following the consolidation;

6 (2) A complete audit, including recommendations for additional efficiencies, by the West
 7 Virginia Auditor's office within twelve months of the approved consolidation and a second audit
 8 within thirty-six months of the consolidation; and

9 (3) Authority to create tax increment financing districts, regardless of class size, pursuant
 10 to article eleven-b, chapter seven of this code.

11 (b) Any counties that successfully complete county consolidation pursuant to the

12 provisions of article six of this chapter, shall be entitled to:

13 (1) A reduction in the costs of regional jail bills, as provided in section ten-a, article twenty,
 14 chapter thirty-one of this code; and

15 (2) An option to increase the county excise tax on the transfer of real property, as provided
 16 in section two, article twenty-two, chapter eleven of this code.

17 (c) Any municipalities and counties that successfully complete metro government
 18 consolidation pursuant to the provisions of article seven of this chapter, shall be entitled to:

19 (1) All incentives provided to municipalities in subsection (a) of this section; and

20 (2) All incentives provided to counties in subsection (b) of this section; and

21 (d) The provisions of this session expire on December 31, 2020, unless otherwise
 22 extended by the Legislature.

CHAPTER 11. TAXATION.

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-2. Rate of tax; when and by whom payable; additional county tax.

1 (a) Every person who delivers, accepts or presents for recording any document, or in
 2 whose behalf any document is delivered, accepted or presented for recording, is subject to pay
 3 for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of
 4 transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as
 5 represented by the document as defined in section one of this article. The state tax is payable at
 6 the time of delivery, acceptance or presenting for recording of the document. In addition to the
 7 state excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of
 8 transferring real estate for consideration. The clerk of the county commission shall collect the
 9 additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys
 10 from the additional fees into the West Virginia Affordable Housing Trust Fund as provided in article
 11 eighteen-d, chapter thirty-one of this code. The moneys collected from this additional fee shall be

12 segregated from other funds in the West Virginia Affordable Housing Trust Fund and shall be
13 accounted for separately. Not more than ten percent of these additional moneys may be
14 expended by the West Virginia Affordable Housing Trust Fund to defray administrative and
15 operating costs and expenses actually incurred by the West Virginia Affordable Housing Trust
16 Fund. The Housing Development Fund, as fiscal agent of the West Virginia Affordable Housing
17 Trust Fund, shall publish monthly on the Internet site an accounting of all revenue deposited into
18 the fund during the month and a full disclosure of all expenditures from the fund including the
19 group receiving funds, their location and any contractor awarded the construction contract.
20 Additionally, the West Virginia Affordable Housing Trust Fund is to provide an annual report to
21 the Joint Committee on Government and Finance before December 1, 2007, and each year
22 thereafter.

23 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise
24 tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or
25 fraction thereof as represented by such document as defined in section one of this article, which
26 county tax shall be payable at the time of delivery, acceptance or presenting for recording of such
27 document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an
28 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county
29 tax and to be used for county purposes: *Provided, however*, That only one such state tax and one
30 such county tax shall be paid on any one document and shall be collected in the county where
31 the document is first admitted to record and the tax shall be paid by the grantor therein unless the
32 grantee accepts the document without such tax having been paid, in which event such tax shall
33 be paid by the grantee: *Provided further*, That on any transfer of real property from a trustee or a
34 county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The
35 county excise tax imposed under this section may not be increased in any county unless the
36 increase is approved by a majority vote of the members of the county commission of such county.
37 Any county commission intending to increase the excise tax imposed in its county shall publish a

38 notice of its intention to increase such tax not less than thirty days nor more than sixty days prior
 39 to the meeting at which such increase will be considered, such notice to be published as a Class
 40 I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this
 41 code and the publication area shall be the county in which such county commission is located.

42 (c) Notwithstanding subsection (b) of this section or any other provision of code to the
 43 contrary, any county that successfully consolidates pursuant to chapter seven-a of this code may
 44 impose an additional county excise tax for the privilege of transferring title to real estate at a rate
 45 of up to \$1 for each \$500 value or fraction thereof as represented by such document as defined
 46 in section one of this article, which county tax shall be payable at the time of delivery, acceptance
 47 or presenting for recording of such document. The additional tax imposed under the authority of
 48 this subsection is declared to be a county tax and to be used for county purposes: *Provided, That*
 49 only one such additional tax shall be paid on any one document in addition to the other taxes
 50 authorized by this section and shall be collected in the county where the document is first admitted
 51 to record and the tax shall be paid by the grantor therein unless the grantee accepts the document
 52 without such tax having been paid, in which event such tax shall be paid by the grantee: *Provided,*
 53 *however, That on any transfer of real property from a trustee or a county clerk transferring real*
 54 *estate sold for taxes, such tax shall be paid by the grantee. The county excise tax authorized*
 55 *under this subsection may not be imposed in any authorized county unless the increase is*
 56 *approved by a majority vote of the members of the county commission of such county.*

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-10a. Criteria and procedures for determining the cost per day for inmates incarcerated in facilities operated by the authority and allocating cost.

1 (a) This section applies to the Regional Jail and Correctional Facility Authority, counties,

2 municipalities, the Division of Corrections, the United States marshal service, the United States
3 bureau of prisons and any other entity by whose authority inmates are incarcerated and
4 maintained in facilities operated by the authority.

5 (b)(1) The authority shall develop and approve a schedule of anticipated operational
6 expenditures for each regional jail. The schedules shall include funds for personal services and
7 fringe benefits for personnel necessary to the operation of the facilities, as well as allocations of
8 funds for food, clothing, utilities, supplies, transportation and all other costs necessary to operate
9 and maintain the facilities. The operational expenditure schedule shall include all costs, both direct
10 and indirect, for operating and maintaining the regional jail. The authority shall develop and
11 approve an operational expenditure schedule for each regional jail on an annual basis, consistent
12 with the state fiscal year.

13 (2) If the actual operational costs exceed the approved schedule of operational
14 expenditures by more than ten percent in a line item, the authority's executive director shall add
15 a temporary surcharge to the cost per inmate day in an amount sufficient to cover the actual
16 expenditures.

17 (c) The county is responsible for costs incurred by the authority for housing and
18 maintaining inmates in its facilities who have not been committed to the custody of the
19 commissioner of corrections.

20 (d) The county is responsible for the costs incurred by the authority for housing and
21 maintaining inmates who, prior to sentencing, are awaiting transportation to a state correctional
22 facility for a sixty-day evaluation period as provided in section seven, article twelve, chapter sixty-
23 two of this code.

24 (e) The Division of Corrections is responsible for the costs incurred by the authority for
25 housing and maintaining inmates who have been sentenced to the custody of the Division of
26 Corrections beginning the calendar day following the day the commitment order was entered into
27 the court record: Provided, That the Division of Corrections is responsible for the costs incurred

28 by the authority for housing and maintaining inmates who have been convicted of a felony offense
29 in any county that successfully consolidates pursuant to chapter seven-a of this code beginning
30 the calendar day following the day of conviction. The circuit clerk of the county from which the
31 commitment order has been entered shall immediately transmit by facsimile machine an advance
32 copy of the certified commitment order to the Division of Corrections and to the regional jail in
33 which the inmate is confined: Provided, however, That the circuit clerk of a county that
34 successfully consolidates pursuant to chapter seven-a of this code shall immediately transmit by
35 facsimile or other electronic means a copy of the conviction order to the Division of Corrections
36 and to the regional jail in which the inmate is confined.

37 (f) The Division of Corrections is responsible for the costs incurred by the authority for
38 housing and maintaining inmates who have been held on a parole violation warrant.

39 (g) The Division of Corrections is responsible for the costs incurred by the authority for
40 housing and maintaining inmates who have been returned to a regional jail under court order,
41 except that the county from which the inmate was charged is responsible for the per diem costs
42 in the event that a court of competent jurisdiction sets aside or vacates the order of commitment
43 to the Division of Corrections, from the date of the order or the return of the inmate to a regional
44 jail, whichever is later.

45 (h) The costs incurred by the authority for housing and maintaining inmates who are being
46 held as fugitives from justice from another jurisdiction shall be billed to the fugitive's demanding
47 jurisdiction, except the costs incurred by the authority for housing and maintaining any person
48 who is arrested and confined in one of the authority's facilities on the basis of the commission of
49 a new crime shall be billed to the arresting county until the pending West Virginia charges have
50 been properly resolved.

51 (i) Any other entity or jurisdiction, unless otherwise stipulated in this section, is responsible
52 for any and all costs associated with housing its inmates in a facility operated by the authority.

NOTE: The purpose of this bill is to create incentives for local governments to consolidate in an effort to save money on local services.

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