

H. B. 2871

(BY DELEGATES LAWRENCE AND DOYLE)

[Introduced January 26, 2011; referred to the
Committee on Political Subdivisions then Finance.]

A BILL to amend and reenact §5B-2-6a of the Code of West Virginia, 1931, as amended, relating to brownfield economic development districts; and providing that governing bodies of municipalities and counties have regulatory and oversight authority over these districts.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

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

1 (a) Any property owner of a tract of land that is a
2 brownfield or voluntary remediated site pursuant to article
3 twenty-two, chapter twenty-two of this code may, if the site
4 and surrounding area were involved in the extraction and
5 processing of coal, limestone or other natural resources,
6 apply to the Development Office to become a brownfield
7 economic development district.

8 (1) Applicants for a brownfield economic development
9 district must demonstrate that the district when designated
10 will create significant economic development activity;

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

15 (3) Brownfield economic development districts:

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

17 (B) Shall provide all the infrastructure within the district
18 without cost to the state, county, public service district or
19 local municipal government;

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

24 (5) The applicant shall own or control the property within
25 the district;

26 (6) All costs for the application process shall be borne by
27 the applicant;

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

31 (8) Brownfield economic development districts, once
32 approved, are not subject to the provisions of chapter eight-a
33 of this code. An application for a brownfield economic
34 development district may not be approved unless the district
35 conforms to local planning laws;

36 (9) Prior to granting a designation of brownfield
37 economic development district, the applicant shall provide
38 documentation that the applicant has met all the requirements

39 set forth in article twenty-two, chapter twenty-two of this
40 code to be designated as a brownfield site or voluntary
41 remediated site and is in compliance with the remediation
42 plan;

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

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

48 (12) Once designated, the district shall work in
49 conjunction with the regional brownfield assistance centers
50 of Marshall University and West Virginia University as
51 specified in section seven, article eleven, chapter eighteen-b
52 of this code. (b) The development office shall propose rules
53 for legislative approval in accordance with the provisions of
54 article three, chapter twenty-nine-a of this code to implement
55 this section and the rules shall include, but not be limited to,
56 the application and time line process, notice provisions,
57 additional application consideration criteria and application

58 fees sufficient to cover the costs of the consideration of an
59 application. The development office shall promulgate
60 emergency rules pursuant to the provisions of section fifteen,
61 article three, chapter twenty-nine-a of this code by October
62 1, 2008, to facilitate the initial implementation of this section.

NOTE: The purpose of this bill is to provide that brownfield economic development districts must comply with local planning laws before an application for such districts will be approved.

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