

H. B. 4113

(By Delegates Morgan, Hall, Hatfield, Hartman,
Staggers and Swartzmiller)

[Introduced January 18, 2012; referred to the
Committee on Political Subdivisions then the Judiciary.]

A BILL to amend and reenact §8-1-5a of the Code of West Virginia,
1931, as amended, relating to the Municipal Home Rule Pilot
Program; increasing by two the number of municipalities that
may participate in the program; providing that the two
legislative members of the Municipal Home Rule Board sit *ex
officio*; and requiring any change to municipality's tax
structure or authority be approved by the voters.

Be it enacted by the Legislature of West Virginia:

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

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

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

(a) The Legislature finds and declares that:

(1) The future economic progress for the State of West

1 Virginia is directly related to the success of its municipalities
2 in that stronger municipalities will make for a stronger West
3 Virginia;

4 (2) Municipalities face numerous challenges managing their
5 budgets and delivering services required by federal or state law or
6 demanded by their constituents;

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

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

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

20 © ~~Effective July 1, 2007, there is hereby created~~ There is
21 continued a pilot program to be known as the Municipal Home Rule
22 Pilot Program authorizing ~~five~~ seven selected Class I, Class II
23 and/or Class III municipalities and/or metro governments the
24 authority to enact any ordinances, acts, resolutions, rules and

1 regulations not contrary to the Constitutions of the United States
2 or West Virginia, federal law or chapters sixty-a, sixty-one and
3 sixty-two of this code.

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

6 (1) Be a Class I, Class II and/or Class III municipality
7 and/or a metro government: *Provided*, That a municipality
8 considering consolidation or establishing a metro government shall
9 have no more than two years from the date it is selected for the
10 pilot program to complete its consolidation or metro government
11 process or its participation in the pilot program will terminate at
12 the end of the two-year period; and

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

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

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

19 © The proposed solutions to the problems, including all
20 proposed changes to ordinances, acts, resolutions, rules and
21 regulations.

22 (e) ~~Effective July 1, 2007, There is hereby created~~ continued
23 a Municipal Home Rule Board consisting of the following seven
24 members:

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

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

4 ~~(3) The chair of the Senate Committee on Government
5 Organization or a designee;~~

6 ~~(4) The chair of the House of Delegates Committee on
7 Government Organization or a designee;~~

8 ~~(5)~~ (3) One member shall be a representative of the business
9 and Industry Council;

10 ~~(6)~~ (4) One member shall be a representative of the largest
11 labor organization in the state; ~~and~~

12 ~~(7)~~ (5) One member shall be a representative of the West
13 Virginia Chapter of American Institute of Certified Planners; and

14 ~~(8)~~ (6) The chairs of the Senate and House of Delegates
15 Committees on Government Organization shall serve as nonvoting ex
16 officio members.

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

19 (1) Reviewing, evaluating and making recommendations to the
20 proposed plans submitted by eligible municipalities and/or metro
21 governments;

22 (2) Consulting with state agencies affected by the proposed
23 plans;

24 (3) Selecting municipalities and/or metro governments to

1 participate in the pilot program;

2 (4) Approving the plans of recommended pilot program
3 participants, as submitted or as modified; and

4 (5) Authorizing amendments to approved plans.

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

9 (h) Prior to submitting a written plan, the municipality
10 shall:

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

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

14 (3) Make a copy of the proposed written plan available for
15 public inspection at least thirty days prior to the public hearing;
16 and

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

21 (I) On or before June 1, 2008, the board shall select by a
22 majority vote of the board at least one, but not more than five
23 municipalities and/or metro governments to participate in the pilot
24 program.

1 (j) The pilot municipalities and/or metro governments selected
2 to participate in the pilot program shall have the following
3 powers:

4 (1) The authority to pass any ordinances, acts, resolutions,
5 rules and regulations not contrary to the Constitutions of the
6 United States or West Virginia, federal law or chapters sixty-a,
7 sixty-one and sixty-two of this code as specified in their written
8 and approved plans; ~~Provided, That~~

9 (2) The pilot municipalities may not adopt any ordinance,
10 rule, regulation or resolution or take any action that would create
11 a defined contribution employee pension or retirement plan for its
12 employees currently covered by a defined benefit pensions plan;

13 (3) A pilot municipality may not adopt any ordinance, rule,
14 regulation or resolution or take any action which would alter the
15 municipality's tax structure or authority without submitting the
16 issue to the voters of that municipality to approve the change.
17 This requirement applies to a current participating municipality
18 seeking an amendment to a plan and to future applicants; and,

19 (4) Any other powers necessary to implement the provisions of
20 its approved plan.

21 (k) Before July 1, 2012, the ~~Joint Committee on Government and~~
22 ~~Finance~~ Performance Evaluation and Review Division shall conduct a
23 performance review on the pilot program and the participating
24 municipalities and/or metro governments. The review shall include

1 the following:

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

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

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

8 (4) Any other issues considered relevant.

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

13 (m) The pilot program terminates on July 1, 2013.

14 (n) An ordinance, enacted pursuant to this section, is
15 repealed without legislative approval before July 1, 2013.

16 ~~(n)~~ (o) No ordinances, acts, resolutions, rules or regulations
17 may be enacted by a municipality or metro government after July 1,
18 2013 pursuant to the provisions of this section, unless otherwise
19 authorized by the Legislature.

NOTE: The purpose of this bill is to update the authority and structure of the Home Rule Board. The bill increases the number of municipalities that may participate in the program from five to seven. The bill requires the chair of the Senate Committee on Government Organization and the chair of the House of Delegates

Committee on Government Organization serve as nonvoting *ex officio* members. The bill provides that changes to municipality's tax structure or authority be approved by the voters.

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