

H. B. 3030

(By Delegates Fleischauer, Marshall, Doyle,
Barill, Lawrence, Manchin, Pasdon, Storch,
Hatfield, Staggers and Duke)

[Introduced February 7, 2011; referred to the
Committee on Political Subdivisions then the Judiciary.]

A BILL to amend and reenact §8-1-5a of the Code of West Virginia,
1931, as amended, relating to increasing the number of
municipalities that may participate in the Municipal Home Rule
Pilot Program; providing that if the two legislative members
of the Municipal Home Rule Board permit designees to sit in
their place, those persons sit *ex officio*; and extending
certain deadline dates.

Be it enacted by the Legislature of West Virginia:

That §8-1-5a of the Code of West Virginia, 1931, as amended,
be amended and reenacted 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

1 budgets and delivering services required by federal or state law or
2 demanded by their constituents;

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

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

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

16 (c) Effective July 1, 2007, there is hereby created a pilot
17 program to be known as the Municipal Home Rule Pilot Program
18 authorizing ~~five~~ seven selected Class I, Class II and/or Class III
19 municipalities and/or metro governments the authority to enact any
20 ordinances, acts, resolutions, rules and regulations not contrary
21 to the Constitutions of the United States or West Virginia, federal
22 law or chapters sixty-a, sixty-one and sixty-two of this code.

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

25 (1) Be a Class I, Class II and/or Class III municipality
26 and/or a metro government: *Provided*, That a municipality
27 considering consolidation or establishing a metro government shall

1 have no more than two years from the date it is selected for the
2 pilot program to complete its consolidation or metro government
3 process or its participation in the pilot program will terminate at
4 the end of the two-year period; and

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

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

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

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

14 (e) Effective July 1, 2007, there is hereby created a
15 Municipal Home Rule Board consisting of the following seven
16 members:

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

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

20 (3) The chair of the Senate Committee on Government
21 Organization or a designee sitting ex officio;

22 (4) The chair of the House of Delegates Committee on
23 Government Organization or a designee sitting ex officio;

24 (5) One member shall be a representative of the business and
25 Industry Council;

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

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

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

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

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

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

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

14 (5) Authorizing amendments to approved plans.

15 (g) On or before January 1, ~~2008~~ 2013, an eligible
16 municipality and/or metro government wanting to participate in the
17 pilot program shall submit a written plan as described in
18 subdivision (2), subsection (d) of this section to the board.

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

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

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

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

27 (4) After the public hearing, adopt a municipal ordinance

1 authorizing the municipality to submit a proposed written plan to
2 the Municipal Home Rule Board after the proposed municipal
3 ordinance has been read two times.

4 (i) On or before June 1, ~~2008~~ 2013, the board shall select by
5 a majority vote of the board at least one, but not more than ~~five~~
6 ten municipalities and/or metro governments to participate in the
7 pilot program.

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

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

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

22 (k) Before July 1, ~~2012~~ 2016, the Joint Committee on
23 Government and Finance shall conduct a performance review on the
24 pilot program and the participating municipalities and/or metro
25 governments. The review shall include the following:

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

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

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

5 (4) Any other issues considered relevant.

6 (1) On or before January 1, ~~2013~~ 2016, the Joint Committee on
7 Government and Finance shall report to the Joint Committee on
8 Government Organization the findings of the performance review.

9 (m) The pilot program terminates on July 1, ~~2013~~ 2017.

10 (n) No ordinances, acts, resolutions, rules or regulations may
11 be enacted by a municipality or metro government after July 1, ~~2013~~
12 2017, pursuant to the provisions of this section, unless otherwise
13 authorized by the Legislature.

NOTE: The purpose of this bill is to increase the number of municipalities that may participate in the Municipal Home Rule Pilot Program. The bill provides that if the chair of the Senate Committee on Government Organization or the chair of the House of Delegates Committee on Government Organization who serve as members of the Municipal Home Rule Board permit a designee to sit in his or her place, that person sits *ex officio*. The bill also extends certain deadline dates.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.