

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 98

BY SENATORS PALUMBO, GAUNCH, DRENNAN, TAKUBO,

AND BEACH

[Originating in the Committee on Government

Organization; reported on January 17, 2018]

1 A BILL to amend and reenact §7-11B-3, §7-11B-4 and §7-11B-7 of the Code of West Virginia,
2 1931, as amended; to amend and reenact §7A-2-4 of said code; and to amend said code
3 by adding thereto a new section, designated §7A-2-5, all relating to incentives for
4 consolidating local governments; amending the definitions of certain terms to include
5 municipalities that successfully consolidated; granting additional powers to governing
6 bodies of municipalities that successfully consolidated; authorizing municipalities that
7 successfully consolidate additional powers related to creation of a development or
8 redevelopment district; allowing consolidation of local governments to include public
9 school districts, library districts and fire districts; creating certain incentives for
10 municipalities that consolidate; creating certain incentives for counties that consolidate;
11 and creating certain incentives for municipalities and counties that form metro
12 governments by consolidation.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 11B. WEST VIRGINIA TAX INCREMENT FINANCING ACT.

§7-11B-3. Definitions.

1 (a) *General.* — When used in this article, words and phrases defined in this section have
2 the meanings ascribed to them in this section unless a different meaning is clearly required either
3 by the context in which the word or phrase is used or by specific definition in this article.

4 (b) *Words and phrases defined.* —

5 “Agency” includes a municipality, a county, or municipal development agency established
6 pursuant to authority granted in §7-12-1 of this code, a port authority, an airport authority, or any
7 other entity created by this state or an agency or instrumentality of this state that engages in
8 economic development activity or the Division of Highways.

9 “Base assessed value” means the taxable assessed value of all real and tangible personal

10 property, excluding personal motor vehicles, having a tax situs within a development or
11 redevelopment district as shown upon the landbooks and personal property books of the assessor
12 on July 1 of the calendar year preceding the effective date of the order or ordinance creating and
13 establishing the development or redevelopment district: *Provided*, That for any development or
14 redevelopment district approved after the effective date of the amendments to this section
15 enacted during the regular session of the Legislature in 2014, personal trailers, personal boats,
16 personal campers, personal motor homes, personal ATVs, and personal motorcycles having a
17 tax situs within a development or redevelopment district are excluded from the base assessed
18 value.

19 "Blighted area" means an area within the boundaries of a development or redevelopment
20 district located within the territorial limits of a municipality or county in which the structures,
21 buildings, or improvements, by reason of dilapidation, deterioration, age, or obsolescence,
22 inadequate provision for access, ventilation, light, air, sanitation, open spaces, high density of
23 population, and overcrowding or the existence of conditions which endanger life or property are
24 detrimental to the public health, safety, morals, or welfare. "Blighted area" includes any area
25 which, by reason of the presence of a substantial number of substandard, slum, deteriorated or
26 deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in
27 relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions,
28 deterioration of site or other improvements, diversity of ownership, defective or unusual conditions
29 of title or the existence of conditions which endanger life or property by fire and other causes, or
30 any combination of such factors, substantially impairs or arrests the sound growth of a
31 municipality, retards the provision of housing accommodations or constitutes an economic or
32 social liability and is a menace to the public health, safety, morals, or welfare in its present
33 condition and use, or any area which is predominantly open and which because of lack of
34 accessibility, obsolete platting, diversity of ownership, deterioration of structures, or of site
35 improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

36 “Commissioner of Highways” means the Commissioner of the Division of Highways.

37 “Conservation area” means any improved area within the boundaries of a development or
38 redevelopment district located within the territorial limits of a municipality or county in which 50
39 percent or more of the structures in the area have an age of 35 years or more. A conservation
40 area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare
41 and may become a blighted area because of any one or more of the following factors: Dilapidation;
42 obsolescence; deterioration; illegal use of individual structures; presence of structures below
43 minimum code standards; abandonment; excessive vacancies; overcrowding of structures and
44 community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive
45 land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of
46 community planning. A conservation area shall meet at least three of the factors provided in this
47 subdivision.

48 “County commission” means the governing body of a county of this state and, for purposes
49 of this article only, includes the governing body of a Class I or II municipality in this state, or the
50 governing body of a municipality that successfully consolidated pursuant to §7A-1-1 through §7A-
51 7-8 of this code.

52 “Current assessed value” means the annual taxable assessed value of all real and tangible
53 personal property, excluding personal motor vehicles, having a tax situs within a development or
54 redevelopment district as shown upon the landbook and personal property records of the
55 assessor: *Provided*, That for any development or redevelopment district approved after the
56 effective date of the amendments to this section enacted during the regular session of the
57 Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes,
58 personal ATVs, and personal motorcycles having a tax situs within a development or
59 redevelopment district are excluded from the current assessed value.

60 “Development Office” means the West Virginia Development Office created in §5B-2-1 of
61 this code.

62 “Development project” or “redevelopment project” means a project undertaken in a
63 development or redevelopment district for eliminating or preventing the development or spread of
64 slums or deteriorated, deteriorating or blighted areas, for discouraging the loss of commerce,
65 industry or employment, for increasing employment or for any combination thereof in accordance
66 with a tax increment financing plan. A development or redevelopment project may include one or
67 more of the following:

68 (A) The acquisition of land and improvements, if any, within the development or
69 redevelopment district and clearance of the land so acquired; or

70 (B) The development, redevelopment, revitalization or conservation of the project area
71 whenever necessary to provide land for needed public facilities, public housing or industrial or
72 commercial development or revitalization, to eliminate unhealthful, unsanitary, or unsafe
73 conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards,
74 eliminate obsolete or other uses detrimental to public welfare or otherwise remove or prevent the
75 spread of blight or deterioration;

76 (C) The financial or other assistance in the relocation of persons and organizations
77 displaced as a result of carrying out the development or redevelopment project and other
78 improvements necessary for carrying out the project plan, together with those site improvements
79 that are necessary for the preparation of any sites and making any land or improvements acquired
80 in the project area available, by sale or lease, for public housing or for development,
81 redevelopment or rehabilitation by private enterprise for commercial or industrial uses in
82 accordance with the plan;

83 (D) The construction of capital improvements within a development or redevelopment
84 district designed to increase or enhance the development of commerce, industry or housing within
85 the development project area; or

86 (E) Any other projects the county commission or the agency deems appropriate to carry
87 out the purposes of this article.

88 “Development or redevelopment district” means an area proposed by one or more
89 agencies as a development or redevelopment district which may include one or more counties,
90 one or more municipalities or any combination thereof, that has been approved by the county
91 commission of each county in which the project area is located if the project is located outside the
92 corporate limits of a municipality, or by the governing body of a municipality if the project area is
93 located within a municipality, or by both the county commission and the governing body of the
94 municipality when the development or redevelopment district is located both within and without a
95 municipality.

96 “Division of Highways” means the state Department of Transportation, Division of
97 Highways.

98 “Economic development area” means any area or portion of an area within the boundaries
99 of a development or redevelopment district located within the territorial limits of a municipality or
100 county that is neither a blighted area nor a conservation area and for which the county commission
101 finds that development or redevelopment will not be solely used for development of commercial
102 businesses that will unfairly compete in the local economy and that development or
103 redevelopment is in the public interest because it will:

104 (A) Discourage commerce, industry, or manufacturing from moving their operations to
105 another state;

106 (B) Result in increased employment in the municipality or county, whichever is applicable;
107 or

108 (C) Result in preservation or enhancement of the tax base of the county or municipality.

109 “Governing body of a municipality” means the city council of a Class I or Class II
110 municipality in this state, or of a municipality that successfully consolidated pursuant to §7A-1-1
111 through §7A-7-8 of this code.

112 “Incremental value”, for any development or redevelopment district, means the difference
113 between the base assessed value and the current assessed value. The incremental value will be

114 positive if the current value exceeds the base value and the incremental value will be negative if
115 the current value is less than the base assessed value.

116 “Includes” and “including”, when used in a definition contained in this article, shall not
117 exclude other things otherwise within the meaning of the term being defined.

118 “Intergovernmental agreement” means any written agreement that may be entered into by
119 and between two or more county commissions, or between two or more municipalities, or between
120 a county commission and a municipality, in the singular and the plural, or between two or more
121 government entities and the Commissioner of Highways: *Provided*, That any intergovernmental
122 agreement shall not be subject to provisions governing intergovernmental agreements set forth
123 in other provisions of this code, including, but not limited to, §8-23-1 *et seq.* of this code, but shall
124 be subject to the provisions of this article.

125 “Local levying body” means the county board of education and the county commission
126 and includes the governing body of a municipality when the development or redevelopment district
127 is located, in whole or in part, within the boundaries of the municipality.

128 “Obligations” or “tax increment financing obligations” means bonds, loans, debentures,
129 notes, special certificates, or other evidences of indebtedness issued by a county commission or
130 municipality pursuant to this article to carry out a development or redevelopment project or to
131 refund outstanding obligations under this article.

132 “Order” means an order of the county commission adopted in conformity with the
133 provisions of this article and as provided in this chapter.

134 “Ordinance” means a law adopted by the governing body of a municipality in conformity
135 with the provisions of this article and as provided in chapter eight of this code.

136 “Payment in lieu of taxes” means those estimated revenues from real property and
137 tangible personal property having a tax situs in the area selected for a development or
138 redevelopment project which revenues, according to the development or redevelopment project
139 or plan, are to be used for a private use, which levying bodies would have received had a county

140 or municipality not adopted one or more tax increment financing plans and which would result
141 from levies made after the date of adoption of a tax increment financing plan during the time the
142 current assessed value of all taxable real and tangible personal property in the area selected for
143 the development or redevelopment project exceeds the total base assessed value of all taxable
144 real and tangible personal property in the development or redevelopment district until the
145 designation is terminated as provided in this article.

146 "Person" means any natural person, and any corporation, association, partnership, limited
147 partnership, limited liability company, or other entity, regardless of its form, structure, or nature,
148 other than a government agency or instrumentality.

149 "Private project" means any project that is subject to ad valorem property taxation in this
150 state or to a payment in lieu of tax agreement that is undertaken by a project developer in
151 accordance with a tax increment financing plan in a development or redevelopment district.

152 "Project" means any capital improvement, facility or both, as specifically set forth and
153 defined in the project plan, requiring an investment of capital including, but not limited to,
154 extensions, additions, or improvements to existing facilities, including water or wastewater
155 facilities, and the remediation of contaminated property as provided for in §22-22-1 *et seq.* of this
156 code, but does not include performance of any governmental service by a county or municipal
157 government.

158 "Project area" means an area within the boundaries of a development or redevelopment
159 district in which a development or redevelopment project is undertaken as specifically set forth
160 and defined in the project plan.

161 "Project costs" means expenditures made in preparation of the development or
162 redevelopment project plan and made, or estimated to be made, or monetary obligations incurred,
163 or estimated to be incurred, by the county commission which are listed in the project plan as
164 capital improvements within a development or redevelopment district, plus any costs incidental
165 thereto. "Project costs" include, but are not limited to:

166 (A) Capital costs, including, but not limited to, the actual costs of the construction of public
167 works or improvements, capital improvements and facilities, new buildings, structures and
168 fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings,
169 structures and fixtures, environmental remediation, parking and landscaping, the acquisition of
170 equipment and site clearing, grading, and preparation;

171 (B) Financing costs, including, but not limited to, an interest paid to holders of evidences
172 of indebtedness issued to pay for project costs, all costs of issuance and any redemption
173 premiums, credit enhancement or other related costs;

174 (C) Real property assembly costs, meaning any deficit incurred resulting from the sale or
175 lease as lessor by the county commission of real or personal property having a tax situs within a
176 development or redevelopment district for consideration that is less than its cost to the county
177 commission;

178 (D) Professional service costs including, but not limited to, those costs incurred for
179 architectural planning, engineering, and legal advice and services;

180 (E) Imputed administrative costs including, but not limited to, reasonable charges for time
181 spent by county employees or municipal employees in connection with the implementation of a
182 project plan;

183 (F) Relocation costs including, but not limited to, those relocation payments made
184 following condemnation and job training and retraining;

185 (G) Organizational costs including, but not limited to, the costs of conducting
186 environmental impact and other studies and the costs of informing the public with respect to the
187 creation of a development or redevelopment district and the implementation of project plans;

188 (H) Payments made, in the discretion of the county commission or the governing body of
189 a municipality, which are found to be necessary or convenient to creation of development or
190 redevelopment districts or the implementation of project plans; and

191 (I) That portion of costs related to the construction of environmental protection devices,

192 storm or sanitary sewer lines, water lines, amenities or streets or the rebuilding or expansion of
193 streets, or the construction, alteration, rebuilding or expansion of which is necessitated by the
194 project plan for a development or redevelopment district, whether or not the construction,
195 alteration, rebuilding or expansion is within the area or on land contiguous thereto.

196 "Project developer" means any person who engages in the development of projects in the
197 state.

198 "Project plan" means the plan for a development or redevelopment project that is adopted
199 by a county commission or governing body of a municipality in conformity with the requirements
200 of this article and this chapter or §8-1-1 through §8-38-24 of this code.

201 "Real property" means all lands, including improvements and fixtures on them and
202 property of any nature appurtenant to them or used in connection with them and every estate,
203 interest and right, legal or equitable, in them, including terms of years and liens by way of
204 judgment, mortgage or otherwise, and indebtedness secured by the liens.

205 "Redevelopment area" means an area designated by a county commission or the
206 governing body of a municipality in respect to which the commission or governing body has made
207 a finding that there exist conditions which cause the area to be classified as a blighted area, a
208 conservation area, an economic development area or a combination thereof, which area includes
209 only those parcels of real property directly and substantially benefitted by the proposed
210 redevelopment project located within the development or redevelopment district or land
211 contiguous thereto.

212 "Redevelopment plan" means the comprehensive program under this article of a county
213 or municipality for redevelopment intended by the payment of redevelopment costs to reduce or
214 eliminate those conditions, the existence of which qualified the redevelopment area as a blighted
215 area, conservation area, economic development area or combination thereof, and to thereby
216 enhance the tax bases of the levying bodies which extend into the redevelopment area. Each
217 redevelopment plan shall conform to the requirements of this article.

218 “Tax increment” means the amount of regular levy property taxes attributable to the
219 amount by which the current assessed value of real and tangible personal property having a tax
220 situs in a development or redevelopment district exceeds the base assessed value of the property.

221 “Tax increment financing fund” means a separate fund for a development or
222 redevelopment district established by the county commission or governing body of the
223 municipality into which all tax increment revenues and other pledged revenues are deposited and
224 from which projected project costs, debt service and other expenditures authorized by this article
225 are paid.

226 “This code” means the Code of West Virginia, 1931, as amended by the Legislature.

227 “Total ad valorem property tax regular levy rate” means the aggregate levy rate of all
228 levying bodies on all taxable property having a tax situs within a development or redevelopment
229 district in a tax year but does not include excess levies, levies for general obligation bonded
230 indebtedness or any other levies that are not regular levies.

§7-11B-4. Powers generally.

1 In addition to any other powers conferred by law, a county commission or governing body
2 of a Class I or II municipality, or of a municipality that successfully consolidated pursuant to §7A-
3 1-1 through §7A-7-8 of this code, may exercise any powers necessary and convenient to carry
4 out the purpose of this article, including the power to:

5 (1) Create development and redevelopment areas or districts and to define the boundaries
6 of those areas or districts;

7 (2) Cause project plans to be prepared, to approve the project plans, and to implement
8 the provisions and effectuate the purposes of the project plans;

9 (3) Establish tax increment financing funds for each development or redevelopment
10 district;

11 (4) Issue tax increment financing obligations and pledge tax increments and other
12 revenues for repayment of the obligations;

13 (5) Deposit moneys into the tax increment financing fund for any development or
14 redevelopment district;

15 (6) Enter into any contracts or agreements, including, but not limited to, agreements with
16 project developers, consultants, professionals, financing institutions, trustees, and bondholders
17 determined by the county commission to be necessary or convenient to implement the provisions
18 and effectuate the purposes of project plans;

19 (7) Receive from the federal government or the state loans and grants for, or in aid of, a
20 development or redevelopment project and to receive contributions from any other source to
21 defray project costs;

22 (8) Exercise the right of eminent domain to condemn property for the purposes of
23 implementing the project plan. The rules and procedures set forth in chapter 54 of this code shall
24 govern all condemnation proceedings authorized in this article;

25 (9) Make relocation payments to those persons, businesses, or organizations that are
26 displaced as a result of carrying out the development or redevelopment project;

27 (10) Clear and improve property acquired by the county commission pursuant to the
28 project plan and construct public facilities on it or contract for the construction, development,
29 redevelopment, rehabilitation, remodeling, alteration, or repair of the property;

30 (11) Cause parks, playgrounds or water, sewer or drainage facilities or any other public
31 improvements, including, but not limited to, fire stations, community centers, and other public
32 buildings, which the county commission is otherwise authorized to undertake to be laid out,
33 constructed or furnished in connection with the development or redevelopment project. When the
34 public improvement of the county commission is to be located, in whole or in part, within the
35 corporate limits of a municipality, the county commission shall consult with the mayor and the
36 governing body of the municipality regarding the public improvement and shall pay for the cost of
37 the public improvement from the tax increment financing fund;

38 (12) Lay out and construct, alter, relocate, change the grade of, make specific repairs upon

39 or discontinue public ways and construct sidewalks in, or adjacent to, the project area: *Provided*,
40 That when the public way or sidewalk is located within a municipality, the governing body of the
41 municipality shall consent to the same and if the public way is a state road, the consent of the
42 Commissioner of Highways shall be necessary;

43 (13) Cause private ways, sidewalks, ways for vehicular travel, playgrounds or water, sewer
44 or drainage facilities and similar improvements to be constructed within the project area for the
45 particular use of the development or redevelopment district or those dwelling or working in it;

46 (14) Construct, or cause to be constructed, any capital improvements of a public nature;

47 (15) Construct capital improvements to be leased or sold to private entities in connection
48 with the goals of the development or redevelopment project;

49 (16) Cause capital improvements owned by one or more private entities to be constructed
50 within the development or redevelopment district;

51 (17) Designate one or more official or employee of the county commission to make
52 decisions and handle the affairs of development and redevelopment project areas or districts
53 created by the county commission pursuant to this article;

54 (18) Adopt orders, ordinances or bylaws or repeal or modify such ordinances or bylaws or
55 establish exceptions to existing ordinances and bylaws regulating the design, construction, and
56 use of buildings within the development or redevelopment district created by a county commission
57 or governing body of a municipality under this article;

58 (19) Enter orders, adopt bylaws, or repeal or modify such orders or bylaws or establish
59 exceptions to existing orders and bylaws regulating the design, construction, and use of buildings
60 within the development or redevelopment district created by a county commission or governing
61 body of a municipality under this article;

62 (20) Sell, mortgage, lease, transfer, or dispose of any property or interest therein, by
63 contract or auction, acquired by it pursuant to the project plan for development, redevelopment,
64 or rehabilitation in accordance with the project plan;

65 (21) Expend project revenues as provided in this article;

66 (22) Enter into one or more intergovernmental agreements or memorandums of
67 understanding with the Commissioner of Highways or with other county commissions or
68 municipalities regarding development or redevelopment districts;

69 (23) Designate one or more officials or employees of the county commission or
70 municipality that created the development or redevelopment district to sign documents, to make
71 decisions and handle the affairs of the development or redevelopment district. When two or more
72 county commissions or municipalities, or any combination thereof, established the development
73 or redevelopment district, the government entities shall enter into one or more intergovernmental
74 agreements regarding administration of the development or redevelopment district and the
75 handling of its affairs; and

76 (24) Do all things necessary or convenient to carry out the powers granted in this article.

§7-11B-7. Creation of a development or redevelopment or district.

1 (a) County commissions and the governing bodies of Class I and II municipalities, or of a
2 municipality that successfully consolidated pursuant to §7A-1-1 through §7A-7-8 of this code,
3 upon their own initiative or upon application of an agency or a developer, may propose creation
4 of a development or redevelopment district and designate the boundaries of the district: *Provided,*
5 That a district may not include noncontiguous land.

6 (b) The county commission or municipality proposing creation of a development or
7 redevelopment district shall then hold a public hearing at which interested parties are afforded a
8 reasonable opportunity to express their views on the proposed creation of a development or
9 redevelopment district and its proposed boundaries.

10 (1) Notice of the hearing shall be published as a Class II legal advertisement in accordance
11 with §59-3-2 of this code.

12 (2) The notice shall include the time, place, and purpose of the public hearing, describe in
13 sufficient detail the tax increment financing plan, the proposed boundaries of the development or

14 redevelopment district and, when a development or redevelopment project plan is being
15 proposed, the proposed tax increment financing obligations to be issued to finance the
16 development or redevelopment project costs.

17 (3) Prior to the first day of publication, a copy of the notice shall be sent by first class mail
18 to the director of the development office and to the chief executive officer of all other local levying
19 bodies having the power to levy taxes on real and tangible personal property located within the
20 proposed development or redevelopment district.

21 (4) All parties who appear at the hearing shall be afforded an opportunity to express their
22 views on the proposal to create the development or redevelopment district and, if applicable, the
23 development or redevelopment project plan and proposed tax increment financing obligations.

24 (c) After the public hearing, the county commission, or the governing body of the
25 municipality, shall finalize the boundaries of the development or redevelopment district, the
26 development or redevelopment project plan, or both, and submit the same to the Director of the
27 Development Office for his or her review and approval. The director, within sixty days after receipt
28 of the application, shall approve the application as submitted, reject the application or return the
29 application to the county commission or governing body of the municipality for further
30 development or review in accordance with instructions of the Director of the Development Office.
31 A development or redevelopment district or development or redevelopment project plan may not
32 be adopted by the county commission or the governing body of a municipality until after it has
33 been approved by the Executive Director of the Development Office.

34 (d) Upon approval of the application by the Development Office, the county commission
35 may enter an order and the governing body of the municipality proposing the district or
36 development or redevelopment project plan may adopt an ordinance, that:

37 (1) Describes the boundaries of a development or redevelopment district sufficiently to
38 identify with ordinary and reasonable certainty the territory included in the district, which
39 boundaries shall create a contiguous district;

40 (2) Creates the development or redevelopment district as of a date provided in the order
41 or ordinance;

42 (3) Assigns a name to the development or redevelopment district for identification
43 purposes:

44 (A) The name may include a geographic or other designation, shall identify the county or
45 municipality authorizing the district and shall be assigned a number, beginning with the number
46 one;

47 (B) Each subsequently created district in the county or municipality shall be assigned the
48 next consecutive number;

49 (4) Contains findings that the real property within the development or redevelopment
50 district will be benefitted by eliminating or preventing the development or spread of slums or
51 blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry, or
52 employment, increasing employment or any combination thereof;

53 (5) Approves the development or redevelopment project plan, if applicable;

54 (6) Establishes a tax increment financing fund as a separate fund into which all tax
55 increment revenues and other revenues designated by the county commission, or governing body
56 of the municipality, for the benefit of the development or redevelopment district shall be deposited,
57 and from which all project costs shall be paid, which may be assigned to and held by a trustee for
58 the benefit of bondholders if tax increment financing obligations are issued by the county
59 commission or the governing body of the municipality; and

60 (7) Provides that ad valorem property taxes on real and tangible personal property having
61 a tax situs in the development or redevelopment district shall be assessed, collected, and
62 allocated in the following manner, commencing upon the date of adoption of such order or
63 ordinance and continuing for so long as any tax increment financing obligations are payable from
64 the tax increment financing fund, hereinafter authorized, are outstanding and unpaid:

65 (A) For each tax year, the county assessor shall record in the land and personal property

66 books both the base assessed value and the current assessed value of the real and tangible
67 personal property having a tax situs in the development or redevelopment district;

68 (B) Ad valorem taxes collected from regular levies upon real and tangible personal
69 property having a tax situs in the district that are attributable to the lower of the base assessed
70 value or the current assessed value of real and tangible personal property located in the
71 development project area shall be allocated to the levying bodies in the same manner as
72 applicable to the tax year in which the development or redevelopment project plan is adopted by
73 order of the county commission or by ordinance adopted by the governing body of the
74 municipality;

75 (C) The tax increment with respect to real and tangible personal property in the
76 development or redevelopment district shall be allocated and paid into the tax increment financing
77 fund and shall be used to pay the principal of and interest on tax increment financing obligations
78 issued to finance the costs of the development or redevelopment projects in the development or
79 redevelopment district. Any levying body having a development or redevelopment district within
80 its taxing jurisdiction shall not receive any portion of the annual tax increment except as otherwise
81 provided in this article; and

82 (D) In no event shall the tax increment include any taxes collected from excess levies,
83 levies for general obligation bonded indebtedness or any levies other than the regular levies
84 provided for in §11-8-1 *et seq.* of this code.

85 (e) Proceeds from tax increment financing obligations issued under this article may only
86 be used to pay for costs of development and redevelopment projects to foster economic
87 development in the development or redevelopment district or land contiguous thereto.

88 (f) Notwithstanding subsection (e) of this section, a county commission may not enter an
89 order approving a development or redevelopment project plan unless the county commission
90 expressly finds and states in the order that the development or redevelopment project is not
91 reasonably expected to occur without the use of tax increment financing.

92 (g) Notwithstanding subsection (e) of this section, the governing body of a municipality
93 may not adopt an ordinance approving a development or redevelopment project plan unless the
94 governing body expressly finds and states in the ordinance that the development or
95 redevelopment project is not reasonably expected to occur without the use of tax increment
96 financing.

97 (h) No county commission shall establish a development or redevelopment district any
98 portion of which is within the boundaries of a Class I, II, III, or IV municipality without the formal
99 consent of the governing body of such municipality.

100 (i) A tax increment financing plan that has been approved by a county commission or the
101 governing body of a municipality may be amended by following the procedures set forth in this
102 article for adoption of a new development or redevelopment project plan.

103 (j) The county commission may modify the boundaries of the development or
104 redevelopment district, from time to time, by entry of an order modifying the order creating the
105 development or redevelopment district.

106 (k) The governing body of a municipality may modify the boundaries of the development
107 or redevelopment district, from time to time, by amending the ordinance establishing the
108 boundaries of the district.

109 (l) Before a county commission or the governing body of a municipality may amend such
110 an order or ordinance, the county commission or municipality shall give the public notice, hold a
111 public hearing and obtain the approval of the Director of the Development Office, following the
112 procedures for establishing a new development or redevelopment district. In the event any tax
113 increment financing obligations are outstanding with respect to the development or
114 redevelopment district, any change in the boundaries shall not reduce the amount of tax increment
115 available to secure the outstanding tax increment financing obligations.

CHAPTER 7A. CONSOLIDATED LOCAL GOVERNMENT.

ARTICLE 2. POWERS AND LIMITATIONS.

§7A-2-4. Limitations of a consolidated local government.

1 (a) ~~Public school districts, library districts, fire districts, special~~ Special taxing districts and
2 public service districts are not affected by consolidation under this chapter.

3 (b) The adoption of a charter does not alter any right or liability of an affected municipality,
4 county, or metro government in effect at the time the charter becomes effective. Ordinances and
5 resolutions relating to public improvements to be paid for, in whole or in part, by special
6 assessments remain in effect until paid in full.

§7A-2-5. Incentives for consolidation.

1 (a) Municipalities that successfully complete municipal consolidation pursuant to the
2 provisions of §7A-5-1 et seq. of this code, shall be entitled to:

3 (1) A matching payment from the state in the amount of 20 percent of the annual municipal
4 actuarial contribution to the benefit fund created in §8-22-1 et seq. of this code for a period of 10
5 years following the consolidation;

6 (2) A complete audit, including recommendations for additional efficiencies, by the West
7 Virginia Auditor's office within 12 months of the approved consolidation and a second audit within
8 36 months of the approved consolidation;

9 (3) Preference for any road construction or repair project under consideration with the
10 Division of Highways; and

11 (4) Impose a one percent sales and use tax.

12 (b) Counties that successfully complete county consolidation pursuant to the provisions of
13 §7A-6-1 et seq. of this code shall be entitled to:

14 (1) A discount in the amount of 10 percent of the county's monthly regional jail bill for a
15 period of 10 years following the consolidation;

16 (2) Preference for any road construction or repair project under consideration with the
17 Division of Highways; and

- 18 (3) Impose a one percent sales and use tax.
- 19 (c) Municipalities and counties that successfully complete metro government consolidation
- 20 pursuant to the provisions of §7A-7-1 *et seq.* of this code shall be entitled to:
- 21 (1) All incentives provided to municipalities in subsection (a) of this section; and
- 22 (2) All incentives provided to counties in subsection (b) of this section.

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