

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2014**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 439**

(SENATORS FITZSIMMONS, KESSLER (MR. PRESIDENT), BEACH,  
EDGELL AND YOST, *ORIGINAL SPONSORS*)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

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AN ACT to amend and reenact §7-22-9 and §7-22-15 of the Code of West Virginia, 1931, as amended, all relating to county economic opportunity development district; increasing the Fort Henry economic opportunity development project district from three hundred to five hundred contiguous acres of land; providing when the Fort Henry Economic Opportunity Development District may be abolished or terminated; providing time period during which certain economic opportunity development districts may exist and when abolished by operation of law; providing definitions; providing for the authority of the Tax Commissioner; and providing effect of cessation and abolishment of a county economic opportunity development district.

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

That §7-22-9 and §7-22-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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

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

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

23       Because a special district excise tax would have the effect  
24 of diverting, for a specified period of years, tax dollars which  
25 to the extent, if any, are not essentially incremental to tax  
26 dollars currently paid into the General Revenue Fund of the  
27 state, the Legislature finds that in order to substantially  
28 ensure that such special district excise taxes will not  
29 adversely impact the current level of the General Revenue  
30 Fund of the state, it is necessary for the Legislature to  
31 separately consider and act upon each and every economic  
32 development district which is proposed, including the unique  
33 characteristics of location, current condition and activity of

34 and within the area included in such proposed economic  
35 opportunity development district and that for such reasons a  
36 statute more general in ultimate application is not feasible for  
37 accomplishment of the intention and purpose of the  
38 Legislature in enacting this article. Therefore, no economic  
39 opportunity development district excise tax may be levied by  
40 a county commission until after the Legislature expressly  
41 authorizes the county commission to levy a special district  
42 excise tax on sales of tangible personal property and services  
43 made within district boundaries approved by the Legislature.

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

49 (1) The Ohio County Commission may levy a special  
50 district excise tax for the benefit of the Fort Henry Economic  
51 Opportunity Development District which comprises five  
52 hundred contiguous acres of land. Notwithstanding the time  
53 limitations provisions of subdivision two, subsection (a),  
54 section fifteen of this article, the Fort Henry Economic  
55 Opportunity Development District shall not be abolished  
56 under subdivision two, subsection (a), section fifteen of this  
57 article until the year 2044, unless sooner abolished and  
58 terminated in accordance with the provisions of subdivision  
59 one, subsection (a), section fifteen of this article or any other  
60 provision of this code, or sooner abolished for any other  
61 reason: *Provided*, That on December 31, 2044, the provisions  
62 of subdivision two, subsection (a), section fifteen of this  
63 article shall apply to abolish the Fort Henry Economic  
64 Opportunity Development District, if the district has not been  
65 abolished prior to that date.

66 (2) The Harrison County commission may levy a special  
67 district excise tax for the benefit of the Charles Pointe

68 Economic Opportunity Development District which  
69 comprises four hundred thirty-seven acres of land; and

70 (3) The Monongalia County commission may levy a  
71 special district excise tax for the benefit of the University  
72 Town Centre Economic Opportunity District which  
73 comprises approximately one thousand four hundred fifty  
74 contiguous acres of land.

**§7-22-15. Abolishment and dissolution of district; notice;  
hearing.**

1 (a) *General.* – (1) Except upon the express written  
2 consent of the Executive Director of the Development Office  
3 and of all the holders or obligees of any indebtedness or other  
4 instruments the proceeds of which were applied to any  
5 development expenditures or any indebtedness the payment  
6 of which is secured by revenues payable into the fund  
7 provided under section eight of this article or by any public  
8 property, a district may only be abolished by the county  
9 commission when there is no outstanding indebtedness, the  
10 proceeds of which were applied to any development  
11 expenditures or the payment of which is secured by revenues  
12 payable into the fund provided under section eight of this  
13 article, or by any public property, and following a public  
14 hearing upon the proposed abolishment.

15 (2) *Thirty-year limitations.* –

16 (A) *Thirty-year limitation on new districts.* –  
17 Notwithstanding subdivision (1) of this subsection, and  
18 notwithstanding any other provision of this code to the  
19 contrary, any district for which the date of initial enactment  
20 was after December 31, 2013, shall cease to exist and shall be  
21 abolished by operation of law, at 11:59 P.M., United States  
22 eastern time zone, on December 31 of the thirtieth calendar

23 year subsequent to the initial year of enactment. Special  
24 district excise tax may not be levied, imposed or collected in  
25 or from the district so abolished or from or on any business  
26 located therein or any transaction occurring therein after the  
27 cessation and abolishment of the district.

28 (B) *Thirty-year limitation on preexisting districts*  
29 *receiving authorization for boundary changes or other*  
30 *changes after December 31, 2013.* – Notwithstanding  
31 subdivision (1) of this subsection, notwithstanding any other  
32 provision of this code to the contrary and notwithstanding a  
33 date of initial enactment for a district that is prior to  
34 December 31, 2013, if legislative authorization is enacted  
35 after December 31, 2013, to expand or amend the previously  
36 authorized boundary, size or acreage of the district, or make  
37 any other amendment or change relating to the district, such  
38 district shall cease to exist and shall be abolished by  
39 operation of law, at 11:59 P.M., United States eastern time  
40 zone, on December 31 of the thirtieth calendar year  
41 subsequent to the initial year of enactment. Special district  
42 excise tax may not be levied, imposed or collected in or from  
43 the district so abolished or from or on any business located  
44 therein or any transaction occurring therein after the cessation  
45 and abolishment of the district.

46 (C) *Definitions.* – For purposes of this subdivision:

47 (i) The term “date of initial enactment” means the date of  
48 passage of legislation whereby legislative authorization was  
49 first enacted for the county commission to levy special  
50 district excise taxes for a district, and prior to enactment of  
51 any legislative authorization to expand or amend the  
52 authorized boundary, size or acreage of the district, or make  
53 any other amendment or change relating to the district as  
54 originally authorized.

55 (ii) The term “initial year of enactment” means the  
56 calendar year during which the date of initial enactment  
57 occurred.

58 (D) This section shall not be interpreted to abrogate or  
59 hinder the authority of the Tax Commissioner to collect,  
60 receive, process or administer any special district excise tax  
61 accrued, due or payable for any tax period prior to the  
62 cessation and abolishment of the district, or to audit and issue  
63 assessments of tax, interest, additions to tax and penalties for  
64 the collection, remittance and enforcement thereof.

65 (E) Upon cessation and abolishment of a district under  
66 this section or any provision of this code, or any cessation or  
67 abolishment of a district for any reason, the consumers sales  
68 and service tax and use tax and municipal consumers sales  
69 and service tax and use tax, if applicable, shall be imposed,  
70 collected, levied and remitted, as provided by law for sales  
71 and uses in the previously authorized district.

72 (b) *Notice of public hearing.* – Notice of the public  
73 hearing required by subsection (a) of this section shall be  
74 provided by first-class mail to all owners of real property  
75 within the district and shall be published as a Class I-0 legal  
76 advertisement in compliance with article three, chapter fifty-  
77 nine of this code at least twenty days prior to the public  
78 hearing.

79 (c) *Transfer of district assets and funds.* – Upon the  
80 abolishment of any economic opportunity development  
81 district, any funds or other assets, contractual rights or  
82 obligations, claims against holders of indebtedness or other  
83 financial benefits, liabilities or obligations existing after full  
84 payment has been made on all existing contracts, bonds,  
85 notes or other obligations of the district are transferred to and  
86 assumed by the county commission. Any funds or other

87 assets transferred shall be used for the benefit of the area  
88 included in the district being abolished.

89 (d) *Reinstatement of district.* – Following abolishment of  
90 a district pursuant to this section, its reinstatement requires  
91 compliance with all requirements and procedures set forth in  
92 this article for the initial development, approval,  
93 establishment and creation of an economic opportunity  
94 development district.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman Senate Committee*

.....  
*Chairman House Committee*

Originated in the Senate.

In effect from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this  
the ..... Day of ....., 2014.

.....  
*Governor*