

Home Rule for Huntington

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Home Rule in WV Constitution

- In WV, cities are granted less power and freedom than in any other state
- “Home rule” provisions (6-39 and 6-39a) provide little discretion for cities in raising revenue
- Cities have no power unless that power is specifically granted to them by the legislature (Dillon’s rule)

Constitutional Limitations

- Cities may adopt charters and ordinances...
- “Provided, that any such charter or amendments thereto, and any such law or ordinance so adopted, shall be invalid and void if inconsistent or in conflict with this constitution or the general law of the state...”

Home Rule Legislation in WV

- Senate Bill 747 (2007) established the “Municipal Home Rule Pilot Project”
- “It is the intent of the Legislature in enacting this pilot program to establish a framework for municipalities within which new ideas can be explored to see if they can or should be implemented on a statewide basis.”

Pilot Program

- “Plans must address laws, policies, rules or regulations that prevent the municipality to carry out duties in the most cost effective, efficient, and timely manner.”
- Huntington’s plan submitted and approved by the Municipal Home Rule Board established by SB 747

Limitations

- The selected cites are authorized, “...to enact any ordinances, acts, resolutions, rules and regulations not contrary to the constitutions of the United States or West Virginia, federal law or chapter sixty-one and sixty-two of this code” (chapter 60 is also included)
- Cannot change employee pension or retirement plans

Huntington's Proposal

- Land Bank Fast Tract Authority
- Local Options to Address Fire Damage
- Increased Capacity to Collect Fees/Taxes
- Municipal Occupation/ Retail Sales Tax

Land Bank Fast Track Authority

- Problem of Dilapidated Structures
- Over 500 residential and commercial structures now on the list for removal
- These are major places for homeless to congregate and for drug deals
- Create fire and sanitation problems
- Expensive for City to remove particularly if asbestos is present

Land Bank (2)

- Idea is to allow the city to become involved in the tax lien process
- Make it easier and quicker to get these dangerous buildings demolished
- Property can then be transferred to those wishing to put it to productive use
- Reduce the burden of tax sales

Current Procedure

- If property taxes are delinquent for one year the property can be put up for tax sale
- Parties bid on the property and the bid must cover the delinquent taxes plus those due for the current year
- Money is distributed to local governments
- Money collected above the delinquent taxes goes into the “sale of tax lien surplus fund”

Reclamation of Tax Liens

- Original property owner has 18 months to pay taxes plus 1 percent per month interest
- That money goes to the lien holder
- If the original owner does not pay, the lien holder has the option of taking title of the property or forfeiting the bid and returning the property to original owner
- This process takes 3 1/2 years

Unsold Liens

- If the lien is unsold, the property goes to the State Auditor
- Property owner is given 18 months to reclaim.
- If property is unclaimed it goes to a statewide sale. If the lien is purchased owner has 120 days to reclaim
- If property is not sold anyone can make an offer for the property to the State Auditor. If sold by Auditor all money is retained by them

Land Bank

- Based on successful program which began in Flint MI
- Most tax lien sales are to out-of-town investors
- For the Artisan Ave Project in Huntington over half of the dilapidated and unsafe buildings were transferred at tax sales

How the Land Bank Works

- City is allowed to purchase the tax liens prior to the sale on dilapidated properties
- The property is placed in a Land Bank Authority for demolition, redevelopment and possible resale
- Land Bank Authority is funded by the issuing revenue bonds to be paid from the sale of redeveloped property and/or additional property taxes

Transfers of Real Property

- All transfers of real property in the City are to be reported 24 hours prior to closing
- City will furnish a list of any fees, taxes and charges due on the property
- Closing agent is to include these in closing statement
- Closing agent shall remit all these fees to City within 24 hours of closing

Escrow of Insurance

- Many properties are destroyed by fire
- Often these are the result of arson
- Often the absentee owner takes the money paid by the insurance company and does not clear the property
- The City must pay the cost of debris removal

How the Escrow Works

- “Certificate of Good Standing” will be issued after a loss if:
 - Repairs have been completed
 - The structure has been removed
 - A valid contract for removal is in force
 - All other fees and charges are current
- In the absence of a certificate the insurance company shall deposit with the City \$2,000 for each \$15,000 of the insurance claim

Other Provisions

- City places money in an escrow fund
- Money is transferred to the insured when the Certificate is issued
- If Certificate has not been issued within 180 days the City shall use the money to clean the site
- Excess money, if any, returned to insured

Local Occupation and Sales Tax

- City has not enacted either and currently has no plans to so do
- Proceeds were to go to eliminate the City Service Fee (\$3 per week) and reduce the B&O tax on retail business
- Local retail sales tax would “piggyback” on State tax and be collected by State
- Would not be feasible unless done countywide

Occupation Tax

- Reasons for adoption
 - Current user fee is regressive
 - Discourages employment of part-time and entry level workers
- Replacing or reducing B&O desirable
 - State rejected it decades ago as anti-business
 - Encourages business to locate outside city limits

Provisions

- Same as in existing code
- Base includes:
 - Salaries
 - Wages
 - Commissions
 - Other income under IRS definition of “Adjusted Gross Income”

Provisions (2)

- Base Excludes:
 - Intangible income
 - Net business profits
 - Any other form of income
- Employer withholds and remits to City in the same manner as federal and State personal income tax
- State would allow for joint audits

Other States Local Occupation Taxes

- Ohio allows for cities and school districts to levy local income taxes up to 1%
 - With voter approval the rate can increase
 - Over 200 Ohio cities have adopted the tax
- Kentucky allows for taxes ranging from 0.25%-2.25%
 - Most larger Kentucky cities have them
 - Major source of revenue for over half of cities

PA Local Earned Income Taxes

- Can be used by cities and school districts
- Principal source of non-property income
- Base rate is 1% but can be exceeded in home rule cities
- Income can only be taxed once, either where earned or by residence of earner. If in conflict then residence takes precedence
- Tax must be split between city and schools

Local Income Taxes

- In Maryland all 23 counties and Baltimore levy income taxes ranging from 1.25 to 3.2 percent which is piggybacked on the State's
- Virginia authorizes local income taxes on individuals and business but no adoptions
 - Must be used only for transportation
 - Requires referendum every five years

Conclusion

- “No good deed goes unpunished.”
- Huntington was challenged by the State to:
 - Develop its own ways to deal with the problem of property blight
 - Not to ask for additional State aid to accomplish that goal
- The proposals in the Home Rule Plan meet those objectives

Questions