WEST virginia legislature

2024 regular session

Committee Substitute

for

Senate Bill 669

By Senators Tarr, Grady, and Plymale

[Originating in the Committee on Economic Development; reported February 8, 2024]

A BILL to amend and reenact §7-22-9 of the Code of West Virginia, 1931, as amended, relating to county economic opportunity development districts; extending when the Fort Henry Economic Opportunity Development District may be abolished or terminated; increasing the land area within the Ridges Economic Opportunity Development District subject to the special district excise tax authorizing the Mason County Commission to levy a special district excise tax; authorizing the special district excise tax for the benefit of the Town of Henderson Economic Opportunity District; setting forth the land area within the special district subject to the special district excise tax; authorizing the commission to create the district and levy the special district excise tax without the approval of the executive director of the development office; authorizing the commission to determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount, and the estimated net annual district tax revenue amount; and requiring the Tax Commissioner to provide the commission with certification of the base tax revenue amount.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

§7-22-9. Authorization to levy special district excise tax.

(a) *General*. — County commissions have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically extended, and intends by this article, to exercise certain relevant powers expressed in section six-a, article X of the Constitution of West Virginia as follows: (1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission, or agency thereof, or any other source, to any county, municipality, or other political subdivision of the state, under such circumstances and subject to such terms, conditions, and restrictions as the Legislature may prescribe by law; and (2) the Legislature may impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities, or other political subdivisions of the state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities, or other political subdivisions of the state under such circumstances and subject to such terms, conditions, and restrictions as the Legislature may prescribe.

Because a special district excise tax would have the effect of diverting, for a specified period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars currently paid into the General Revenue Fund of the state, the Legislature finds that in order to substantially ensure that such special district excise taxes will not adversely impact the current level of the General Revenue Fund of the state, it is necessary for the Legislature to separately consider and act upon each and every economic development district which is proposed, including the unique characteristics of location, current condition and activity of and within the area included in such proposed economic opportunity development district and that for such reasons a statute more general in ultimate application is not feasible for accomplishment of the intention and purpose of the Legislature in enacting this article. Therefore, no economic opportunity development district excise tax may be levied by a county commission until after the Legislature expressly authorizes the county commission to levy a special district excise tax on sales of tangible personal property and services made within district boundaries approved by the Legislature.

(b) *Authorizations*. — The Legislature authorizes the following county commissions to levy special district excise taxes on sales of tangible personal property and services made from business locations in the following economic opportunity development districts:

(1) The Ohio County Commission may levy a special district excise tax for the benefit of the Fort Henry Economic Opportunity Development District which comprises 500 contiguous acres of land. Notwithstanding the time limitations provisions of §7-22-15(a)(2) of this code, the Fort Henry Economic Opportunity Development District shall not be abolished under §7-22-15(a)(2) of this code until the year ~~2044~~ 2054 unless sooner abolished and terminated in accordance with the provisions of §7-22-15(a)(1) of this code or any other provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, ~~2044~~ 2054, the provisions of §7-22-15(a)(2) of this code shall apply to abolish the Fort Henry Economic Opportunity Development District, if the district has not been abolished prior to that date.

(2) The Harrison County Commission may levy a special district excise tax for the benefit of the Charles Pointe Economic Opportunity Development District which comprises 437 acres of land.

(3) The Monongalia County Commission may levy a special district excise tax for the benefit of the University Town Centre Economic Opportunity Development District which comprises approximately 1,450 contiguous acres of land. Notwithstanding the time limitations provisions of §7-22-15(a)(2) of this code, the University Town Centre Economic Opportunity Development District shall not be abolished pursuant to §7-22-15(a)(2) of this code until the year 2053, unless sooner abolished and terminated in accordance with the provisions of subdivision §7-22-15(a)(1) of this code or any other provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, 2053, the provisions of §7-22-15(a)(2) of this code shall apply to abolish the University Town Centre Economic Opportunity Development District, if the district has not been abolished prior to that date.

(4) The Jefferson County Commission may levy a special district excise tax for the benefit of the Hill Top House Hotel Economic Opportunity District which comprises approximately 11 contiguous acres of land: *Provided,* That notwithstanding any other provision of this article to the contrary:

(A) The Jefferson County Commission may create the district and levy the special district excise tax by order entered of record as provided in §7-22-10 of this code without the approval of the executive director of the development office; and

(B) The Jefferson County Commission may determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount in lieu of that determination by the development office as provided in §7-22-7 of this code. For purposes of determining the base tax revenue amount, the Jefferson County Commission shall promptly request a certification from the Tax Commissioner of the base tax revenue amount and the Tax Commissioner shall provide the certification to the Jefferson County Commission within 30 days.

(5) The Mercer County Commission may levy a special district excise tax for the benefit of the Ridges Economic Opportunity Development District which comprises approximately ~~390~~ 420 contiguous acres of land, subject to holding a public hearing as provided in §7-22-14(c) of this code, submitting the application required by §7-22-14(d) of this code, and obtaining the approval of the West Virginia Development Office as provided in §7-22-14(e) of this code.

(6) The Mason County Commission may levy a special district excise tax for the benefit of the Town of Henderson Economic Opportunity District which comprises approximately 3,854 contiguous acres of land: *Provided,* That notwithstanding any other provision of this article to the contrary:

(A) The Mason County Commission may create the district and levy the special district excise tax by order entered of record as provided in §7-22-10 of this code without the approval of the executive director of the development office; and

(B) The Mason County Commission may determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount in lieu of that determination by the development office as provided in §7-22-7 of this code. For purposes of determining the base tax revenue amount, the Mason County Commission shall promptly request a certification from the Tax Commissioner of the base tax revenue amount and the Tax Commissioner shall provide the certification to the Mason County Commission within 30 days.