

Senate Bill No. 163

(By Senators Carmichael and Unger)

[Introduced February 14, 2013; referred to the Committee on
Government Organization.]

11 A BILL to amend and reenact §8-1-5a of the Code of West Virginia,
12 1931, as amended, relating to permitting two municipalities in
13 each county to participate in the home rule pilot program.

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

1 in that stronger municipalities will make for a stronger West
2 Virginia;

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

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

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

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

19 (c) Effective July 1, 2007, there is hereby created a pilot
20 program to be known as the Municipal Home Rule Pilot Program
21 authorizing ~~five~~ two selected Class I, Class II and/or Class III
22 municipalities and/or metro governments from each county the
23 authority to enact any ordinances, acts, resolutions, rules and
24 regulations not contrary to the Constitutions of the United States

1 or West Virginia, federal law or chapters sixty-a, sixty-one and
2 sixty-two of this code.

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

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

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

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

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

18 (C) The proposed solutions to the problems, including all
19 proposed changes to ordinances, acts, resolutions, rules and
20 regulations.

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

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

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

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

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

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

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

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

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

15 (1) Reviewing, evaluating and making recommendations to the
16 proposed plans submitted by eligible municipalities and/or metro
17 governments;

18 (2) Consulting with state agencies affected by the proposed
19 plans;

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

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

24 (5) Authorizing amendments to approved plans.

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

5 (h) Prior to submitting a written plan, the municipality
6 shall:

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

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

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

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

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

21 (j) The pilot municipalities and/or metro governments selected
22 to participate in the pilot program shall have the following
23 powers:

24 (1) The authority to pass any ordinances, acts, resolutions,

1 rules and regulations not contrary to the Constitutions of the
2 United States or West Virginia, federal law or chapters sixty-a,
3 sixty-one and sixty-two of this code as specified in their written
4 and approved plans: *Provided*, That the pilot municipalities may
5 not adopt any ordinance, rule, regulation or resolution or take any
6 action that would create a defined contribution employee pension or
7 retirement plan for its employees currently covered by a defined
8 benefit pensions plan; and

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

11 (k) Before July 1, 2012, the Joint Committee on Government and
12 Finance shall conduct a performance review on the pilot program and
13 the participating municipalities and/or metro governments. The
14 review shall include the following:

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

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

19 (3) A recommendation as to whether any legislation is
20 necessary; and

21 (4) Any other issues considered relevant.

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

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

2 (n) No ordinances, acts, resolutions, rules or regulations may
3 be enacted by a municipality or metro government after July 1,
4 2013, pursuant to the provisions of this section, unless otherwise
5 authorized by the Legislature.

NOTE: The purpose of this bill is to permit two municipalities
from each county to participate in the pilot home rule program.

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