

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2307

**FISCAL
NOTE**

BY DELEGATE SOBONYA

[Introduced February 9, 2017; Referred
to the Committee on Government Organization then the
Judiciary]

1 A BILL to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating
 2 to terminating the Municipal Home Rule Pilot Program and Municipal Home Rule Board;
 3 allowing municipalities throughout the state an opportunity to enact any ordinance, act,
 4 resolution, rule or regulation resulting from the Municipal Home Rule Pilot Program.

Be it enacted by the Legislature of West Virginia:

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

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

§8-1-5a. Municipal Home Rule Pilot Program.

1 (a) Legislative findings. -- The Legislature finds and declares that:

2 (1) The initial Municipal Home Rule Pilot Program brought innovative results, including
 3 novel municipal ideas that became municipal ordinances which later resulted in new statewide
 4 statutes;

5 (2) The initial Municipal Home Rule Pilot Program also brought novel municipal ideas that
 6 resulted in court challenges against some of the participating municipalities;

7 (3) The Municipal Home Rule Pilot Program, although having produced some novel
 8 municipal ideas, has also created disparity between municipalities by allowing powers for some
 9 that are not available to others;

10 (4) In order to correct these disparate results, municipalities should be afforded the
 11 opportunity to adopt ordinances enacted pursuant to the Municipal Home Rule Pilot Program;

12 (5) The Municipal Home Rule Pilot Program should be terminated;

13 (6) The Municipal Home Rule Board, having served its function, should be terminated.

14 (b) Termination of pilot program. -- The Municipal Home Rule Pilot Program is terminated
 15 effective July 1, 2017. The ordinances enacted by the four participating municipalities pursuant

16 to the initial Municipal Home Rule Pilot Program are hereby authorized and may remain in effect
17 until the ordinances are repealed.

18 (c) Extension of ordinances to municipalities - As of the date of passage of this amendment
19 during the 2017 Legislative Session, any ordinance, act, resolution, rule or regulation enacted
20 pursuant to the Municipal Home Rule Pilot Program shall be made available for adoption by any
21 other municipality. Each municipality wishing to adopt the ordinance, act, resolution, rule or
22 regulation must:

23 (1) Hold a public hearing on the proposed ordinance, act, resolution, rule or regulation;

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

26 (3) Make a copy of the proposed ordinance, act, resolution, rule or regulation available for
27 public inspection at least thirty days prior to the public hearing;

28 (4) After obtaining approval from the city council, read the proposed ordinance, act,
29 resolution, rule or regulation at least two times.

30 (d) Municipal Home Rule Board. -- The Municipal Home Rule Board is hereby terminated.

31 (e) Powers and duties of municipalities. -- The municipalities participating in the Municipal
32 Home Rule Pilot Program have the authority to pass an ordinance, act, resolution, rule or
33 regulation, under the provisions of this section, that is not contrary to:

34 (1) Environmental law;

35 (2) Bidding on government construction and other contracts;

36 (3) The Freedom of Information Act;

37 (4) The Open Governmental Proceedings Act;

38 (5) Wages for construction of public improvements;

39 (6) The provisions of this section;

40 (7) The provisions of section five-a, article twelve of this chapter; and

41 (8) The municipality's written plan.

42 (f) Prohibited acts. -- The municipalities participating in the Municipal Home Rule Pilot
43 Program do not have the authority to pass an ordinance, act, resolution, rule or regulation, under
44 the provisions of this section, pertaining to:

45 (1) The Constitution of the United States or West Virginia;

46 (2) Federal law or crimes and punishment;

47 (3) Chapters sixty-a, sixty-one and sixty-two of this code or state crimes and punishment;

48 (4) Pensions or retirement plans;

49 (5) Annexation;

50 (6) Taxation: Provided, That a participating municipality may enact a municipal sales tax
51 up to one percent if it reduces or eliminates its municipal business and occupation tax: Provided,
52 however, That if a municipality subsequently reinstates or raises the municipal business and
53 occupation tax it previously reduced or eliminated under the Municipal Home Rule Pilot Program,
54 it shall eliminate the municipal sales tax enacted under the Municipal Home Rule Pilot
55 Program: Provided further, That any municipality that imposes a municipal sales tax pursuant to
56 this section shall use the services of the Tax Commissioner to administer, enforce and collect the
57 tax in the same manner as the State Consumers Sales and Service Tax and Use Tax under the
58 provisions of articles fifteen, fifteen-a and fifteen-b, chapter eleven of this code and all applicable
59 provisions of the streamlined sales and use tax agreement: And provided further, That the tax
60 will not apply to the sale of motor fuel or motor vehicles;

61 (7) Tax increment financing;

62 (8) Extraction of natural resources;

63 (9) Persons or property outside the boundaries of the municipality: Provided: That this
64 prohibition under the Municipal Home Rule Pilot Program does not affect a municipality's powers
65 outside its boundary lines under other sections of this chapter, other chapters of this code or court
66 decisions;

67 (10) Marriage and divorce laws; and

68 (11) An occupation tax, fee or assessment payable by a nonresident of a municipality.

NOTE: The purpose of this bill is to terminate the Municipal Home Rule Pilot Program and the Municipal Home Rule Board, but allow municipalities the option to adopt any ordinance already enacted in another municipality through the Municipal Home Rule Pilot Program.

This section has been completely rewritten; therefore, it has been completely underscored.