

H. B. 4431

(By Delegates Sobonya, Householder, J. Miller, Cowles,
C. Miller, Snuffer and Savilla)

[Introduced February 6, 2012; referred to the

Committee on Political Subdivisions then the

Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to terminating the Municipal Home Rule Pilot Program on the date of passage; terminating all local laws and ordinances that were enacted pursuant to the Municipal Home Rule Pilot Program that are contrary to the Constitution of the United States, the Constitution of West Virginia, federal law or certain chapters of this code; and requiring all information associated with the program be submitted to the Legislature by July 1, 2012.

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.

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 municipalities
4 in that stronger municipalities will make for a stronger West
5 Virginia;

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

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

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

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

22 (c) Effective July 1, 2007, there is hereby created a pilot
23 program to be known as the Municipal Home Rule Pilot Program
24 authorizing five selected Class I, Class II and/or Class III

1 municipalities and/or metro governments the authority to enact any
2 ordinances, acts, resolutions, rules and regulations not contrary
3 to the Constitutions of the United States or West Virginia, federal
4 law or chapters sixty-a, sixty-one and sixty-two of this code.

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

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

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

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

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

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

23 (e) Effective July 1, 2007, there is hereby created a
24 Municipal Home Rule Board consisting of the following seven

1 members:

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

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

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

7 (4) The chair of the House of Delegates Committee on
8 Government Organization or a designee;

9 (5) One member shall be a representative of the business and
10 industry council;

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

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

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

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

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

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

24 (4) Approving the plans of recommended pilot program

1 participants, as submitted or as modified; and

2 (5) Authorizing amendments to approved plans.

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

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

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

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

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

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

19 (i) On or before June 1, 2008, the board shall select by a
20 majority vote of the board at least one, but not more than five
21 municipalities and/or metro governments to participate in the pilot
22 program.

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

1 powers:

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

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

13 (k) Before July 1, 2012, the Joint Committee on Government and
14 Finance shall conduct a performance review on the pilot program and
15 the participating municipalities and/or metro governments. The
16 review shall include the following:

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

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

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

23 (4) Any other issues considered relevant.

24 (1) On or before January 1, 2013, the Joint Committee on

1 Government and Finance shall report to the Joint Committee on
2 Government Organization the findings of the performance review.

3 (m) The pilot program terminates on ~~July 1, 2013~~ the date of
4 the passage of this amendment made during the 2012 regular session
5 of the Legislature.

6 ~~(n) No ordinances, acts, resolutions, rules or regulations may~~
7 ~~be enacted by a municipality or metro government after July 1,~~
8 ~~2013, pursuant to the provisions of this section, unless otherwise~~
9 ~~authorized by the Legislature.~~

10 (n) Notwithstanding any provision of this section to the
11 contrary, effective upon the passage of this amendment made during
12 the 2012 regular session of the Legislature, no ordinance, act,
13 resolution, rule or law may be enacted by a municipality or metro
14 government under the authority of this section, unless otherwise
15 authorized by the Legislature. Additionally, all ordinances, acts,
16 resolutions, rules and laws enacted between July 1, 2007 and the
17 date of passage of this amendment that were made pursuant to this
18 section that are contrary to the Constitution of the United States,
19 the Constitution of West Virginia, federal law or chapters sixty-a,
20 sixty-one and sixty-two of this code shall terminate and be of no
21 further force and effect.

22 (o) Notwithstanding any provision of this section to the
23 contrary, all information required to be submitted to the
24 Legislature, the Joint Committee on Government and Finance or the

1 Joint Committee on Government Organization regarding the Municipal
2 Home Rule Pilot Program shall be submitted to the Legislature by
3 July, 1 2012.

NOTE: The purpose of this bill is to end the Municipal Home Rule Pilot Program on the date of the passage of this amendment made during the 2012 regular session of the Legislature. The bill negates the future effect of all ordinances, acts, resolutions, rules and laws enacted between July 1, 2007 and the date of passage of this amendment that are contrary to the Constitution of the United States, the Constitution of West Virginia, federal law or chapters sixty-a, sixty-one and sixty-two of this code. The bill also requires all information regarding the Municipal Home Rule Pilot Program be submitted to the Legislature by July 1, 2012.

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