

1 S.106

2 Introduced by Senator White

3 Referred to Committee on Government Operations

4 Date: February 14, 2019

5 Subject: Municipal government; adoption of ordinances and rules; municipal  
6 self-governance

7 Statement of purpose of bill as introduced: This bill proposes to establish the  
8 Municipal Self-Governance Commission to review, recommend, and report on  
9 proposals for expanded municipal self-governance. This bill also proposes to  
10 create the Municipal Self-Governance Program authorizing up to 10  
11 municipalities to enact any ordinances not contrary to the U.S. Constitution,  
12 Vermont Constitution, federal law, a legislatively approved municipal  
13 proposal, or certain State laws.

14 An act relating to establishing the Municipal Self-Governance Program

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 ~~Sec. 1. 24 V.S.A. chapter 140 is added to read:~~

17 ~~CHAPTER 140. MUNICIPAL SELF-GOVERNANCE PROGRAM~~

18 ~~§ 5801. FINDINGS AND INTENT~~

19 ~~The General Assembly finds that.~~

1 ~~(1) State law, policies, and procedures at times inhibit or delay the~~  
2 ~~ability of Vermont's cities and towns to adopt and implement innovative~~  
3 ~~solutions to local problems.~~

4 ~~(2) Often, State law, policies, and procedures limit the ability of cities~~  
5 ~~and towns to creatively work with the State in a timely and efficient manner to~~  
6 ~~address the many issues facing Vermont, including economic health, housing~~  
7 ~~needs, and environmental conservation.~~

8 ~~(3) Vermont's cities and towns lack the ability to make the best~~  
9 ~~decisions to meet their unique, truly local needs.~~

10 ~~(4) Establishing a pilot program that authorizes a limited number of~~  
11 ~~cities and towns to engage in self-governance within defined parameters will:~~

12 ~~(A) allow the State to determine the current gaps in municipal power~~  
13 ~~and agency;~~

14 ~~(B) provide a laboratory for cities and towns to develop local~~  
15 ~~solutions to particularized issues; and~~

16 ~~(C) allow cities and towns within the program to more efficiently~~  
17 ~~respond to the needs of their residents.~~

18 § 5802. DEFINITIONS; ELIGIBILITY

19 As used in this chapter:

20 (1) "Commission" means the Municipal Self-Governance Commission.

21 ~~(2) "municipality" means an incorporated city or town.~~

1 (3) "Program" means the Municipal Self Governance Program.

2 (4) "Proposal" means a plan that describes the following:

3 (A) the enumerated powers that the municipality requires for the  
4 adoption of proposed ordinances; and

5 (B) the measures a municipality expects to pursue, including the  
6 adoption of any ordinances, acts, resolutions, rules, and regulations.

7 § 5803. PROPOSAL ADOPTION PROCEDURE; SUBMISSION

8 (a) A municipality that seeks to participate in the Program shall submit a  
9 proposal to the legal voters of the municipality present and voting at an annual  
10 or special meeting warned for that purpose in accordance with the following  
11 procedure:

12 (1) An official copy of the proposal shall be filed with the clerk of the  
13 municipality at least 10 days before the first public hearing. The clerk shall  
14 certify the date that he or she received the official copy, and the dated copies  
15 shall be open to public inspection and copying.

16 (2)(A) The legislative body of the municipality shall hold at least two  
17 public hearings on the proposal before the vote at the annual or special  
18 meeting.

19 (B) The first public hearing shall be held at least 20 days before the  
20 vote at the annual or special meeting.

1 ~~(3)(A) The legislative body may revise the proposal in light of~~  
2 ~~recommendations made at a public hearing, but in no event shall the revisions~~  
3 ~~be made fewer than 10 days before the date of the meeting to vote on the~~  
4 ~~proposal.~~

5 ~~(B) If revisions are made, the legislative body shall post a notice of~~  
6 ~~these revisions in the same places as the warning for the meeting not less than~~  
7 ~~10 days before the date of the meeting and shall file an official copy of the~~  
8 ~~revisions with the clerk of the municipality who shall certify the copy.~~

9 ~~(4) The second public hearing shall be held not later than 10 days after~~  
10 ~~the first public hearing.~~

11 ~~(5) After the warning and hearing requirements of this section are~~  
12 ~~satisfied, the proposal shall be submitted to the voters at an annual or special~~  
13 ~~meeting in its certified form, except that the legislative body may make~~  
14 ~~technical corrections.~~

15 ~~(6) Voting on a proposal shall be by Australian ballot and may be~~  
16 ~~approved by a majority of voters present and voting at the annual or special~~  
17 ~~meeting.~~

18 ~~(b) Upon approval of a proposal by the voters, the local legislative body~~  
19 ~~shall submit the proposal to the Commission on or before December 1, 2019.~~

~~§ 5804. MUNICIPAL SELF-GOVERNANCE COMMISSION~~

~~(a) There is created the Municipal Self-Governance Commission to review proposals for expanded municipal self-governance.~~

~~(b) The Commission shall consist of 12 members, appointed as follows:~~

~~(1) Four members shall be appointed by the Governor, not more than two of whom shall be from the same political party.~~

~~(2)(A) Eight members shall be appointed by the General Assembly, four by the Senate Committee on Committees, and four by the Speaker of the House.~~

~~(B) Not more than two appointees shall be members of the General Assembly, and each appointing authority shall appoint not more than two members from the same political party.~~

~~(c) The terms of members shall be two years. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term.~~

~~(d) The Commission shall have the following powers:~~

~~(1) to review, evaluate, and make recommendations concerning a proposal submitted by a municipality;~~

~~(2) to consult with State agencies affected by the proposal; and~~

~~(3) to recommend to the General Assembly the municipalities that should be approved to participate in the Program.~~

1 ~~(e) The Office of Legislative Council shall provide administrative and legal~~  
2 assistance to the Commission, including the scheduling of meetings and the  
3 preparation of recommended legislation.

4 (f)(1) The Speaker of the House shall call the first meeting on or before  
5 November 1, 2019. The Commission shall select a chair from among its  
6 members at the first meeting.

7 (2) Eight members shall constitute a quorum.

8 (g)(1) For attendance at meetings during adjournment of the General  
9 Assembly, a legislative member of the Commission shall be entitled to per  
10 diem compensation and reimbursement of expenses pursuant to 2 V.S.A.  
11 § 406. These payments shall be made from monies appropriated to the  
12 General Assembly.

13 (2) Other members of the Commission shall be entitled to per diem  
14 compensation and reimbursement of expenses as permitted under 32 V.S.A.  
15 § 1010. Payments shall be made from monies appropriated to the  
16 Commission.

17 (h) On or before January 15, 2020, the Commission shall submit to the  
18 General Assembly a report recommending at least one but not more than  
19 10 municipalities to participate in the Program.

1 ~~(i)(1) On or before January 15, 2024, the Commission shall conduct a~~  
2 ~~performance review of the Program and the participating municipalities. The~~  
3 ~~review shall include:~~

4 ~~(A) an evaluation of the effectiveness of expanded self-governance~~  
5 ~~on the participating municipalities;~~

6 ~~(B) a recommendation as to whether the Program should be~~  
7 ~~continued, reduced, expanded, or terminated;~~

8 ~~(C) a recommendation as to whether additional legislation is~~  
9 ~~necessary; and~~

10 ~~(D) any other relevant matters.~~

11 ~~(2) On or before January 15, 2025, the Commission shall report the~~  
12 ~~findings of the performance review to the House and Senate Committees on~~  
13 ~~Government Operations.~~

14 ~~(j) Commencing on January 15, 2021 and each year thereafter, the~~  
15 ~~Commission shall submit to the House and Senate Committees on Government~~  
16 ~~Operations a summary report containing all municipal progress reports~~  
17 ~~submitted to the Commission pursuant to subdivision 5805(d) of this chapter.~~

18 § 5805. PILOT PROGRAM MUNICIPALITIES; POWERS AND DUTIES

19 (a) The General Assembly shall approve proposals and admit  
20 municipalities for participation in the Program.

1 ~~(b) A municipality that is approved by the General Assembly for~~  
2 participation in the Program shall have the authority to adopt or amend an  
3 ordinance that is not contrary to:

4 (1) the U.S. Constitution, the Vermont Constitution, or federal law;

5 (2) the Vermont Public Records Act and the Open Meeting Law;

6 (3) the municipality's approved proposal; or

7 (4) State law governing:

8 (A) firearms;

9 (B) the environment, conservation and development, or fish and  
10 wildlife;

11 (C) crimes and criminal procedure;

12 (D) cannabis;

13 (E) alcoholic beverages; and

14 (F) the State Lottery and games of chance.

15 (c) A municipality shall only have the power to adopt an ordinance or  
16 bylaw that applies within the territorial limits of the municipality. A  
17 municipality shall not have the power to adopt an ordinance requiring or  
18 prohibiting action by any other municipal corporation.

19 (d) Commencing October 1, 2020 and each year thereafter, each  
20 participating municipality shall submit a progress report to the Commission.

21 The municipal progress report shall contain the following information:

1 ~~(1) a list of the ordinances adopted pursuant to an approved proposal~~

2 during the preceding year, including a description of each;

3 ~~(2) a summary of the local participation in municipal meetings~~

4 concerning the ordinances, including minutes and any public comment;

5 ~~(3) the fiscal impact of the ordinances;~~

6 ~~(4) a summary of any pending or active suits, proceedings, or petitions~~

7 challenging the ordinances;

8 ~~(5) a report on any public safety ordinances adopted pursuant to an~~

9 approved proposal; and

10 ~~(6) any information that the Commission may require for the purposes~~

11 of this chapter.

12 § 5806. EXPIRATION

13 ~~(a) The Program shall terminate on July 1, 2029 unless extended by the~~

14 General Assembly. An ordinance adopted pursuant to this chapter shall

15 continue in full force and effect until repealed by the municipality or

16 preempted, superseded, or repealed by an act of the General Assembly.

17 ~~(b) No ordinances may be enacted by a municipality after July 1, 2029~~

18 unless otherwise authorized by the General Assembly.

19 Sec. 2. EFFECTIVE DATE

20 ~~This act shall take effect on passage.~~

*Sec. 1. 24 V.S.A. chapter 140 is added to read:*

CHAPTER 140. MUNICIPAL SELF-GOVERNANCE PROGRAM

§ 5801. FINDINGS AND INTENT

The General Assembly finds that:

(1) State law, policies, and procedures at times inhibit or delay the ability of Vermont's cities and towns to adopt and implement innovative solutions to local problems.

(2) Often, State law, policies, and procedures limit the ability of cities and towns to creatively work with the State in a timely and efficient manner to address the many issues facing Vermont, including economic health, housing needs, and environmental conservation.

(3) Vermont's cities and towns lack the ability to make the best decisions to meet their unique, truly local needs.

(4) Establishing a pilot program that authorizes a limited number of cities and towns to engage in self-governance within defined parameters will:

(A) allow the State to determine the current gaps in municipal power and agency;

(B) provide a laboratory for cities and towns to develop local solutions to particularized issues; and

(C) allow cities and towns within the program to more efficiently respond to the needs of their residents.

§ 5802. DEFINITIONS; ELIGIBILITY

As used in this chapter:

(1) "Commission" means the Municipal Self-Governance Commission.

(2) "Municipality" means an incorporated city or town.

(3) "Program" means the Municipal Self-Governance Program.

(4) "Proposal" means a plan that describes the following:

(A) the enumerated powers that the municipality requires for the adoption of proposed ordinances that are not in conflict with the U.S. Constitution, the Vermont Constitution, federal laws, and the State laws listed in subsection (c) of section 5805 of this chapter and that provide for the health, safety, and welfare of the population within the territorial limits of the municipality; and

(B) the measures a municipality expects to pursue, including the adoption of any ordinances, acts, resolutions, rules, and regulations.

§ 5803. PROPOSAL ADOPTION PROCEDURE; SUBMISSION

(a) A municipality that seeks to participate in the Program shall submit a proposal to the legal voters of the municipality present and voting at an annual or special meeting warned for that purpose in accordance with the following procedure:

(1) An official copy of the proposal shall be filed with the clerk of the municipality at least 10 days before the first public hearing. The clerk shall certify the date that he or she received the official copy, and the dated copies shall be open to public inspection and copying.

(2)(A) The legislative body of the municipality shall hold at least two public hearings on the proposal before the vote at the annual or special meeting.

(B) The first public hearing shall be held at least 20 days before the vote at the annual or special meeting.

(3)(A) The legislative body may revise the proposal in light of recommendations made at a public hearing, but in no event shall the revisions be made fewer than 10 days before the date of the meeting to vote on the proposal.

(B) If revisions are made, the legislative body shall post a notice of these revisions in the same places as the warning for the meeting not less than 10 days before the date of the meeting and shall file an official copy of the revisions with the clerk of the municipality who shall certify the copy.

(4) The second public hearing shall be held not later than 10 days after the first public hearing.

(5) After the warning and hearing requirements of this section are satisfied, the proposal shall be submitted to the voters at an annual or special meeting in its certified form, except that the legislative body may make technical corrections.

(b) A municipality may seek to amend an approved proposal by submitting the amendment to the voters according to the procedure contained in subsection (a) of this section.

(c) Upon approval of a proposal or amendment by the voters, the local legislative body shall submit the proposal or amendment to the Commission.

§ 5804. MUNICIPAL SELF-GOVERNANCE COMMISSION

(a) There is created the Municipal Self-Governance Commission to review proposals for expanded municipal self-governance.

(b) The Commission shall consist of 12 members, appointed as follows:

(1) Four members shall be appointed by the Governor, not more than two of whom shall be from the same political party.

(2)(A) Eight members shall be appointed by the General Assembly, four by the Senate Committee on Committees, and four by the Speaker of the House.

(B) Of the members appointed by the Senate Committee on Committees, not more than one may be a legislator and not more than two may be from the same political party.

(C) Of the members appointed by the Speaker of the House, not more than one may be a legislator and not more than two may be from the same political party.

(c) The terms of members shall be two years. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term.

(d) The Commission shall have the following powers:

(1) to review, evaluate, and make recommendations concerning a proposal submitted by a municipality;

(2) to establish criteria for the evaluation of proposals that includes consideration of each municipality's population, geographic location, and governance structure;

(3) to consult with State agencies affected by the proposal; and

(4) to recommend to the General Assembly the municipalities that should be approved to participate in the Program.

(e) The Office of Legislative Council shall provide administrative and legal assistance to the Commission, including the scheduling of meetings and the preparation of recommended legislation.

(f)(1) The Speaker of the House shall call the first meeting to occur on or before November 1, 2019. The Commission shall select a chair from among its members at the first meeting.

(2) Eight members shall constitute a quorum.

(g)(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Commission serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings.

(2) Other members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings.

(3) Payments to members of the Commission authorized under this subsection shall be made from monies appropriated to the General Assembly.

(h)(1) On or before January 15, 2020, the Commission shall submit to the General Assembly a report recommending at least one but not more than 10 municipalities to participate in the Program. The Commission shall recommend municipalities that represent the range of populations, geographic locations, and governance structures in the State.

(2) At any time after January 15, 2020, the Commission may submit a report recommending additional municipalities be admitted to the Program, but at no time shall more than 10 municipalities be admitted.

(i) On or before January 15, 2024, the Commission shall conduct a performance review of the Program and submit to the House and Senate Committees on Government Operations a report containing:

(1) an evaluation of the effectiveness of expanded self-governance on the participating municipalities;

(2) a recommendation as to whether the Program should be continued, reduced, expanded, or terminated;

(3) a recommendation as to whether additional legislation is necessary, including any recommended additions to subsection (c) of section 5805 of this chapter; and

(4) any other relevant matters.

(j) Commencing on January 15, 2021 and each year thereafter, the Commission shall submit to the House and Senate Committees on Government Operations a summary report containing all municipal progress reports submitted to the Commission pursuant to subsection (e) of section 5805 of this chapter.

(k)(1) The Commission shall hold Program meetings and may require the attendance of representatives from each participating municipality. Program

meetings shall be held at the call of the Chair. Notice shall be given to each municipal representative at least 10 days before the meeting date.

(2) The legislative body of a participating municipality shall appoint a representative to attend Program meetings.

§ 5805. PROGRAM MUNICIPALITIES; POWERS AND DUTIES

(a) Consistent with Chapter II, §§ 6 and 69 of the Vermont Constitution, the General Assembly shall approve proposals and any proposal amendments and admit municipalities for participation in the Program.

(b) A municipality that is approved by the General Assembly for participation in the Program shall have the authority to adopt or amend any ordinance pursuant to the powers granted in the municipality's approved proposal.

(c) A municipality's proposal shall not include the authority to adopt or amend an ordinance that is inconsistent or in conflict with:

(1) the U.S. Constitution, the Vermont Constitution, or federal law;

(2) the Vermont Public Records Act or the Open Meeting Law;

(3) 10 V.S.A. § 5227, 24 V.S.A. § 2291(8), or 24 V.S.A. § 2295;

(4) State law governing:

(A) firearms;

(B) the environment, conservation and development, forestry, or fish and wildlife;

(C) crimes and criminal procedure;

(D) cannabis;

(E) the State Lottery and games of chance;

(F) alcoholic beverages, except that a municipality may propose to increase local license fees subject to the requirements of 7 V.S.A. § 204(b);

(G) health insurance;

(H) banking, securities, and insurance;

(I) electric utilities;

(J) workers' compensation, minimum wage, benefits, and employment protections;

(K) elections, except that a municipality may propose to regulate local elections;

(L) State highways;

(M) State sign law requirements of 10 V.S.A. chapter 21;

(N) standards for classifying town highways under 19 V.S.A. § 302;

(O) procedures for laying out, discontinuing, and reclassifying town highways under 19 V.S.A. chapter 27;

(P) motor vehicle requirements of Title 23, except for provisions of 23 V.S.A. chapter 19;

(Q) aviation; or

(R) railroads.

(d) A municipality shall only have the power to adopt an ordinance or bylaw that applies within the territorial limits of the municipality. A municipality shall not have the power to adopt an ordinance requiring or prohibiting action by any other municipal corporation.

(e) Commencing October 1, 2020 and each year thereafter, each participating municipality shall submit a progress report to the Commission. The municipal progress report shall contain the following information:

(1) a narrative description of how the authority granted under this chapter has been exercised in the municipality and any resulting positive or negative impacts;

(2) a list of the ordinances adopted pursuant to an approved proposal during the preceding year, including a description of each;

(3) the estimated fiscal impact of the ordinances;

(4) a summary of any pending or active suits, proceedings, or petitions challenging the ordinances; and

(5) any information that the Commission may require for the purposes of this chapter.

§ 5806. EXPIRATION

(a) The Program shall terminate on July 1, 2024 unless extended by the General Assembly. An ordinance adopted pursuant to this chapter shall continue in full force and effect until repealed by the municipality or preempted, superseded, or repealed by an act of the General Assembly.

(b) No ordinances may be enacted by a municipality after July 1, 2024 unless otherwise authorized by the General Assembly.

*Sec. 2. EFFECTIVE DATE*

*This act shall take effect on passage.*