

**H. B. 2761**

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(By Delegates Morgan, Stephens, Craig, Barrett,  
Marshall, Guthrie, Fleischauer, Boggs,  
Jones and Swartzmiller)

[Introduced February 28, 2013; referred to the  
Committee on Government Organization.]

10 A BILL to amend and reenact §8-1-5a of the Code of West Virginia,  
11 1931, as amended, relating to the Municipal Home Rule Pilot  
12 Program and the Municipal Home Rule Board; continuing the  
13 pilot program and board until July 1, 2018; providing that two  
14 current board members shall serve as *ex officio* nonvoting  
15 members; updating the board's powers; authorizing up to six  
16 additional municipalities to participate in the pilot program;  
17 setting forth requirements for municipalities to participate  
18 in the pilot program; setting forth powers of the  
19 municipalities participating in the pilot program; providing  
20 that metro governments may not participate in the pilot  
21 program; establishing a termination date of the pilot program;  
22 and clarifying the effects of ordinances and amendments passed  
23 by the municipalities participating in the pilot program.

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

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

27 **ARTICLE 1. PURPOSE AND SHORT TITLE; DEFINITIONS; GENERAL**

1                   **PROVISIONS; CONSTRUCTION.**

2 **§8-1-5a.     Pilot program to increase powers of municipal self**  
3                   **government.**

4           (a) The Legislature finds and declares that:

5           (1) The future economic progress for the State of West  
6 Virginia is directly related to the success of its municipalities  
7 in that stronger municipalities will make for a stronger West  
8 Virginia;

9           (2) Municipalities face numerous challenges managing their  
10 budgets and delivering services required by federal or state law or  
11 demanded by their constituents;

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

16           (4) Authorizing pilot municipalities ~~and metro governments~~ in  
17 West Virginia to exercise broad-based home rule ~~will allow~~ allows  
18 the Legislature the opportunity to evaluate the viability of  
19 allowing municipalities to have broad-based state home rule to  
20 improve urban and state development.

21           (b) It is the intent of the Legislature ~~in enacting this~~  
22 ~~section to establish~~ provide a framework for municipalities within  
23 which new ideas can be explored to ~~see if~~ determine they can or  
24 should be implemented on a statewide basis.

25           ~~(c) Effective July 1, 2007, there is hereby created a pilot~~

1 ~~program to be known as the Municipal Home Rule Pilot Program~~  
2 ~~authorizing five selected Class I, Class II and/or Class III~~  
3 ~~municipalities and/or metro governments the authority to enact any~~  
4 ~~ordinances, acts, resolutions, rules and regulations not contrary~~  
5 ~~to the Constitutions of the United States or West Virginia, federal~~  
6 ~~law or chapters sixty-a, sixty-one and sixty-two of this code.~~

7 ~~(d) To be eligible to participate in the Municipal Home Rule~~  
8 ~~Pilot Program the applicant shall:~~

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

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

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

20 ~~(B) The problems created by the laws, policies, rules or~~  
21 ~~regulations; and~~

22 ~~(C) The proposed solutions to the problems, including all~~  
23 ~~proposed changes to ordinances, acts, resolutions, rules and~~  
24 ~~regulations.~~

25 ~~(c) The Municipal Home Rule Pilot Program is continued until~~

1 July 1, 2018. The four municipalities participating in the pilot  
2 program on July 1, 2012, are authorized to continue in the pilot  
3 program and may amend current written plans or submit new written  
4 plans in accordance with this section.

5 (d) The Municipal Home Rule Board is continued. The board  
6 members serving on the board on July 1, 2013, shall continue to  
7 serve, except that the chair of the Senate Committee on Government  
8 Organization and the chair of the House Committee on Government  
9 Organization shall be *ex officio* nonvoting members.

10 (e) ~~Effective July 1, 2007, there is hereby created a 2013,~~  
11 the Municipal Home Rule Board consisting shall consist of the  
12 following seven members:

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

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

16 (3) The chair of the Senate Committee on Government  
17 Organization or a designee who shall serve as an *ex officio*  
18 nonvoting member;

19 (4) The chair of the House of Delegates Committee on  
20 Government Organization or a designee who shall serve as an *ex*  
21 *officio* nonvoting member;

22 (5) One member shall be a representative of the business and  
23 Industry Council;

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

26 (7) One member shall be a representative of the West Virginia

1 Chapter of American Institute of Certified Planners.

2 (f) The board ~~has the powers necessary to implement the~~  
3 ~~provisions of this section, including the following:~~ may:

4 (1) Select up to six additional municipalities to participate  
5 in the pilot program;

6 ~~(1) (2) Reviewing, evaluating and making~~ Review, evaluate and  
7 make recommendations to the ~~proposed~~ written plans and amendments  
8 to written plans submitted by ~~eligible~~ participating  
9 municipalities; ~~and/or metro governments;~~

10 ~~(2) (3) Consulting~~ Consult with state agencies affected by the  
11 ~~proposed~~ written plans and amendments to written plans; and

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,~~ Approve, by a majority vote of the voting members of  
16 the board, the written plans and amendments to written plans of  
17 participating municipalities, as submitted or as modified. ~~and~~

18 ~~(5) Authorizing amendments to approved plans.~~

19 (g) (1) Commencing July 1, 2013, additional Class I, Class II,  
20 Class III or Class IV municipalities are eligible to apply to the  
21 board to participate in the Municipal Home Rule Pilot Program, and  
22 the four municipalities currently participating in the Municipal  
23 Home Rule Pilot Program may submit new written plans or amend their  
24 current written plans.

25 (2) To apply to participate, a Class I, Class II, Class III or  
26 Class IV municipality shall submit a written plan to the board

1 setting forth in detail the following:

2 (A) The specific laws, acts, resolutions, policies, rules or  
 3 regulations which prevent the municipality from carrying out its  
 4 duties in the most cost-efficient, effective and timely manner;

5 (B) The problems created by the laws, acts, resolutions,  
 6 policies, rules or regulations; and

7 (C) The proposed solutions to the problems, including all  
 8 proposed changes to ordinances, acts, resolutions, rules and  
 9 regulations.

10 ~~(g)~~ (h) On or before January 1, ~~2008~~ 2014, an eligible  
 11 municipality ~~and/or metro government wanting~~ may apply to  
 12 participate in the pilot program ~~shall submit~~ by submitting a  
 13 written plan as described in ~~subdivision (2), subsection (d)~~  
 14 subsection (g) of this section to the board.

15 ~~(h)~~ (i) Prior to submitting a written plan to the board, the  
 16 municipality shall:

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

18 (2) Provide notice at least thirty days' ~~notice of~~ prior to  
 19 the public hearing by a Class II legal advertisement;

20 (3) Make a copy of the ~~proposed~~ written plan available for  
 21 public inspection at least thirty days prior to the public hearing;  
 22 and

23 (4) After the public hearing, adopt ~~a municipal~~ an ordinance  
 24 authorizing the municipality to submit a ~~proposed~~ written plan to  
 25 the ~~Municipal Home Rule Board~~ board after the proposed ~~municipal~~  
 26 ordinance has been read two times.

1       ~~(i) (j)~~ On or before June 1, 2008, ~~the board shall select by~~  
2 ~~a majority vote of the board at least one, but not more than five~~  
3 ~~municipalities and/or metro governments~~ 2014, the board may, by a  
4 majority vote of the voting members of the board:

5       (1) Select up to six additional municipalities to participate  
6 in the ~~pilot program~~ Municipal Home Rule Pilot Program; and

7       (2) Approve written plans submitted by the new municipalities.

8       ~~(j) (k)~~ The ~~pilot municipalities and/or metro governments~~  
9 ~~selected to participate in the pilot program shall have the~~  
10 ~~following powers~~ participating in the Municipal Home Rule Pilot  
11 Program may:

12       ~~(1) The authority to~~ Pass any ordinances, acts, resolutions,  
13 rules and regulations not contrary to the Constitutions of the  
14 United States or West Virginia, federal law or chapters sixty-a,  
15 sixty-one and sixty-two of this code as specified in their written  
16 and approved plans: *Provided, That the pilot municipalities may*  
17 ~~not adopt any ordinance, rule, regulation or resolution or take any~~  
18 ~~action that would create a defined contribution employee pension or~~  
19 ~~retirement plan for its employees currently covered by a defined~~  
20 ~~benefit pensions plan~~ no participating municipality may enact an  
21 ordinance, act, resolution, rule or regulation that creates,  
22 modifies or amends pensions, retirement plans, annexation, or state  
23 or federal crimes and punishment; and

24       (2) Exercise any other powers necessary to implement the  
25 provisions of its ~~approved~~ written plan.

26       ~~(k) Before July 1, 2012, the Joint Committee on Government and~~

1 ~~Finance shall conduct a performance review on the pilot program and~~  
2 ~~the participating municipalities and/or metro governments. The~~  
3 ~~review shall include the following:~~

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

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

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

10 ~~(4) Any other issues considered relevant.~~

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

14 ~~(m) (1) The pilot program Municipal Home Rule Pilot Program~~  
15 ~~terminates on July 1, 2013 2018.~~

16 ~~(n) (m) No ordinances, acts, resolutions, rules or regulations~~  
17 ~~may be enacted by a municipality or metro government after July 1,~~  
18 ~~2013 2018, pursuant to the provisions of this section, unless~~  
19 ~~otherwise authorized by the Legislature, and any ordinance, act,~~  
20 ~~resolution, rule or regulation enacted by a municipality under this~~  
21 ~~section during the period of the Municipal Home Rule Pilot Project~~  
22 ~~shall continue until repealed, but is void if amended: *Provided,*~~  
23 ~~That an ordinance, act, resolution, rule or regulation may be~~  
24 ~~amended to correct or update names, addresses, phone numbers and~~  
25 ~~other references, make technical corrections or updates to comport~~  
26 ~~with advances in technology, or make corrections or updates to~~



1 comport with changes in federal or state law, so long as the  
2 amendment does not supply a new basis for the imposition of civil  
3 or criminal liability or grant or deny a specific benefit not  
4 contained in the original ordinance, act, resolution, rule or  
5 regulation as approved under the Municipal Home Rule Pilot Program:  
6 Provided, however, That any ordinance, act, resolution, rule or  
7 regulation that was enacted under the Municipal Home Rule Pilot  
8 Program but not implemented as of the effective date of the  
9 reenactment of this section in the Regular Session of the  
10 Legislature of 2013 is null and void.

NOTE: The purpose of this bill is to continue the Municipal Home Rule Pilot Program and the Municipal Home Rule Board until July 1, 2018. The bill provides that two current board members shall serve as *ex officio* nonvoting members. The bill updates the board's powers. The bill authorizes up to six additional municipalities to participate in the pilot program. The bill sets forth requirements for municipalities to participate in the pilot program. The bill sets forth powers of the municipalities participating in the pilot program. The bill provides that metro governments may not participate in the pilot program. The bill clarifies the effects of ordinances and amendments passed by the municipalities participating in the pilot program.

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