

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3490**

By Delegates Hanshaw (Mr. Speaker), Jeffries,

Phillips, and Kelly

[Introduced February 14, 2023; Referred to the  
Committee on Government Organization then the  
Judiciary]

1 A BILL to amend and reenact §7A-1-2 and §7A-1-3 of the Code of West Virginia, 1931, as  
 2 amended; to amend and reenact §7A-2-1 and §7A-2-4 of said code; to amend and reenact  
 3 §7A-3-4 of said code; to amend and reenact §7A-4-2 of said code; and to amend and  
 4 reenact §7A-7-4a and §7A-7-8 of said code, all relating to consolidation of local  
 5 governments; setting forth legislative findings; providing definitions; delineating the powers  
 6 and privileges of a consolidated local government; providing for additional limitations on  
 7 the actions of consolidated local government; amending the composition of a metro  
 8 charter review committee; providing for additional public hearings in the charter review  
 9 committee process; modifying the percentage vote required to approve metro government  
 10 in municipal and countywide elections from 55 percent to a majority in counties with  
 11 populations below 20,000; and removing the time limit for other municipalities to apply to  
 12 join a metro government.

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

**ARTICLE 1. GENERAL PROVISIONS.**

<b>§7A-1-2.</b>	<b>Legislative</b>	<b>findings.</b>
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1	(a) The Legislature finds that:	
2	(1) The fiscal viability of municipal and county governments is challenged by changing	
3	demographics and tax bases;	
4	(2) With many local governments there is significant duplicity of services;	
5	(3) Certain local governments are at their taxable limits and yet are facing fee increases to	
6	remain financially viable; and	
7	(4) Local governments should perform at the highest level of efficiency and economy while	
8	providing the highest standards of governmental services to their citizens.	
9	(b) The Legislature finds that consolidation of local governments:	
10	(1) <del>Is</del> <u>May be</u> in the public interest;	
11	(2) <del>Would</del> <u>May</u> help promote economic growth and development;	

12 (3) ~~Would~~ May help local governments provide more efficient local services and more  
13 effective public administration; and

14 (4) ~~Would~~ May keep local governments viable and provide more governing flexibility.

15 (c) Therefore, in order to attain high standards of efficiency, economy, service and flexibility  
16 and to assure the ongoing improvement in the quality of life of all citizens of the state, the  
17 Legislature hereby ~~encourages and~~ permits all local governments to consolidate part or all of their  
18 governmental and corporate functions.

**§7A-1-3.**

**Definitions.**

1 For the purposes of this article, the following words have the meanings assigned unless  
2 the context indicates otherwise:

3 (1) "Affected municipality", "affected county", "affected metro government" or "affected  
4 area", or the plural, mean municipalities, counties or metro governments in the territory  
5 encompassed by the proposed charter of a consolidated local government.

6 (2) "Consolidated local government", or the plural, means a type of government that  
7 encompasses municipal consolidation, county consolidation and metro consolidation.

8 (3) "County consolidation" and "consolidated county" mean the consolidation of two or  
9 more counties as defined by the charter.

10 (4) "Governing body", or the plural, means the body charged with the responsibility of  
11 enacting laws and determining public policy of a municipal or county government or local  
12 consolidated government.

13 (5) "Metro consolidation" and "metro government" mean the consolidation of one or more  
14 counties and a principal city as defined by the charter.

15 "Metropolitan service district" means the prior boundaries of that portion of a consolidated  
16 local government that was formerly a principal city, or of that portion which was either in whole or  
17 part another municipality which has been absorbed into the consolidated local government.

18 (6) "Municipal consolidation" and "consolidated municipality" mean the consolidation of

19 two or more municipalities, including cities, towns and villages, as defined by the charter.

20 (7) "Principal city" means the municipality with the largest population in the territory  
21 encompassed by the proposed charter of the consolidated local government.

**ARTICLE 2. POWERS AND LIMITATIONS.**

**§7A-2-1. Powers and privileges of consolidated local government.**

1 (a) A consolidated local government has, but is not limited to, all powers and privileges of a  
2 municipality for municipal consolidation, a county for county consolidation, and both a municipality  
3 and a county for metro consolidation under the Constitution and general laws of West Virginia:  
4 ~~Provided, That in a metro consolidation, the governing body of the principal city shall have only the~~  
5 ~~taxing authority granted to a municipality and the governing body of the affected county shall have~~  
6 ~~only the taxing authority granted to a county~~

7 (b) These powers may include the authority to:

8 (1) Levy and collect taxes on all property taxable for state purposes within the territory of  
9 the consolidated local government not exempt by law from taxation and at a rate not in excess of  
10 that allowed by law;

11 (2) License, tax, charge fees and regulate privileges, occupations, trades and professions  
12 as authorized by law;

13 (3) Make appropriations for the support of the consolidated local government and provide  
14 for the payment of all debts and expenses of the consolidated local government and the debts and  
15 expenses of the local governments of which it is the successor: Provided, That any appropriation  
16 related to paying for a debt or expense of a municipality of which it is the successor may only be  
17 paid for with revenue collected from those persons resident in the municipal service area of that  
18 municipality;

19 (4) Issue or cause to be issued bonds and other debt instruments or enter into all other  
20 financial transactions as may be permitted by law;

21 (5) Purchase, lease, construct, maintain or otherwise acquire, hold, use and operate any

22 property, real, personal or mixed, for any public purpose and sell, lease or otherwise dispose of  
23 any property, real, personal or mixed, belonging to a consolidated local government;

24 (6) Exercise the power of eminent domain for any public purpose subject to the limitations  
25 and exceptions prescribed by the Constitution and the general laws of West Virginia;

26 (7) Accept federal or state funds and other sources of revenue that are applicable to  
27 counties and municipalities;

28 (8) Pass and enforce by fines and penalties, if necessary, all ordinances, not inconsistent  
29 with law, as are expedient in maintaining the peace, safety, good government, health and welfare  
30 of the residents of the consolidated local government;

31 (9) Enforce land-use regulations; and

32 (10) Enter into contracts and agreements with other governmental entities and with private  
33 persons, firms and corporations and address cooperative compacts in existence at the time of  
34 consolidation.

35 (c) Consolidated local governments created under this chapter are entitled to all state and  
36 federal monetary assistance to the same extent a municipality or county is entitled to such  
37 assistance. A metro government has the status of a municipality and county for purposes of  
38 receiving state, federal and any other monetary assistance and the population of the territory  
39 encompassed by its charter shall be used for all calculations and distributions.

40 (d) The powers of the consolidated local government shall be construed broadly in its favor.  
41 The specific reference, or failure to do so, of particular powers in this section does not limit the  
42 general or specific powers of a consolidated local government.

43 (e) A consolidated local government acquires and succeeds to all rights, obligations, duties  
44 and privileges of the governments of which it is a successor in accordance with the terms of the  
45 charter: Provided, That a consolidated local government may not impose the obligation or duty to  
46 pay any pension debt of any of its predecessor municipalities upon all of its residents, but these  
47 debts remain the obligation of those persons resident in the municipal service area which originally

48 incurred this debt.

49 (f) Without the necessity or formality of deed, bill of sale or other instrument of transfer, the  
50 consolidated local government becomes the owner of all property, assets, contracts and  
51 franchises within the territory encompassed by the charter previously belonging to the  
52 governments of which it is a successor.

53 ~~(g) The intent of this chapter is to promote consolidation and the provisions of this chapter~~  
54 ~~shall be construed broadly to permit consolidation~~ The formation of any consolidated local  
55 government does not affect any provision of this code limiting the power of a county or municipality  
56 to regulate firearms or other deadly weapons.

**§7A-2-4. Limitations of a consolidated local government.**

1 (a) Public school districts, library districts, fire districts, special taxing districts and public  
2 service districts are not affected by consolidation under the provisions of this chapter.

3 (1) County boards of education are not affected either in their office or their duties by  
4 consolidation under the provisions of this chapter.

5 (2) Judicial officers are not affected either in their office or their duties by consolidation  
6 under the provisions of this chapter.

7 (b) (1) The adoption of a charter does not alter any right or liability of an affected  
8 municipality, county or metro government in effect at the time the charter becomes effective.  
9 ~~Ordinances and resolutions relating to public improvements to be paid for, in whole or in part, by~~  
10 ~~special assessments remain in effect until paid in full~~

11 (2) The formation of any consolidated local government and adoption of a charter for the  
12 same does not affect any provision of this code limiting the power of a county or municipality to  
13 regulate firearms or other deadly weapons.

14 (c) (1) The following officers of the county portion of a consolidated local government shall  
15 remain in place:

16 (A) Sheriff;

17 (B) Prosecuting attorney;

18 (C) Assessor;

19 (D) Surveyor of lands; and

20 (E) Clerks of the circuit and of the county courts.

21 (2) The sheriff of the county shall be and remain the chief law-enforcement officer of the  
22 consolidated local government and all law-enforcement officers of the consolidated local  
23 government shall be under his or her supervision.

24 (d) Ordinances and resolutions relating to public improvements to be paid for, in whole or in  
25 part, by special assessments remain in effect until paid in full: *Provided*, That the imposition of any  
26 fees related to pay for an improvement made by a predecessor municipality of a consolidated local  
27 government may only be collected from those persons resident in the portion of the municipal  
28 service area of that municipality which originally contracted for and received the benefit from the  
29 improvement.

**ARTICLE 3. INITIATING CONSOLIDATION AND ESTABLISHING CHARTER REVIEW  
COMMITTEE.**

**§7A-3-4. Metro charter review committee.**

1 (a) A metro charter review committee shall be established within 30 days of the county  
2 commission verifying the petition or resolution proposing consolidation.

3 (b) A metro charter review committee consists of the following members:

4 (1) Two government officials or their designees from the principal city appointed by the  
5 governing body of the principal city;

6 (2) Two county commissioners or their designees from each affected county appointed by  
7 their respective county commissions;

8 (3) If the principal city is located in two counties and one is not participating in  
9 consolidation, then one county commissioner or his or her designee from the county not

10 participating in consolidation appointed by the county commission; and

11 (4) ~~Two or three~~ Six or seven public members, including ~~one~~ at least three from an  
12 unincorporated area, who shall be elected by the other members to make the number of charter  
13 review committee members an odd number.

14 (c) A metro charter review committee continues to exist until it is dissolved pursuant to the  
15 charter or the final disapproval of the charter.

**ARTICLE 4. CHARTER REVIEW COMMITTEE.**

**§7A-4-2. Public hearings.**

1 (a) The charter review committee shall hold a at least three public hearings within three  
2 months of the organizational meeting or reconvening, a at least three additional public hearings  
3 within ~~six~~ the next succeeding three months of its organizational meeting or reconvening and a at  
4 least five additional public hearings within ~~eleven~~ the next succeeding six months of its  
5 organizational meeting or reconvening prior to finalizing its draft of the proposed charter. The  
6 committee is authorized to hold additional public hearings as it may desire.

7 (b) The date, time, place and agenda of ~~the~~ any public hearing shall be published as a  
8 Class II legal advertisement in a newspaper of general circulation in the affected areas.

**ARTICLE 7. ELECTIONS ON METRO GOVERNMENT.**

**§7A-7-4a. Modifying the percentage vote required to approve metro government in  
municipal and countywide elections from 55 percent to a majority in counties with  
populations ~~in excess of 150,000~~ under 20,000.**

1 (a) Notwithstanding any other provision of this chapter to the contrary, where the election is  
2 on the question of consolidation of a county with a population ~~exceeding 150,000~~ less than 20,000,  
3 based on the ~~2000 or 2010~~ 2020 census of population taken under the authority of the United  
4 States government, and a single ~~Class I~~ city that is the principal municipality of the county, then  
5 metro government becomes effective pursuant to the charter if a majority of the legal votes cast by

6 the qualified voters of the principal city and a majority of the legal votes cast by the qualified voters  
 7 of all incorporated and unincorporated areas of the affected county, excluding the principal city,  
 8 approves the consolidation.

9 ~~(b) As used in this section, a Class I city is a municipality so classified under section three,~~  
 10 ~~article one, chapter eight of this code~~

**§7A-7-8. Subsequent joining of municipality, county or metro government to metro government.**

1 (a) After a metro government has been formed ~~in existence for at least one year~~, a  
 2 municipality, county or metro government may request to join the metro government by submitting:

3 (1) A petition signed by at least 15 percent of the qualified voters in the municipality, county  
 4 or metro government; or

5 (2) A resolution by the governing body of the municipality, county or metro government.

6 (b) Within 30 days of receipt of the petition or resolution, the governing body of the metro  
 7 government shall vote to accept or reject the municipality, county or metro government requesting  
 8 to join.

9 (c) If the governing body of the metro government votes to accept the municipality, county  
 10 or metro government, then the municipality, county or metro government shall hold an election on  
 11 consolidation at the next primary or general election. The election shall be held in accordance with  
 12 applicable election laws and section two of this article.

13 (d) The ballots for the election on consolidation shall be as follows:

14 [ ] For the (name of metro government)

15 [ ] Against the (name of metro government)

16 (e) If at least 55 percent of the legal votes cast by the qualified voters of the municipality,  
 17 county or metro government approve consolidation, then consolidation becomes effective  
 18 pursuant to the charter.

19 (f) If consolidation is not approved by at least 55 percent of the legal votes cast by the

- 20 qualified voters of the municipality, county or metro government, then the consolidation is defeated
- 21 and cannot be voted upon for one year.

NOTE: The purpose of this bill is to amend the State Code regarding the consolidation of local governments; setting forth legislative findings; providing definitions; delineating the powers and privileges of a consolidated local government; providing for additional limitations on the actions of consolidated local government; amending the composition of a metro charter review committee; providing for additional public hearings in the charter review committee process; modifying the percentage vote required to approve metro government in municipal and countywide elections from 55 percent to a majority in counties with populations below 20,000; and removing the time limit for other municipalities to apply to join a metro government.

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