1	Н. В. 2228
2	
3	(By Delegate Doyle)
4	[Introduced January 12, 2011; referred to the
5	Committee on Political Subdivisions then the Judiciary.]
6	
7	
8	
9	
10	A BILL to repeal §7-1-3nn of the Code of West Virginia, 1931, as
11	amended; and to amend and reenact $\$7-1-3mm$ of said code, all
12	relating to permitting county commissions to establish a
13	program for transfer of development rights without the
14	requirement of a county election.
15	Be it enacted by the Legislature of West Virginia:
16	That §7-1-3nn of the Code of West Virginia, 1931, as amended,
17	be repealed; and that $\$7-1-3mm$ of said code be amended and
18	reenacted, all to read as follows:
19	ARTICLE 1. COUNTY COMMISSIONS GENERALLY.
20	97-1-3mm. Transfer of development rights in growth counties.
21	(a) In addition to all other powers and duties now conferred
22	by law upon county commissions, if a county has been designated as
23	a growth county as that term is defined in section three, article

1

1 twenty of this chapter, those the county commissions upon approval
2 by a majority of the legal votes cast at an election as provided in
3 section three-nn of this article, are hereby commission of the
4 county so designated as a growth county is authorized to, as part
5 of a county-wide zoning ordinance, establish a program for the
6 transfer of development rights in order to:

7 (1) Encourage the preservation of natural resources;

8 (2) Protect the historic, scenic, recreational and 9 agricultural qualities of open lands; and

(3) Facilitate orderly growth and development in the county.
(b) The program for the transfer of development rights may
provide for:

(1) The voluntary transfer of the development rights permitted 14 on any parcel of land to another parcel of land for use in 15 accordance with the zoning and subdivision ordinance;

16 (2) Restricting or prohibiting further development of the 17 parcel from which development rights are severed; and

18 (3) Increasing the density or intensity of development of the19 parcel to which such rights are transferred.

(c) The program for the transfer of development rights shall:
(1) Designate a program for which development rights may be
transferred from any parcel of land to any other parcel of land for
use in accordance with the zoning and subdivision ordinance;
(2) Provide that any rights transferred under this section be

2

1 for a period of ten years and may be renewed for additional ten 2 year periods; and

3 (3) Any rights which expire before being used for development, 4 revert to the original parcel of land from which the rights were 5 first severed.

6 (d) The county commission may not set a price for any 7 development rights that are proposed to be transferred or received. 8 (e) "Transferable development rights" means an interest in 9 real property that constitutes the right to develop and use 10 property under the zoning ordinance which is made severable from 11 the parcel to which the interest is appurtenant and transferable to 12 another parcel of land for development and use in accordance with 13 the zoning ordinance.

(f) Transferable development rights may be transferred by deed from the owner of the parcel from which the development rights are derived and upon the transfer shall vest in the grantee and be freely alienable.

18 (g) The zoning ordinance may provide for:

19 (1) The method of transfer of development rights;

20 (2) Recordation of the date of each transfer;

21 (3) The names of the transferor and transferee;

22 (4) A description of the property;

23 (5) The granting of easements;

24 (6) Reasonable regulations to effect and control transfers and

3

1 assure compliance with the provisions of the ordinance; and

2

(7) Any other information necessary to administer the program.

NOTE: The purpose of this bill is to provide that a county commission may establish a program for transfer of development rights without the requirement for an election on an ordinance for the program.

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