

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2381**

**FISCAL  
NOTE**

By Delegates Chiarelli, Hornby, Browning, and Kyle

[Introduced February 14, 2025; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-3, §3-9-17, §8-1-2, and §8-1-5a of the Code of West Virginia,  
 2 1931, as amended; and to amend said code by adding thereto a new section, designated  
 3 §3-1-3b, relating to permitting a citizen of this state to vote in the election of a municipality  
 4 in which the citizen does not reside; providing that a citizen of this state may vote in the  
 5 election of a municipality in which the citizen does not reside under certain conditions;  
 6 establishing the requirements a citizen must meet before voting in a municipal election in a  
 7 municipality in which the citizen does not reside; prohibiting nonresidents from voting for a  
 8 municipal representative of a municipal ward or election district; clarifying that the "one  
 9 person – one vote" standard applies; prohibiting qualified nonresidents from casting more  
 10 than one vote in a municipality's election; requiring that a citizen must establish before the  
 11 clerk of the county commission that he or she is qualified to vote in the election of a  
 12 municipality in which he or she does not reside; requiring the clerk of the county  
 13 commission to ensure that paper ballots that allow qualified nonresidents to vote for all at-  
 14 large municipal positions and city-wide questions are present at each precinct to which a  
 15 nonresident voter has been assigned; permitting the Secretary of State to promulgate  
 16 legislative rules to regulate nonresident voting and the canvassing of nonresident votes;  
 17 providing that a qualified citizen voting in more than one municipality's election during the  
 18 same election cycle is not prohibited by law; defining terms; and prohibiting municipalities  
 19 participating in the Municipal Home Rule Program from passing any ordinance, act,  
 20 resolution, rule, or regulation contrary to the provisions of §3-1-3b of this code.

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

### **CHAPTER 3. ELECTIONS.**

#### **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

##### **§3-1-3. Persons entitled to vote.**

1 Citizens of the state shall be entitled to vote at all elections held within the precincts of the

2 counties and municipalities in which they respectively reside: Provided, that a citizen of this state  
3 may vote in a municipal election of a municipality in which the citizen does not reside pursuant to  
4 §3-1-3b of this code. But no person who has not been registered as a voter as required by law, or  
5 who is a minor, or who has been declared mentally incompetent by a court of competent  
6 jurisdiction, or who is under conviction of treason, felony or bribery in an election, or who is not a  
7 bona fide resident of the state, county or municipality in which he or she offers to vote, shall be  
8 permitted to vote at such election while such disability continues, unless otherwise specifically  
9 provided by ~~federal or state code~~ §3-1-3b or other provisions of this code or the United States  
10 Code. Subject to the qualifications otherwise prescribed in this section, however, a minor shall be  
11 permitted to vote only in a primary election if he or she will have reached the age of eighteen years  
12 on the date of the general election next to be held after such primary election.

**§3-1-3b. Nonresident voting in municipal elections.**

1 (a) Notwithstanding any other provisions of this code or of any special legislative or home  
2 rule city charter to the contrary, a citizen of this state is entitled to vote in a municipal election of a  
3 municipality in which the citizen does not reside if:

4 (1) The municipality or the major portion thereof is located in the county in which the citizen  
5 resides; and

6 (2) The citizen is a natural person and:

7 (A) Has paid any fees or charges to the municipality that were imposed pursuant to §8-13-  
8 13 of this code during the one-year period immediately preceding the election in which the citizen  
9 seeks to vote;

10 (B) Has been an owner of record of real property within the municipality for at least 60  
11 consecutive days immediately preceding application to the clerk of the county commission under  
12 §3-1-3b(e) of this code to vote in a municipality's election and has during that time owned a  
13 minimum of 50% of the fee title interest in the subject real property, regardless of whether the  
14 property is for residential or commercial use: *Provided, That a citizen may only vote in a*

15 municipality's election on the basis of such a property interest if the citizen continues to own the  
16 qualifying property interest until the day of the election; or

17 (C) Owns 25% or more of any business that has paid a municipal business and occupation  
18 or privilege tax to the municipality during the one-year period immediately preceding the election in  
19 which the citizen seeks to vote.

20 (b) Notwithstanding the provisions of §3-1-3b(a) of this code, when a municipality has been  
21 divided into wards or election districts, then only otherwise qualified voters who live within the ward  
22 or election district may vote for a representative of that ward or election district.

23 (c) A citizen may vote in each municipality in which the citizen is qualified to vote pursuant  
24 to the provisions of this section.

25 (d) This section shall be construed in accordance with the "one person – one vote"  
26 principle enunciated by the Supreme Court of the United States, and no citizen of this state shall  
27 cast more than one vote in any municipality's election.

28 (e) A nonresident entitled to vote in a municipal election under this section may not vote in  
29 a municipal election unless the nonresident contacts the clerk of the county commission of the  
30 county in which the municipality or the major portion thereof is located prior to the close of voter  
31 registration, as provided for in §3-2-6 of this code, and:

32 (1) Provides documentation sufficient for the clerk to determine that the citizen is qualified  
33 to vote in one or more municipal elections pursuant to §3-1-3b(a) of this code, and

34 (2) Completes and executes any forms or affidavits that may be required by the clerk of the  
35 county commission.

36 (f) Once a nonresident has complied with §3-1-3b(e) of this code and established that he or  
37 she is qualified to vote in a municipality's election under this section, then the clerk of the county  
38 commission shall:

39 (1) Designate, in the clerk's sole discretion, the municipal precinct at which the nonresident  
40 shall vote: *Provided*, That if the nonresident is qualified to vote under §3-1-3b(a) of this code

41 because of any property or business interest, then the clerk shall designate a municipal precinct in  
42 which at least one such qualifying business or property interest is located; and

43 (2) Ensure that paper ballots are present at each municipal precinct that has been  
44 designated as a precinct where one or more qualifying nonresident voters may vote. These paper  
45 ballots shall allow the qualifying nonresident voter to vote for all at-large municipal positions and  
46 city-wide issues and shall exclude only those municipal positions that are reserved for candidates  
47 representing certain wards or election districts.

48 (g) The Secretary of State may propose rules in accordance with the provisions of §29A-3-  
49 1 et seq. of this code to regulate nonresident voting in municipal elections under this section, as  
50 well as the canvassing of any votes cast by qualifying nonresidents in municipal elections.

**ARTICLE 9. OFFENSES AND PENALTIES.**

**§3-9-17. Illegal voting; deceiving voters; penalties.**

1 (a) Any person who knowingly and willfully votes or attempts to vote more than once at the  
2 same election held in this state; in more than one county in this state at the same or equivalent  
3 election; or, in this state and another state or territory at the same or equivalent election,  
4 irrespective of different offices, questions, or candidates on the ballot, knowing the same to be  
5 illegal, is guilty of a felony and, on conviction thereof, shall be imprisoned for not less than one year  
6 but not more than 10 years, or fined not more than \$10,000, or both, in the discretion of the court;  
7 Provided, That voting in more than one municipality's election during the same election cycle  
8 pursuant to §3-1-3b of this code does not constitute voting in the same or equivalent election  
9 under this section.

10 (b) Any person who knowingly and willfully votes or attempts to vote when the person  
11 knows he or she is not legally entitled to do so; or procures or assists in procuring an illegal vote to  
12 be admitted, or received, at an election, knowing the same to be illegal; or causes or assists in  
13 causing a legal vote to be rejected, knowing the same to be legal, is guilty of a felony and, on  
14 conviction thereof, shall be imprisoned for not less than one year but not more than 10 years, or

15 fined not more than \$10,000, or both, in the discretion of the court.

16 (c) Any person who knowingly and willfully, with intent to deceive, alters the ballot of a voter  
 17 by marking out the name of any person for whom such voter desires to vote; or, with like intent,  
 18 writes the name of any person on such ballot other than those directed by the voter; or with like  
 19 intent, makes any alteration thereof, whether such ballot be voted or not; or defrauds any voter at  
 20 any election, by deceiving and causing him or her to vote for a different person for any office than  
 21 he or she intended or desired to vote for, is guilty of a felony and, on conviction thereof, shall be  
 22 imprisoned for not less than one year but not more than 10 years, or fined not more than \$10,000,  
 23 or both, in the discretion of the court.

**CHAPTER 8. MUNICIPAL CORPORATIONS.**

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

**§8-1-2. Definitions of terms.**

1 (a) For the purpose of this chapter:  
 2 (1) "Municipality" is a word of art and shall mean and include any Class I, Class II, and  
 3 Class III city, and any Class IV town or village, heretofore or hereafter incorporated as a municipal  
 4 corporation under the laws of this state;  
 5 (2) "City" is a word of art and shall mean, include, and be limited to any Class I, Class II,  
 6 and Class III city, as classified in §8-1-3 of this code (except in those instances where the context  
 7 in which used clearly indicates that a particular class of city is intended), heretofore or hereafter  
 8 incorporated as a municipal corporation under the laws of this state, however created and whether  
 9 operating under: (i) A special legislative charter; (ii) a home rule charter framed and adopted or  
 10 revised as a whole or amended under the provisions of former §8A-1-1 *et seq.* of this code, or  
 11 under the provisions of §8-3-1 or §8-4-1 of this code; (iii) general law, or (iv) any combination of the  
 12 foregoing; and

13 (3) "Town or village" is a term of art and shall, notwithstanding the provisions of §2-2-10 of  
14 this code, mean, include, and be limited to any Class IV town or village, as classified in §8-3-1 of  
15 this code, heretofore or hereafter incorporated as a municipal corporation under the laws of this  
16 state, however created and whether operating under: (i) A special legislative charter; (ii) general  
17 law; or (iii) a combination of the foregoing.

18 (b) For the purpose of this chapter, unless the context clearly requires a different meaning:

19 (1) "Governing body" shall mean the mayor and council together, the council, the board of  
20 directors, the commission, or other board or body of any municipality, by whatever name called, as  
21 the case may be, charged with the responsibility of enacting ordinances and determining the  
22 public policy of such municipality; and in certain articles dealing with intergovernmental relations  
23 shall also mean the county commission of any county or governing board of other units of  
24 government referred to in said articles;

25 (2) "Councilmen" shall mean the members of a governing body, by whatever name such  
26 members may be called;

27 (3) "Mayor" shall mean the individual called mayor unless as to a particular municipality a  
28 commissioner (in a commission form of government) or the city manager (in a manager form of  
29 government) is designated or constituted by charter provision as the principal or chief executive  
30 officer or chief administrator thereof, in which event the term "mayor" shall mean as to such  
31 municipality such commissioner or city manager unless as to any particular power, authority, duty  
32 or function specified in this chapter to be exercised, discharged or fulfilled by the mayor it is  
33 provided by charter provision or ordinance that such particular power, authority, duty, or function  
34 shall be exercised, discharged, or fulfilled by the individual called mayor and not by a  
35 commissioner or city manager, in which event such particular power, authority, duty, or function  
36 shall in fact be exercised, discharged, or fulfilled in and for such municipality by the individual  
37 called mayor: *Provided*, That in the exercise and discharge of the ex officio justice of the peace,  
38 conservator of the peace, and mayor's court functions specified in this chapter, the term "mayor"

39 shall always mean the individual called mayor;

40 (4) "Recorder" shall mean the recorder, clerk, or other municipal officer, by whatever name  
41 called, charged with the responsibility of keeping the journal of the proceedings of the governing  
42 body of the municipality and other municipal records;

43 (5) "Treasurer" shall mean the treasurer or other municipal officer, by whatever name  
44 called, exercising the power and authority commonly exercised by a treasurer;

45 (6) "Administrative authority" shall mean the officer, commission, or person responsible for  
46 the conduct and management of the affairs of the municipality in accordance with the charter,  
47 general law, and the ordinances, resolutions, and orders of the governing body thereof;

48 (7) "Charter" shall mean, except where specific reference is made to a particular type of  
49 charter, either a special legislative charter (whether or not amended under the provisions of former  
50 §8A-1-1 *et seq.* of this code, or under article four of this chapter, and although so amended, such  
51 special legislative charter shall, for the purposes of this chapter, remain a special legislative  
52 charter), or a home rule charter framed and adopted or revised as a whole or amended by a city  
53 under the provisions of former §8A-1-1 *et seq.* of this code or under the provisions of article three  
54 or article four of this chapter;

55 (8) "Ordinance" shall mean the ordinances and laws enacted by the governing body of a  
56 municipality in the exercise of its legislative power, and in one or more articles of this chapter,  
57 ordinances enacted by a county commission;

58 (9) "Inconsistent or in conflict with" shall mean that a charter or ordinance provision is  
59 repugnant to the constitution of this state or to general law because such provision: (i) Permits or  
60 authorizes that which the constitution or general law forbids or prohibits; or (ii) forbids or prohibits  
61 that which the constitution or general law permits or authorizes;

62 (10) "Qualified elector", "elector", "qualified voter", or "legal voter" shall mean:

63 (A) Any individual who, at the time he or she offers to vote or at the time he or she  
64 participates in any event or activity (such as signing a petition) under the provisions of this chapter

65 for which he or she must be a qualified elector, elector, qualified voter, or legal voter, is a resident  
66 within the corporate limits of the municipality or within the boundaries of a territory referred to in  
67 this chapter, as the case may be, and who: (i) Has been a resident of the state for one year and of  
68 the municipality or territory in question for at least 60 days next preceding such election or date  
69 pertinent to any such event or activity; and (ii) in the case of a regular municipal election, special  
70 municipal election, municipal public question election, or any such municipal event or activity, is  
71 duly registered on the municipal registration books set up in the office of the clerk of the county  
72 commission of the county in which the municipality or the major portion of the territory thereof is  
73 located under the integration of the municipal registration of voters with the "permanent  
74 registration system" of the state, or, in the event there be no such integration of the municipal  
75 registration of voters, is duly registered in the county in which he or she resides to vote in state-  
76 county elections; or (iii) in the case of a territory election, general election, or any such territory  
77 event or activity, is duly registered in the county in which he or she resides to vote in state-county  
78 elections; and any charter provision or ordinance establishing a voting residency requirement  
79 different than that in this definition provided shall be of no force and effect; and in any case where a  
80 particular percentage of the qualified electors, electors, qualified voters, or legal voters is required  
81 under the provisions of this chapter in connection with any such event or activity as aforesaid, the  
82 percentage shall be determined on the basis of the number of qualified electors, electors, qualified  
83 voters, or legal voters, as of the time of such event or activity, unless it is impracticable to  
84 determine such percentage as of such time and it is provided by ordinance, resolution or order that  
85 the percentage shall be determined on the basis of the number of qualified electors, electors,  
86 qualified voters, or legal voters, as of the date of the last preceding election (whether a general  
87 election, regular municipal election, or special municipal election, and whether or not they voted at  
88 such election) held in such municipality or territory, as the case may be; or

89 (B) A citizen of this state who is qualified to vote in a municipal election under §3-1-3b of  
90 this code.

91 (11) "Public question" shall mean any issue or proposition required to be submitted to the  
92 qualified voters of a municipality or of a territory referred to in this chapter for decision at an  
93 election, as the case may be;

94 (12) "Inhabitant" shall mean any individual who is a resident within the corporate limits of a  
95 municipality or within the boundaries of a territory referred to in this chapter, as the case may be;

96 (13) "Resident" shall mean any individual who maintains a usual and bona fide place of  
97 abode within the corporate limits of a municipality or within the boundaries of a territory referred to  
98 in this chapter, as the case may be;

99 (14) "Freeholder" shall mean any person (and in the case of an individual one who is sui  
100 juris and is not under a legal disability) owning a "freehold interest in real property";

101 (15) "Freehold interest in real property" shall mean any fee, life, mineral, coal, or oil or gas  
102 interest in real property, whether legal or equitable, and whether as a joint tenant or a tenant in  
103 common, but shall not include a leasehold interest (other than a mineral, coal, or oil or gas  
104 leasehold interest), a dower interest, or an interest in a right-of-way or easement, and the freehold  
105 interest of a church or other unincorporated association shall be considered as one interest and  
106 not as an individual interest of each member thereof;

107 (16) "County commission" shall mean the governmental body created by section 22, article  
108 eight of the Constitution of this state, or any existing tribunal created in lieu of a county  
109 commission;

110 (17) "Code" shall mean the Code of West Virginia, 1931, as heretofore and hereafter  
111 amended; and

112 (18) "Person" shall mean any individual, firm, partnership, corporation, company,  
113 association, joint-stock association, or any other entity or organization of whatever character or  
114 description.

115 (c) The term "intergovernmental relations" is used in this chapter to mean undertakings  
116 and activities which may be undertaken or engaged in by two or more units of government acting

117 jointly, and in certain headings in this chapter to call attention to the fact that the provisions under  
118 such headings apply to units of government in addition to municipalities.

119 (d) For the purpose of this chapter, unless the context clearly indicates to the contrary,  
120 words importing the masculine gender shall include both the masculine and feminine gender, and  
121 the phrase "charter-framed and adopted or revised as a whole or amended (or words of like  
122 import) under the provisions of former chapter 8A of this code" shall include a charter-framed and  
123 adopted or revised as a whole or amended under the provisions of former §8-2-1 *et seq* of this  
124 code.

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

1 (a) — 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 Board was an essential part of the initial Municipal Home  
8 Rule Pilot Program, but it lacked some needed powers and duties;

9 (4) Municipalities still face challenges delivering services required by federal and state law  
10 or demanded by their constituents;

11 (5) Municipalities are sometimes restrained by state statutes, policies, and rules that  
12 challenge their ability to carry out their duties and responsibilities in a cost-effective, efficient, and  
13 timely manner;

14 (6) Establishing the Municipal Home Rule Pilot Program as a permanent program is in the  
15 public interest; and

16 (7) Increasing the powers and duties of the Municipal Home Rule Board, subject to the  
17 limitations set forth herein, will enhance the Municipal Home Rule Program.

18 (b) The Municipal Home Rule Pilot Program is established as a permanent program and  
19 shall be identified as the Municipal Home Rule Program. Any plan or amendment to a plan  
20 approved by the board during the period of the Municipal Home Rule Pilot Program is continued.  
21 Any ordinance, act, resolution, rule, or regulation enacted by a participating municipality under the  
22 provisions of this section during the period of the Municipal Home Rule Pilot Program shall  
23 continue in full force and effect unless and until repealed: *Provided*, That municipalities that are  
24 participants in the Municipal Home Rule Program shall update their ordinances, acts, resolutions,  
25 rules, and regulations to comply with any additions or modifications to subsection (i), subsection  
26 (j), or subsection (k) of this section.

27 (c) (1) Commencing July 1, 2019, any Class I, Class II, or Class III municipality that is  
28 current in payment of all state fees may apply to participate in the Municipal Home Rule Program  
29 pursuant to the provisions of this section. Also, commencing July 1, 2019, up to four applications  
30 per year from Class IV municipalities may be approved by the board for participation in the  
31 Municipal Home Rule Program pursuant to the provisions of this section, provided the Class IV  
32 municipality is current in payment of all state fees.

33 (2) The municipalities participating in the Municipal Home Rule Pilot Program on the  
34 effective date of the amendment and reenactment of this section are authorized to continue in the  
35 Municipal Home Rule Program, subject to the requirements of this section, and may amend  
36 current written plans and/or submit new written plans in accordance with the provisions of this  
37 section.

38 (3) On July 1, 2019, all municipalities currently participating in the Municipal Home Rule  
39 Pilot Program shall pay an annual assessment of \$2,000 for the operation and administration of  
40 the Home Rule Board. On July 1 of each year thereafter, all municipalities participating in the  
41 Municipal Home Rule Program as of that date shall pay the annual assessment. Any participating  
42 municipality that fails to timely remit its assessment when due may be assessed a penalty of an  
43 additional \$2,000 by the board.

44 (4) There is created in the office of the State Treasurer a special revenue account fund to  
45 be known as the Home Rule Board Operations Fund. The assessments required by the provisions  
46 of subdivision (3) of this subsection shall be deposited into the fund, and expenditures from the  
47 fund shall be made in accordance with appropriation of the Legislature under the provisions of  
48 §12-3-1 *et seq.* of this code, and in compliance with the provisions of §11B-2-1 *et seq.* of this code:  
49 *Provided*, That legislative appropriation is not required during fiscal year 2019.

50 (5) Any balance in the fund created under subdivision (4) of this subsection at the end of a  
51 fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue  
52 account for uses consistent with the provisions of this section.

53 (6) All costs and expenses lawfully incurred by the board may be paid from the fund  
54 created under subdivision (4) of this subsection.

55 (7) Notwithstanding any provision of this section to the contrary, if at the end of a fiscal year  
56 the unencumbered balance of the fund created in subdivision (4) of this subsection is \$200,000 or  
57 more, then annual assessments shall be suspended until the board determines that the  
58 unencumbered balance in the fund is insufficient to meet operational expenses. The board shall  
59 notify all participating municipalities of the suspension of the annual assessment prior to the end of  
60 the fiscal year and provide an estimate of when payment of annual assessments will resume.

61 (d) The Municipal Home Rule Board is continued. The Municipal Home Rule Board shall  
62 consist of the following five voting members:

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

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

65 (3) One member representing the Business and Industry Council, appointed by the  
66 Governor with the advice and consent of the Senate;

67 (4) One member representing the largest labor organization in the state, appointed by the  
68 Governor with the advice and consent of the Senate; and

69 (5) One member representing the West Virginia Chapter of the American Planning  
70 Association, appointed by the Governor with the advice and consent of the Senate.

71 The Chair of the Senate Committee on Government Organization and the Chair of the  
72 House Committee on Government Organization shall serve as ex officio nonvoting members of  
73 the board.

74 (e) The Municipal Home Rule Board shall:

75 (1) Review, evaluate, make recommendations, and approve or reject, for any lawful  
76 reason, by a majority vote of the board, each aspect of the written plan, or the written plan in its  
77 entirety, submitted by a municipality;

78 (2) By a majority vote of the board, select, based on the municipality's written plan, new  
79 Class I, Class II, Class III, and/or Class IV municipalities to participate in the Municipal Home Rule  
80 Program;

81 (3) Review, evaluate, make recommendations, and approve or reject, for any lawful  
82 reason, by a majority vote of the board, the amendments to the existing approved written plans  
83 submitted by municipalities: *Provided*, That any new application or amendment that does not  
84 reasonably demonstrate the municipality's ability to manage its associated costs or liabilities shall  
85 be rejected;

86 (4) Consult with any agency affected by the written plans or the amendments to the  
87 existing approved written plans; and

88 (5) Perform any other powers or duties necessary to effectuate the provisions of this  
89 section: *Provided*, That any administrative rules established by the board for the operation of the  
90 Municipal Home Rule Program shall be published on the Municipal Home Rule Board's website,  
91 and made available to the public in print upon request.

92 (f) Any Class I, Class II, Class III, or Class IV municipality desiring to participate in the  
93 Municipal Home Rule Program, or any municipality desiring to amend its existing approved written  
94 plan, shall submit a written plan to the board stating in detail the following:

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

97 (2) The problems created by those laws, acts, resolutions, policies, rules, or regulations;

98 (3) The proposed solutions to the problems, including all proposed changes to ordinances,  
99 acts, resolutions, rules, and regulations: *Provided*, That the specific municipal ordinance instituting  
100 the solution does not have to be included in the written plan; and

101 (4) A written opinion, by an attorney licensed to practice in the State of West Virginia,  
102 stating that the proposed written plan does not violate the provisions of this section.

103 (g) Prior to submitting its written plan, or an amendment to an existing approved written  
104 plan, to the board, the municipality shall:

105 (1) Hold a public hearing on the written plan or the amendment to the existing approved  
106 written plan;

107 (2) Provide notice of the public hearing at least 30 days prior to the public hearing by a  
108 Class II legal advertisement: *Provided*, That on or before the first day of publication, the  
109 municipality shall send a copy of the notice by certified mail to the Municipal Home Rule Board and  
110 the cabinet secretary of every state department;

111 (3) Make a copy of the written plan or amendment available for public inspection at least 30  
112 days prior to the public hearing; and

113 (4) After the public hearing, adopt an ordinance authorizing the municipality to submit a  
114 written plan or amendment to the Municipal Home Rule Board: *Provided*, That the proposed  
115 ordinance has been read two times, as required by §8-11-4 of this code.

116 (h) By a majority vote, the Municipal Home Rule Board may select from the municipalities  
117 that submitted written plans and were approved by the board by majority vote new Class I, Class II,  
118 Class III, and/or Class IV municipalities to participate in the Municipal Home Rule Program.

119 (i) The municipalities participating in the Municipal Home Rule Program may not pass an  
120 ordinance, act, resolution, rule, or regulation, under the provisions of this section, that is contrary  
121 to the following:

122 (1) Environmental law;

123 (2) Laws governing bidding on government construction and other contracts;

124 (3) The Freedom of Information Act;

125 (4) The Open Governmental Proceedings Act;

126 (5) Laws governing wages for construction of public improvements;

127 (6) The provisions of this section;

128 (7) The provisions of §8-12-5a of this code;

129 (8) The municipality's written plan;

130 (9) The Constitution of the United States or the Constitution of the State of West Virginia;

131 (10) Federal law, including those governing crimes and punishment;

132 (11) Chapters 60A, 61, and 62 of this code or any other provisions of this code governing  
133 state crimes and punishment;

134 (12) Laws governing pensions or retirement plans;

135 (13) Laws governing annexation;

136 (14) Laws governing taxation: *Provided*, That a participating municipality may enact a  
137 municipal sales tax up to one percent if it reduces or eliminates its municipal business and  
138 occupation tax: *Provided, however*, That if a municipality subsequently reinstates or raises the  
139 municipal business and occupation tax it previously reduced or eliminated under the Municipal  
140 Home Rule Pilot Program or the Municipal Home Rule Program, it shall reduce or eliminate the  
141 municipal sales tax enacted under the Municipal Home Rule Pilot Program or the Municipal Home  
142 Rule Program in an amount comparable to the revenue estimated to be generated by the  
143 reinstated tax: *Provided further*, That any municipality that imposes a municipal sales tax pursuant  
144 to this section shall use the services of the Tax Commissioner to administer, enforce, and collect

145 the tax required by the provisions of §11-15-1 *et seq.*, §11-15A-1 *et seq.*, and §11-15B-1 *et seq.* of  
146 this code and all applicable provisions of the Streamlined Sales and Use Tax Agreement: *And*  
147 *provided further*, That the tax does not apply to the sale of motor fuel or motor vehicles;

148 (15) Laws governing tax increment financing;

149 (16) Laws governing extraction of natural resources;

150 (17) Marriage and divorce laws;

151 (18) Laws governing professional licensing or certification, including the administration and  
152 oversight of those laws, by state agencies to the extent required by law;

153 (19) Laws, rules, or regulations governing the enforcement of state building or fire codes;

154 (20) Federal laws, regulations, or standards that would affect the state's required  
155 compliance or jeopardize federal funding;

156 (21) Laws or rules governing procurement of architectural and engineering services:  
157 Provided, That notwithstanding any other provision of this section to the contrary, the change  
158 made in this subdivision applies prospectively and any ordinance enacted by the participating  
159 municipalities prior to the effective date of the amendments to this section during the 2019 regular  
160 legislative session and pursuant to the Municipal Home Rule Pilot Program remains in effect.

161 (22) The provisions of chapter 17C of this code; ~~or~~

162 (23) Laws, rules, or regulations governing communication technologies or  
163 telecommunications carriers, as the term "telecommunications carrier" is defined by the Federal  
164 Communications Commission in 47 U.S.C. §153 or as determined by the Public Service  
165 Commission of West Virginia;

166 (24) Laws governing the sale, transfer, possession, use, storage, taxation, registration,  
167 licensing, or carrying firearms, ammunition, or accessories thereof; or

168 (25) The provisions of §3-1-3b of this code.

169 (j) The municipalities participating in the Municipal Home Rule Program may not pass an  
170 ordinance, act, resolution, rule, or regulation under the provisions of this section that:

171 (1) Affects persons or property outside the boundaries of the municipality: *Provided*, That  
172 this prohibition under the Municipal Home Rule Program does not limit a municipality's powers  
173 outside its boundary lines to the extent permitted under other provisions of this section, other  
174 sections of this chapter, other chapters of this code, or court decisions;

175 (2) Enacts an occupation tax, fee, or assessment payable by a nonresident of a  
176 municipality; or

177 (3) Imposes duties on another governmental entity, unless the performance of the duties is  
178 part of a legally executed agreement between the municipality and the other governmental entity,  
179 or is otherwise permitted by state law;

180 (k) Municipalities may not prohibit or effectively limit the rental of a property, in whole or in  
181 part, or regulate the duration, frequency, or location of such rental, in whole or in part. A  
182 municipality may regulate activities that arise when a property is used as a rental: *Provided*, That  
183 such regulation applies uniformly to all properties, without regard to whether such properties are  
184 used as a rental: *Provided, however*, That nothing in this subdivision may be construed to prohibit  
185 a municipality from imposing a hotel occupancy tax as prescribed in §7-18-1 *et seq.* of this code.

186 (l) A municipality participating in the Municipal Home Rule Program may amend its written  
187 plan at any time subject to the requirements of this section.

188 (m) A municipality participating in the Municipal Home Rule Program may amend any  
189 ordinance, act, resolution, rule, or regulation enacted pursuant to the municipality's approved  
190 written plan at any time as long as the amendment is consistent with the municipality's approved  
191 written plan, as modified by any amendments adopted pursuant to this section, complies with the  
192 provisions of this section, and the municipality complies with all applicable state law procedures  
193 for enacting municipal legislation.

194 (n) On or before December 1 of each year, each participating municipality shall give a  
195 written progress report to the Municipal Home Rule Board, and on or before January 1 of each

196 year, the Municipal Home Rule Board shall give a summary report of all the participating  
197 municipalities to the Joint Committee on Government and Finance.

198 (o) Notwithstanding any other provision of this code to the contrary, a distributee under the  
199 provisions of this section may not seek from the Tax Division of the Department of Revenue a  
200 refund of revenues or moneys collected by, or remitted to, the Tax Division of the Department of  
201 Revenue, nor seek a change in past amounts distributed, or any other retrospective adjustment  
202 relating to any amount distributed, to the extent that the moneys in question have been distributed  
203 by the Tax Division to another distributee, regardless of whether those distributions were  
204 miscalculated, mistaken, erroneous, misdirected, or otherwise inaccurate or incorrect. For  
205 purposes of this section, the term "distributee" means any municipality that has enacted a sales  
206 and use tax under this section or as otherwise permitted by law that receives or is authorized to  
207 receive a specific distribution of revenues or moneys collected by, or remitted to, the Tax Division  
208 of the Department of Revenue pursuant to this section.

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NOTE: The purpose of this bill is to permit a citizen of this state to vote in the election of a municipality in which the citizen does not reside when the citizen pays service or user fees to the municipality, owns property within the municipality, or owns a business within the municipality.

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