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H.241

Introduced by Representatives Burke of Brattleboro, Kornheiser of
Brattleboro, and Toleno of Brattleboro

Referred to Committee on

Date:

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

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

An act relating to establishing the Municipal Self-Governance Program

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

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 (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.

1 § 5804. MUNICIPAL SELF-GOVERNANCE COMMISSION

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

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

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

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

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

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

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

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

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

20 (3) to recommend to the General Assembly the municipalities that
21 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 General
12 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.