

1                                   **Senate Bill No. 540**

2    (By Senators Kessler (Mr. President), Edgell, Fitzsimmons, Yost  
3                                   and Beach

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5           [Introduced March 15, 2013; referred to the Committee on  
6   Government Organization; and then to the Committee on Finance.]

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10 A BILL to amend and reenact §7-22-9 of the Code of West Virginia,  
11       1931, as amended, relating to permitting the Ohio county  
12       commission to levy a special district excise tax; and  
13       increasing the Fort Henry economic opportunity development  
14       project district from three hundred to five hundred contiguous  
15       acres of land.

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

17       That §7-22-9 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

19 **ARTICLE 22.   COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.**

20 **§7-22-9.   Authorization to levy special district excise tax.**

21       (a) *General.* -- County commissions have no inherent authority  
22 to levy taxes and have only that authority expressly granted to

1 them by the Legislature. The Legislature is specifically extended,  
2 and intends by this article, to exercise certain relevant powers  
3 expressed in section six-a, article X of the Constitution of this  
4 state as follows: (1) The Legislature may appropriate state funds  
5 for use in matching or maximizing grants-in-aid for public purposes  
6 from the United States or any department, bureau, commission or  
7 agency thereof, or any other source, to any county, municipality or  
8 other political subdivision of the state, under such circumstances  
9 and subject to such terms, conditions and restrictions as the  
10 Legislature may prescribe by law; and (2) the Legislature may  
11 impose a state tax or taxes or dedicate a state tax or taxes or any  
12 portion thereof for the benefit of and use by counties,  
13 municipalities or other political subdivisions of the state for  
14 public purposes, the proceeds of any such imposed or dedicated tax  
15 or taxes or portion thereof to be distributed to such counties,  
16 municipalities or other political subdivisions of the state under  
17 such circumstances and subject to such terms, conditions and  
18 restrictions as the Legislature may prescribe.

19       Because a special district excise tax would have the effect of  
20 diverting, for a specified period of years, tax dollars which to  
21 the extent, if any, are not essentially incremental to tax dollars  
22 currently paid into the General Revenue Fund of the state, the  
23 Legislature finds that in order to substantially ensure that such

1 special district excise taxes will not adversely impact the current  
2 level of the General Revenue Fund of the state, it is necessary for  
3 the Legislature to separately consider and act upon each and every  
4 economic development district which is proposed, including the  
5 unique characteristics of location, current condition and activity  
6 of and within the area included in such proposed economic  
7 opportunity development district and that for such reasons a  
8 statute more general in ultimate application is not feasible for  
9 accomplishment of the intention and purpose of the Legislature in  
10 enacting this article. Therefore, no economic opportunity  
11 development district excise tax may be levied by a county  
12 commission until after the Legislature expressly authorizes the  
13 county commission to levy a special district excise tax on sales of  
14 tangible personal property and services made within district  
15 boundaries approved by the Legislature.

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

21 (1) The Ohio county commission may levy a special district  
22 excise tax for the benefit of the "Fort Henry" economic opportunity  
23 development project district which comprises ~~three~~ five hundred

1 contiguous acres of land; and

2       (2) The Harrison county commission may levy a special district  
3 excise tax for the benefit of the "Charles Pointe Economic  
4 Opportunity Development District" which comprises four hundred  
5 thirty-seven acres of land.

NOTE: The purpose of this bill is to increase the number of  
acres of land on which the Ohio county commission may levy a  
special district excise tax for the benefit of the "Fort Henry"  
economic opportunity development district from 300 hundred to 500  
contiguous acres of land.

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