

Senate Bill No. 518

(By Senators Blair, Carmichael, Snyder,
Trump and Unger)

[Introduced February 19, 2015;
referred to the Committee on Government Organization;
and then to the Committee on Finance.]

A BILL to amend and reenact §7-12-7 and §7-12-12 of the Code of West Virginia, 1931, as amended, all relating generally to granting the power to county and municipal economic development authorities to invest funds received from the sale, lease or other disposition of real or personal property owned by such authority in a manner determined by the authority's board of directors to be in the best interest of the authority.

Be it enacted by the Legislature of West Virginia:

That §7-12-7 and §7-12-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.

§7-12-7. Powers generally.

1 (a) The development authority is hereby given power and authority as follows: (1) To make
2 and adopt all necessary bylaws and rules for its organization and operations not inconsistent with
3 laws; (2) to elect its own officers, to appoint committees and to employ and fix compensation for
4 personnel necessary for its operation; (3) to enter into contracts with any person, agency,
5 governmental department, firm or corporation, including both public and private corporations, and
6 generally to do any and all things necessary or convenient for the purpose of promoting, developing

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1 and advancing the business prosperity and economic welfare of the county in which it is intended
2 to operate, its citizens and industrial complex, including, without limiting any of the foregoing, the
3 construction of any building or structure for lease to the federal government or any of its agencies
4 or departments, and in connection therewith to prepare and submit bids and negotiate with the
5 federal government or such agencies or departments in accordance with plans and specifications and
6 in the manner and on the terms and conditions and subject to any requirements, regulations, rules
7 and laws of the United States of America for the construction of said buildings or structures and the
8 leasing thereof to the federal government or such agencies or departments; (4) to amend or
9 supplement any contracts or leases or to enter into new, additional or further contracts or leases upon
10 such terms and conditions, for such consideration and for such term of duration, with or without
11 option of renewal, as may be agreed upon by the authority and such person, agency, governmental
12 department, firm or corporation; (5) unless otherwise provided for in, and subject to the provisions
13 of, such contracts, or leases, to operate, repair, manage and maintain such buildings and structures
14 and provide adequate insurance of all types and in connection with the primary use thereof and
15 incidental thereto to provide such services, such as barber shops, newsstands, drugstores and
16 restaurants, and to effectuate such incidental purposes, grant leases, permits, concessions or other
17 authorizations to any person or persons, upon such terms and conditions, for such consideration and
18 for such term of duration as may be agreed upon by the authority and such person, agency,
19 governmental department, firm or corporation; (6) to delegate any authority given to it by law to any
20 of its officers, committees, agents or employees; (7) to apply for, receive and use grants-in-aid,
21 donations and contributions from any source or sources and to accept and use bequests, devises, gifts
22 and donations from any person, firm or corporation; (8) to acquire real property by gift, purchase or

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1 construction, or in any other lawful manner, and hold title thereto in its own name and to sell, lease
2 or otherwise dispose of all or part of such real property which it may own, either by contract or at
3 public auction, upon the approval by the board of directors of the development authority: *Provided,*
4 That the funds received by the authority as a result of selling, leasing or otherwise disposing of all
5 or part of such real property owned by the authority may be invested by the authority in a manner
6 determined by the authority's board of directors to be in the best interest of the authority; (9) to
7 purchase or otherwise acquire, own, hold, sell, lease and dispose of all or part of any personal
8 property which it may own, either by contract or at public auction: *Provided, however, That the*
9 funds received by the authority as a result of selling, leasing or otherwise disposing of all or part of
10 such personal property owned by the authority may be invested by the authority in a manner
11 determined by the authority's board of directors to be in the best interest of the authority; (10)
12 pursuant to a determination by the board that there exists a continuing need for programs to alleviate
13 and prevent unemployment within the county in which the authority is intended to operate or aid in
14 the rehabilitation of areas in said county which are underdeveloped, decaying or otherwise
15 economically depressed and that moneys or funds of the authority are necessary therefor, to borrow
16 money and execute and deliver the authority's negotiable notes, mortgage bonds, other bonds,
17 debentures and other evidences of indebtedness therefor, on such terms as the authority shall
18 determine and give such security therefor as shall be requisite, including giving a mortgage or deed
19 of trust on its real or personal property and facilities in connection with the issuance of mortgage
20 bonds; (11) to raise funds by the issuance and sale of revenue bonds in the manner provided by the
21 applicable provisions of article sixteen, chapter eight of this code, it being hereby expressly provided
22 that a development authority created under this article is a governing body within the definition of

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1 that term as used in article sixteen, chapter eight of this code; and (12) to expend its funds in the
2 execution of the powers and authority herein given, which expenditures, by the means authorized
3 herein, are hereby determined and declared as a matter of legislative finding to be for a public
4 purpose and use, in the public interest, and for the general welfare of the people of West Virginia,
5 to alleviate and prevent economic deterioration and to relieve the existing critical condition of
6 unemployment existing within the state.

7 (b) The amendment of this section enacted in the year 1998 is intended to clarify the intent
8 of the Legislature as to the manner in which an authority may sell, lease or otherwise dispose of real
9 and personal property owned by an authority and shall be retroactive to the date of the prior
10 enactment of this section.

11 (c) Notwithstanding any provision of this code to the contrary, any development authority
12 participating in the Appalachian Region Interstate Compact pursuant to chapter seven-a of this code
13 may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and
14 other income and revenues generated by any facility owned by an authority. Any development
15 authority or member locality may be located in any jurisdiction participating in the Appalachian
16 Region Interstate Compact or a similar agreement for interstate cooperation for economic and
17 workforce development authorized by law. The obligations of the parties to any such agreement
18 shall not be debt within the meaning of section eight, article X of the Constitution of West Virginia.
19 Any such agreement shall be approved by a majority vote of the governing bodies of the member
20 localities reaching such an agreement but does not require any other approval.

21 (d) "Member localities" means the counties, municipalities or combination thereof which are
22 members of an authority.

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1 **§7-12-12. Contributions by county commissions, municipalities and others; funds and**
2 **accounts; reports; audit and examination of books, records and accounts.**

3 Contributions may be made to the authority from time to time by the county commission of
4 the county or any municipal corporation therein, and by any persons, firms or corporations which
5 shall desire to do so. ~~All such funds~~ Subject to the power granted to the authority under section
6 seven of this article to invest funds obtained from the sale, lease or other disposition of real or
7 personal property owned by the authority, the contributions and all other funds received by the
8 authority shall be deposited in such bank or banks as the authority may direct and shall be withdrawn
9 therefrom in such manner as the authority may direct. The authority shall keep strict account of all
10 its receipts and expenditures and shall each quarter make a quarterly report to the county commission
11 and municipalities containing an itemized statement of its receipts and disbursements during the
12 preceding quarter. Within sixty days after the end of each fiscal year, the authority shall make an
13 annual report containing an itemized statement of its receipts and disbursements for the preceding
14 year, and such annual report shall be published as a Class I legal advertisement in compliance with
15 the provisions of article three, chapter fifty-nine of this code, and the publication area for such
16 publication shall be the county in which the development authority is located. The books, records
17 and accounts of the authority shall be subject to audit and examination by the office of the State Tax
18 Commissioner of West Virginia and by any other proper public official or body in the manner
provided by law.

(NOTE: The purpose of this bill is to grant county and municipal development authorities the power to invest funds received as a result of a sale, lease or other disposition of real or personal property owned by the authority in a manner determined by the authority's board of directors to be

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in the best interest of the authority.

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