

1 **ENROLLED**

2 **H. B. 2871**

3
4 (By Delegates Lawrence and Doyle)

5 [Passed March 8, 2011; in effect July 1, 2011.]
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10 AN ACT to amend and reenact §5B-2-6a of the Code of West Virginia,
11 1931, as amended, relating to brownfield economic development
12 districts; and providing that governing bodies of
13 municipalities and counties have regulatory and oversight
14 authority over these districts.

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

16 That §5B-2-6a of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.**

19 **§5B-2-6a. Brownfield economic development districts; applications;**
20 **fees; rules.**

21 (a) Any property owner of a tract of land that is a brownfield
22 or voluntary remediated site pursuant to article twenty-two,
23 chapter twenty-two of this code may, if the site and surrounding
24 area were involved in the extraction and processing of coal,

1 limestone or other natural resources, apply to the Development
2 Office to become a brownfield economic development district.

3 (1) Applicants for a brownfield economic development district
4 must demonstrate that the district when designated will create
5 significant economic development activity;

6 (2) Applicants shall submit a development plan that provides
7 specific details on proposed financial investment, direct and
8 indirect jobs to be created and the viability of the district;

9 (3) Brownfield economic development districts:

10 (A) May not contain single-family housing;

11 (B) Shall provide all the infrastructure within the district
12 without cost to the state, county, public service district or local
13 municipal government;

14 (4) Applicants shall demonstrate that were it not for this
15 designation, the contemplated development would not be possible and
16 that the development is in the best interest of the state;

17 (5) The applicant shall own or control the property within the
18 district;

19 (6) All costs for the application process shall be borne by
20 the applicant;

21 (7) An applicant shall demonstrate that the applicant has
22 attempted to work in good faith with local officials in regard to
23 land-use issues;

24 (8) Beginning July 1, 2011, an application for a brownfield

1 economic development district may not be approved unless the
2 district conforms to a county's or municipality's planning and
3 zoning laws established pursuant to the provisions of article
4 seven, eight and nine, of chapter eight-a of this code.

5 (9) Prior to granting a designation of brownfield economic
6 development district, the applicant shall provide documentation
7 that the applicant has met all the requirements set forth in
8 article twenty-two, chapter twenty-two of this code to be
9 designated as a brownfield site or voluntary remediated site and is
10 in compliance with the remediation plan;

11 (10) Nothing may be construed by this section to exempt
12 brownfield economic districts from environmental regulation that
13 would pertain to the development;

14 (11) The decision of the development office in regard to an
15 application is final; and

16 (12) Once designated, the district shall work in conjunction
17 with the regional brownfield assistance centers of Marshall
18 University and West Virginia University as specified in section
19 seven, article eleven, chapter eighteen-b of this code.(b) The
20 development office shall propose rules for legislative approval in
21 accordance with the provisions of article three, chapter
22 twenty-nine-a of this code to implement this section and the rules
23 shall include, but not be limited to, the application and time line
24 process, notice provisions, additional application consideration

1 criteria and application fees sufficient to cover the costs of the
2 consideration of an application. The development office shall
3 promulgate emergency rules pursuant to the provisions of section
4 fifteen, article three, chapter twenty-nine-a of this code by
5 October 1, 2008, to facilitate the initial implementation of this
6 section.