WEST VIRGINIA CODE: §7-1-1A

§7-1-1a. Requirements for reforming, altering, or modifying a county commission; alternative forms of county government.

(a) A county government may be reformed, altered, or modified as follows:

(1) The county commission or county council of the county may pass a resolution making application to the Legislature to reform, alter, or modify an existing form of county government in accordance with the requirements of the West Virginia Constitution and this section; or

(2) Ten percent of the registered voters of the county may sign a petition requesting reformation, alteration, or modification of the existing form of county government in accordance with the requirements of the West Virginia Constitution and this section.

(b) A county commission or county council seeking to make application to reform, alter, or modify its county government pursuant to the provisions of section 13, article IX of the West Virginia Constitution shall adopt a resolution containing the following information:

(1) The reasons for the reformation, alteration, or modification of the county commission or county government;

(2) The form of the proposed county government selected from the alternatives authorized by this section;

(3) The proposed name of the county government;

(4) When the question of reformation, alteration, or modification of the county government shall be on the ballot;

(5) How and when the officers of the proposed county government shall be elected or appointed, taking into consideration the following:

(A) When the election on the question of reformation, alteration, or modification of the county government shall be held;

(B) The normal election cycles for county officials; and

(C) The time frames for early and absentee voting provided in 3-3-1 *et seq*. of this code; and

(6) When the new county government shall become effective.

(c) Prior to the adoption of a resolution seeking to reform, alter, or modify a county commission or county council, the governing body of the county shall publish by a Class II

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legal advertisement in one or more newspapers of general circulation throughout the county, in compliance with the provisions of §59-3-1 *et seq*. of this code, notice of the proposed changes to the current form of county government. The publication area shall be the entire county. The notice shall summarize the proposed changes to the county government and include the date, time, and place for the meeting or meetings in which the resolution shall be considered.

(d) After the publication and adoption of the resolution, the following information shall be submitted by the county to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature:

(1) A certified copy of the adopted resolution;

(2) A copy of the required public notice;

(3) The vote on the adoption of the resolution; and

(4) The date the resolution was adopted.

(e) Registered voters of a county seeking to reform, alter, or modify the county commission or county council pursuant to section 13, article IX of the West Virginia Constitution shall submit a petition, signed by 10 percent of the registered voters in the county, to the county commission or county council, setting forth the information required in subsection (b) of this section. Upon receipt of the petition, the county commission or county council shall verify that the signatures on the petition are: (1) Legally registered voters of the county; and (2) equal to 10 percent of the registered voters of the county.

(f) The county commission or county council shall, within 30 days of receipt of a constitutionally defective petition, return it to the petitioners with a written statement as to why the petition is defective. The petitioners may, within 90 days of receipt of the written statement from the county commission or council and after making the necessary changes, resubmit the petition to the county commission or county council.

(g) After verifying that the signatures on the petition meet the constitutional requirements, the county commission or council shall forward the petition to the Clerk of the Senate and to the Clerk of the House of Delegates no later than the 10th day of a regular legislative session in which the request for reforming, altering, or modifying a county commission or county government is to be considered by the Legislature.

(h) After receipt of a certified resolution or verified petition by the Clerk of the Senate and the Clerk of the House of Delegates, the Legislature shall determine whether all constitutional and statutory requirements have been met. If such requirements have not been met, the certified resolution or verified petition shall be returned with a written

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statement of the deficiencies. A certified resolution or verified petition may be revised following the procedures set forth in this section for an original submission and then may be resubmitted to the Clerk of the Senate and the Clerk of the House of Delegates for consideration by the Legislature. The requirement that the petition be submitted prior to the 10th day of the legislative session shall not apply to resubmitted resolutions or petitions.

(i) Following passage of an act by the Legislature authorizing an election on the question of reforming, altering, or modifying a county commission or council, the question shall be placed on the ballot of the county at the next primary or general election following such passage.

(j) Following approval of the reformation, alteration, or modification of the county commission or council by a majority of the county's registered voters, nomination of the county commission or council members and, where authorized, the chief executive, shall be held in the next primary election or the primary election set forth in the resolution or petition to reform, alter, or modify the county commission or council. Election of the county commissioners or council members and, where authorized, the chief executive shall be held in the next general election or the general election set forth in the resolution or petition to change the form of the county commission.

(k) All elections required by this section shall be held in accordance with the provisions of §3-1-1 *et seq*. of this code.

(l) The following are guidelines for forms of county government:

(1) *"Chief executive - county commission plan"*. — Under this plan:

(A) There shall be a chief executive elected by the registered voters of the county at large and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The chief executive shall have the exclusive authority to supervise, direct, and control the administration of the county government. The chief executive shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the chief executive shall be set by the Legislature;

(E) Other nonelected officers and employees shall be appointed by the chief executive subject to the approval of the county commission; and

(F) The chief executive shall not be a member of the county commission nor shall he or she hold any other elective office.

(2) *"County manager - county commission plan"*. — Under this plan:

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(A) There shall be a county manager appointed by the county commission and three county commissioners that may be elected at large;

(B) The commission shall be the governing body;

(C) The county manager shall have the exclusive authority to supervise, direct, and control the administration of the county government. The county manager shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county manager shall be set by the county commission;

(E) Other nonelected officers and employees shall be appointed by the county manager subject to the approval of the commission; and

(F) The county manager shall not be a member of the county commission nor shall he or she hold any other elective office.

(3) *"County administrator - county commission plan"*. — Under this plan:

(A) There shall be a county administrator appointed by the county commission and three county commissioners that shall be elected at large;

(B) The commission shall be the governing body;

(C) The county administrator shall have the authority to direct the administration of the county government under the supervision of the county commission. The county administrator shall carry out, execute, and enforce all ordinances, policies, rules, and regulations of the commission;

(D) The salary of the county administrator shall be set by the county commission;

(E) The county administrator shall appoint or employ all subordinates and employees for whose duties or work he or she is responsible to the commission; and

(F) The county administrator shall not be a member of the county commission nor shall he or she hold any other elective office.

(4) A county council consisting of four or more members that shall be elected at large.

(5) Any form of county government adopted pursuant to section 13, article IX of the West Virginia Constitution and this section may, by the methods set forth in this section, return to the traditional county commission or change to another form of county government, as set out in this section.

(m) The purpose of this section is to establish the basic requirements for reforming, altering, or modifying a county commission or county council pursuant to section 13, article IX of the

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West Virginia Constitution. The structure and organization of a county government may be specified in greater detail by resolution or ordinance so long as such provisions do not conflict with the purposes and provisions set forth in this section, §7A-1-1 *et seq*. of this code, or the Constitution.

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