

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5689

By Delegate Hornbuckle and Crouse

[Introduced February 13, 2024; referred
to the Committee on Senior, Children, and Family
Issues then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §7-28-1, §7-28-2, §7-28-3, §7-28-4, §7-28-5, and §7-28-6, all relating to
 3 providing for the establishment of county daycares.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 28. ESTABLISHING COUNTY DAYCARES

7-28-1. Establishment of County Daycares

4 The county commission of every county is hereby authorized to establish a public agency
 5 to be known as the “County Daycare Authority” [the authority] to carry out the powers and duties
 6 conferred by law upon the county relating to establishment and management of available and
 7 affordable daycare for all citizens of the county.

§7-28-2. Establishment of a County Daycare Authority; authorization to assess a local levy, tax; and determining cost of operation and maintenance

8 (a) The Legislature finds that it is in the public interest, is a component of economic
 9 development, and a valid public service that improves the quality of life of the residents of each
 10 county, and therefore authorizes each County Commission of any county that by vote of the
 11 County Commission or by election by the people of that county to establish a county funded and
 12 administered day care. The county daycare shall be for the sole benefit of the citizens of the
 13 county. Each County Commission is authorized upon a vote of the commission if so authorized by
 14 statute to assessment of such tax, or by directive by ballot initiative of the citizens of the county,
 15 assess any tax authorized by state law for any county to assess, is herein authorized to be utilized
 16 for the purpose of construction and operation of a county daycare facility or facilities.

17 (b) The County Commission shall upon receipt and verification of a petition received
 18 signed in their own handwriting by at least 30% of the registered voters of the county verified by the
 19 county clerk, petitioning for the imposition of a levy, tax authorized by current law for the purpose of

20 creating and maintaining within the county a daycare facility for use by citizens of the county, shall
21 cause a vote by the citizens of a levy be submitted to the voters in a county-wide referendum. This
22 referendum shall be held in conjunction with a primary or general election. The County
23 Commission may, if the authorizing statute permits the assessment of the levy, tax by the county
24 commission without a vote of the people, on its own initiative, facilitate the creation of a daycare as
25 provided for in this article. Notwithstanding any code provision to the contrary, the petitioners or
26 the county Commission shall select to assess a property tax levy pursuant to §11-8-1 et seq., of
27 this Code, occupancy tax pursuant to §7-18-1 et seq. of this Code, or tax increment financing
28 pursuant to §7-11B-1 et seq., of this Code or any other fee authorized by state law for a county to
29 assess.

30 (c) Upon receipt of the petition, the County Commission shall undertake a study to
31 determine the most economical and timely plans to establish a county daycare facility or facilities
32 sufficient to meet the needs of county residents. The county commission shall determine the
33 proposed levy rate assessment on real property in the county based on the cost of establishing
34 and maintaining a daycare facility or facilities, including sufficient monies needed by the levy to
35 provide daycare services at an affordable rate for residents based on the ability to pay of residents
36 needing the service. The County Commission shall determine the necessary acquisition,
37 construction, with the provisions of §59-3-1 et seq. of this code, and operational costs for providing
38 this service and calculate a levy fee adequate to provide this service. Upon completion of the
39 plan, the County Commission shall cause public hearing and receive public comment on the
40 proposal, providing with a Class I notice published in the County 10 days prior to the hearing.
41 After receipt of public comment, the commission may revise the plan but if the commission makes
42 revisions to the plan that vary in cost of more than 10%, the commission shall conduct another
43 hearing and receive comment on the new plan.

44 (d) The referendum shall be placed upon the ballot at the next scheduled election in which
45 the requirements of this article relating to planning and determining the levy amount have been

46 met and allows the referendum to meet all election notice and filing deadlines. Once the levy is
47 enacted it shall expire 5 years after passage, unless reauthorized, or upon a determination by the
48 county that the levy could be reduced and still provide adequate service, the County Commission
49 may initiate a ballot initiative to reduce the levy previously authorized prior to the 5-year
50 reauthorization. Authorization of a lower levy amount extends the prior levy to new a 5-year period
51 of authorization. The commission shall cause the levy question of renewal be placed on the ballot
52 of the election prior to expiration of the levy for renewal by the county voters. The commission may
53 revise the levy amount to reflect its estimated costs for the upcoming 5-year period if the levy is
54 renewed. The commission shall cause a public hearing and comment period on its proposal levy
55 rate for renewal of the levy pursuant Section 3 of this article.

§7-28-3. County daycare levy placed upon ballot; notices; form of ballot.

56 (a) Upon receipt of a valid petition pursuant to Section 2 and development of a plan, the
57 County Commission shall publish a notice, announcing the levy being on the ballot at the next
58 scheduled election, as a Class II-0 legal advertisement in compliance with the provisions of §59-3-
59 1 et seq. of this code, and the publication area for such publication shall be the county. Such notice
60 shall be so published within 14 consecutive days next preceding the election.

61 (b) The question on the special levy shall be placed on the ballot in accordance with the
62 ballot placement order prescribed by §3-5-13a(a) of this code. The question heading shall be
63 entitled: "Special Levy Election" and the question shall be significantly in the following form:
64 "Special election to authorize an _____ (a levy, fee or tax) for the year(s) _____ and for the
65 purpose of establishing/continuing a county daycare."

66 The additional levy, tax of fee shall be collected from _____ (describe the
67 type of tax, levy or fee and how and from whom it will be collected.)

68 (c) In the event that a majority of the votes cast upon a question submitted pursuant to this
69 section at any election be against the question, the question may again be submitted to the voters
70 at the next succeeding election.

§7-28-4. Management and oversight vested in authority; appointment and terms of members; vacancies; removal of members; meetings; quorum; compensation.

71 (a) The management and control of the authority, its property, operations, business and
72 affairs shall be lodged in an authority of five persons who shall be known as "members of the
73 authority," each of whom shall be appointed by the County Commission for a term of three years,
74 except that as to the first seven appointed to the first authority appointed, the term of two members
75 shall expire on July 1, next ensuing, the terms of the next two members shall expire on July 1, two
76 years thereafter, and the term of three members shall expire on July 1, three years thereafter.
77 Each member shall hold office until the expiration of the term for which such member is appointed
78 or until a successor shall have been duly appointed and shall have qualified. Vacancies on the
79 authority shall be filled by appointment of the County Commission for the unexpired term of the
80 member whose office shall be vacant. One member shall be a member of the County Commission
81 of the commission's designee, two members shall be parents of children that will in the future,
82 currently or in the past had children attending the county daycare; one member shall be an expert
83 in finance and budgeting; and one member who has expertise in child development or education.

84 (b) The County Commission may at any time remove any member of the authority by an
85 order duly entered of record and may appoint a successor. The authority shall annually elect one
86 of its members as chairman, another as vice chairman and member with an expertise in finance or
87 budgeting shall service as secretary-treasurer. The authority shall meet at least four times
88 annually and upon the call of its chairman or upon the request in writing to the chairman of four
89 board members. Three members of the authority shall constitute a quorum and the affirmative
90 vote of a majority shall be necessary for any action taken by vote of the authority. No vacancy in
91 the membership of the authority shall impair the rights of quorum by such vote to exercise all rights
92 and perform all the duties of the authority. The person appointed as secretary-treasurer shall give

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93 bond in the sum of \$50,000.

94 (c) Each of the authority members shall be reimbursed for all reasonable and necessary
95 expenses actually incurred in the performance of the member's duties as a member of the
96 authority and receive per diem pay the same as received as members of the legislature [cite]. All
97 such compensation and expenses incurred by authority members shall be payable solely from
98 funds of the authority.

§7-28-5. Authority to be a public corporation; name; power to contract and sue.

99 The authority and the members thereof, shall constitute and be a public corporation, the
100 name of which shall contain the words "county daycare authority," and as such shall have
101 perpetual succession until discontinued by expiration or non-renewal of levy., may contract and be
102 contracted with, sue and be sued, plead and be impleaded and have and use a common seal.

§7-28-6. Powers, duties and responsibilities of authority generally.

103 The authority may exercise all powers necessary or appropriate to carry out and effectuate
104 its corporate purpose. The authority may:

105 (1) Adopt, and from time to time, amend and repeal bylaws necessary and proper for the
106 regulation of its affairs and the conduct of its business and rules and regulations to implement and
107 make effective its powrs and duties.

108 (2) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair,
109 operate, lease or rent to, or contract for operation by a governmental agency or person, one or
110 more county daycare facility, and, adopt rules and regulations for operation of these facilities.

111 (5) Acquire by gift or purchase, hold and dispose of real and personal property in the
112 exercise of its powers and the performance of its duties.

113 (6) Make and enter into all contracts and agreements and execute all instruments
114 necessary or incidental to the performance of its duties and the execution of its powers.

115 (7) Employ an executive director and authorize the hiring of other employees, and retain or
116 contract with consulting engineers, financial consultants, accounting experts, architects, attorneys
117 and such other consultants and independent contractors as are necessary in its judgment to carry
118 out the provisions of this article, and fix the compensation or fees thereof.

119 (8) Receive and accept from any federal or state agency grants for or in aid of the
120 construction of any daycare facility or and receive and accept aid or contributions from any source
121 of money, property, labor or other things of value, to be held, used and applied only for the
122 purposes for which such grants and contributions are made.

123 (10) Purchase fire and extended coverage and liability insurance protecting the authority
124 and its officers and employees to protect authority assets and protect lawful actions undertaken by
125 the authority and its employees fulfilling their lawful duties.

126 (11) Establish fees for daycare services that are scaled on the child or children's parents or
127 guardians' ability to pay.

128 (12) Do all acts necessary and proper to carry out the powers expressly granted to the
129 authority by this article.

NOTE: The purpose of this bill is to allow for counties to establish daycares; allowing for citizen petitions to facilitate ballot initiative; authorizing County Commission to authorize establishment of daycares; providing for County Commissions to undertake study to determine the cost of creating a daycare to set amount of tax to be collected; and providing for establishment and management of the daycare.

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