

SB 784

FILED

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WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

Senate Bill No. 784

(BY SENATORS TOMBLIN, MR. PRESIDENT, BOWMAN,
CHAFIN, HELMICK, KESSLER, PREZIOSO, CARUTH,
BOLEY AND MCKENZIE)

[Passed March 8, 2008; in effect ninety days from passage.]

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GEORGE E. BROWN
SECRETARY OF STATE

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AN ACT to amend and reenact §7-1-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §7-1-1a, all relating to reforming, altering or modifying county government as authorized in section thirteen, article IX of the West Virginia Constitution; establishing requirements for reforming, altering or modifying county commission; and providing for alternative forms of county government.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-1. County commissions corporations; how constituted; election of president.

1 (a) The county commission, formerly the county court,
2 tribunal or county council in lieu thereof, of every
3 county within the State of West Virginia shall be a
4 corporation by the name of "The County Commission of
5 County" or "The County Council of
6 County" by which name it may sue and be
7 sued, plead and be impleaded and contract and be
8 contracted with.

9 (b) A county commission shall consist of three
10 commissioners as provided in section nine, article IX of
11 the Constitution of the State of West Virginia, any two
12 of whom shall constitute a quorum for the transaction
13 of business.

14 (c) A county council, created on or after the first day
15 of July, two thousand eight, as an alternative to a
16 county commission pursuant to section thirteen, article
17 IX of the Constitution of West Virginia, shall consist of
18 four or more members, a majority of whom shall
19 constitute a quorum for the transaction of business.

20 (d) Unless provided otherwise in an alternative form
21 of government, each county commission or council shall
22 annually, at its first session in each year, or as soon
23 thereafter as practicable, elect one of its commissioners

24 or council members as president of the county
25 commission or council.

26 (e) Throughout this chapter and the code, the term
27 "county commission" or any reference to a county
28 commission shall include all county councils created in
29 lieu of the county commission.

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

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

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

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

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

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

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

25 (3) The proposed name of the county government;

26 (4) When the question of reformation, alteration or
27 modification of the county government will be on the
28 ballot;

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

32 (A) When the election on the question of reformation,
33 alteration or modification of the county government will
34 be held;

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

36 (C) The time frames for early and absentee voting
37 provided in article three, chapter three of this code; and

38 (6) When the new county government will become
39 effective.

40 (c) Prior to the adoption of a resolution seeking to
41 reform, alter or modify a county commission or county
42 council, the governing body of the county shall publish
43 by a Class II legal advertisement in one or more
44 newspapers of general circulation throughout the
45 county, in compliance with the provisions of article

46 three, chapter fifty-nine of this code, notice of the
47 proposed changes to the current form of county
48 government. The publication area shall be the entire
49 county. The notice shall summarize the proposed
50 changes to the county government and include the date,
51 time and place for the meeting or meetings in which the
52 resolution will be considered.

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

61 (1) A certified copy of the adopted resolution;

62 (2) A copy of the required public notice;

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

64 (4) The date the resolution was adopted.

65 (e) Registered voters of a county seeking to reform,
66 alter or modify the county commission or county council
67 pursuant to section thirteen, article IX of the West
68 Virginia Constitution shall submit a petition, signed by
69 ten percent of the registered voters in the county, to the
70 county commission or county council, setting forth the
71 information required in subsection (b) of this section.
72 Upon receipt of the petition, the county commission or
73 county council shall verify that the signatures on the
74 petition are: (1) Legally registered voters of the county;

75 and (2) equal to ten percent of the registered voters of
76 the county.

77 (f) The county commission or county council shall,
78 within thirty days of receipt of a constitutionally
79 defective petition, return it to the petitioners with a
80 written statement as to why the petition is defective.
81 The petitioners may, within ninety days of receipt of the
82 written statement from the county commission or
83 council and after making the necessary changes,
84 resubmit the petition to the county commission county
85 council.

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

94 (h) After receipt of a certified resolution or verified
95 petition by the Clerk of the Senate and the Clerk of the
96 House of Delegates, the Legislature shall determine
97 whether all constitutional and statutory requirements
98 have been met. If such requirements have not been met,
99 the certified resolution or verified petition shall be
100 returned with a written statement of the deficiencies. A
101 certified resolution or verified petition may be revised
102 following the procedures set forth in this section for an
103 original submission and then may be resubmitted to the
104 Clerk of the Senate and the Clerk of the House of
105 Delegates for consideration by the Legislature. The
106 requirement that the petition be submitted prior to the

107 tenth day of the legislative session shall not apply to
108 resubmitted resolutions or petitions.

109 (i) Following passage of an act by the Legislature
110 authorizing an election on the question of reforming,
111 altering or modifying a county commission or council,
112 the question shall be placed on the ballot of the county
113 at the next general election following such passage or,
114 at the expense of the county, a special election.

115 (j) Following approval of the reformation, alteration
116 or modification of the county commission or council by
117 a majority of the county's registered voters, nomination
118 of the county commission or council members and,
119 where authorized, the chief executive, shall be held in
120 the next primary election or the primary election set
121 forth in the resolution or petition to reform, alter or
122 modify the county commission or council. Election of
123 the county commissioners or council members and,
124 where authorized, the chief executive shall be held in
125 the next general election or the general election set forth
126 in the resolution or petition to change the form of the
127 county commission.

128 (k) All elections required by this section shall be held
129 in accordance with the provisions of chapter three of
130 this code.

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

133 (1) "*Chief Executive - county commission plan*". —
134 Under this plan:

135 (A) There shall be a chief executive elected by the

136 registered voters of the county at large and three county
137 commissioners that shall be elected at large;

138 (B) The commission shall be the governing body;

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

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

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

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

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

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

158 (B) The commission shall be the governing body;

159 (C) The county manager shall have the exclusive
160 authority to supervise, direct and control the
161 administration of the county government. The county

162 manager shall carry out, execute and enforce all
163 ordinances, policies, rules and regulations of the
164 commission;

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

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

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

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

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

178 (B) The commission shall be the governing body;

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

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

187 (E) The county administrator shall appoint or employ

188 all subordinates and employees for whose duties or
189 work he or she is responsible to the commission; and

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

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

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

201 (m) The purpose of this section is to establish the basic
202 requirements for reforming, altering or modifying a
203 county commission or county council pursuant to
204 section thirteen, article IX of the West Virginia
205 Constitution. The structure and organization of a
206 county government may be specified in greater detail by
207 resolution or ordinance so long as such provisions do
208 not conflict with the purposes and provisions set forth
209 in this section, chapter seven-a of this code or the
210 constitution.

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

Ch White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darius E. Holmes
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

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

The within is approved this
the 27th Day of March, 2008.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 24 2008

Time 3:08 pm