MUNICIPAL HOME RULE PILOT PROGRAM

2016
PROGRESS
REPORT

City of Charleston

December 1, 2016

West Virginia State Code §8-1-5a (m) provides:

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

The Municipal Home Rule Board has developed this standard format for Pilot Program participating municipalities to prepare and submit their respective Annual Progress Reports. The intent of this standard format is to gather and compile information in a consistent, easily understood, and efficient manner that will be used to develop a concise and practical summary report to the Joint Committee on Government and Finance.

Annual Progress Reports must be submitted electronically as an individual file in PDF format no later than the close of business on December 1, 2015 by emailing Debbie Browning at debbie.a.browning@wv.gov, West Virginia Development Office, West Virginia Home Rule Pilot Program, State Capitol Complex, Building 6, Room 553, Charleston, West Virginia 25305-0311, 304-558-2234.

A. General Information	
Name of Municipality: City of Charleston	
Certifying Official: Paul D. Ellis	Title: City Attorney
Contact Person: Susan Economou	Title: Senior Staff Associate
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2010 Census Population: 51,400	
B. Municipal Classification	
☑Class I ☐ Class II ☐ Class III ☐ Class IV	
C. Pilot Program Entry Phase	
☑ Phase I (2007 Legislation) ☐ Phase II (2014 Legislation) ☐ Phase III (2015 Legislation)	
D. Attest	
I hereby confirm that I am the authorized official for this municipality and certify that the information submitted herein and attached hereto is true and accurate and that this report addresses each and every initiative included in the original Home Rule Pilot Program Plan Application for this municipality and any subsequent amendments, if applicable.	
Paul D. Ellis	
Type Name of Certifying Official	Signature of Certifying Official / Date

Initiative: Encourage growth in Sunday restaurant business by allowing earlier alcohol sales

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☐ or a plan amendment ☑?

Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No

If yes, when was the ordinance enacted? July 26, 2016

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

In July of 2016, the City of Charleston enacted an ordinance allowing certain Class "A" ABCA license holders to begin serving alcohol at 10:00 a.m. on Sundays, rather than 1:00 p.m. In the quarter that has passed since enactment, local restaurants, hotels, caterers, and their employees have seen benefits from the modification.

A local hotel reports that although they have not begun offering brunch in their restaurant, they have been able to capitalize on the Wedding Brunch trend of wedding parties booking a group brunch for guests who are travelling rather than the guests getting up, eating the hotel's free breakfast, and then leaving town. This hotel had hosted 6 Sunday brunch events. Each event requires an additional Sunday staff of 4 to 6 servers and bartenders as well as additional kitchen staff. The hotel's General Manager estimates that the 6 events have generated about $10,000 in additional revenue and has added 250 to 300 staff hours with an estimated payroll of $3,500. He also estimates an additional $600 in tips have been earned by staff.

Charleston restaurants have also taken advantage of the modified hours. One restaurant who traditionally opened at 1 pm for brunch has now begun opening at 10. They estimate additional revenue at $1,000 to $1,200 for the additional four hours of business. The servers who work Sundays are working an additional 5 hours and the manager estimates they earn an additional $75 to $100 in tips.

Another Charleston restaurant that has traditionally been opened for brunch at 10 am reports that they have seen a modest increase in business due to earlier alcohol sales, but the change for them as been a steadier flow of customers rather than having a large rush right before 1 pm. Since tables can be turned more frequently, more customers can be served and the environment is less hectic for the staff, providing a better dining environment for everyone.

Two Charleston restaurants that have been closed on Sundays have indicated that they will be opening for brunch in the near future.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

Early indications are that the City, its restaurants, caterers, and their employees have seen benefit from the passage of the City's Brunch Bill. The City and its Convention and Visitor's Bureau will continue to monitor the impact of the "Brunch Bill" on the City's restaurants and other tourism and hospitality businesses.

Initiative: Tools for collection of delinquent fees and taxes

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No

If yes, when was the ordinance enacted? August 4, 2008, and October 16, 2008

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

The City proposed three measures to increase collection of unpaid city service fees: to hold hearings at the City level with the right to appeal to the Circuit Court; to allow the City, after the hearing, to lien property without a court order; and to publish information about delinquent accounts.

Under existing state law at the time, the only remedy for collecting delinquent fees was to institute a civil action. Cities were not allowed to attach liens on property as security for unpaid fees. In its Home Rule Proposal, the City requested the ability to hold hearings on delinquent fees at the City level and to be able to attach liens to real property for any fees owed, similar to the process in place for the collection of delinquent B&O taxes without the necessity of first obtaining an order from Circuit Court. In October 2008, the City adopted City Code Section 3-11, which specified the procedure for notice, hearing and attachment of liens for delinquent city service fees. This process was adopted for municipalities statewide by the legislature in 2009. Since 2008, the City has attached approximately 50 or more liens per year for delinquent fees. Short term gains are not expected in response to the implementation of this process as liens are usually not addressed until/unless the property is sold.

The City requested and was granted the authority to publish very specific information about persons or businesses with delinquent B&O taxes or city service fees. In August of 2008, the city adopted City Code Section 3-10, which specified information that could be published in an effort to reach persons or business with delinquencies. County tax departments have long used publication of delinquent property taxes as a collection tool, and this was an attempt to give the City the same ability. Instead of spending public money on lengthy and costly legal advertisements in local newspapers, the City has requested media coverage of delinquent fees and has posted delinquent accounts on its website. It is difficult to quantify how much the continued threat of publication is a contributing factor to on-time payments, or the prompt reconciliation of past-due amounts, but it is estimated that the publication facilitates two or three delinquent account holders to initiate contact with the City and pay their delinquent accounts each month.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

The Charleston lien process initiative was adopted by the Legislature for use by municipalities statewide.

Initiative: Urban Deer Hunt regulations

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☐ Yes ☑ No

If yes, when was the ordinance enacted?

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

The City had conducted one urban deer hunt prior to the announcement of the Home Rule pilot program, and the City administration had been disappointed with the results of the hunt. Participation was lower than expected, and not enough deer were taken to make an impact on the urban herd. The City had contacted the DNR regarding improving participation by making deer killed in the urban hunt outside of the season "bag limit" and extending the season. The DNR offered that the city should increase the number of urban hunting tracts within the City by reducing the size restrictions for qualifying tracts, but this option was not popular with the citizens of the city who had previously expressed safety concerns about the size of the tracts designated for hunting. The city decided to pursue its ideas through the Home Rule process. Prior to the enactment of the Home Rule legislation, the DNR was unwilling to meaningfully discuss changing the season or bag limits for municipal deer hunts. During the home rule process, the DNR agreed to meaningful discussions and there were several meetings/conversations between the City and the DNR about ways to improve municipal urban deer hunts. Ultimately, the City and DNR agreed to enlarge the season and to increase the bag limit to 7 deer, with the first deer required to be a doe and with a maximum of 2 bucks per hunter. These changes were ratified by the Natural Resources Commission on November 2, 2008, and ultimately no home rule legislation by the City was required. Based on the positive results from Charleston's modified urban deer hunt, the DNR recommended that the changes be adopted statewide and the Natural Resources Commission agreed to do so. The modifications have been beneficial for municipalities statewide.

The City's urban deer hunts register between 150-175 hunters who take approximately 100 deer per year, which has contributed to safer roads. Between sixty and seventy percent of deer taken are does, which the DNR has confirmed contributes to thinning the urban herd.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

Charleston's initiative was adopted for use by municipalities statewide.

Initiative: Correction of "eyesores" and dilapidated structures			
Category of Issues Addressed (check all that apply)			
☐ Organization	☑ Administration	☐ Personnel	☐ Other
Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?			
Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No			
If yes, when was the ordinance enacted? April 20, 2009			
If no, please describe challenges faced in enacting the related ordinance(s)			

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

On April 20, 2009, the City Council enacted City Code Section 3-27, giving the City the authority to, after proper notice, enter property, abate exterior sanitation and nuisance violations, and lien the property for any amounts expended. Additionally, since the City delegates the duty to maintain sidewalks to abutting property owners, this legislation included a provision for the City to place a lien on abutting property if the City was required to repair a sidewalk if reasonable under the circumstances. This authority is not intended as an enforcement mechanism, but as another tool for the City to remediate external sanitation and nuisance violations, most importantly those that pose a safety hazard to the public, without the public have to bear the cost of said remediation.

The City has on occasion abated uncorrected tall grass violations within the City. However, tall grass violations are subject to citation by the City under it's "On-the-Spot" citation ordinance and the instances of the City having to abate this nuisance have decreased. To date, the City has not yet incurred expenses for mowing of a single property that it determined warranted placing a lien on the property.

The City has not yet incurred costs outside of its ordinary maintenance cycle related to the repair of damage to sidewalks caused by use or abuse by an abutting owner.

Initiative: Procurement of architect and engineering services
Category of Issues Addressed (check all that apply) ☐ Organization ☑ Administration ☐ Personnel ☐ Other
Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?
Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No
If yes, when was the ordinance enacted? September 15, 2008
If no, please describe challenges faced in enacting the related ordinance(s)
SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance. Present state laws regarding municipal procurement of design contractors requires the selection process for projects with an estimated construction cost of $250,000 or more be conducted in two parts: a committee must first select the top three most highly qualified firms and thereafter negotiate price for the contract. If negotiations with the most qualified firm does not result in a satisfactory contract, then the committee moves to the second most qualified firm and negotiations begin again. If negotiations with the third most qualified firm do not result in a satisfactory contract, the whole process begins again. Once a city passes to the next qualified firm, it cannot "go back" to a previous firm. In order to streamline the process, particularly for time sensitive projects, and allow the City to select the "best value" for all projects, consistent with federal guidelines published in 24 CFR 85.36(d)(3)(iv) which reads, "Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered," City Council enacted Section 3-15 of the City Code specifying that for projects with estimated construction costs of $750,000 or more, the City selects a maximum of five firms based on qualifications, and then develops a scope of services and negotiates price with the five firms to arrive at the best combination of qualifications and cost. Additionally, within the following 36 months, the City can retain the services of any of the firms qualified through public solicitation for projects costing under $750,000 without going through the qualification process again, provided it is in the best interest of the City or an emergency exists. The City has drawn from its pool of qualified engineering firms for bridge inspections, streetscape design, parking garage inspections, and studies for proposed pedestrian trails.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

When the City began to draft its legislation on this provision, it received letters and comments from the architect/engineering community, including the American Institute of Architects. Several representatives from the architect/engineering community attended the committee meetings, provided valuable input, and in some cases suggested modifications to the language in order to facilitate savings of time and expense intended by the home rule legislation while, at the same time, fully preserving the safety and workmanship protections raised by the architect and engineering community. These discussions and related legislative revisions prompted by local comment were integral to the final passage, implementation and success of the City's legislation. Since enactment of this home rule legislation, the City has saved substantial time and public money and has not had any material safety or workmanship problems associated with any of the qualifying projects.

Initiative: "On-the-Spot" Citations

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No

If yes, when was the ordinance enacted? April 6, 2009

If no, please describe challenges faced in enacting the related ordinance(s)

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

This provision has been extremely successful in dealing with external sanitation/nuisance violations of the City's building and zoning codes. Since enacting its legislation in 2009, the City has seen an average correction rate of 84% of violations after issuing a notice of violation warning. An average of 25 notices per year escalate to actual citations. Without having to go through the lengthy court process required prior to the enactment of this initiative, the City's inspectors are able to address more issues, and residents realize faster abatement of problems in their neighborhoods. This initiative has been the model for many other Home Rule cities and the City has participated with WVU's Land Use and Sustainable Development Law Clinic in presenting a CLE seminar, including the "on-the-spot" citation program, that included innovations for dealing with dilapidated or vacant buildings and nuisance abatement.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

Since enactment by Charleston, the on-the-spot legislation has been a highly successful and essential tool that has reduced time and expense related to abating exterior sanitation issues. Similar provisions have been or are being adopted by several other Home Rule cities. The state legislature has considered adopting this provision for statewide use, but has not yet done so. WVU's Land Use and Sustainable Development Law Clinic, in cooperation with the Home Rule cities that have adopted similar measures, has drafted legislation for introduction the 2017 Legislative session.

Initiative: Relief from DNR "per project" permitting
Category of Issues Addressed (check all that apply) ☐ Organization ☑ Administration ☐ Personnel ☐ Other
Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?
Has the ordinance(s) needed to implement this initiative been enacted? ☐ Yes ☑ No
If yes, when was the ordinance enacted?
If no, please describe challenges faced in enacting the related ordinance(s) The City's public works department was considering types of activities to reduce small stream flooding within the city including dredge and fill activities in several streams within the city that had been prone to flooding in the past. It was the understanding of the head of the public works department at the time, that the City would need to obtain a state permit from the DNR each time it wanted to enter a stream, and that process may have an adverse effect on the timing of the dredging projects. The City decided to request through the Home Rule proposal that it be required to obtain permits only from the United States Army Corps of Engineers in order to provide timely relief from unsightly or dangerous conditions within the City. In the first meeting with state agencies regarding the Home Rule proposal, the DNR offered that it could, under existing regulations and discretion, issue the city an annual entry permit for dredging operations in its streams. The permit was issued in 2008, and has been renewed annually.

Initiative: Relief from DEP "per load" testing

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☐ Yes ☑ No

If yes, when was the ordinance enacted?

If no, please describe challenges faced in enacting the related ordinance(s)

This element of the City's home rule plan was to gain relief from the "per load" environmental permitting requirements of materials being sent to the landfill, particularly dirt dredged from streams. Certain commercial entities are allowed an annual permit for recurring loads of waste generated by similar activity, and the City was interested in being able to apply this provision to waste generated during dredging, or loads from residential lot clean-up. In an April 3, 2008, letter from the DEP to the Home Rule Board, General Counsel for the DEP opined that the City could apply for a single source permit, but did not believe that dredging from different streams, or materials from different residential clean-up projects, would qualify as single-source. After additional conversations with the DEP, the City received a May 23, 2008, letter wherein an environmental resource specialist instructed that the City did not have to have material dredged from streams tested on a per load basis unless there was a potential source of contamination adjacent to the stream.

At the time of the proposal, the City was investigating whether it could find some cost benefit by retaining a private laboratory on an annual basis for a flat amount for all ecological testing that the City might need. With the costs generated by dredging materials taken out of the equation, there has to date been no indications that the cost of environmental testing performed for the City would be significantly impacted by the annual retention of a private laboratory.

Initiative: Disposition of City Property

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No

If yes, when was the ordinance enacted? August 4, 2008

If no, please describe challenges faced in enacting the related ordinance(s)

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

Under West Virginia law, cities must convey or lease for fair market value, buildings or land to non-profit organizations providing services that benefit the citizens of the City. Such sales or leases may be cost prohibitive and/or create a financial burden for the non-profit. Even if a lease is possible within the financial constraints of the non-profit, the City retains risk of liability in situations where it may be more beneficial to the public if the property is sold to remove potential liability on the City and the public.

The City's home rule power provides that non-profits that provide services to the public that the City could, itself, provide (but does not due to lack of resources, prudent avoidance of liability, lack of organizational expertise or by choice of the elected officials) may lease or purchase property from the City for less than fair market value. In many cases, in the past these non-profits annually request and receive financial support from the State and City and then, under existing state laws, give the state/city money back to the City to pay for rent. Due to the decrease in available state/local funding for non-profits, the City's home rule power results in more state/local financial assistance being available for some non-profits while providing use of facilities to other non-profits that perform essential public services so that the City does not have to perform those services itself. Relieving these non-profits from having to pay market value for their leases increases the amount of resources that can be dedicated to providing services to the public, and puts an end to cities making donations to help non-profits only to have their donation returned to the City in the form of rent payments. The law also permits the City to sell property to non-profits performing essential public services that the City could but is not currently providing, for less than market value and without auction subject to a reversionary interest that mandates the property reverts back to the City in the event the approved public service ceases to be provided. This option relieves the City from potential liability associated with the provision of the public service but facilitates the continuance of the public service without depleting the funds of the non-profit providing the essential service. The lease or sale of property under this home rule power still requires the public notice required by state law for the sale or lease of City property. The City is also required to include the reversionary interest in any sale (to protect the City/public's interest in the property and to keep it from being used or sold by a non-profit for some purpose other than the intended public purpose) and a similar provision in leases that results in termination of the lease if the approved public purpose use ceases by the non-profit. The

City has not yet used the authority granted under this legislation for a sale to a non-profit, but has relied on it for leases to various non-profits performing public services (eg., homeless shelters, low income living facilities for challenged individuals, day care facilities for children of low income/challenged families, facilities assisting victims of domestic violence).

West Virginia law also mandates that municipalities hold public auctions for the sale of all real and personal property valued in excess of one thousand dollars ($1,000.00) and announce such auction in a Class II legal advertisement. On August 4, 2008, the Council passed Section 3-14 to the city code allowing the conveyance of real and/or personal property with a value in excess on $1,000.00 for fair market value, but without auction, when the primary purpose of a land/property transaction is to facilitate economic development within the City and/or the availability of necessary or convenient resources for the benefit of its citizenry.

The City used this power in September of 2012, in connection with the expansion and development of the Kroger store located at Ashton Place. The Kroger Company approached the City with the plans for a $9.6M expansion of the store, but needed to purchase a land-locked parcel of city-owned property behind the store in order to complete the project. Had the city been required to auction the land, any person could have purchased the parcel at auction, or artificially inflated the price of the parcel, and either stopped the expansion, or made Kroger pay more than market value in order to acquire the parcel. The matter was brought before City Council who decided that the economic impact of the $9.6M construction project, the additional jobs that would be available at the expanded Kroger store, and the expanded pharmacy, food service, and produce department that Kroger would be providing to the community were good cause to exercise this Home Rule authority. The Council voted to sell the parcel to Kroger at fair market value, but without auction, so that the expansion could proceed.

Because the exercise of this authority is only for projects whose primary purpose is to facilitate economic development within the City and/or the availability of necessary or convenient resources for the benefit of its citizenry, it is a powerful tool when the administration is trying to attract a specific type of business or service at a particular location. Without the auction component, the City still provides all required public notices and receives fair market value for its property, but the economic uncertainty generated by auction will not jeopardize the development of resources desired by citizens, and the whole project will not be stopped by a third party buying the land for some other less desirable or undesired project.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

Statewide legislation has been considered by legislative committee, but has not yet been adopted. Current state law regarding disposition of municipal property is antiquated and focuses only on maximizing profits for municipal sales and leases. With regard to non-profits performing public services that Cities could, but do not, offer, or situations where economic development/essential services need to occur in a particular location owned by the City, state law does not provide reasonable solutions. With regard to the home rule powers enacted by Charleston, so long as public notice/action is required and the types of safeguards Charleston has in place (ie., reversionary interests and related lease provisions for non-profits; fair market value required for economic development transactions without auction) are kept in any statewide legislation, this is a very

beneficial tool that can facilitate economic development, provide essential services in key locations beneficial to the citizenry, protect municipalities from unnecessary risk/liability and reduce the competition for diminishing state/local funds by non-profits. The much needed flexibility provided by this simple legislation is very valuable to municipalities and should be adopted statewide.

Initiative: City Design-Build Process

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No

If yes, when was the ordinance enacted? March 3, 2009

If no, please describe challenges faced in enacting the related ordinance(s)

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

This provision was put in place in order to streamline the design-build process and allow the City to locally determine for itself when use of design-build is appropriate and to select the "best value" proposal by awarding projects through an RFP process, consistent with federal guidelines. On March 3, 2009, the City enacted Code Section 3-16, establishing a process similar to the one used by the state that permits the City's administration and electorate to determine which method is appropriate for City projects. Current state law requires cities to seek approval from a state board before entering into a design-build contract for city projects which results in considerable time and resources to get approval and the decision is made by board appointees who may have no connection to or familiarity with the requesting city. Charleston's home rule process provides for all of the public notice and preliminary professional review (ie., architectural and engineering review and certification) that is conducted by the state board, but the process is instead performed by the City and is ultimately required to be approved by its electorate prior to entering into a design-build agreement.

The City first used its streamlined process for development and construction of the Riverfront Canopy at Haddad Riverfront. This project utilized a unique textile material requiring design and installation expertise and experience for which design-build was the ideal construction delivery method. Without the necessity of the cumbersome state law process of state board approval or oversight, the City had the autonomy to control the costs associated with the project and the timeline vital to meet the milestones required by the federal government in its grant award to the City associated with the project. Change orders were also implemented in a more efficient and timely manner. Overall, there were no problems with the project, the City's design/construction method provided cost savings to the public, the project was implemented and completed faster than if the state process had been required, and the completed project resulted in what is now an iconic and heavily used facility in the state's capital city.

The City has also used this initiative with the current design-build renovation and expansion of the Charleston Civic Center. With this autonomy the City was able to determine for itself whether it was a suitable project for design-build, the scope of the project, and was able to include price as part of the overall evaluation of the submitted designs. The City has started the

multi-million-dollar project, which is considerably less expensive than if design-build would not have been used, and the projected completion date is December 2018. As the construction progresses, the City Council has been able to approve change orders and changes in the design or construction in a timely and efficient manner to keep the project on schedule and within the anticipated budget.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

This initiative works in Charleston because it, along with several other West Virginia municipalities, has the necessary resources, educated and skilled professionals, experience, and informed electorate to be able to determine for itself when design-build is the best method for a public project, and is capable of implementing necessary and reasonable procedures for evaluating projects on a case-by-cases basis. The state's design-build board remains a valuable resource for cities with fewer resources, or whose administration prefers not to manage larger projects, but is a more time consuming process, can increase the costs of municipal projects, and results in important decisions being made on local projects by persons who do not likely reside in the affected city, have no real familiarity with the affected city or the proposed project, and are not accountable to the City's citizenry. Charleston's initiative should be available statewide to other cities; at least to those larger cities that have the resources, experience, and skilled professionals available to determine these issues locally.

Initiative: Contracts with other jurisdictions by Resolution

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No

If yes, when was the ordinance enacted? August 4, 2008

If no, please describe challenges faced in enacting the related ordinance(s)

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

Under W.Va. law, the City cannot enter into contractual or other binding agreements with another political jurisdiction until its Council approves the transaction by ordinance. Contracts between a city and a private entity, however, can be approved by resolution. Under state law, an ordinance must have two readings before the full city council, but a resolution requires only one. The Charleston City Council meets twice a month, so any ordinance takes two weeks longer for passage than a resolution. Note that there is not a clear legal definition of a "jurisdiction" provided in state law, so Charleston previously employed the conservative practice of authorizing agreements/contracts via ordinance with any state agency or political subdivision that could arguably be considered a "jurisdiction" under state law. In August of 2008, the City enacted City Code Section 3-12, allowing it to enter into contracts with other political jurisdictions via resolution.

The City has used this initiative on at least twenty agreements with entities including Kanawha County, the WV National Guard, US Department of Justice, WV DMV, DOH, and DOC, Putnam County Sheriff, City of South Charleston, City of Dunbar, City of Nitro and City of St. Albans. All timelines for projects that depend on these agreements for implementation or completion were positively affected by the reduced time for passage through Council and, on at least one occasion, an agreement governing a project with the DOT/Division of Highways needed to be amended, and work was only delayed by one week, rather than by three weeks, because the amendment could be approved by resolution in one meeting.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

Other cities have implemented this initiative as part of their Home Rule plan. Timelines where other municipalities not participating in home rule are party to the agreement may not be impacted due to the other cities ordinance requirements. Statewide adoption of this initiative has not yet advanced past committee, but this simple power should be adopted statewide. Additionally, a similar state law requiring review of contracts between political subdivisions by the AG should also be amended and/or limited in its application. During state legislative committee review

of possible statewide adoption of this initiative a couple of years ago, the AG commented favorably and further suggested that state law requiring AG review of agreements between political subdivisions be amended or repealed. Unfortunately, the legislative session ended prior to the bill making it through the legislative process. The City is in contact with the Municipal League to gauge interest in reviving this proposed legislation for the 2017 Legislative Session.

Initiative: Expansion of Urban Renewal Authority Board

Category of Issues Addressed (check all that apply)

☐ Organization ☑ Administration ☐ Personnel ☐ Other

Was this non-tax initiative a part of your original plan application ☐ or a plan amendment☑?

Has the ordinance(s) needed to implement this initiative been enacted? ☐ Yes ☑ No

If yes, when was the ordinance enacted?

If no, please describe challenges faced in enacting the related ordinance(s)

The City did not deem it necessary to pass an additional Ordinance to implement this power beyond the Ordinance passed by City Council authorizing the plan amendment and submission to the state Home rule Board for approval. On March 2, 2015, Charleston City Council approved the appointment of two City Council members to the CURA Board. Notice of the City's Plan Amendment approved by the state Home Rule Board and notice of the appointment of two City Council Members to the two permanent CURA Board seats created by the Plan Amendment was provided to CURA.

SUCCESSES – In the space below, please provide a brief narrative highlighting successes realized through the implementation of this initiative and any metrics used to track performance.

The maximum number of members permitted to serve on a city urban renewal authority as set forth in West Virginia State Code § 16-18-4(e) is seven, a limitation that does not take into account the size of a city, the area of the renewal zone(s), scope, size, complexity or type of proposed/ongoing projects, or the need for active continuity between a city's council and the governing body of its renewal authority. Historically, Charleston's Urban Renewal Authority (CURA) Board had the maximum number of members, all being community members and business owners.

Although CURA has historically worked with the City's administration and City Council on development projects, the City's urban renewal zones grew larger and the projects grew in complexity to the point that the City's administration determined that it could benefit from having members of City Council appointed to the Board, but did not want to lose the input from the community and business owners traditionally on the Board. The City opted to expand its Urban Renewal Board to 9 members to include 2 permanent City Council seats.

As the Board continues to administer and execute the City's renewal plans, the input of the City Council members has added a valuable element in coordinating the goals of CURA and the goals of the City's Council and administration.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this initiative that would benefit other municipalities.

This is a good example that one size/law does not fit/accommodate all, and the need for the flexibility that home rule provides. Without home rule, this relatively small but important change could only have occurred through amendment of state law, and if the issue was unique to Charleston or only a few cities due to its/their diverse and expanding urban renewal zone(s), then it would be unlikely that

a timely statewide change would be made, if at all.

Initiative: City Sales and Use Tax
Was this tax initiative a part of your original plan application ☐ or a plan amendment ☑?
Has the ordinance(s) needed to implement this initiative been enacted? ☑ Yes ☐ No
If yes, when was the ordinance enacted? May 20, 2013
If no, please describe challenges faced in enacting the related ordinance(s)

REVENUES – In the space below, please provide a brief narrative highlighting revenue amounts and revenue categories realized; revenue amounts and revenue categories reduced; net revenue gain; and, any metrics used to track performance.

The City of Charleston enacted its sales and use tax on May 20, 2013, and began collecting the tax at a rate of .05% on October 1, 2013. The City increased its tax rate to 1% effective July 1, 2015. In its proposal to the Home Rule Board, the City estimated it would collect $6.25 million annually. In 2016, the City collected a little over $14 million. Since it's enactment, the City has collected almost $30 million, which has been dedicated to financing the Civic Center renovation and expansion and to shoring up the City's Uniform Pension Reserve Fund.

As part of its plan, and although not required by the Home Rule statute at the time Charleston enacted its sales/use tax under home rule, the City eliminated its Business and Occupation tax on the classification of Manufacturing to complement its anticipated economic development strategy. The revenue the City had been collecting from this category was approximately $350,000-$400,000.00 per year.

SUCCESSES – In the space below, please provide a brief narrative highlighting projects, improvements, programming, etc. realized through the implementation of this revenue initiative and any metrics used to track performance.

The City of Charleston initially implemented its sales and use tax at the rate of .05% dedicated for the specific purpose of funding essential economic development and public improvements, beginning with the renovation and expansion of the Charleston Civic Center. A large portion of the renovations, encompassing as much as an estimated $40 million, is to update the primary facilities of the building (e.g., HVAC, electric, water/sanitation, etc.), which are over 50 years old and original to the construction of the building. The expansion of conference, ballroom and other facilities, along with the upgrades to the facilities, will allow the City to compete with other similarly sized and larger cities at the national level for convention and related functions that will be essential to the tourism and economic development of Charleston. As of October 2015, the City had collected $13,592,032 allowing the City to finance the estimated $90+ million expansion and renovation through a private bond placement that could not have occurred without enactment of the sales/use tax. The favorable bond rates and terms successfully negotiated by the City were facilitated, in part, and secured by the overall 1% sales/use tax ultimately enacted by the City (see below for information about the City's increase from .05% to 1%).

The City increased the tax rate of its sales/use tax by .05%, to a total rate of 1%, dedicating the additional half percent to the City's Uniform Pension Reserve Fund. As of November 2016, the City has collected $8,646,198 dedicated to the Pension Fund. Predictions from the City's Finance Director indicate that the additional revenue provided by ongoing collections will result in full pension funding through 2032 without any reduction in essential city services resulting from the growing pension obligations. Without the .05% sales/use tax dedicated to funding uniformed pensions for Charleston's police and firefighters, it is uncertain how the city would have been able to fund those growing pension obligations and it is likely that the city would have been required to reduce essential city services and personnel due to those mounting obligations. Under the City's home rule enactment of this portion of its sales/use tax and dedication of those funds, the city has achieved a substantial resolution to this very serious problem experienced by Charleston and currently experienced by several other cities in West Virginia.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this revenue initiative that would benefit other municipalities.

The enactment of a 1% sales/use tax in Charleston is likely an essential element of Charleston's ongoing viability and economic growth. Charleston did not elect to use sales/use tax proceeds for its general fund. Instead, and consistent with the Mayor's vision and long-term plan for the City, Charleston dedicated the proceeds to two of the most significant issues facing municipalities in West Virginia: sustainable economic development and underfunded pensions or related OPEB liability. Being able to address and fund those two elemental issues, which appeared to be somewhat insurmountable prior to the possibility of sales/tax funding, efficiently and at a local level is a benefit now available to cities that may result in growth and increased viability statewide. The pockets of economic growth and ability to fully fund uniform pensions and/or related OPEB liabilities, along with job creation associated with the funded economic development projects, could result in great benefit to multiple cities and the state. Further, the municipal sales/use tax requires the enacting officials to be accountable to their citizenry at the local level and is likely to result in changes in leadership through the election process if this power is not used reasonably to provide local solutions to serious local problems or if it is otherwise abused.

Initiative: Expanded B&O Taxing Authority

Was this tax initiative a part of your original plan application ☑ or a plan amendment ☐?

Has the ordinance(s) needed to implement this initiative been enacted? ☐ Yes ☑ No

If yes, when was the ordinance enacted?

If no, please describe challenges faced in enacting the related ordinance(s)

The Finance Department of the City wished to investigate using home rule to change some of the classifications of businesses and exemption to the City's B&O tax structure. Due to the time constraints in preparation of the City's Home Rule Proposal, the tax item was included with the knowledge that additional investigation and evaluation would be necessary before making any changes. The City proposed that it be permitted the flexibility to determine rates, classifications and exemptions with regard to its B&O tax structure so long as those determinations were consistent with local needs and reasonable economic policies exempting insurance companies, or any non-profits or other charitable, religious, or fraternal organizations which is currently exempt under WV Code. Two classifications the city was particularly interested in applying B&O taxes to were wireless telephone carriers and credit unions.

A sub-committee of city administration representatives and city council members was formed in order to explore possible options for changing the City's B&O tax code. Through the meetings of the sub-committee, it was determined that federal regulations governing wireless telephone and credit unions might preclude the city from imposing B&O taxation on them. Other changes that were considered, such as taxing unrelated business income of non-profit corporations, changes in the way taxes were collected from landlords participating in HUD programs, and imposing taxation on television and radio stations did not progress out of the sub-committee.

SUCCESSES – In the space below, please provide a brief narrative highlighting projects, improvements, programming, etc. realized through the implementation of this revenue initiative and any metrics used to track performance.

LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this revenue initiative that would benefit other municipalities.

Initiative: Municipal Healthcare Provider Tax
Was this tax initiative a part of your original plan application ☑ or a plan amendment ☐?
Has the ordinance(s) needed to implement this initiative been enacted? ☐ Yes ☑ No
If yes, when was the ordinance enacted?
If no, please describe challenges faced in enacting the related ordinance(s) In its initial Home Rule proposal and at the request of Charleston Area Medical Center, the City requested that it be permitted to adopt and collect a similar health care provider tax to that permitted under federal law and to transfer all or a portion thereof to the state to be used as the non-federal share of enhanced Medicaid reimbursement rates to City of Charleston hospitals. The implementation of this proposal was contingent upon the Bureau of Medical Services obtaining a State Plan Amendment (SPA) and Centers of Medicare and Medicaid Services (CMS) approval of the enhanced reimbursement. Once collected, the City would have transferred all the proceeds of the tax to the Bureau for Medical Services (BMS) within the Department of Health and Human Resources, the state's Medicaid agency. BMS would then use the tax funds as the non-federal share of enhanced reimbursement to Charleston hospitals. The City and the hospitals advocating the Healthcare Provider Tax were unable to overcome obstacles that prevented the approval of the tax by CMS and BMS. The proposal has not been implemented in any form.
SUCCESSES – In the space below, please provide a brief narrative highlighting projects, improvements, programming, etc. realized through the implementation of this revenue initiative and any metrics used to track performance.
LESSONS LEARNED – In the space below, please provide a brief narrative highlighting lessons learned during implementation of this revenue initiative that would benefit other municipalities.