HOME RULE PRESENTATION



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City Administrator
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HOME RULE SUMMARY

In the United States, the legislative authority granted to local governments varies by state. In some states, known as Home Rule States, an amendment to the state constitution grants cities, municipalities, and/or counties the ability to pass laws to govern themselves as they see fit (so long as they obey the state and federal constitutions). In other states, such as West Virginia, only limited authority has been granted to local governments by passage of statutes in the state legislature. In these states, a city or county must obtain permission from the state legislature if it wishes to pass a law or ordinance which is not specifically permitted under existing state legislation.

Municipalities face challenges delivering services required by federal and state law, or demanded by their constituents. Subsequently, municipalities in West Virginia are sometimes restrained by state statutes, policies and rules that challenge their ability to carry out their duties and responsibilities in a cost-effective, efficient and timely manner.

HOME RULE IN WEST VIRGINIA

Home Rule was expanded under S.B. 435: A BILL to amend and reenact 8-1-5a of the Code of West Virginia, as amended, relating to continuing the Municipal Home Rule Pilot Program; continuing the Municipal Home Rule Board; setting forth legislative findings; authorizing Class I, II, II and IV municipalities to participate in the program; clarifying the voting privileges of members of the Municipal Home Rule Board; clarifying the powers and duties of the board; establishing written plan requirements for municipalities; establishing requirements for the adoption of ordinances; requiring public hearings; setting forth power and duties of the participating municipalities; prohibiting certain acts by participating municipalities, providing the opportunity for participating municipalities to withdraw from the program; providing for amendments to the written plan; requiring a performance review of the pilot program; establishing reporting requirements in the pilot program; prohibiting municipalities participating in the pilot program from restricting the right of any person to purchase, posses, transfer, own, carry, transport, sell or store any firearm accessory or any ammunition or ammunition component; providing limited exceptions to the firearms prohibition; providing for applicability and effective dates of prohibition; and establishing a termination date of the pilot program

CITY OF BUCKHANNON & HOME RULE

Home Rule for the City of Buckhannon would provide the city and elected officials with the ability to chart their own course in how to operated and manage the municipality in areas such as finance, economic development, zoning, building and infrastructure. The issues uniquely associated with Buckhannon and the composition of our community and its citizens is very different that other municipalities such as Morgantown, Martinsburg, Weirton and Lewisburg yet we are all governed by the same rigid statues and operational/functional limitations as prescribed by the West Virginia State Legislature in Charleston.

Recently the West Virginia State Legislature approved the continuation of the Municipal Home Rule Pilot Program to include not only the four original members: Huntington, Charleston, Bridgeport and Wheeling but also an additional sixteen municipalities. The expansion and continuation of the Municipal Home Rule Pilot Program will commence July 1, 2014 and conclude July 1, 2019 at which time the legislature will review the program for future consideration or termination.

Local government is most responsive and responsible when it is closest to the people it serves. The Municipal Home Rule Pilot Program will provide the City of Buckhannon with added responsibilities at our city government level which can produce positive changes in our efforts to improve the quality of life in our community

Home Rule authorizes local communities to control their own destiny and makes government more responsive to voters. Home Rule is not an empowerment of government, but more about an empowerment of its citizens. The establishment of Home Rule lets a local municipality's citizens decide what is best for them and allows them to use the ballot box to answer yes or no as to whether the city is going in the right direction

SUBMISSION

All municipalities interested in participating in the Municipal Home Rule Pilot Program shall submit a written plan (application) on or before June 1, 2014 to the Home Rule Board stating in detail the following:

- The specific laws, acts, resolutions, policies, rules or regulations which prevent the municipality from carrying out its duties in the most cost-efficient, effective and timely manner;
- The problems created by the laws, acts, resolutions, policies, rules or regulations;
- The proposed solutions to the problems, including all proposed changes to ordinances, acts, resolutions, rules and regulations. Note: The specific municipal ordinance instituting the solution does not have to be included in the written plan; and
- A written opinion, by an attorney licenses to practice in West Virginia, stating that the proposed written plan does not violate the provision of this section.

Prior to submitting its written plan to the board, the municipality shall:

- 1. Hold a public hearing on the written plan
- 2. Provide notice at least thirty days prior to the public hearing by a Class II legal advertisement
- 3. Make a copy of the written plan available for public inspection at least thirty days prior to the public hearing; and
- 4. After the public hearing, adopt an ordinance authorizing the municipality to submit a written plan to the Home Rule Board after the proposed ordinance has been read two times.

Note: A municipality selected to participate in the Municipal Home Rule Pilot Program may amend its written plan at any time

SELECTION

On or after June 1, 2014, by a majority vote, the Home Rule Board may select from the municipalities that submitted written plans and were approved by the Board by majority vote, new Class municipalities to participate in the Municipal Home Rule Pilot Program.

After being selected to participate in the Municipal Home Rule Pilot Program and prior to enacting an ordinance, act, resolution, rule or regulation based on the written plan, the municipality shall:

- 1. Hold a public hearing on the written plan
- 2. Provide notice at least thirty days prior to the public hearing by a Class II legal advertisement
- 3. Make a copy of the written plan available for public inspection at least thirty days prior to the public hearing
- 4. After the public hearing, submit the comments, either in audio or written form, to the Home Rule Board
- 5. Obtain approval, from the Home Rule Board by a majority vote, for the proposed ordinance, act, resolution, rule or regulation; and
- 6. After obtaining approval from the Home Rule Board, read the proposed ordinance, act, resolution, rule or regulation at least two times.

Powers and Duties

The municipalities participating in the Municipal Home Rule Pilot Program have the authority to pass an ordinance, act, resolution, rule or regulation, under the provisions of this section, that is not contrary to the following:

- Environmental Law
- Bidding on government construction and other contracts
- The Freedom of Information Act
- The Open Governmental Proceedings Act
- Wages for construction of public improvements
- The municipality's' written plan

The municipality does not have the authority to pass an ordinance, act, resolution, rule or regulation, under the provisions of this section, pertaining to:

- The Constitutions of the United State and State of West Virginia
- Federal law, or crimes and punishment
- · State crimes and punishment
- Pensions or retirement plans
- Annexation
- · Tax increment financing
- Extraction of natural resources
- Persons or property outside the boundaries of the municipality
- Marriage or divorce laws
- Restricting the carrying of firearms
- An occupation tax, fee or assessment payable by a non-resident of a municipality

REPORTING

Commencing December 1, 2015, and each year thereafter, each participating municipality shall give a progress report to the Home Rule Board, and commencing January 1, 2016, and each year thereafter, the Home Rule Board shall give a summary report of all the participating municipalities to the Joint Committee on Government and Finances

PERFORMANCE, EVALUATION AND REVIEW

Before January 1, 2019, the Performance Evaluation and Review Division of the Legislative Auditor's Office shall conduct a performance review on the pilot program and the participating municipalities. The review shall include the following:

- 1. An evaluation of the effectiveness of expanded home rule on the participating municipalities
- A recommendation as to whether the expanded home rule should be continued, reduced, expanded or terminated
- 3. A recommendation as to whether any legislation is necessary regarding the continuation, regulation, expansion or termination of the Municipal Home Rule Pilot Program.

POSSIBLE ITEMS FOR HOME RULE

The follow items represent possible problems/solutions that could be address under the City of Buckhannon's Home Rule Program.

- Economic Development:
- Property Nuisances:
- Property Management:
- Business License:

CONCLUSION

The Municipal Home Rule Pilot Program would have a positive impact on the operational functions of the City of Buckhannon. The ability to enhance revenues, streamline processes, improve the community and create potential marketable economic development opportunities only strengthens our resolved to represent the interests of the citizens of Buckhannon.

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The City of Buckhannon should continue to collect data and information about the Municipal Home Rule Pilot Program and begin forming a Home Rule Exploratory Committee to determine the issues/solutions as it relates to the constrictions of West Virginia state statute and the legislature.

If the Council and Home Rule Exploratory Committee both support the concept of home rule then the City of Buckhannon and its elected officials should strongly consider submitting a written plan to the Home Rule Board by June 1, 2014.