

# West Virginia Municipal Home Rule Pilot Program Application

PLEASE TYPE OR PRINT- Application Due by 1-1-2008

## SECTION I: APPLICANT INFORMATION

### A. General Information

Name of Municipality: City of Huntington

Certifying Official: David Felinton

Title: Mayor

Contact Person: David Felinton

Title: Mayor

Address: 800 5<sup>th</sup> Avenue

City, State, Zip: Huntington, WV 25701

Telephone Number: 304.696.5540

Fax Number: 304.696.4493

E-Mail Address: mayor@cityofhuntington.com

2000 Census Population: 51,475

### B. Municipal Classification

Please identify municipal class/metro government: (Check one)

Class I     Class II     Class III     Metro-Government

### C. Category of Issues to be Addressed

Please identify areas to be addressed through home rule: (Check all that apply)

Taxing     Organization     Administrative     Personnel

Huntington is a community with unlimited potential. We have a major university, excellent hospitals, and a reemerging central business district. As a result we are the nucleus of a geographical area that extends as far away as Pike County, KY and Scioto County, OH. While the population within Huntington city limits was once approaching 100,000, census estimates now have the population under 50,000. As our population has decreased our obligations to our residents have not. We have many challenges to

deal with and having a declining tax base only adds more burdens to the remaining residents and businesses that call Huntington home. We have outlined solutions to what we see as some of our most pressing short term and long-term challenges.

### *1. Land Bank Fast Track Authority*

The ability to tackle our increasing dilapidated structure problem may be accomplished by simplifying the process for us to create a land banking authority. These structures are magnets to curious children as well as ill intended criminals. By allowing cities to become more involved in the tax lien process we will be able to demolish the dangerous buildings more quickly and even better make it easier to transfer to entities that will rehabilitate these buildings. Once rehabilitated, they can again be productive taxpayers to the city, county, and state while bringing up surrounding property values.

### *2. Local options for Addressing Fire Damage to Residential/Commercial Structures*

The ability to bill property owners' insurance for fire damage also would help as the taxpayers are too often struck with the bill while the property owner walks off with an insurance check leaving a hazardous shell behind. Statistics show that injuries to firefighters are around five times more likely in a vacant structure than an occupied structure. Huntington has seen some very close calls on dilapidated structure fires in the last few months and thus residents are now more aware of the problem.

### *3. Increased Capacity to Collect City Fee/Taxes*

Increased ability to collect taxes and fees would also help to ensure that people are paying their fair share. Many business and individuals evade their obligations, as they know of the inabilities we have in collecting from them. The lien process giving Huntington higher priority would help ensure that the public is being reimbursed while requiring the property owners with delinquent fees to be made current.

### *4. Municipal Occupation Tax / Municipal Retail Sales Use Tax*

Allowing for an Occupational tax would create a better environment in which to do business. We would be able to reduce and in some cases eliminate the B & O tax. The B & O tax has been a major disincentive for businesses as evidenced by the businesses that have located just outside our city limits and often across the Ohio River into Lawrence County, OH. We would also eliminate the regressive \$2 a week user fee. While we would be imposing the tax on all who work in the city we see that the system is very successful in other communities within our metropolitan area. We again provide service for those not only who reside in Huntington, but also to those who we serve as the major center of commerce for a large area.

Section II:  
Attachments

# The City of Huntington Home Rule Pilot Program

## Section II

### A. Narrative

#### 1. Land Bank Fast Track Authority

Proposed Solution Area(s): Organizational & Administrative

*Specific state laws, policy rule or regulation in question*

West Virginia Code §11A-1-1 et. sec.

##### A. Specific Problem

Collection and Enforcement of Property Taxes, allows government to collect the taxes due, but encourages urban decay.

The good intentions of the declaration of legislative purpose and policy have failed to produce the desired benefits; the policy has contributed greatly to slum and blighting conditions and to the decline of Huntington's residential neighborhoods.

The purpose of the enactment was:

- To provide for the speedy and expeditious enforcement of tax claims of the state and its subdivisions;
- To provide for the transfer of delinquent and nonentered land to those more responsible to, or better able to bear, the duties of citizenship than the former owners;
- To permit deputy commissioners of delinquent and nonentered lands to sell lands without the necessity of proceedings in the circuit courts;
- To reduce the expense and burden on the state and its subdivisions of tax sales

The provisions that were intended to provide for the speedy and expeditious enforcement of tax claims has resulted in a slow-moving process. There is not a set time limit on how long the process will take under West Virginia Law. The process simply takes as long as it takes.

A piece of property is placed for auction at a county's annual tax lien sale if the taxes on the property are delinquent for the previous year. At the sale, people bid on the tax lien, or the tax debt on the property, not the property itself. According to Tom Bell, Cabell County's Chief Tax Deputy, the minimum bid must cover the taxes for the previous year and the current year. The money collected from the minimum bids is disbursed to the county and its levying bodies. Any amount that a lien holder bids above the minimum price is placed into the Sale of Tax Lien Surplus Fund.

If a lien is purchased at a tax sale, the original property owner has 18 months to pay the taxes plus 1 percent interest per month. That money, including the interest, is then given to the lien holder. The lien holder receives the amount bid above the minimum price.

"It's a process by which the lien holder can receive a pretty good return on their investment," Bell said. "I don't know of too many places these days where you can get a 12 percent annual return."

If the original property owner, however, fails to pay the taxes within 18 months, the lien holder has the option of taking title of the property or forfeiting his or her bid when returning the property to the original property owner.

## The City of Huntington Home Rule Pilot Program

"When it reaches this point, it has been three-and-a-half years from the time that the original property owner stopped paying their taxes," Bell said. "The whole process is crazy, because we're teaching people to not pay their taxes. People call in all the time asking what the last day is to pay their taxes before they lose their property. "In the meantime, nothing productive is happening with the property."

The tax foreclosure process can take even longer if a property lien goes unsold at a county sale. In that case, it is sent to the State Auditor's Office, which gives the original property owner another 18 months to pay the taxes before the property falls into a statewide delinquent tax sale. "If the property lien is purchased at the State Sale, the original property owner has another 90 to 120 days to redeem the property before the title is transferred to a new owner," said Russ Rollyson, a Deputy State Auditor who handles delinquent real estate. "If the property is not sold at a delinquent land sale, then anyone can walk into our office and make us an offer," said Rollyson. "That happens a lot, too."

If the property goes unsold, it can remain with the Deputy State Auditor for any amount of time until someone offers a bid that is agreeable and approved by the auditor. Additional blighting conditions are created when the property is finally purchased. West Virginia Code §16-18-3 defines defective or unusual conditions of title as a condition of blight. Under the tax lien process the purchaser of a tax lien must take additional steps to secure a tax deed. The tax deed is a quitclaim deed and the county does not promise that the buyer will obtain clear title to the property. A quitclaim deed neither warrants, nor professes, that the grantor's claim is actually valid. It fails to meet all five traditional tests of a true deed found in common law and the purchaser must, in addition to securing the tax deed, institute a "quiet title" action in court to obtain clear title.

### *Proposed Solution*

Flint, Michigan and Huntington, WV may be hundreds of miles apart, but they share the same dilemma. Both are fighting to stop the advancement of urban decay that is fueled by population loss.

Urban researchers and planners across the country, however, say Flint is a leading example of how communities can aggressively manage dilapidated housing problems by making tax-delinquent properties available for redevelopment.

Flint has suffered from a slow progression of layoffs at General Motors over the past 30 years. In the 1970s, the company employed 79,000 people in Flint alone. The city's population came close to 200,000. Today, GM employs 15,000 in Flint, which now has a population of 118,000.

"We were a one-company town that was devastated when the company was forced to make adjustments," said Dan Kildee, Treasurer for Genesee County, in which Flint is located. With that came rampant housing vacancy and abandonment problems that were exacerbated by a tax foreclosure system that kept tax-reverted properties out of circulation and prevented them from being redeveloped for up to seven years. Except for a few minor differences, Michigan's old tax foreclosure system mirrors the same system West Virginia uses today, he said.

## The City of Huntington Home Rule Pilot Program

Under the Michigan model the process takes two years or less. The delinquent property is returned delinquent to the county for forfeiture and foreclosure when taxes go unpaid for the previous year. The county files a single petition with the clerk of the circuit court listing all property forfeited and not redeemed to be foreclosed for unpaid taxes, interest, penalties, and fees. The petition requests a judgment be entered vesting absolute title to each parcel without right of redemption. If the property is not redeemed by the end of the second year the circuit court enters final judgment on the petition and fee simple title to the property will vest absolutely in the county. If the property is redeemed during the two-year period the county receives the taxes, plus 1% interest per month and any other penalties or fees. At the end of the second year, an auction is held and the properties, not a lien, are sold to the highest bidder over the minimum bid. A minimum of two sales is conducted in not less than 28 days apart. At the sale the purchaser receives absolute title in fee to the property, which is a title that is unqualified. Title in fee is the best title one can obtain, and conveys the highest bundle of rights.

Property that goes unsold can be retained or turned over to a land bank fast track authority. As the name implies, the authority fast tracks the productive reuse of the property.

### B. Specific Problem

The provisions to provide for the transfer of delinquent and nonentered land to those more responsible or better able to bear, the duties of citizenship than the former owners have not met the desired outcome. The buyers in such transactions are typically motivated by money and show little interest or responsibility with the property, in turn there is little thought placed into the effect the delinquent properties have on surrounding neighborhoods.

Tax lien sales attract different people for different reasons, but there are generally three broad groups, according to Tom Bell. The three categories are: out-of-state investment companies, local rental property landlords, average citizens not in the real estate business.

The first, and largest group, are out-of-state investment companies looking to make a quick profit, he said. "These companies have no interest in acquiring real estate," Bell said. "Instead, they purchase a large number of delinquent tax tickets at a sale in hopes that the property owner will pay taxes months later so they can collect interest. All these companies are looking for is the 12 percent annual return on their investment," Bell said.

At the Cabell County 2006 tax sale, 501 tax tickets were sold. Of those, 121, or 24 percent, were purchased by Sun Rise Atlantic LLC, an investment company based in Atlanta, GA. Thirty other tax tickets were purchased by a group listed as Sass Muni V DTR, which, according to the Cabell County Clerk's Office, is an investment company based in Philadelphia, PA. According to Bell, landlords are looking to acquire rental property at a bargain basement price comprise the second group that regularly attends tax sales.

"[The landlords way of] thinking is that if they can [purchase] an undesirable piece of property for a couple thousand dollars, then they can turn it into rental property and make their money back within a few months," he said.

The third tier of individuals that purchase tax liens are average citizens looking to acquire a specific piece of property, Bell said. It might be a side lot they are looking to buy or the

## The City of Huntington Home Rule Pilot Program

dilapidated house next door that is dragging down the value of their own home.. *"They have to up their bids considerably to ensure they get the property," he said.*

### *Proposed Solution*

In Michigan county tax lien sales were always full of out-of-state investors looking for a return on their investment or landlords seeking inexpensive property. "It's a system that creates a speculator market and allows the devaluation of not only the tax-delinquent property, but also neighboring properties," Kildee said. "It's an economic model that doesn't play out well in weak-market neighborhoods."

The Michigan model simplifies the process, corrects the problem, and is direct. At the county sales, title to the property is transferred to bidders in fee simple. The new owners then have a vested interest in the property and are responsible to bear the duties of citizenship. The issue with sending our local dollars out of state to pay investors, who have no interest in acquiring real estate and are only looking to make a quick profit, is eliminated. There is far greater potential for property owners to maintain their property and provide investment in the neighborhood than a tax lien holder in Atlanta, GA

If the property goes unsold it is transferred to a land bank fast track authority that is responsible for the maintenance, upkeep, renovation, and redevelopment of the property for return to productive reuse. The Michigan model also allows the State and units of local government the right of first refusal to the property at minimum bid. If the property is purchased by the city and is subsequently sold for an amount in excess of the minimum bid and all costs incurred relating to demolition, renovation, and improvements, the excess is returned to the county's delinquent tax sales fund.

The Michigan model has shown that by giving units of local government options with tax delinquent properties, the legislative purpose and policy to provide for the transfer of delinquent and nonentered land to those more responsible, or better able to bear, the duties of citizenship than the former owners can be realized.

The Michigan law also contains provisions that allow the government to make exception when individuals are below the federal poverty income standards and cannot pay their taxes. For example, this provision allows the senior citizen, on a fixed income, the ability to stay in their home, providing further stabilization to our residential communities.

### C. Specific Problem

The provisions to permit deputy commissioners of delinquent and nonentered lands to sell lands have created several issues that negatively affect the municipality. Under the current law, if a property goes unsold by the sheriff another layer of government is created to collect the tax. Tax dollars that would have gone to the county and city are reallocated to provide operating funds for a Land Department in the Auditors Office. Many of the properties in the City of Huntington that come under the control of the Land Department are already in a vacant and/or dilapidated state. None of the funds collected by the Land Department go toward the maintenance or upkeep of these properties, but instead are used solely for the maintenance of the department. These properties may be left to linger for many years while the Land Department attempts to collect the taxes due. This system contributes greatly to the spread of slum and blighting conditions across many of the neighborhoods in the city of

## The City of Huntington Home Rule Pilot Program

Huntington and does not provide any remedies to address the decline of these neighborhoods while the properties are suspended in this tax lien limbo. The City, which is left to deal with the slum and blighting conditions in the aftermath of this system, is at the bottom of the list for any taxes that may be collected by the Land Department and only after they are first fully funded.

### *Proposed Solution*

In 1999, Michigan overhauled its tax foreclosure system. The legislature found the need to strengthen and revitalize the economy and that it was in the best interests of the state and units of local government to assemble or dispose of property in a coordinated manner to foster the development of property and to promote economic growth.

Tax lien sales in Genesee County were eliminated in 2002 and replaced with a land bank authority, a quasi-public agency that takes possession of delinquent properties after only two years. The authority must get a court order to take title of the property, Kildee said.

Under the Michigan model if a property goes unsold it is transferred to the land bank authority. The authority maintains, demolishes, renovates, and redevelops the properties. The property values are preserved and increased.

“The beauty of the program is that it's self-sufficient,” said Kildee, who serves as Chairman of the Land Bank Authority. Funds used to maintain a Land Department and late fees collected from delinquent property owners that were given to land speculators as interest on their investment under the old system are now used by the land bank to maintain, redevelop and market properties. The land bank also is exempt from paying taxes on properties while they are in the land bank's possession. Under Michigan law a state land bank fast track authority is created. A county or city may enter into an intergovernmental agreement with the state authority providing for the exercise of the powers, duties, functions, and responsibilities of the authority. Our proposal does not require the creation of additional governmental authorities. We propose utilizing the existing Land Department in the State Auditors Office. Under our proposal the city or county may enter into an intergovernmental agreement with the Land Department to accept the transfer of properties when they go unsold at the county action. The City would utilize an existing authority or board such as the Huntington Urban Renewal Authority to act as the Land Bank Fast Track Authority. The Authority would then maintain, demolish, renovate, and redevelop the property in order to fast track their productive reuse.

### *D. Specific Problem*

The provisions to reduce the expense and burden on the state and its subdivisions of tax sales has in itself created undue expense and burden for the City of Huntington in dealing with outcomes of the system. Tax lien sales are increasingly becoming a problem for communities dealing with dilapidated housing. Properties languish during the lengthy process and often fall back into the hands of original owners or land speculators.

Every November, dozens of people gather in a courtroom at the Cabell County Courthouse for the county's tax lien sale. Up for bid are the delinquent tax tickets for hundreds of properties. Many properties fall into the sale because their owners are unable or unwilling to pay their taxes on time. Other properties are simply abandoned.



## The City of Huntington Home Rule Pilot Program

For Cabell County and its levying bodies, the tax lien sale works as it is intended. Taxes are paid on a delinquent property, funneling much-needed revenue into the treasury of the school district, county and local governments. But for Huntington's rapidly deteriorating housing stock, a tax lien sale may be its worst enemy. "Very rarely is there a happy ending for a piece of property that ends up in a tax lien sale," said Tom Bell, Cabell County's chief Tax Deputy. "These are properties that people have walked away from because they have little or no value."

And most of the time, the properties purchased via the tax lien sale fall back into the hands of people who previously abandoned them or to a land speculator who is looking for a quick profit rather than a home to redevelop. Neither outcome helps the city's vexing problem with its housing stock. Since 2006, the City of Huntington's Unsafe Building Commission has ordered the demolition of more than 80 homes, and another 220 properties have been labeled as fire-damaged, unsafe or in need in major upgrades. City housing inspectors believe there are probably hundreds of homes that have not been inspected or are a couple years away from disrepair. Last year, the City of Huntington spent \$300,000 of public funds on demolition and placed liens on the properties. It's likely that many of these properties will eventually appear at a Cabell or Wayne County tax lien sale and the city will lose its lien.

### *Proposed Solution*

The Michigan model illustrates how a land bank fast track authority reduces the burden and expense of tax delinquent properties to the state and units of local government. The land bank authority takes over and manages unsold properties with funds that would have gone to out of state investors. Over the past five years, the land bank has demolished 745 homes and rehabilitated 85 others. Almost 850 pieces of vacant property have been turned into green spaces, community gardens or small parks, while an additional 350 properties were given to adjacent property owners to use as a side yard or lot. The land bank also has teamed up with housing developers to build 130 new homes. It now is working on turning a 99-unit apartment building into a 24-unit condominium complex.

Michigan State University recently completed a two-year study on the effectiveness of the Genesee County Land Bank Authority. The study focused on 400 properties that the land bank acquired, demolished and returned to the market. "We spent \$3.5 million to demolish these 400 properties, but our investment increased the value of surrounding properties by \$112 million," Kildee said. "That's the true benefit of intervention."

"Improving the housing stock of a city, especially in one that has suffered from population decline, is not as easy as convincing lawmakers to change state laws," Kildee said. "It requires strategic planning and acceptance that a community can be better even though it's smaller. Becoming smaller is a hard pill for any community to swallow because of America's obsession with growth and expansion. It's the academic approach for building cities," he said. "But even if you come to the conclusion that it's OK to be smaller, you still have to figure out how to manage a city that was built for a larger population."

### *Fiscal Impact*

In 2005 the City undertook an ambitious program aimed at revitalizing a four-block section of Artisan Avenue between Hal Greer Blvd. and 20<sup>th</sup> Street. This was a relatively new

## The City of Huntington Home Rule Pilot Program

approach for the City of Huntington to revitalize a neighborhood that has been plagued by an alarming increase in vacant dilapidated homes. A basic conditions report was prepared for this area and the structural conditions of the primary properties were indicated. Based on the survey, 50 out of the 79 primary buildings were code deficient or economically infeasible to rehabilitate, which is 63% of all buildings in the study area. Title examinations were prepared and the examinations uncovered that nearly one half of these properties were purchased at tax lien sales. The tax lien process can be pointed to as one of the greatest single contributing factors to the decline and lack of investment in this neighborhood.

The City of Huntington will need to invest millions in public dollars to redevelop this neighborhood and undo the damage done by the state's tax collection process. The Michigan model shows how this could have been avoided. The creation of a land bank fast track authority could take on the redevelopment of these slum and blighted areas without the need for additional public investment. The model is a win for the state and county tax collection process and addresses the decline of our neighborhoods that we experience under current law.

The Michigan model is self-sufficient and does not require additional tax dollars to function. A Michigan University study indicated that \$3.5 million dollars was spent to demolish and put 400 properties back on the market. The investment increased the surrounding property values by \$112 million dollars. This averages \$8750 invested per site and a \$32 dollar increase in property value for every dollar spent.

According to Tom Bell, Cabell County's Chief Tax Deputy, in 2007 the county will auction off 1,180 liens on properties located within the city of Huntington. The county indicates they have a success rate between 95% and 97%. This will leave approximately 50 liens of property unsold. Over a 5-year period this will amount to approximately 250 properties. Under the Michigan model these properties would go the Land Bank Authority. Using the averages from the Michigan University study, the City would need to invest \$2.2 million dollars to demolish the 250 structures. Since the model is self sufficient, the taxpayers would save \$437, 500 dollars per year in demolition costs, verses the system currently in existence. With a \$32 dollar increase for every dollar spent, we would anticipate a \$70 million dollar increase in the surrounding property values. Within the city of Huntington this increase in property values would increase the property taxes collected by the county to over \$1 million dollars per year.

An additional benefit to the county comes from the collection of interest and fees. Under the current law investors who purchase the tax liens collect 1% interest per month when properties are redeemed. Under the Michigan model the county receives the interest and fees. The law provides for a 4% administration fee and 1 % per month after the property is returned delinquent for the preceding year. The county also receives a \$175 redemption fee, plus 1/2% interest per month on the taxes that went unpaid in the first year. Cabell County sold 1,180 tax liens in the city this year. 95% to 97% are typically sold as high as 1,144 parcels. Of these approximately 90% or 1,030 are redeemed. According to Cabell County records an average of \$850 is owed on each parcel, which gives an estimated \$875,500 plus interest that will be redeemed. Utilizing the Michigan model and assuming an average redemption in 9 months after the properties were returned delinquent, the county would receive an additional \$346,595 this year in interest and fees over the current system.

## The City of Huntington Home Rule Pilot Program

### *Administrative Feasibility*

The Huntington Urban Renewal Authority will serve in the capacity as the land bank fast track authority. The Huntington Urban Renewal Authority has proven experience in the redevelopment of residential and commercial properties. A recent project of HURA was the \$50 million dollar redevelopment of the “Superblock” in the central business district, into what is now Pullman Square. The City possesses the necessary experience in demolition, rehabilitation and redevelopment via the Community Develop Block Grant program. The City has been a CDBG recipient for over 33 years.

## The City of Huntington Home Rule Pilot Program

### 2. Local options for Addressing Fire Damage to Residential/Commercial Structures

Proposed Solution Area: Administrative

*Specific state laws, policy rule or regulation in question*

West Virginia Code § 33-17-1 et. sec.

#### A. Specific Problem

One of the greatest problems facing local governments and the state is the issue of dilapidated structures and their effect on property values, tax revenues, public safety, local economy, housing stock and the general welfare of the community. Local governments, big and small, struggle with addressing these issues with their scarce governmental resources.

The City of Huntington has looked at proposed ordinances to address the problem of insured property owners pocketing the proceeds from fire insurance claims. However, there are no provisions in state law that calls for insurance companies to set aside fire insurance proceeds for demolition, meaning insurance companies would not have to agree to a city ordinance if they didn't want to, said Lynette Maselli, a spokeswoman for the West Virginia Insurance Commission. "Requiring insurance companies to set aside a portion of insurance proceeds for demolition would require action at the state level," Maselli said. "Having said that, we're willing to work with any municipality on any proposals when it comes to insurance."

Some homeowner's insurance policies include coverage for debris removal after a fire. If the city tears down a property that is a total loss within six months of a fire, it can file a claim with the property owner's insurance company and get reimbursed for the demolition costs. According to Dave Bias, Fire Marshal for the City of Huntington, "the insurance companies aren't notifying us when the policy has a debris-removal provision on them. Short of the fire marshal's office becoming full-time insurance agents, how are we expected to know when we can get reimbursed?"

State Insurance Commissioner Jane Cline said insurance companies are not required to notify the city, though she thinks the language in the law should be clarified. The law currently states that insurance providers "must notify the insured, and the municipality or county in which the structure is located, of any coverage" for debris removal. However, the same law also states that official notification of the coverage only needs to be by letter to the property owner only.

§33-17-9b gives the city six months from the date of the loss to tear down and cleanup the property before a claim can be made for the costs incurred. After that point the insurance company is deemed to have fully satisfied all contractual obligations to the policyholder regarding debris removal. This places an extreme timeline on the city. The public funds used to demolish structures must follow and comply with many regulations. These requirements may include competitive bidding for asbestos testing, asbestos abatement, and demolition. These projects must be approved by ordinance of city council. The regulations also require notification and consultation with the State Historic Preservation Officer, permits and inspections by the Department of Environmental Protection and the City of Huntington. In many cases it would be impossible, even if municipalities knew there was insurances

## The City of Huntington Home Rule Pilot Program

proceeds available, to meet with the requirements for the use of public funds in the time given by this law.

### *Proposed Solution*

The proposed solution is based on Section 3929.25 and 3929.86 of the Ohio Revised Code that calls for insurance companies to place a portion of the proceeds from a fire insurance claim in an escrow account. If the owner pays to tear down a fire-damaged property within a certain amount of time, the money in the escrow account would be returned to the owner. If the owner walks away from the property, the City would use the money in the account to pay for demolition of the burned property.

The proposed Ohio model requires insurance companies to withhold \$2,000 for every \$15,000 of insurance payout when a damage claim exceeds 60 percent of the value of the insurance policy. The law takes effect only if Ohio cities choose to participate in the program. Nearly 200 cities and townships within the state have signed up since the law was passed in the early 1990s.

"The program is a guarantee that the insured will do the right thing with their insurance money and not just walk away from their property," Ironton Fire Chief Tom Runyon said. The City of Ironton has used the program for about 15 years. Runyon said, "the program has been a vital tool for redevelopment."

"The amount of insurance money we are allowed to withhold under state law is usually much more than what it takes to demolish a fire-damaged house," Runyon said. "The property owners are pretty quick about tearing it down themselves." Dave Bias, Fire Marshal for the City of Huntington, said "It's to the insurance industry's advantage to participate in a program like this. To an extent, it takes the arson-for-profit motive out of the picture when the property owner knows they will have to take care of their property after they burn it down."

### *B. Specific Problem*

Under the existing law there are no provisions requiring the payment of delinquent taxes, assessments and charges against the property before a claim is paid. In many cases, the owners abandon and vacate the properties and stop paying taxes and fees,

### *Proposed Solution*

The Ohio model requires the payment of delinquent taxes, assessments, and charges against the property by the municipality. Under this law no insurance company doing business in the state may pay a claim until they receive a certificate from the municipality that all delinquent taxes and fees have been paid.

### *Fiscal Impact*

The proposed solutions will hold rental property owners responsible to bear the burden of citizenship by making them accountable for their fire-damaged property. This proposal is liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration.

## The City of Huntington Home Rule Pilot Program

Our experience indicates that with the average owner-occupied fire, the owner will most likely use their insurance money to tear down and rebuild, because they need a place to live. With nonowner-occupied properties, there is a difference. There's less incentive and urgency for them to use the insurance money to tear down the property or bring it up to code.

Over the last 5 years the City of Huntington has averaged over 300 structure fires within the city limits annually. 77% or approximately 231 of those fires occurred in nonowner-occupied property. The City anticipates that many of these structures will be brought before the City's Unsafe Buildings Commission and public dollars will be spent to deal with the problem. We are currently experiencing 30% or a total of 69 fires in nonowner-occupied properties resulting in a total loss and abandonment. The average cost in 2006 to demolish a structure in the City of Huntington, including both asbestos testing and abatement, was \$7,700. Assuming 40% of the nonowner-occupied properties abandoned are insured, the city would save approximately \$200,000.00 in demolition costs because of fire-damage.

When structure fires occur many of the sites are vacated and abandoned. In 2005 the City of Huntington prepared a study along a four-block area in the Fairfield West neighborhood containing a large number of vacant and abandoned parcels. What the study indicated was that tax liens on nearly 50% of the parcels had been sold for delinquent property taxes. Additionally, it was discovered that 67% of the parcels were delinquent for refuse and municipal fees – averaging \$1,397 per parcel. When you apply the results of this study to the properties abandoned as a result of structure fires last year, you can anticipate that 50% or 34 of the parcels will become delinquent on property taxes and that 67% or 46 of the parcels will be delinquent on refuse and/or municipal fees. With the average of \$1,397 delinquent per parcel, it is estimated that \$64,264 would be owed the City in refuse and/or municipal fees.

According to the 2000 census, the median value of housing in the City of Huntington is \$65,400. According to several realtors we interviewed, when properties about a burned out structure the surrounding property values are reduced by at least 10%. Of the average 300 fires that occur each year, approximately 231 are nonowner-occupied. With the abandonment rate as high as 30% we will see as many as 69 structures vacated each year. Our experience indicates that the nonowner-occupied structures will remain in this condition for a considerable period of time causing a reduction in property value to at least five structures in the immediate vicinity. When this 10% property value reduction is applied to five structures that set in the immediate vicinity of the 69 nonowner-occupied structures abandoned each year, we can anticipate over \$2 million dollars in reduction to the surrounding property values. Again, if just 40% of these properties were insured, approximately \$800,000 reduction in surrounding properties values would be avoided each year.

Over the 5-year Home Rule Pilot Program the City of Huntington anticipates:

- \$1,000,000 savings to the city in demolition costs
- \$321,320 in municipal fees collected
- \$4,000,000 increase in surrounding property values over the current system

## The City of Huntington Home Rule Pilot Program

### 3. Increased Capacity to Collect City Fees/Taxes

Proposed Solution Area: Taxing and Administrative

*Specific state laws, policy rule or regulation in question*  
West Virginia Code § 8-13-13

#### *Specific Problem*

Though cities are permitted to charge these fees in accordance with §8-13-13 of the West Virginia Code, municipalities endeavoring to collect said fees that are necessary for providing governmental services are positioned no better than any other creditor attempting to collect a delinquent debt. Thus, in order to collect these necessary fees, municipalities must institute litigation at significant expense to the citizens. Though a judgment may be granted in favor of the municipality, often the prospects of the judgment being satisfied are remote.

Inasmuch as payment of these fees is essential to the maintenance and provision of vital services, the failure to timely remit payments operates to lessen services for the entire community. Municipalities are in dire need of statutory modifications that assist in the timely collection of municipal service fees. Though the West Virginia Supreme Court has clearly indicated that fees owed pursuant to a properly enacted service fee ordinance are not taxes, it no doubt would be equitable and advantageous to the entire community that these fees be treated similar to taxes in operational effect.

#### *Proposed Solutions*

Specifically, §8-13-13 forbids delinquent fees to operate as a lien on the property as security for payments due under a properly enacted municipal service fee ordinance. If the fees were permitted to operate as a lien on the property as security for payments, there would undoubtedly be fewer burdens on the citizen fee/tax payer for expensive litigation costs in order to collect delinquent fees. Thus, in order to limit or, minimize the costs borne by citizens associated with collection of delinquent fees and to assist local government in the collection of said fees, the City of Huntington proposes the following solutions:

- Provide for statutory liens for delinquent fees and allow said liens to have the same priority as property tax liens;
- Allow the requirement that all delinquent fees be paid current prior to any property within the City being transferred by any means or process;
- Require that any closing statement or any entity closing the sale or transfer of property be required to determine if any City taxes/fees are delinquent and to provide for their payment as part of closing process;
- Allow for the joint collection of delinquent municipal taxes/fees with collection of delinquent property taxes and fees in the same manner that payment of personal property taxes is a condition precedent to the issuance of motor vehicle registration; and,
- Establish that a municipality has the authority to levy both interest and penalty for delinquent fees and taxes in order to encourage timely payment.

#### *Fiscal Impact*

## The City of Huntington Home Rule Pilot Program

Although difficult to determine the true fiscal impact the city of Huntington estimates the above changes would generate an additional amount of \$2 million to \$3 million dollars in delinquent fees.

### *Administrative Feasibility*

During the transfer of property or closure of sale, the closing entity would contact the City of Huntington with the name and address of the property being sold. The City would send the closing entity a form with the appropriate amount needing to be withheld at closing.



## The City of Huntington Home Rule Pilot Program

### 4. Municipal Occupation Tax / Municipal Retail Sales-Use Tax

Proposed Solution Area: Taxing

*Specific state laws, policy rule or regulation in question*  
West Virginia Code § 8-13-13

#### *Specific Problem*

There are currently provisions in West Virginia Code to allow cities to use a Municipal Occupation Tax and a Municipal Retail Sales/Use tax, but their use is so highly restricted by statute that no city, including Huntington, is capable of using them. When the legislature in 2004 passed Senate Bill 701, it allowed:

- Cities with “severe” under funded police and fire pension funds (less than 3 percent) to impose a “pension relief municipal occupation tax” not to exceed one percent. (8-13C-2(c)(d) and 8-13C-3(a)) But the Occupation Tax could only be used to pay down the pension unfunded liability (8-13C-9 (a)) and would have to be over and above the premium payments already required. This would have significantly increased the tax burdens already imposed in Huntington without providing any tax relief or improved equity.
- Cities could impose a Municipal sales/use tax but only if it repealed entirely their B and O tax. (8-13C-2(a)). No West Virginia City, including Huntington, could raise enough revenue from a city sales/use tax sufficient to replace the revenue lost from B and O repeal. In Huntington it would have only replaced around 40 percent.

Further, the maximum rate for both taxes was set at 1 percent (8-13C-3(a)(1) and 8-13C-4). A complete copy of SB 701 as enrolled and codified is attached as Appendix A.

The proposal advanced by Huntington in this Home Rule proposal is to remove the restrictions on the use of these two taxes so they can be used for relief of other less desirable levies. The use of the Municipal Occupation Tax and the Municipal Sales/Use tax would be limited solely to the elimination of the user fee and reduction of the B and O tax.

#### *Proposed Solution*

The city of Huntington proposes that it be given the authority to impose a Municipal Occupation Tax and/or Municipal Retail Sales/Use tax. The reason for the request is not to place additional tax burdens on the citizens of the City, but to create a fairer way for the City to raise revenue. These new sources of revenue would be used to repeal the current user fee of \$2 a week levied on all who work within the City. Remaining money would be used to reduce the current B and O taxes paid by businesses within the City.

The reasons for using a city Occupational Tax to replace the current user fee are:

- The current user fee is regressive. It is levied at \$2 a week on all working inside the City no matter whether full or part time. In addition, it pays no regard to the income of the fee payer. The most highly compensated and the most lowly compensated pay the same amount. For a part-time worker at \$8 an hour working 20 hours a week the fee is more than 1 percent of his/her income. For

## The City of Huntington Home Rule Pilot Program

a well-compensated worker earning \$50 an hour working 40 hours a week the fee constitutes .01 percent of their income.

- The user fee discourages the employment of part time and entry-level workers. The percentage of their income taken reduces the incentive to seek employment or to be employed. For students, elderly and the working poor. this barrier should be removed.

The reasons for using a Municipal Occupation Tax to reduce the B and O tax are:

- The B and O tax was rejected as being anti-business and a hindrance to economic development when the State repealed its use in the 1980s.
- Studies including those done for Governors Underwood and Manchin have found the local B and O levy to be a major reason why business locates just outside city limits. The relocation of one of Huntington's major taxpayers outside the City was due primarily to avoiding the B and O Tax as was the location of a major retailer just outside City boundaries. The significant numbers of vacant and abandoned buildings along Huntington's streets provide further confirmation.

The use of a Municipal Retail Sales/Use tax would replace the current B and O tax on retail establishments. While they would still be taxed, there are advantages to this approach:

- The rate would be lower.
- The State Department of Taxation would be able to collect the tax and remit to the City after deduction of an administrative fee. Since the current B and O tax is basically one on honesty, ability to use State collection would improve equitability.

### Specific Provisions-Municipal Occupation Tax

The specific provisions regarding the Occupation Tax are already contained in 8-13C. The base includes (8-13C-3(a)(3)):

- Salaries
- Wages
- Commissions
- Other earned income under the federal definition of adjusted gross income

The base must exclude:

- Intangible income
- Net business profit
- Any other form of income

The employer is required to withhold from the employee's compensation the Municipal Occupation Tax in the same manner as federal and State income taxes are withheld. The amount withheld is to be remitted to the municipal taxing authority (8-13C-3(b)). Failure to

## The City of Huntington Home Rule Pilot Program

pay, file a return, to file a report or to turn over the amounts withheld are subject to prosecution under 11-9-4 through 11-9-10 of the West Virginia Code.

### Specific Provisions of the Municipal Sales/Use Tax

The base for the Municipal Sales/Use Tax must be identical to the base of the “consumers sales and service tax” and the “consumers’ use tax” (8-13C-4(c)(1) and 8-13C-5(c). The same exemptions, deductions and allowances will be employed. The tax will be in addition to the taxes imposed on the same basis by the State. The municipal taxes must be administered by the State Tax Commissioner (8-13C-6(b)) who shall remit the money collected to the municipality less a fee not to exceed one percent. The Tax Commissioner is required to remit these taxes quarterly to the cities (8-13C-7).

Further, the “West Virginia Tax Procedure and Administration Act” (10-11) applies to these municipal taxes as well as to the State levies.

### ***Fiscal Impact***

#### *Feasibility of Municipal Occupational Taxes*

There are two aspects for consideration if Municipal Occupational Taxes are enacted: administrative feasibility and economic feasibility. The first refers to the ability of the city to levy, collect and enforce the tax. The second concerns whether the amount raised will be sufficient to cover the repeal or reduction planned.

#### *Administrative Feasibility.*

Most of the issues regarding administrative feasibility have been addressed either by SB 701 or by the successful use of these taxes in other surrounding states. All states surrounding West Virginia allow cities to use either one or both of these levies. The administrative issues have been faced and solved.

- Ohio allows for cities and school districts to levy income taxes up to 1 percent with higher amounts being allowed if voters consent.
- Kentucky allows for cities to levy occupational taxes from 0.25 to 2.25 percent. These taxes account for over half of revenues in Kentucky’s major cities.

Because of the proximity of Huntington to these two states, the proposed occupational tax will be designed to correspond to the levies in those states. Copies of the municipal income taxes from Marietta, OH and Ashland, KY are attached as Appendices B and C. In order for Huntington to effectively administer, the State Tax Commissioner must be required to share information and allow for joint audits under (11-10-3). Information shared must be governed under the same rules of confidentiality as provided in State Code.

#### *Fiscal Feasibility*

Appendix D provides the best estimate of the amount of revenue to be raised from the Municipal Occupational tax provided by the Marshall’s Center for Business and Economic Research. Using very conservative assumptions the Municipal Occupational Tax will yield between \$8-\$11 million dollars.

#### *Feasibility of Municipal Sales/Use Tax*

##### *Administrative Feasibility*

SB 701 clearly provides for the administration of a local sales/use tax to be levied at the retail level. The Municipal Sales/Use tax uses a base identical to the State’s (8-13C-4(c)(1))

## The City of Huntington Home Rule Pilot Program

with identical exemptions and exceptions (8-13C-4(c)(1)(A)). The State Tax Commissioner is to administer, enforce and collect the tax.(8-13C-4(4)). All provisions of the State Sales Service and Use Tax will be applied to the local tax (11-10-3(d)). The State will use “destination” not “origin” to determine the legal nexus of the sale for municipal purposes as is the case with the State tax.

### *Fiscal Feasibility*

There are currently no fully reliable data to be used to estimate the yield from a Municipal Sales/Use Tax. Under the new computer system installed by the State Tax Department, this data will become available. For that reason it is unlikely that the City would use this power if granted until that data becomes available.

### **Other Fiscal Flexibility Proposals**

#### Tax on Restaurant and Bar Receipts.

Currently, State Code provides West Virginia Cities with the power to levy taxes on admission to “amusements” and “entertainments” (8-13-6). The tax is limited to 2 percent. There is no corresponding authority to collect taxes on restaurant and bar receipts. The request is to add the receipts of these to those levied on other forms of entertainment and amusements.

The proceeds from this tax would be used to provide partial coverage for an anticipated bond issue to finance \$3.5 million dollars in improvements to the Big Sandy Superstore arena. The Arena is over 30 years old and is in desperate need of an update for both aesthetic and safety reasons. Restaurants and bars receive direct benefits from the Arena’s shows and other attractions that bring visitors to the area.

- The tax on restaurants and bars will be relatively easy to collect and administer. Bars must have State licenses and municipal permits. Restaurants are subject to inspection by the Cabell-Huntington Department of Health, which maintains a current list of locations and responsible parties. In addition, the State will have the data on their sales, which can be used for audit.
- At this time no estimate has been made of what the yield would be on the municipal tax on restaurants and bars. Prior to submission to the State Committee, that estimate will become available.

#### Restrictions on Use of Certain Taxes

The current State Code places certain requirements on the use and reporting of certain taxes. These restrictions limit local autonomy, complicate budgeting, increase costs of compliance to both City and State and are legislative artifacts, which currently serve no useful State purpose.

- The State currently distributes to local governments a share of the additional tax on severance, extraction and production of coal (11-13A-6). A minor portion of that tax is distributed to all cities and counties in which there is no coal production. This includes Huntington. The city must create a separate “coal severance tax revenue fund” (11-13A-6(2)(h)) which can only be spent on designated functions. A report must be filed with the State in addition to all other required reports on city

## The City of Huntington Home Rule Pilot Program

expenditures. (11-13A-6(2)(i)). The request from Huntington is that the proceeds be included in the City General Fund and spent as other revenues received.

**Section III:**  
**Affidavits**

## Section III:

### A. Hearing Mandate Verification

# AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,  
COUNTY OF CABELL, TO-WIT:

I, **Terri Mount** being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, an independent newspaper, the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number LH-675791 was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the 10 day of November, 2007 and ending with the issue of the 17 day of November, 2007 and was posted at the East door of the Cabell County Courthouse on 10 day of November, 2007: that said legal advertisement was published on the following dates:

: November 10<sup>th</sup> - 17<sup>th</sup> 2007

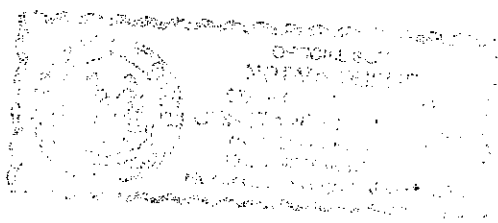
that the cost of publishing said annexed advertisement as aforesaid was \$56.88; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and that such newspaper is circulated to the general public at a definite price or consideration, that such newspaper on each date published consists of not less than four pages with out a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Taken, subscribed and sworn to before me in my said county this 27<sup>th</sup> day of November, 2007.

My Commission expires June 16, 2012

Terri Mount

Constance S. Rappold  
Notary Public  
Cabell County  
West Virginia





**NOTICE OF  
PUBLIC HEARING**

In accordance with 8-2-5a(h)(1) 1st seq. of the West Virginia Code notice is hereby given that the City of Huntington's Home Rule Pilot Program Application will be available for public inspection Tuesday, November 13, 2007 in the City Clerk's Office, Room 16 located in City Hall, 800 5th Avenue, Huntington, WV and via the Internet on <http://www.cityofhuntington.com>. A public hearing regarding the written plan will be held Friday, December 14, 2007 at 4:00 p.m. in the Huntington City Council Chambers located in City Hall, 800 5th Avenue, Huntington, WV. The City of Huntington's Home Rule Pilot Program Application components will include local taxation, annexation, land bank development and various other proposals related to the authority of local government.

Barbara Nelson,  
City Clerk

LH-675791  
11-10-17-07

**Section III:**

**B. Publication of Mandate Verification**

# AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,  
COUNTY OF CABELL, TO-WIT:

I, **Terri Mount** being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, an independent newspaper, the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number LH-679542 was duly published in

The Herald-Dispatch

one time, once a week for 1 successive weeks, commencing with its issue of the 18 day of December, 2007 and ending with the issue of the 18 day of December, 2007 and was posted at the East door of the Cabell County Courthouse on 18 day of December, 2007; that said legal advertisement was published on the following dates:

: December 18<sup>th</sup> 2007

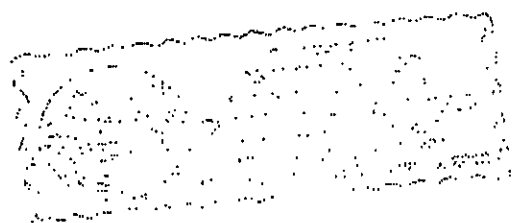
that the cost of publishing said annexed advertisement as aforesaid was \$32.50; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and that such newspaper is circulated to the general public at a definite price or consideration, that such newspaper on each date published consists of not less than four pages with out a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Taken, subscribed and sworn to before me in my said county this 27<sup>th</sup> day of December 2007.

My Commission expires June 6, 2012

Terri Mount

Constance J. Rappald  
Notary Public  
Cabell County  
West Virginia



**LEGAL**

Notice is hereby given that on the 22nd day of December, 2007, at the hour of 4:00 p.m. or as soon thereafter as the matter can be heard, the Council of the City of Huntington in Council Chambers at City Hall, Huntington, WV, proposes to finally vote on the adoption of an ordinance the subject matter of which is as follows:

**AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO SUBMIT A HOME RULE PROPOSAL TO THE MUNICIPAL HOME RULE BOARD IN ACCORDANCE WITH WEST VIRGINIA CODE §1-2-3.**

Such ordinance is filed in the City Clerk's Office, Room 105, City Hall, Huntington, WV, where the same may be inspected by the public, and interested parties may appear at the meeting and be heard with respect to the proposed Ordinance.

Dated: 12/17/2007  
 Barbara Nelson,  
 City Clerk

LH-079542  
 12-18-07

ATTN: Barbara

## LEGAL

Notice is hereby given that on the 21st day of December 2007, at the hour of 4:00 p.m., or as soon thereafter as the matter can be heard, the Council of the City of Huntington, in Council Chambers, at City Hall, Huntington, WV, proposes to finally vote on the adoption of an ordinance, the subject matter of which is as follows:

AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO SUBMIT A HOME RULE PROPOSAL TO THE MUNICIPAL HOME RULE BOARD IN ACCORDANCE WITH WEST VIRGINIA CODE §8-1-5a

Such ordinance is filed in the City Clerk's office, Room 16, City Hall, Huntington, WV, where the same may be inspected by the public, and interested parties may appear at the meeting and be heard with respect to the proposed Ordinance.

Dated: 12/17/2007  
Barbara Nelson,  
City Clerk

LH-679542  
12-18-07

**Section III:**

**C. Copy of Ordinance authorizing submission of plan**

Attachment

State of West Virginia,  
County of Cabell

I, Barbara Nelson, City Clerk of the City of Huntington, West Virginia, a municipal corporation, do certify that the foregoing is a true and exact copy of an Ordinance duly adopted by the City Council of said city on the 21<sup>st</sup> day of December, 2007.

Dated this 26<sup>th</sup> day of December 2007.

  
Barbara Nelson, City Clerk

(SEAL)

**AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO SUBMIT A HOME  
RULE PROPOSAL TO THE MUNICIPAL HOME RULE BOARD IN ACCORDANCE  
WITH WEST VIRGINIA CODE §8-1-5a.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL  
AND WAYNE COUNTIES WEST VIRGINIA,** that the Mayor is hereby **AUTHORIZED** to  
submit a HOME Rule Proposal to the Municipal Home Rule Board in accordance with West  
Virginia Code §8-1-5a in order for the City of Huntington to be included in the pilot program. A  
copy of said proposal is attached hereto.

SPONSORED BY COUNCILMAN INSCO

APPROVED AS TO FORM BY SEM

FIRST READING 12/14/2007 - Ordered Advertised

SECOND READING 12/21/2007 - ADOPTED UNANIMOUSLY (9 yeas, 0 nay, 2 absent-  
Kent and Adkins)

DATE December 21, 2007

Barbara Nelson  
BARBARA NELSON, CITY CLERK

DATE 12/21/07

David A. Felinton  
DAVID A. FELINTON, MAYOR

APPROVE

DATE 12/26/07

VETO



### Section III:

#### D. Worksheets determining fiscal impact

## The City of Huntington Home Rule Pilot Program

### **D. – Data Narrative**

Data estimates are based primarily upon the Zip Code Business Patterns data from the U.S. Census Bureau. Estimates of business activity by Zip Code provide the number of persons employed and their accompanying payroll figures. A 5-year average was calculated for each zip code either fully or partially contained within the city limits of Huntington, WV. The use of a 5-year average will hopefully remove the possibility of an outlying employment or payroll estimate for a given geography.

Estimation of the geographic containment of zip codes within city limits was approximated with the assistance of LandView version 6. Produced by the U.S. Census Bureau, LandView is a mapping tool that combines demographic, environmental and geological data sources in a GIS format.

The “Geographically Contained Employment” And “Geographically Contained Payroll” figures were obtained by multiplying the Zip Code Business Patterns data by the estimated percentage of a zip code’s geographic area contained within city limits.

These numbers were then multiplied by an ‘Earnings Adjustment’ to derive the zip code’s estimated earned income. This represents the percentage of aggregate earnings beyond wage and salary income for the zip code. The Earnings Adjustment was derived using U.S. Census 2000 data from Summary Tape File 3. The resulting figure does not take transfer payments, commissions or other incomes into account.

Occupation and wage estimates from the Bureau of Labor Statistics were used in an effort to replicate the effect of an exclusion of all employed persons earning less than \$10,000. The May 2006 MSA data (most recent available) reported that 10% of the employed persons in the Huntington MSA earned wages and salary income of \$13,330 or less.

10% of the employed persons for each zip code were then ‘removed’ from the estimation by subtracting their wages (estimated using the 10% wage figure multiplied by 10% of employment) from the overall Earned Income figure. This overestimates the withdrawal from All Earned Income in two ways; 1) using a figure of \$13,330 rather than the actual \$10,000 cap and 2) the \$13,330 figure is the maximum value for the lowest 10% of persons employed based on income. This then underestimates the potentially available tax proceeds.

The estimate probably understates the amount of the tax yield as only payroll is included not all occupational income.

Application of the proposed 1% tax rate upon the earnings in each geographic area then provides the estimated tax proceeds from the Occupation Tax. An estimated error rate  $\pm$  15% would provide a likely expected proceed of between \$8.1 million and \$11.0 million.

**D. – Fiscal Impact of Occupation Tax**

Zip	Estimated Payroll *	Estimated Employment *	Containment #	Geo. Contained Emp.	Geo. Contained Payroll	Earnings Adjustment +
25701	\$460,545,200	17,289	100%	17,289	\$460,545,200	6.73%
25702	\$186,273,800	5,381	100%	5,381	\$186,273,800	8.68%
25703	\$84,948,600	2,556	100%	2,556	\$84,948,600	2.69%
25704	\$146,436,700	4,749	100%	4,749	\$146,436,700	5.93%
25705	\$169,504,800	5,894	33%	1,945	\$55,936,584	6.52%
<b>Total</b>	<b>\$1,047,709,100</b>	<b>35,869</b>		<b>31,920</b>	<b>\$934,140,884</b>	
	<b>Contained Income</b>	<b>10% Wage ^</b>	<b>10% Employ ^</b>	<b>10% Threshold</b>	<b>Income Estimation</b>	<b>Tax Rate</b>
25701	\$491,539,892	\$13,330	1,729	\$23,045,704	\$468,494,188	1%
25702	\$202,442,366	\$13,330	538	\$7,172,340	\$195,270,026	1%
25703	\$87,233,717	\$13,330	256	\$3,407,681	\$83,826,036	1%
25704	\$155,120,396	\$13,330	475	\$6,330,550	\$148,789,846	1%
25705	\$59,583,649	\$13,330	195	\$2,592,800	\$56,990,850	1%
<b>Total</b>	<b>\$995,920,021</b>		<b>3,192</b>	<b>\$42,549,075</b>	<b>\$953,370,946</b>	
	<b>Tax Proceeds</b>		<b>15% Below</b>	<b>15% Above</b>		
25701	\$4,684,941.88		\$3,982,200.60	\$5,387,683.16		
25702	\$1,952,700.26		\$1,659,795.22	\$2,245,605.30		
25703	\$838,260.36		\$712,521.31	\$963,999.42		
25704	\$1,487,898.46		\$1,264,713.69	\$1,711,083.23		
25705	\$569,908.50		\$484,422.22	\$655,394.77		
<b>Total</b>	<b>\$9,533,709.46</b>		<b>\$8,103,653.04</b>	<b>\$10,963,765.88</b>		
# Estimation by CBER using US Census LandView software for geography containment.						
* Data from Zip Code Business Patterns data, US Census Bureau (5 year average 2001-2005)						
+ Earning Adjustment is based upon the 2000 US Census figure as a percentage of aggregate earnings beyond wage and salary income.						
^ Based upon Bureau of Labor Statistics Huntington MSA Occupation and Wage estimates for May 2006.						

The City of Huntington Home Rule Pilot Program

Taxes that would be offset by municipal occupation tax

Example # 1				
Tax class	Description	Tax	# filings	amount per filing
1	gross sales coal, sand, gravel, others	\$ 8,471	13	\$ 652
2	natural gas in excess of \$1250.00	\$ 3,079	3	\$ 1,026
5	retailers, restaurants, and others	\$ 2,728,797	858	\$ 3,180
6	wholesalers	\$ 565,010	340	\$ 1,662
11	all amusements	\$ 38,139	34	\$ 1,122
13	rent, royalties, interest, dividends	\$ 766,198	933	\$ 821
14	small loans and industrial, loans business	\$ 7,014	11	\$ 638
	B&O tax elimination	<u>\$ 4,116,708</u>	<u>2192</u>	<u>\$ 9,101</u>
	City Service Fee elimination	<u>\$ 3,000,000</u>		
	\$2.00 per week fee on employees in City			
	Total tax & employee fee elimination	<u>\$ 7,116,708</u>		
	Tax period analized july 06 - june 07			

The City of Huntington Home Rule Pilot Program

Taxes that would be offset by municipal occupation tax

Example # 2				
Tax class	Description	Tax	# filings	amount per filing
5	retailers, restaurants, and others	\$ 2,728,797	858	\$ 3,180
12	service and all other business callings	\$ 4,340,553	1080	\$ 4,019
	B&O tax elimination	<u>\$ 7,069,350</u>	<u>1938</u>	<u>\$ 7,199</u>
	City Service Fee elimination	<u>\$ 3,000,000</u>		
	\$2.00 per week fee on employees in City			
	Total tax & employee fee elimination	<u>\$ 10,069,350</u>		
	Tax period analized july 06 - june 07			

The City of Huntington Home Rule Pilot Program

Taxes that would be offset by municipal occupation tax

Example # 3				
Tax class	Description	Tax	# filings	amount per filing
5	retailers, restaurants, and others	\$ 2,728,797	858	\$ 3,180
12	service and all other business callings	\$ 2,170,276	540	\$ 4,019
	cut rate from 1% to .5%			
	B&O tax elimination	<u>\$ 4,899,073</u>	<u>1398</u>	<u>\$ 7,199</u>
	City Service Fee elimination	<u>\$ 3,000,000</u>		
	\$2.00 per week fee on employees in City			
	Total tax & employee fee elimination	<u>\$ 7,899,073</u>		
	Tax period analized july 06 - june 07			

## Section III:

### E. Feasibility Study

## **E. Feasibility Study for Proposed Taxes**

### ***Fiscal Impact***

#### ***Feasibility of Municipal Occupational Taxes***

There are two aspects for consideration if Municipal Occupational Taxes are enacted: administrative feasibility and economic feasibility. The first refers to the ability of the city to levy, collect and enforce the tax. The second concerns whether the amount raised will be sufficient to cover the repeal or reduction planned.

#### ***Administrative Feasibility.***

Most of the issues regarding administrative feasibility have been addressed either by SB 701 or by the successful use of these taxes in other surrounding states. All states surrounding West Virginia allow cities to use either one or both of these levies. The administrative issues have been faced and solved.

- Ohio allows for cities and school districts to levy income taxes up to 1 percent with higher amounts being allowed if voters consent.
- Kentucky allows for cities to levy occupational taxes from 0.25 to 2.25 percent. These taxes account for over half of revenues in Kentucky's major cities.

Because of the proximity of Huntington to these two states, the proposed occupational tax will be designed to correspond to the levies in those states. Copies of the municipal income taxes from Marietta, OH and Ashland, KY are attached as Appendices B and C. In order for Huntington to effectively administer, the State Tax Commissioner must be required to share information and allow for joint audits under (11-10-3). Information shared must be governed under the same rules of confidentiality as provided in State Code.

#### ***Fiscal Feasibility***

Appendix D provides the best estimate of the amount of revenue to be raised from the Municipal Occupational tax provided by the Marshall's Center for Business and Economic Research. Using very conservative assumptions the Municipal Occupational Tax will yield between \$8-\$11 million dollars.

#### ***Feasibility of Municipal Sales/Use Tax***

##### ***Administrative Feasibility***

SB 701 clearly provides for the administration of a local sales/use tax to be levied at the retail level. The Municipal Sales/Use tax uses a base identical to the State's (8-13C-4(c)(1)) with identical exemptions and exceptions (8-13C-4(c)(1)(A)). The State Tax Commissioner is to administer, enforce and collect the tax.(8-13C-4(4)). All provisions of the State Sales Service and Use Tax will be applied to the local tax (11-10-3(d)). The State will use "destination" not "origin" to determine the legal nexus of the sale for municipal purposes as is the case with the State tax.



## The City of Huntington Home Rule Pilot Program

### *Fiscal Feasibility*

There are currently no fully reliable data to be used to estimate the yield from a Municipal Sales/Use Tax. Under the new computer system installed by the State Tax Department, this data will become available. For that reason it is unlikely that the City would use this power if granted until that data becomes available.

Section III:

F. Attorney opinion stating application complies with  
statutory requirements



December 27, 2007

The Honorable Joe Manchin, III, Governor  
State Capitol Complex  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305

Re: West Virginia Home Rule Pilot Program

Dear Governor Manchin:

In accordance with §8-1-5a of the West Virginia Code, entitled The West Virginia Home Rule Pilot Program, please accept this legal opinion affirming that the City of Huntington's Application for acceptance into the home rule pilot program complies, in all respects, with the state and federal constitutions and the statutory requirements identified in the above-referenced Code section and the accompanying Municipal Home Rule Pilot Program Application Guidelines.

Specifically, the City of Huntington's Proposal addresses four (4) areas of concern for the municipality. These areas include; (1) a proposal for addressing the overwhelming problem occasioned by dilapidated and/or vacant structures within the municipal boundaries and the negative impact burdening neighborhoods and surrounding property values; (2) a proposal related to recouping insurance proceeds for demolition and/or repair of fire damaged structures; (3) a proposal related to increased capacity for the collection of various municipal fees/taxes; and lastly, (4) a proposal for local taxing options. Each of these proposals identify solutions for alleviating these challenges and present no constitutional impediments.

Additionally, as evidenced by the various documents attached herein, the City of Huntington has fully complied with all requirements related to advertisement, notice, and the conducting of public hearings on the Home Rule ordinance; which ordinance was duly adopted by the governing body of the City of Huntington. Moreover, the City of Huntington has not addressed issues specifically precluded from the Home Rule Pilot Program by the State legislature.