WEST VIRGINIA CODE: §8-1-6

§8-1-6. Application of provisions of this chapter; inconsistent or conflicting special legislative charter provisions; amendment of special legislative charters; inconsistent or conflicting ordinance provisions; status and tenure of officers and members not affected; transactions already entered into not affected.

In furtherance of the purpose of this chapter as set forth in section one of this article, each municipality is subject to the provisions contained in this chapter and may exercise the power and authority conferred by this chapter. In this regard, it is recognized that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions of this chapter, there may be no counterpart charter provisions. In view of these possibilities, it becomes necessary for the Legislature to set forth certain rules of construction to be applied in addition to the usual and ordinary rules of statutory construction, and to set forth a substantive provision as to application in connection with possibility (2).

As to possibility (1), the pertinent provisions of this chapter shall supersede such conflicting or inconsistent charter provisions and shall be deemed amendments to such charters. As to possibility (2), one year from and after the effective date of this section or the effective date of any pertinent amendment to this chapter hereafter adopted, such provisions of this chapter shall supersede such charter provisions and shall be deemed amendments to such charter, unless within such one-year period an ordinance is adopted providing that such charter provisions shall be applicable, in which event such charter provisions shall be applicable so long as said ordinance remains in full force and effect. As to possibility (3), all such charter provisions shall be construed so as to conform to and be consistent with the pertinent provisions of this chapter. As to possibility (4), the charter provisions shall remain in operation and effect until amended or repealed by general law hereafter enacted or until hereafter supplanted by a new charter or revised as a whole or amended in accordance with the provisions of this chapter. As to possibility (5), the applicable provisions of this chapter shall be deemed amendments to such charter. In determining the relationship between such charter provisions and the provisions of this chapter in any situation not included in the

WV Legislature

possibilities outlined above, the relationship shall be determined in keeping with the general concepts and principles embodied in the rules of construction set forth in this paragraph. The provisions set forth above in this paragraph shall also be applicable to the relationship between the pertinent provisions of various local or special acts of the Legislature (other than special legislative charters) pertaining to municipal matters and the provisions of this chapter.

Notwithstanding any of the foregoing provisions of this section, (1) particular provisions of this chapter shall supersede pertinent charter provisions whenever it is expressly provided in this chapter that such provisions of this chapter shall govern notwithstanding any charter provisions, that such charter provisions shall be of no force and effect, that the provisions of this chapter are the only applicable provisions, or that something may be accomplished only as provided in this chapter; and (2) charter provisions shall govern chapter provisions in those instances where this chapter expressly authorizes other or contrary charter provisions.

Any ordinance provision which is inconsistent or in conflict with any provision of this chapter shall be of no force and effect.

All individuals holding any office on the effective date of this chapter, and all officers and members of any commission, board, authority or other entity, by whatever name called, serving on the effective date of this chapter, and who were elected or appointed and qualified under or pursuant to the provisions of former chapter eight or chapter eight-a of this code, any act repealed by this new chapter eight or any charter provision or ordinance provision made or adopted under or pursuant to such former chapters or acts shall continue to serve, unless a vacancy sooner occurs, until their terms expire and until their successors have been elected or appointed, as the case may be, and have qualified.

Notwithstanding any of the foregoing provisions or any other provision of this chapter (even though such other provision is stated to be paramount), transactions validly entered into, causes of action which arose, and civil actions instituted, before the effective date of this chapter and the rights, duties, obligations and interest flowing therefrom remain valid, enforceable and maintainable thereafter and may be terminated, completed, consummated, prosecuted, maintained or enforced (1) as required or permitted by any statute or other law (including the provisions of former chapters eight and eight-a of this code and the acts repealed by this chapter) repealed or amended by this chapter as though such repeal or amendment had not occurred, or (2) with like effect as though this chapter had not been enacted.

WV Legislature