

SB 747 S

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 747**

(BY SENATORS BOWMAN, BARNES, FOSTER, JENKINS,  
McCABE, PLYMALE, STOLLINGS, SYPOLT, WHITE AND YODER)

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[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.**

1 (a) The Legislature finds and declares that:

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

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

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

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

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

23 (c) Effective the first day of July, two thousand seven,  
24 there is hereby created a pilot program to be known as  
25 the Municipal Home Rule Pilot Program authorizing  
26 five selected Class I, Class II and/or Class III  
27 municipalities and/or metro governments the authority

28 to enact any ordinances, acts, resolutions, rules and  
29 regulations not contrary to the constitutions of the  
30 United States or West Virginia, federal law or chapters  
31 sixty-a, sixty-one and sixty-two of this code.

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

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

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

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

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

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

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

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

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

59 (3) The chair of the Senate Committee on Government  
60 Organization or a designee;

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

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

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

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

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

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

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

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

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

81 (5) Authorizing amendments to approved plans.

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

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

89 (1) Conduct a public hearing on the proposed written  
90 plan;

91 (2) Provide at least thirty days' notice of the public  
92 hearing by a Class II legal advertisement;

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

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

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

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

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

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

122 (k) Before the first day of July, two thousand twelve,  
123 the Joint Committee on Government and Finance shall  
124 conduct a performance review on the pilot program and  
125 the participating municipalities and/or metro  
126 governments. The review shall include the following:

127 (1) An evaluation of the effectiveness of expanded  
128 home rule on the participating municipalities and/or  
129 metro governments;

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

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

135 (4) Any other issues considered relevant.

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

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

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

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

1 (a) The enumeration of powers and authority granted  
2 in this chapter shall not operate to exclude the exercise  
3 of other powers and authority fairly incidental thereto  
4 or reasonably implied and within the purposes of this  
5 chapter or in accordance with the provisions of the  
6 Municipal Home Rule Amendment to the constitution of  
7 this state, the powers and authority granted by such  
8 constitution, other provisions of this code and any  
9 existing charter. The provisions of this chapter shall be  
10 given full effect without regard to the common-law rule  
11 of strict construction and particularly when the powers  
12 and authority are exercised by charter provisions  
13 framed and adopted or adopted by revision of a charter

14 as a whole or adopted by charter amendment under the  
15 provisions of this chapter.

16 (b) Any charter provision framed and adopted or  
17 adopted by revision of a charter as a whole or adopted  
18 by charter amendment under the provisions of former  
19 chapter eight-a of this code or under the provisions of  
20 this chapter which is beyond the power and authority of  
21 a municipality and any ordinance provision which is  
22 beyond the power and authority of a municipality shall  
23 be of no force and effect.

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

*C. White*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect July 1, 2007.

*Daniel Holmes*  
.....  
Clerk of the Senate

*Bruce D. Smith*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this  
the *4<sup>th</sup>* Day of *April* ..... 2007.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 03 2007

Time 1:40 pm