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.]
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.

(a) The county commission, formerly the county court, tribunal or county council in lieu thereof, of every county within the State of West Virginia shall be a corporation by the name of “The County Commission of ..................... County” or “The County Council of ..................... County” by which name it may sue and be sued, plead and be impleaded and contract and be contracted with.

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

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

(d) Unless provided otherwise in an alternative form of government, each county commission or council shall annually, at its first session in each year, or as soon thereafter as practicable, elect one of its commissioners
(e) Throughout this chapter and the code, the term "county commission" or any reference to a county commission shall include all county councils created in lieu of the county commission.

§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 thirteen, 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 will be on the ballot;

(5) How and when the officers of the proposed county government will 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 will be held;

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

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

(6) When the new county government will 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 legal advertisement in one or more newspapers of general circulation throughout the county, in compliance with the provisions of article
three, chapter fifty-nine 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 will 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 tenth 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 thirteen, article IX of the West
Virginia Constitution shall submit a petition, signed by
ten 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 ten percent of the registered voters of the county.

(f) The county commission or county council shall, within thirty 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 ninety 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 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 tenth 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 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
tenth 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 general election following such passage or,
at the expense of the county, a special election.

(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 chapter three 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:

(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 thirteen, article IX of the West Virginia
Constitution and this section may, by the methods set
forth in this section, return to the traditional county
commision 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 thirteen, article IX of the 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, chapter seven-a of this code or the
constitution.
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 ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the Day of 2008.

Governor
PRESENTED TO THE
GOVERNOR

MAR 24 2008

Time 3:08pm