

# **Senate Bill No. 489**

(By Senators Facemire, Cann, Chafin, Edgell,  
Kirkendoll, Snyder and Stollings)

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[Introduced March 8, 2013;  
referred to the Committee on Government Organization.]

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A BILL to amend and reenact §16-13E-6 of the Code of West Virginia, 1931, as amended, relating to permitting community enhancement districts to decrease the amounts of annual property assessments; providing a process that a community enhancement board is to use to certify the decrease to the county sheriff; requiring that any decrease be included in the tax ticket or a modified tax ticket; and specifying that the process may not be used for increases in the annual assessments.

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

That §16-13E-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 13E. COMMUNITY ENHANCEMENT ACT.**

**§16-13E-6. Creation of community enhancement district;  
community enhancement district to be a public  
corporation and political subdivision; powers  
thereof; community enhancement boards.**

1 (a) Each community enhancement district shall be created  
2 by adoption or enactment of an order or ordinance.

3 (b) From and after the date of the adoption or enactment  
4 of the order or ordinance creating a community enhancement  
5 district, it shall thereafter be a public corporation and  
6 political subdivision of this state, but without any power to  
7 levy or collect ad valorem taxes. Each community  
8 enhancement district is hereby empowered and authorized, in  
9 addition to any other rights, powers and authorities conferred  
10 upon it in this article or elsewhere in this code, to:

11 (1) Acquire, own and hold, in its corporate name, by  
12 purchase, lease, right of eminent domain, gift or otherwise,  
13 such property, both real and personal and other interests in

14 real estate, or any other property, whether tangible or  
15 intangible, as may be necessary or incident to the planning,  
16 financing, development, construction, acquisition, extension,  
17 improvement and completion of a project;

18 (2) Design, plan, finance, develop, construct, acquire,  
19 extend, improve and complete one or more projects and  
20 assess the cost of all or any portion of a project on real  
21 property located within the community enhancement district;

22 (3) Sue or be sued;

23 (4) Establish a bank account or accounts in its name;

24 (5) Enter into agreements or other transactions with any  
25 person or governmental agency necessary or incident to the  
26 development, planning, construction, acquisition or  
27 improvement of a project or for the operation, maintenance  
28 or disposition of a project or for any other services required  
29 by a project;

30 (6) Annually, on or before June 7, certify to the sheriff of  
31 the county in which the property is located the assessments

32 granted against all property in the district for inclusion in the  
33 tax ticket;

34 (7) Decrease the amount of the assessments certified to  
35 the county sheriff for collection following the June 7  
36 certification of those assessments by the community  
37 enhancement district to the sheriff as provided by subdivision  
38 (6) of this subsection, upon a finding or determination of the  
39 community enhancement board as established by subsection  
40 (c) of this section that the decrease is necessary or  
41 appropriate under the circumstances, and so certify to the  
42 sheriff of the county where the property is located the  
43 modified assessments granted against all property in the  
44 district for inclusion in the tax ticket or the preparation of  
45 modified tax tickets by that sheriff for the affected parcels.  
46 However, an increase of the assessments following the June  
47 7 certification to the county sheriff is not permitted in this  
48 manner, but rather shall follow the procedures for the original  
49 imposition or increase of assessments provided by section  
50 eight of this article;

51       ~~(7)~~ (8) Expend funds to acquire, or construct part of a  
52 project on property located outside of a community  
53 enhancement district, and for any work undertaken thereon,  
54 as may be necessary or incident to the completion of a  
55 project;

56       ~~(8)~~ (9) Enter into agreements with one or more counties,  
57 municipalities, public service districts or community  
58 enhancement districts to plan, develop, construct, acquire or  
59 improve a project jointly;

60       ~~(9)~~ (10) Accept appropriations, gifts, grants, bequests and  
61 devises and use or dispose of the same to carry out its  
62 corporate purpose;

63       ~~(10)~~ (11) Make and execute contracts, releases,  
64 assignments, compromises and other instruments necessary  
65 or convenient for the exercise of its powers, or to carry out its  
66 corporate purpose;

67       ~~(11)~~ (12) Have a seal and alter the same;

68       ~~(12)~~ (13) Raise funds by the issuance and sale of  
69       assessment bonds;

70       ~~(13)~~ (14) Obtain options to acquire real property, or any  
71       interest therein, by purchase, lease or otherwise, which is  
72       found by the board to be suitable as a site, or part of a site,  
73       for the construction of a project;

74       ~~(14)~~ (15) Pledge funds generated by assessments in a  
75       district or proceeds from the sale of assessment bonds to  
76       payment of debt service on tax increment financing  
77       obligations issued under article eleven-b, chapter seven of  
78       this code for the period of time determined by the community  
79       enhancement board; and

80       ~~(15)~~ (16) Take any and all other actions consistent with  
81       the purpose of this article and not in violation of the  
82       Constitution of this state as may be necessary or incident to  
83       the construction and completion of a project.

84       (c) The powers of each community enhancement district  
85       shall be vested in and exercised by a community

86 enhancement board which shall be composed of five  
87 members, four of whom shall be appointed by the governing  
88 body of the county or municipality in which the community  
89 enhancement district is located and one of whom shall be the  
90 sheriff or his or her designee of the county or the treasurer or  
91 his or her designee of the municipality (or such other person  
92 serving in an equivalent capacity if there is no treasurer), as  
93 the case may be, in which the community enhancement  
94 district is located. At least three members of the board shall  
95 be residents of the assessment district: *Provided*, That should  
96 less than three persons reside within the boundaries of the  
97 community enhancement district, then at least three members  
98 of the board shall be residents of the county or municipality,  
99 as the case may be: *Provided, however*, That if no persons  
100 reside within the boundaries of the community enhancement  
101 district then at least three members must be approved by the  
102 owner or owners of the land. No more than three initial  
103 members of the board may be from the same political party.

104 (d) The four members appointed by the governing body  
105 shall be appointed for overlapping terms of four years each  
106 and thereafter until their respective successors have been  
107 appointed and have qualified. For the purpose of initial  
108 appointments, one member shall be appointed for a term of  
109 four years; one member shall be appointed for a term of three  
110 years; one member shall be appointed for a term of two  
111 years; and one member shall be appointed for a term of one  
112 year. Members may be reappointed for any number of terms.  
113 Before entering upon the performance of his or her duties,  
114 each member shall take and subscribe to the oath required by  
115 section five, article IV of the Constitution of this state.  
116 Vacancies shall be filled by appointment by the governing  
117 body of the county or municipality creating the assessment  
118 district for the unexpired term of the member whose office  
119 shall be vacant and such appointment shall be made within  
120 thirty days of the occurrence of such vacancy. Any such  
121 member may be removed by the governing body which



122 appointed such member in case of incompetency, neglect of  
123 duty, gross immorality or malfeasance in office. Members  
124 shall be entitled to no more than \$50 per meeting and  
125 reasonable expenses associated with their services.

126 (e) The board shall organize within thirty days following  
127 the first appointments and annually thereafter at its first  
128 meeting after January 1 of each year by selecting one of its  
129 members to serve as chairman, one to serve as treasurer and  
130 one to serve as secretary. The secretary, or his or her  
131 designee, shall keep a record of all proceedings of the board  
132 which shall be available for inspection as other public records  
133 and the treasurer, or his or her designee, shall maintain  
134 records of all financial matters relating to the community  
135 enhancement district, which shall also be available for  
136 inspection as other public records. Duplicate records shall be  
137 filed with the clerk or recorder, as the case may be, of the  
138 county or municipality which created the community  
139 enhancement district and shall include the minutes of all

140 board meetings. The secretary and treasurer shall perform  
141 such other duties pertaining to the affairs of the community  
142 enhancement district as shall be prescribed by the board.

143 (f) The members of the board, and the chairman,  
144 secretary and treasurer thereof, shall make available to the  
145 governing body responsible for appointing the board, at all  
146 times, all of its books and records pertaining to the  
147 community enhancement district's operation, finances and  
148 affairs for inspection and audit. The board shall meet at least  
149 semiannually.

150 (g) A majority of the members of the board constitutes a  
151 quorum and meetings shall be held at the call of the  
152 chairman.

153 (h) Staff, office facilities and costs of operation of the  
154 board may be provided by the county or municipality which  
155 created the community enhancement district or by contract  
156 and said costs of operations shall be funded from assessments  
157 collected within the district.

158       (i) The chairman shall preside at all meetings of the board  
159   and shall vote as any other members of the board, but if he or  
160   she should be absent from any meeting the remaining  
161   members may select a temporary chairman, and if the  
162   member selected as chairman resigns as such or ceases for  
163   any reason to be a member of the board, the board shall select  
164   one of its members as chairman to serve until the next annual  
165   organizational meeting.

166       (j) The board shall, by resolution, determine its own rules  
167   of procedure, fix the time and place of its meetings and the  
168   manner in which special meetings may be called. The  
169   members of the board shall not be personally liable or  
170   responsible for any obligations of the assessment district or  
171   the board but are answerable only for willful misconduct in  
172   the performance of their duties.

173       (k) The official name of a community enhancement  
174   district created under the provisions of this article may  
175   contain the name of the county or municipality, as the case  
176   may be, in which it is located.

177       (1) Notwithstanding any provision in this code to the  
178 contrary, the power and authority hereby conferred on  
179 community enhancement districts may extend within the  
180 territory of a public service district created under section two,  
181 article thirteen-a of this chapter.

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(NOTE: The purpose of this bill is to permit community enhancement districts to decrease the amounts of annual property assessments. The bill provides a process that a community enhancement board is to use to certify the decrease to the county sheriff. The bill requires that any decrease be included in the tax ticket or a modified tax ticket. The bill specifies that the process may not be used for increases in the annual assessments, but rather another established procedure shall be used.

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