WEST VIRGINIA LEGISLATURE
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ENROLLED

Senate Bill No. 747

(By Senators Bowman, Barnes, Foster, Jenkins, McCabe, Plymale, Stollings, Sypolt, White and Yoder)

[Passed March 10, 2007; in effect July 1, 2007.]
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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-1-5a; and to amend and reenact §8-1-7 of said code, all relating to creating the Municipal Home Rule Pilot Program; legislative findings and intent; eligibility requirements; creating the Municipal Home Rule Board; powers of the board and participating municipalities and metro governments; requiring the municipality to hold a public hearing and adopt a municipal ordinance prior to submission of a written plan; requiring performance review; reporting requirements; terminating pilot program; certain grandfather provisions; and reaffirming home rule powers for all municipalities.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be
amended by adding thereto a new section, designated §8-1-5a; and to amend and reenact §8-1-7 of said code, all to read as follows:

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

§8-1-5a. Pilot program to increase powers of municipal self government.

(a) The Legislature finds and declares that:

(1) The future economic progress for the State of West Virginia is directly related to the success of its municipalities in that stronger municipalities will make for a stronger West Virginia;

(2) Municipalities face numerous challenges managing their budgets and delivering services required by federal or state law or demanded by their constituents;

(3) Municipalities are sometimes restricted by state statutes, policies, rules and responsibilities that prevent them from carrying out their duties and responsibilities in a cost-effective, efficient and timely manner; and

(4) Authorizing pilot municipalities and metro governments in West Virginia to exercise broad-based home rule will allow the Legislature the opportunity to evaluate the viability of allowing municipalities to have broad-based state home rule to improve urban and state development.

(b) It is the intent of the Legislature in enacting this section to establish a framework for municipalities within which new ideas can be explored to see if they can or should be implemented on a statewide basis.

(c) Effective the first day of July, two thousand seven, there is hereby created a pilot program to be known as the Municipal Home Rule Pilot Program authorizing five selected Class I, Class II and/or Class III municipalities and/or metro governments the authority
to enact any ordinances, acts, resolutions, rules and regulations not contrary to the constitutions of the United States or West Virginia, federal law or chapters sixty-a, sixty-one and sixty-two of this code.

(d) To be eligible to participate in the Municipal Home Rule Pilot Program the applicant shall:

(1) Be a Class I, Class II and/or Class III municipality and/or a metro government: Provided, That a municipality considering consolidation or establishing a metro government shall have no more than two years from the date it is selected for the pilot program to complete its consolidation or metro government process or its participation in the pilot program will terminate at the end of the two-year period; and

(2) Have a written plan stating in detail the following:

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

(B) The problems created by the laws, policies, rules or regulations; and

(C) The proposed solutions to the problems, including all proposed changes to ordinances, acts, resolutions, rules and regulations.

(e) Effective the first day of July, two thousand seven, there is hereby created a Municipal Home Rule Board consisting of the following seven members:

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

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

(3) The chair of the Senate Committee on Government Organization or a designee;
(4) The chair of the House of Delegates Committee on Government Organization or a designee; and

(5) One member shall be a representative of the Business and Industry Council;

(6) One member shall be a representative of the largest labor organization in the state; and

(7) One member shall be a representative of the West Virginia Chapter of American Institute of Certified Planners.

(f) The board has the powers necessary to implement the provisions of this section, including the following:

(1) Reviewing, evaluating and making recommendations to the proposed plans submitted by eligible municipalities and/or metro governments;

(2) Consulting with state agencies affected by the proposed plans;

(3) Selecting municipalities and/or metro governments to participate in the pilot program;

(4) Approving the plans of recommended pilot program participants, as submitted or as modified; and

(5) Authorizing amendments to approved plans.

(g) On or before the first day of January, two thousand eight, an eligible municipality and/or metro government wanting to participate in the pilot program shall submit a written plan as described in subdivision (2), subsection (d) of this section to the board.

(h) Prior to submitting a written plan, the municipality shall:

(1) Conduct a public hearing on the proposed written plan;
(2) Provide at least thirty days' notice of the public hearing by a Class II legal advertisement;

(3) Make a copy of the proposed written plan available for public inspection at least thirty days prior to the public hearing; and

(4) After the public hearing, adopt a municipal ordinance authorizing the municipality to submit a proposed written plan to the Municipal Home Rule Board after the proposed municipal ordinance has been read two times.

(i) On or before the first day of June, two thousand eight, the board shall select by a majority vote of the board at least one, but not more than five municipalities and/or metro governments to participate in the pilot program.

(j) The pilot municipalities and/or metro governments selected to participate in the pilot program shall have the following powers:

(1) The authority to pass any ordinances, acts, resolutions, rules and regulations not contrary to the constitutions of the United States or West Virginia, federal law or chapters sixty-a, sixty-one and sixty-two of this code as specified in their written and approved plans: Provided, That the pilot municipalities may not adopt any ordinance, rule, regulation or resolution or take any action that would create a defined contribution employee pension or retirement plan for its employees currently covered by a defined benefit pensions plan; and

(2) Any other powers necessary to implement the provisions of its approved plan.

(k) Before the first day of July, two thousand twelve, the Joint Committee on Government and Finance shall conduct a performance review on the pilot program and the participating municipalities and/or metro governments. The review shall include the following:
(1) An evaluation of the effectiveness of expanded home rule on the participating municipalities and/or metro governments;

(2) A recommendation as to whether the expanded home rule should be continued, reduced, expanded or terminated;

(3) A recommendation as to whether any legislation is necessary; and

(4) Any other issues considered relevant.

(l) On or before the first day of January, two thousand thirteen, the Joint Committee on Government and Finance shall report to the Joint Committee on Government Organization the findings of the performance review.

(m) The pilot program terminates on the first day of July, two thousand thirteen.

(n) No ordinances, acts, resolutions, rules or regulations may be enacted by a municipality or metro government after the first day of July, two thousand thirteen, pursuant to the provisions of this section, unless otherwise authorized by the Legislature.

§8-1-7. Construction of powers and authority granted.

(a) The enumeration of powers and authority granted in this chapter shall not operate to exclude the exercise of other powers and authority fairly incidental thereto or reasonably implied and within the purposes of this chapter or in accordance with the provisions of the Municipal Home Rule Amendment to the constitution of this state, the powers and authority granted by such constitution, other provisions of this code and any existing charter. The provisions of this chapter shall be given full effect without regard to the common-law rule of strict construction and particularly when the powers and authority are exercised by charter provisions framed and adopted or adopted by revision of a charter
(b) Any charter provision framed and adopted or adopted by revision of a charter as a whole or adopted by charter amendment under the provisions of former chapter eight-a of this code or under the provisions of this chapter which is beyond the power and authority of a municipality and any ordinance provision which is beyond the power and authority of a municipality shall be of no force and effect.
Enr. S. B. No. 747

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect July 1, 2007.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this 4th Day of April, 2007.

Governor