

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 669

BY SENATORS TARR, GRADY, AND PLYMALE

[Originating in the Committee on Economic
Development; reported February 8, 2024]

1 A BILL to amend and reenact §7-22-9 of the Code of West Virginia, 1931, as amended, relating
2 to county economic opportunity development districts; extending when the Fort Henry
3 Economic Opportunity Development District may be abolished or terminated; increasing
4 the land area within the Ridges Economic Opportunity Development District subject to the
5 special district excise tax authorizing the Mason County Commission to levy a special
6 district excise tax; authorizing the special district excise tax for the benefit of the Town of
7 Henderson Economic Opportunity District; setting forth the land area within the special
8 district subject to the special district excise tax; authorizing the commission to create the
9 district and levy the special district excise tax without the approval of the executive director
10 of the development office; authorizing the commission to determine the base district tax,
11 the base tax revenue amount, the gross annual district tax revenue amount, and the
12 estimated net annual district tax revenue amount; and requiring the Tax Commissioner to
13 provide the commission with certification of the base tax revenue amount.

Be it enacted by the Legislature of West Virginia:

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

11 state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion
12 thereof to be distributed to such counties, municipalities, or other political subdivisions of the state
13 under such circumstances and subject to such terms, conditions, and restrictions as the
14 Legislature may prescribe.

15 Because a special district excise tax would have the effect of diverting, for a specified
16 period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars
17 currently paid into the General Revenue Fund of the state, the Legislature finds that in order to
18 substantially ensure that such special district excise taxes will not adversely impact the current
19 level of the General Revenue Fund of the state, it is necessary for the Legislature to separately
20 consider and act upon each and every economic development district which is proposed,
21 including the unique characteristics of location, current condition and activity of and within the
22 area included in such proposed economic opportunity development district and that for such
23 reasons a statute more general in ultimate application is not feasible for accomplishment of the
24 intention and purpose of the Legislature in enacting this article. Therefore, no economic
25 opportunity development district excise tax may be levied by a county commission until after the
26 Legislature expressly authorizes the county commission to levy a special district excise tax on
27 sales of tangible personal property and services made within district boundaries approved by the
28 Legislature.

29 (b) *Authorizations.* — The Legislature authorizes the following county commissions to levy
30 special district excise taxes on sales of tangible personal property and services made from
31 business locations in the following economic opportunity development districts:

32 (1) The Ohio County Commission may levy a special district excise tax for the benefit of
33 the Fort Henry Economic Opportunity Development District which comprises 500 contiguous
34 acres of land. Notwithstanding the time limitations provisions of §7-22-15(a)(2) of this code, the
35 Fort Henry Economic Opportunity Development District shall not be abolished under §7-22-
36 15(a)(2) of this code until the year ~~2044~~ 2054 unless sooner abolished and terminated in

37 accordance with the provisions of §7-22-15(a)(1) of this code or any other provision of this code,
38 or sooner abolished for any other reason: *Provided*, That on December 31, ~~2044~~ 2054, the
39 provisions of §7-22-15(a)(2) of this code shall apply to abolish the Fort Henry Economic
40 Opportunity Development District, if the district has not been abolished prior to that date.

41 (2) The Harrison County Commission may levy a special district excise tax for the benefit
42 of the Charles Pointe Economic Opportunity Development District which comprises 437 acres of
43 land.

44 (3) The Monongalia County Commission may levy a special district excise tax for the
45 benefit of the University Town Centre Economic Opportunity Development District which
46 comprises approximately 1,450 contiguous acres of land. Notwithstanding the time limitations
47 provisions of §7-22-15(a)(2) of this code, the University Town Centre Economic Opportunity
48 Development District shall not be abolished pursuant to §7-22-15(a)(2) of this code until the year
49 2053, unless sooner abolished and terminated in accordance with the provisions of subdivision
50 §7-22-15(a)(1) of this code or any other provision of this code, or sooner abolished for any other
51 reason: *Provided*, That on December 31, 2053, the provisions of §7-22-15(a)(2) of this code shall
52 apply to abolish the University Town Centre Economic Opportunity Development District, if the
53 district has not been abolished prior to that date.

54 (4) The Jefferson County Commission may levy a special district excise tax for the benefit
55 of the Hill Top House Hotel Economic Opportunity District which comprises approximately 11
56 contiguous acres of land: *Provided*, That notwithstanding any other provision of this article to the
57 contrary:

58 (A) The Jefferson County Commission may create the district and levy the special district
59 excise tax by order entered of record as provided in §7-22-10 of this code without the approval of
60 the executive director of the development office; and

61 (B) The Jefferson County Commission may determine the base district tax, the base tax
62 revenue amount, the gross annual district tax revenue amount and the estimated net annual

63 district tax revenue amount in lieu of that determination by the development office as provided in
64 §7-22-7 of this code. For purposes of determining the base tax revenue amount, the Jefferson
65 County Commission shall promptly request a certification from the Tax Commissioner of the base
66 tax revenue amount and the Tax Commissioner shall provide the certification to the Jefferson
67 County Commission within 30 days.

68 (5) The Mercer County Commission may levy a special district excise tax for the benefit
69 of the Ridges Economic Opportunity Development District which comprises approximately 390
70 420 contiguous acres of land, subject to holding a public hearing as provided in §7-22-14(c) of
71 this code, submitting the application required by §7-22-14(d) of this code, and obtaining the
72 approval of the West Virginia Development Office as provided in §7-22-14(e) of this code.

73 (6) The Mason County Commission may levy a special district excise tax for the benefit of
74 the Town of Henderson Economic Opportunity District which comprises approximately 3,854
75 contiguous acres of land: *Provided, That notwithstanding any other provision of this article to the*
76 contrary:

77 (A) The Mason County Commission may create the district and levy the special district
78 excise tax by order entered of record as provided in §7-22-10 of this code without the approval of
79 the executive director of the development office; and

80 (B) The Mason County Commission may determine the base district tax, the base tax
81 revenue amount, the gross annual district tax revenue amount and the estimated net annual
82 district tax revenue amount in lieu of that determination by the development office as provided in
83 §7-22-7 of this code. For purposes of determining the base tax revenue amount, the Mason
84 County Commission shall promptly request a certification from the Tax Commissioner of the base
85 tax revenue amount and the Tax Commissioner shall provide the certification to the Mason County
86 Commission within 30 days.