

WEST VIRGINIA LEGISLATURE

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Originating

House Bill 3301

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[Originating in the Committee on Finance; reported on

March 23, 2021]

1 A BILL to amend and reenact §7-11B-3, §7-11B-7, §7-11B-8, §7-11B-9, §7-11B-10, §7-11B-18,
2 and §7-11B-22 of the Code of West Virginia, 1931, as amended, relating generally to
3 property tax increment financing districts; authorizing payment in lieu of tax agreements
4 for property located within property tax increment financing districts; authorizing a county
5 commission or municipality to modify the termination time of certain districts; extending
6 length of certain districts; providing clarification as to the discharge of any tax increment
7 financing obligations outstanding on the termination date of a property tax district;
8 eliminating certain existing limitations on the terms of property tax increment financing
9 obligations issued to refund existing obligations; providing clarifications with respect to the
10 base assessed value and termination date when two or more tax increment financing
11 districts have been combined; and changing the notice required to be given to other
12 levying bodies prior to a new project plan for a property tax district being considered for
13 approval.

Be it enacted by the Legislature of West Virginia:

§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 §7-12-1 of this code, a port authority, an airport authority or any
7 other entity created by this state or an agency or instrumentality of this state that engages in
8 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, Class II or Class III municipality in
49 this state.

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

58 "Development office" means the West Virginia Department of Economic Development
59 ~~Office~~ created in §5B-2-1 of this code.

60 "Development project" or "redevelopment project" means a project undertaken in a
61 development or redevelopment district for eliminating or preventing the development or spread of
62 slums or deteriorated, deteriorating or blighted areas, for discouraging the loss of commerce,
63 industry or employment, for increasing employment or for any combination thereof in accordance

64 with a tax increment financing plan. A development or redevelopment project may include one or
65 more of the following:

66 (A) The acquisition of land and improvements, if any, within the development or
67 redevelopment district and clearance of the land so acquired; or

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

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

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

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

86 "Development or redevelopment district" means an area proposed by one or more
87 agencies as a development or redevelopment district which may include one or more counties,
88 one or more municipalities or any combination thereof, that has been approved by the county
89 commission of each county in which the project area is located if the project is located outside the

90 corporate limits of a municipality, or by the governing body of a municipality if the project area is
91 located within a municipality, or by both the county commission and the governing body of the
92 municipality when the development or redevelopment district is located both within and without a
93 municipality.

94 "Division of Highways" means the state Department of Transportation, Division of
95 Highways.

96 "Economic development area" means any area or portion of an area within the boundaries
97 of a development or redevelopment district located within the territorial limits of a municipality or
98 county that is neither a blighted area nor a conservation area and for which the county commission
99 finds that development or redevelopment will not be solely used for development of commercial
100 businesses that will unfairly compete in the local economy and that development or
101 redevelopment is in the public interest because it will:

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

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

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

107 "Governing body of a municipality" means the city council of a Class I, Class II or Class III
108 municipality in this state.

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

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

115 “Intergovernmental agreement” means any written agreement that may be entered into by
116 and between two or more county commissions, or between two or more municipalities, or between
117 a county commission and a municipality, in the singular and the plural, or between two or more
118 government entities and the Commissioner of Highways: *Provided*, That any intergovernmental
119 agreement shall not be subject to provisions governing intergovernmental agreements set forth
120 in other provisions of this code, including, but not limited to, §8-23-1 *et seq.* of this code, but shall
121 be subject to the provisions of this article.

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

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

129 “Order” means an order of the county commission adopted in conformity with the
130 provisions of this article and as provided in this chapter.

131 “Ordinance” means a law adopted by the governing body of a municipality in conformity
132 with the provisions of this article and as provided in §8-1-1 *et seq.* of this code.

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

141 ~~real and tangible personal property in the development or redevelopment district until the~~
142 ~~designation is terminated as provided in this article~~ a payment with respect to real and personal
143 property located in a development or redevelopment district and owned in title by this state, a
144 political subdivision of this state or an agency or instrumentality thereof, that is made by the lessee
145 of such property pursuant to a written payment in lieu of taxes agreement, whether in effect as of,
146 or subsequent to, the date of creation of the development or redevelopment district.

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

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

153 "Project" means any capital improvement, facility or both, as specifically set forth and
154 defined in the project plan, requiring an investment of capital including, but not limited to,
155 extensions, additions or improvements to existing facilities, including water or wastewater
156 facilities, and the remediation of contaminated property as provided for in §22-22-1 *et seq.* of this
157 code, but does not include performance of any governmental service by a county or municipal
158 government.

159 "Project area" means an area within the boundaries of a development or redevelopment
160 district in which a development or redevelopment project is undertaken as specifically set forth
161 and defined in the project plan.

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

167 (A) Capital costs, including, but not limited to, the actual costs of the construction of public
168 works or improvements, capital improvements and facilities, new buildings, structures and
169 fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings,
170 structures and fixtures, environmental remediation, parking and landscaping, the acquisition of
171 equipment and site clearing, grading and preparation;

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

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

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

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

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

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

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

192 (l) That portion of costs related to the construction of environmental protection devices,
193 storm or sanitary sewer lines, water lines, amenities or streets or the rebuilding or expansion of
194 streets, or the construction, alteration, rebuilding or expansion of which is necessitated by the
195 project plan for a development or redevelopment district, whether or not the construction,
196 alteration, rebuilding or expansion is within the area or on land contiguous thereto.

197 "Project developer" means any person who engages in the development of projects in the
198 state.

199 "Project plan" means the plan for a development or redevelopment project that is adopted
200 by a county commission or governing body of a municipality in conformity with the requirements
201 of this article and this chapter or §8-1-1 *et seq.* of this code.

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

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

213 "Redevelopment plan" means the comprehensive program under this article of a county
214 or municipality for redevelopment intended by the payment of redevelopment costs to reduce or
215 eliminate those conditions, the existence of which qualified the redevelopment area as a blighted
216 area, conservation area, economic development area or combination thereof, and to thereby

217 enhance the tax bases of the levying bodies which extend into the redevelopment area. Each
218 redevelopment plan shall conform to the requirements of this article.

219 "Tax increment" means the amount of regular levy property taxes attributable to the
220 amount by which the current assessed value of real and tangible personal property having a tax
221 situs in a development or redevelopment district exceeds the base assessed value of the property.

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

227 "This code" means the Code of West Virginia, 1931, as amended by the Legislature.

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

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

1 (a) County commissions and the governing bodies of Class I, Class II or Class III
2 municipalities, upon their own initiative or upon application of an agency or a developer, may
3 propose creation of a development or redevelopment district and designate the boundaries of the
4 district: *Provided*, That a district may not include noncontiguous land.

5 (b) The county commission or municipality proposing creation of a development or
6 redevelopment district shall then hold a public hearing at which interested parties are afforded a
7 reasonable opportunity to express their views on the proposed creation of a development or
8 redevelopment district and its proposed boundaries.

9 (1) Notice of the hearing shall be published as a Class II legal advertisement in accordance
10 with §59-3-2 of this code.

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

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

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

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

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

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

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

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

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

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

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

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

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

59 (7) Provides that ad valorem property taxes on real and tangible personal property having
60 a tax situs in the development or redevelopment district shall be assessed, collected and allocated
61 in the following manner, commencing upon the date of adoption of such order or ordinance and

62 continuing for so long as any tax increment financing obligations are payable from the tax
63 increment financing fund, hereinafter authorized, are outstanding and unpaid:

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

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

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

81 (D) In no event shall the tax increment include any taxes collected from excess levies,
82 levies for general obligation bonded indebtedness or any levies other than the regular levies
83 provided for in §11-8-1 *et seq.* of this code.

84 (e) Proceeds from tax increment financing obligations issued under this article may only
85 be used to pay for costs of development and redevelopment projects to foster economic
86 development in the development or redevelopment district or land contiguous thereto.

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

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

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

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

102 (j) The county commission may modify the boundaries of the development or
103 redevelopment district, from time to time, or, if the boundaries of the development or
104 redevelopment district are not modified, the governing body of a county may extend the length of
105 existence of the development or redevelopment district as set forth in §7-11B-10 of this code, by
106 entry of an order modifying the order creating the development or redevelopment district.

107 (k) The governing body of a municipality may modify the boundaries of the development
108 or redevelopment district, from time to time, or extend the length of existence of the development
109 or redevelopment district as set forth in §7-11B-10 of this code, by amending the ordinance
110 establishing the boundaries of the district creating the development or redevelopment district.

111 (l) Before a county commission or the governing body of a municipality may amend such
112 an order or ordinance, the county commission or municipality shall give the public notice as

113 provided in subdivisions (1) and (2), subsection (b) of this section, hold a public hearing, as
114 provided in subdivision (4), subsection (b) of this section, and obtain the approval of the director
115 of the Development Office, ~~following the procedures for establishing a new development or~~
116 ~~redevelopment district.~~ In the event any tax increment financing obligations are outstanding with
117 respect to the development or redevelopment district, any change in the boundaries shall not
118 reduce the amount of tax increment available to secure the outstanding tax increment financing
119 obligations.

§7-11B-8. Project plan — approval.

1 (a) The county commission or municipality creating the district shall cause the preparation
2 of a project plan for each development or redevelopment district and the project plan shall be
3 adopted by order of the county commission, or ordinance adopted by the governing body of the
4 municipality, after it is approved by the executive director of the Development Office. This process
5 shall conform to the procedures set forth in this section.

6 (b) Each project plan shall include:

7 (1) A statement listing the kind, number and location of all proposed public works or other
8 improvements within the district and on land outside but contiguous to the district;

9 (2) A cost-benefit analysis showing the economic impact of the plan on each levying body
10 that is at least partially within the boundaries of the development or redevelopment district. This
11 analysis shall show the impact on the economy if the project is not built and is built pursuant to
12 the development or redevelopment plan under consideration. The cost-benefit analysis shall
13 include a fiscal impact study on every affected levying body and sufficient information from the
14 developer for the agency, if any proposing the plan, the county commission be asked to approve
15 the project and the Development Office to evaluate whether the project as proposed is financially
16 feasible;

17 (3) An economic feasibility study;

18 (4) A detailed list of estimated project costs;

19 (5) A description of the methods of financing all estimated project costs, including the
20 issuance of tax increment obligations and the time when the costs or monetary obligations related
21 thereto are to be incurred;

22 (6) A certification by the county assessor of the base assessed value of real and tangible
23 personal property having a tax situs in a development or redevelopment district: *Provided*, That if
24 such certification is made during the months of January or February of each year, the county
25 assessor may certify an estimated base assessed value of real and tangible personal property
26 having a tax situs in a development or redevelopment district: *Provided, however*, That prior to
27 issuance of tax increment obligations, the county assessor shall certify a final base assessed
28 value for the estimated base assessed value permitted by this section;

29 (7) The type and amount of any other revenues that are expected to be deposited to the
30 tax increment financing fund of the development or redevelopment district;

31 (8) A map showing existing uses and conditions of real property in the development or
32 redevelopment district;

33 (9) A map of proposed improvements and uses in the district;

34 (10) Proposed changes of zoning ordinances, if any;

35 (11) Appropriate cross-references to any master plan, map, building codes and municipal
36 ordinances or county commission orders affected by the project plan;

37 (12) A list of estimated nonproject costs;

38 (13) A statement of the proposed method for the relocation of any persons, businesses or
39 organizations to be displaced;

40 (14) A certificate from the executive director of the workers' compensation commission,
41 the commissioner of the Bureau of Employment Programs and the State Tax Commissioner that
42 the project developer is in good standing with the workers' compensation commission, the Bureau
43 of Employment Programs and the state Tax Division; and

44 (15) A certificate from the sheriff of the county or counties in which the development or
45 redevelopment district is located that the project developer is not delinquent on payment of any
46 real and personal property taxes in such county.

47 (c) If the project plan is to include tax increment financing, the tax increment financing
48 portion of the plan shall set forth:

49 (1) The amount of indebtedness to be incurred pursuant to this article;

50 (2) An estimate of the tax increment to be generated as a result of the project;

51 (3) The method for calculating the tax increment, which shall be in conformance with the
52 provisions of this article, together with any provision for adjustment of the method of calculation;

53 (4) Any other revenues, such as payment in lieu of tax revenues, to be used to secure the
54 tax increment financing; and

55 (5) Any other provisions as may be deemed necessary in order to carry out any tax
56 increment financing to be used for the development or redevelopment project.

57 (d) If less than all of the tax increment is to be used to fund a development or
58 redevelopment project or to pay project costs or retire tax increment financing, the project plan
59 shall set forth the portion of the tax increment to be deposited in the tax increment financing fund
60 of the development or redevelopment district and provide for the distribution of the remaining
61 portion of the tax increment to the levying bodies in whose jurisdiction the district lies.

62 (e) The county commission or governing body of the municipality that established the tax
63 increment financing fund shall hold a public hearing at which interested parties shall be afforded
64 a reasonable opportunity to express their views on the proposed project plan being considered
65 by the county commission or the governing body of the municipality.

66 (1) Notice of the hearing shall be published as a Class II legal advertisement in accordance
67 with ~~section two, article three, chapter fifty-nine~~ §59-3-2 of this code.

68 (2) ~~At least 30 days prior to this publication,~~ Prior to publication, a copy of the notice and
69 ~~a copy of the proposed project plan~~ shall be sent by first-class mail to the chief executive officer

70 of all other levying bodies having the power to levy taxes on property located within the proposed
71 development or redevelopment district.

72 (f) Approval by the county commission or the governing body of a municipality of an initial
73 development or redevelopment project plan must be within one year after the date of the county
74 assessor's certification required by subdivision (6), subsection (b) of this section: *Provided*, That
75 additional development or redevelopment project plans may be approved by the county
76 commission or the governing body of a municipality in subsequent years, so long as the
77 development or redevelopment district continues to exist. The approval shall be by order of the
78 county commission or ordinance of the municipality, which shall contain a finding that the plan is
79 economically feasible.

§7-11B-9. Project plan – amendment.

1 (a) The county commission may by order, or the governing body of a municipality by
2 ordinance, adopt an amendment to a project plan.

3 (b) Adoption of an amendment to a project plan shall be preceded by a public hearing held
4 by the county commission, or governing body of the municipality, at which interested parties shall
5 be afforded a reasonable opportunity to express their views on the amendment.

6 (1) Notice of the hearing shall be published as a Class II legal advertisement in accordance
7 with ~~section two, article three, chapter fifty-nine~~ §59-3-2 of this code.

8 (2) Prior to publication, a copy of the notice shall be sent by first-class mail to the chief
9 executive officer of all other local levying bodies having the power to levy taxes on property within
10 the development or redevelopment district.

11 (3) Copies of the proposed plan amendments shall be made available to the public at the
12 county clerk's office or municipal clerk's office at least fifteen days prior to the hearing.

13 (c) One or more existing development or redevelopment districts may be combined
14 pursuant to lawfully adopted amendments to the original plans for each district: *Provided*, That
15 the county commission, or governing body of the municipality, finds that the combination of the

16 districts will not impair the security for any tax increment financing obligations previously issued
17 pursuant to this article.

18 (1) The base assessed value of the real and tangible personal property located in the
19 combined development or redevelopment district following such combination shall be the same
20 base assessed value as existed for such real and tangible personal property in each of the
21 separate development or redevelopment districts prior to such combination.

22 (2) The termination date for the combined development or redevelopment district which
23 results from the combination of two or more previously created districts shall be the termination
24 date as provided pursuant to §7-11B-10 of this code of the development or redevelopment district
25 which had the latest termination date prior to the combination of such districts.

§7-11B-10. Termination of development or redevelopment district.

1 (a) No development or redevelopment district may be in existence for a period longer than
2 thirty years and no tax increment financing obligations may have a final maturity date later than
3 the termination date of the area or district: Provided, That, for any existing development or
4 redevelopment district for which tax increment financing obligations have been issued by a county
5 commission, or the governing body of a municipality, prior to December 31, 2020, that existing
6 development or redevelopment district may be in existence until December 31, 2050.

7 (b) The county commission or governing body of the municipality creating the development
8 or redevelopment district may set a shorter period for the existence of the district. In this event,
9 no tax increment financing obligations may have a final maturity date later than the termination
10 date of the district. The county commission or the governing body of the municipality which
11 created the development or redevelopment district may not take action to terminate a district prior
12 to the time otherwise provided in its official action creating the district if the county commission or
13 the governing body of the municipality then has tax increment revenue obligations which remain
14 outstanding and unpaid.

15 (c) Upon termination of the district, no further ad valorem tax revenues shall be distributed
16 to the tax increment financing fund of the district.

17 (d) Upon the termination of the district, other than early termination by the county
18 commission or the governing body of the municipality creating the district prior to the date
19 scheduled for its termination by this Act or the official action taken by the county commission or
20 the governing body of the municipality creating the district, any tax increment financing obligations
21 which remain outstanding and unpaid following their maturity date, together with any interest,
22 premium or other charges associated therewith shall be deemed to be discharged and satisfied,
23 and no longer due and payable following such termination date.

24 (e) The county commission shall adopt, upon the expiration of the time periods set forth in
25 this section, an order terminating the development or redevelopment district created by the county
26 commission: ~~Provided, That no district shall be terminated so long as bonds with respect to the~~
27 ~~district remain outstanding.~~

28 (e) (f) The governing body of the ~~county commission~~ municipality shall repeal, upon the
29 expiration of the time periods set forth in this section, the ordinance establishing the development
30 or redevelopment district: ~~Provided, That no district shall be terminated so long as bonds with~~
31 ~~respect to the district remain outstanding.~~

§7-11B-18. Payments in lieu of taxes and other revenues.

1 (a) The county commission or municipality that created the development or redevelopment
2 district shall deposit in the tax increment financing fund of the development or redevelopment
3 district all payments in lieu of taxes received pursuant to any agreement entered into on or
4 subsequent to the date of creation of a development or redevelopment district on tax exempt
5 property located within the development or redevelopment district and prior to the amendments
6 to this section enacted in the 2021 regular session of the Legislature.

7 (b) ~~The lessee of property that is exempt from property taxes because it is owned by this~~
8 ~~state, a political subdivision of this state or an agency or instrumentality thereof, which is the~~

9 ~~lessee of any facilities financed, in whole or in part, with tax increment financing obligations, shall~~
10 ~~execute a payment in lieu of tax agreement that shall remain in effect until the tax increment~~
11 ~~financing obligations are paid, during which period of time the lessee agrees to pay to the county~~
12 ~~sheriff an amount equal to the amount of ad valorem property taxes that would have been levied~~
13 ~~against the assessed value of the property were it owned by the lessee rather than a tax exempt~~
14 ~~entity. The~~

15 (b) Any real or personal property located within the development or redevelopment district
16 and owned by this state, a political subdivision of this state or an agency or instrumentality thereof
17 may be made subject to a payment in lieu of taxes agreement. The real and personal property
18 subject to a payment in lieu of taxes agreement is deemed public property and exempt from ad
19 valorem property taxation by this state, a political subdivision of this state, an agency or
20 instrumentality thereof or other levying body, so long as it is owned in title by this state, a political
21 subdivision of this state or an agency or instrumentality thereof. The exemption from ad valorem
22 property taxation is applicable to any leasehold or similar interest held by persons other than this
23 state, a political subdivision of this state or an agency or instrumentality thereof, if acquired or
24 constructed with the written agreement of the county school board, county commission and any
25 municipal authority within whose jurisdiction the real and personal property is physically situated.

26 (c) Any payment in lieu of taxes agreement shall be made between the public entity that
27 owns the property, the lessee of the property who would be making the payment in lieu of taxes
28 and the county school board, county commission and any municipal authority within whose
29 jurisdiction the real or personal property is situate. The payment in lieu of taxes agreement shall
30 provide the amount that shall be paid by the lessee and the amount, if any, that shall be
31 attributable to the base assessed value of the property and the incremental value.

32 (d) Any portion of the payment in lieu of taxes attributable in the payment in lieu of tax
33 agreement to the incremental value shall be deposited in the tax increment financing fund. The
34 remaining portion of the in lieu payment shall be distributed among the levying bodies as follows:

35 (1) The portion of the in lieu tax payment attributable to the base value of the property
36 shall be distributed to the levying bodies in the same manner as taxes attributable in the payment
37 in lieu of tax agreement to the base value of other property in the district are distributed; and

38 (2) The portions of the in lieu tax payment attributable in the payment in lieu of tax
39 agreement to levies for bonded indebtedness and excess levies shall be distributed in the same
40 manner as those levies on other property in the district are distributed.

41 ~~(e)~~ (e) Other revenues to be derived from the development or redevelopment district may
42 also be deposited in the tax increment financing fund at the direction of the county commission.

§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~~ their issue date, or a period terminating with the date of
11 termination of the 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~~ §13-
26 2C-1 et seq. of this 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~~ termination date of the district as set forth in §7-
30 11B-10 of this code.

NOTE: The purpose of this bill is to revise the West Virginia Tax Increment Financing Act to authorize a county commission or municipality to modify the termination times of certain districts, eliminating internal inconsistencies regarding the discharge of all obligations upon the termination date of a district, providing clarification as to the result when two tax increment financing districts are combined, providing a workable framework for the utilization of payment in lieu of tax arrangements within property TIF Districts, shortening the notice period for providing a copy of notice of public hearing to levying bodies prior to conducting a public hearing on the approval or amendment of a project plan and making other clarifications.

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