

**H. B. 3121**

(By Delegates Sobonya and C. Miller)  
[Introduced February 14, 2011; referred to the  
Committee on Political Subdivisions then the Judiciary.]

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10 A BILL to amend and reenact §8-1-5a of the Code of West Virginia,  
11 1931, as amended, relating to shortening the statutory time  
12 period during which a municipality or metro government may  
13 enact ordinances, acts, resolutions, rules or regulations.

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

15 That §8-1-5a of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

17 **ARTICLE 1. PURPOSE AND SHORT TITLE; DEFINITIONS; GENERAL**  
18 **PROVISIONS; CONSTRUCTION.**

19 **§8-1-5a. Pilot program to increase powers of municipal self**  
20 **government.**

21 (a) The Legislature finds and declares that:

22 (1) The future economic progress for the State of West  
23 Virginia is directly related to the success of its municipalities  
24 in that stronger municipalities will make for a stronger West  
25 Virginia;

26 (2) Municipalities face numerous challenges managing their

1 budgets and delivering services required by federal or state law or  
2 demanded by their constituents;

3 (3) Municipalities are sometimes restricted by state statutes,  
4 policies, rules and responsibilities that prevent them from  
5 carrying out their duties and responsibilities in a cost-effective,  
6 efficient and timely manner; and

7 (4) Authorizing pilot municipalities and metro governments in  
8 West Virginia to exercise broad-based home rule will allow the  
9 Legislature the opportunity to evaluate the viability of allowing  
10 municipalities to have broad-based state home rule to improve urban  
11 and state development.

12 (b) It is the intent of the Legislature in enacting this  
13 section to establish a framework for municipalities within which  
14 new ideas can be explored to see if they can or should be  
15 implemented on a statewide basis.

16 (c) Effective the July 1, 2007, there is hereby created a  
17 pilot program to be known as the Municipal Home Rule Pilot Program  
18 authorizing five selected Class I, Class II and/or Class III  
19 municipalities and/or metro governments, the authority to enact any  
20 ordinances, acts, resolutions, rules and regulations not contrary  
21 to the Constitutions of the United States or West Virginia, federal  
22 law or chapters sixty-a, sixty-one and sixty-two of this code.

23 (d) To be eligible to participate in the Municipal Home Rule  
24 Pilot Program the applicant shall:

25 (1) Be a Class I, Class II ~~and/or~~ or Class III municipality  
26 ~~and/or~~ or a metro government. ~~Provided, That~~ A municipality

1 considering consolidation or establishing a metro government ~~shall~~  
2 ~~have~~ has no more than two years from the date it is selected for  
3 the pilot program to complete its consolidation or metro government  
4 process or its participation in the pilot program will terminate at  
5 the end of the two-year period; and

6 (2) Have a written plan stating in detail the following:

7 (A) The specific laws, policies, rules or regulations which  
8 prevent the municipality from carrying out its duties in the most  
9 cost-efficient, effective and timely manner;

10 (B) The problems created by the laws, policies, rules or  
11 regulations; and

12 (C) The proposed solutions to the problems including all  
13 proposed changes to ordinances, acts, resolutions, rules and  
14 regulations.

15 (e) Effective July 1, 2007, there is hereby created a  
16 Municipal Home Rule Board consisting of the following seven  
17 members:

18 (1) The Governor, or a designee, who shall serve as chair;

19 (2) The Executive Director of the West Virginia Development  
20 Office or a designee;

21 (3) The chair of the Senate Committee on Government  
22 Organization or a designee;

23 (4) The chair of the House of Delegates Committee on  
24 Government Organization or a designee;

25 (5) One member shall be a representative of the Business and  
26 Industry Council;

1 (6) One member shall be a representative of the largest labor  
2 organization in the state; and

3 (7) One member shall be a representative of the West Virginia  
4 Chapter of American Institute of Certified Planners.

5 (f) The board has the powers necessary to implement the  
6 provisions of this section, including the following:

7 (1) Reviewing, evaluating and making recommendations to the  
8 proposed plans submitted by eligible municipalities ~~and/or~~ or metro  
9 governments;

10 (2) Consulting with state agencies affected by the proposed  
11 plans;

12 (3) Selecting municipalities and/or metro governments to  
13 participate in the pilot program;

14 (4) Approving the plans of recommended pilot program  
15 participants as submitted or as modified; and

16 (5) Authorizing amendments to approved plans.

17 (g) On or before January 1, 2008, an eligible municipality  
18 ~~and/or~~ or metro government wanting to participate in the pilot  
19 program shall submit a written plan as described in subdivision  
20 (2), subsection (d) of this section to the board.

21 (h) Prior to submitting a written plan, the municipality  
22 shall:

23 (1) Conduct a public hearing on the proposed written plan;

24 (2) Provide at least thirty days notice of the public hearing  
25 by a Class II legal advertisement;

26 (3) Make a copy of the proposed written plan available for

1 public inspection at least thirty days prior to the public hearing;  
2 and

3 (4) After the public hearing, adopt a municipal ordinance  
4 authorizing the municipality to submit a proposed written plan to  
5 the Municipal Home Rule Board after the proposed municipal  
6 ordinance has been read two times.

7 (i) On or before June 1, 2008, the board shall select by a  
8 majority vote of the board at least one but not more than five  
9 municipalities ~~and/or~~ or metro governments to participate in the  
10 pilot program.

11 (j) The pilot municipalities ~~and/or~~ or metro governments  
12 selected to participate in the pilot program ~~shall~~ have the  
13 following powers:

14 (1) The authority to pass any ordinances, acts, resolutions,  
15 rules and regulations not contrary to the Constitutions of the  
16 United States or West Virginia, federal law or chapters sixty-a,  
17 sixty-one and sixty-two of this code as specified in their written  
18 and approved plans: *Provided*, That the pilot municipalities may  
19 not adopt any ordinance, rule, regulation or resolution or take any  
20 action that would create a defined contribution employee pension or  
21 retirement plan for its employees currently covered by a defined  
22 benefit pensions plan; and

23 (2) Any other powers necessary to implement the provisions of  
24 its approved plan.

25 (k) Before July 1, 2012, the Joint Committee on Government and  
26 Finance shall conduct a performance review on the pilot program and

1 the participating municipalities ~~and/or~~ or metro governments. The  
2 review shall include the following:

3 (1) An evaluation of the effectiveness of expanded home rule  
4 on the participating municipalities ~~and/or~~ or metro governments;

5 (2) A recommendation as to whether the expanded home rule  
6 should be continued, reduced, expanded or terminated;

7 (3) A recommendation as to whether any legislation is  
8 necessary; and

9 (4) Any other issues considered relevant.

10 (1) On or before January 1, 2013, the Joint Committee on  
11 Government and Finance shall report to the Joint Committee on  
12 Government Organization the findings of the performance review.

13 (m) The pilot program terminates on ~~the first day of July two~~  
14 ~~thousand thirteen, July 1, 2011.~~

15 (n) No ordinances, acts, resolutions, rules or regulations may  
16 be enacted by a municipality or metro government after ~~the first~~  
17 ~~day of July, two thousand thirteen July 1, 2011,~~ pursuant to the  
18 provisions of this section unless otherwise authorized by the  
19 Legislature.

NOTE: The purpose of this bill is to shorten the statutory time period during which a municipality or metro government may enact ordinances, acts, resolutions, rules or regulations.

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