

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941

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ENROLLED

HOUSE BILL No. 360

(By Mr. Eddy)

—●—

PASSED March 5, 1941

In Effect from Passage

098

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House Bill No. 360

(BY MR. EDDY)

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AN ACT to authorize the municipalities of Westover, Riverside, Sabraton, Suncrest and Star City, or any of them together with any unincorporated territory not embraced within any of said municipalities but contiguous to them, or to any of them, or to the city of Morgantown, all lying in Monongalia county, state of West Virginia, to consolidate with the city of Morgantown and become one municipality under the name of the city of Morgantown.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authority to Consolidate.*—The municipalities of Westover, Riverside, Sabraton, Suncrest and Star City, or any of them, together with any unincorporated territory not embraced within any of said municipalities but contiguous to them, or to any of them, or to the city of Morgantown, all lying in Monongalia county, state of

7 West Virginia, are hereby authorized to consolidate with
8 the city of Morgantown and become one municipality
9 under the name of the city of Morgantown, in the man-
10 ner provided in this bill.

Sec. 2. *Order for Elections in Municipalities.*—The coun-
2 cil of each or any of said municipalities, including the
3 city of Morgantown, may by order or resolution submit
4 the question of such consolidation to the qualified voters
5 of such municipality at any regular municipal election
6 or may call a special election for such purpose. Such
7 election shall be on the same day in each of the munici-
8 palities concerned.

Sec. 3. *Order for Election in Unincorporated Territory.*—
2 (a) As to any territory in said Monongalia county con-
3 tiguous to any of said municipalities, but not embraced
4 within the boundaries of any of them, which is proposed
5 to be included within said consolidated municipality, the
6 county court of said Monongalia county may by order or
7 resolution submit the question of such consolidation to
8 the qualified voters of such territory at an election to
9 be held upon the same day as is selected by said munici-

10 palities for voting upon such question. Such order or
11 resolution shall describe the boundaries of any such un-
12 incorporated territory proposed to be included within
13 said consolidated municipality.

14 Said county court shall designate one or more voting
15 places within said unincorporated territory for such elec-
16 tion, and shall cause all qualified voters residing in such
17 territory to be registered for such election, and a list of
18 said registered qualified voters shall be furnished to the
19 election officials for said voting place or places. Election
20 officials for the holding of such election shall be appointed
21 by said county court.

Sec. 4. *Elections.*—Said elections in said municipalities
2 shall be held as are other municipal elections, and in said
3 unincorporated territory as other elections in which county
4 and district officers are elected. The provisions of law
5 governing municipal elections generally shall apply to
6 such elections held under the provisions of this bill within
7 said municipalities, and as to an election held under the
8 provisions of this bill in said unincorporated territory
9 contiguous to any of said municipalities the provisions of

10 law governing general elections at which county and dis-
11 trict officers are elected shall apply.

Section 5. *Ballots.*—The ballots to be used shall be
2 substantially in the following form:

3 Shall.....(name of municipality or
4 description of unincorporated territory, as the case may
5 be) be consolidated with....., and
6, and become one municipality
7 to be known as the city of Morgantown?

8 () For Consolidation

9 () Against Consolidation

Sec. 6. *Expenses of Elections.*—The expenses of such
2 elections within each municipality shall be borne by each
3 municipality, and as to such unincorporated territory shall
4 be borne by the said county court.

Sec. 7. *Manner of Holding Elections; Certificate of Re-*
2 *sults.*—The county court shall furnish sealed ballot boxes
3 to the proper officers of the municipalities wherein such
4 elections are to be held and to the proper officers ap-
5 pointed by the county court at the voting places desig-
6 nated by said county court for such unincorporated ter-

7 ritory wherein such election is to be held. Said elections
8 shall be conducted and the results thereof duly ascer-
9 tained, declared and certified by the election officials for
10 each voting place to the county court, together with the
11 ballot boxes and ballots therein, in the same manner as
12 at a general election, and the said county court shall pro-
13 ceed to canvass the votes cast and certify over their sig-
14 natures the results of their canvas, showing in their cer-
15 tificate the number of votes for and the number of votes
16 against the consolidation in each of the said municipalities
17 and in said unincorporated territory.

Sec. 8. *Results and Effects of Elections.*—A majority of
2 the votes cast upon the question of consolidation in each
3 of said municipal corporations must be in the affirmative
4 to authorize such municipality to become a part of the
5 proposed consolidated municipality, and a majority of
6 the votes cast upon such question in unincorporated ter-
7 ritory contiguous to any of said municipalities must be in
8 the affirmative to authorize the annexation thereof so as
9 to become a part of said proposed consolidated municipal-
10 ity. Such proposed consolidation shall not be effective

11 unless a majority of the votes cast upon the question of
12 consolidation within the municipality of Morgantown
13 are in the affirmative, and then shall be effective only as
14 to each of the other municipalities and said unincorporated
15 territory in which the majority of votes cast are in the
16 affirmative for such consolidation; and provided further
17 that for the consolidation with the municipality of Mor-
18 gantown to be effective as to any other such municipality
19 or unincorporated territory, such municipality or unin-
20 corporated territory must adjoin the municipality of Mor-
21 gantown or another municipality or unincorporated ter-
22 ritory adjoining the municipality of Morgantown which
23 has voted affirmatively to consolidate with the said mu-
24 nicipality of Morgantown.

Sec. 9. *Effective Date of Consolidation.*—Such consolida-
2 tion shall be effective as of the beginning of the first
3 day of the fiscal year of the city of Morgantown next
4 succeeding the date of said elections, unless that day is
5 less than ninety days prior to such date, in which event
6 such consolidation shall not be effective until the first
7 day of the next fiscal year thereafter.

Sec. 10. *Charter and Ordinances of Consolidated Muni-*

2 *pality.*—When the consolidation becomes effective, the
3 consolidating municipalities and contiguous unincorpor-
4 ated territory affected shall constitute and be one munici-
5 pality under the name of “The City of Morgantown.” The
6 charter of the city of Morgantown shall be and remain
7 the charter for the whole of the consolidated municipality,
8 until supplanted. The ordinances, resolutions, orders,
9 rules and regulations in force in the city of Morgantown
10 shall extend to and be in force throughout the whole of
11 the newly consolidated municipality until they are sup-
12 planted. And the ordinances, resolutions, orders, rules
13 and regulations of the other municipalities shall cease to
14 be operative.

Sec. 11. *Commission on Wards and Election Districts.*—

2 Within two weeks after the certificate of the county court
3 of the result of such elections is made, a joint commission
4 shall be formed consisting of the mayor and the clerk of
5 each municipality to be included in such consolidation,
6 and three inhabitants of each of said consolidating mu-
7 nicipalities to be appointed by the respective councils

8 thereof. Such commission shall be called together by the
9 mayor of the city of Morgantown at a time and place to
10 be fixed by him, but not later than ten days from the
11 formation of the commission. The commission shall organ-
12 ize by selecting a chairman and clerk. The clerk shall
13 keep a record of all proceedings and expenses and shall
14 file the same, verified as to the truth and correctness
15 thereof, in the office of the clerk of the said county court
16 of Monongalia county within fourteen days after the com-
17 mission has filed its report and certificate hereinfater
18 prescribed.

19 The commission shall fix and determine the ward lines
20 and election districts of the consolidated municipality,
21 and shall determine the number of wards into which such
22 consolidated municipality shall be divided. The commis-
23 sion shall, within forty-five days from the date of its
24 organization, make a report and certificate over the sig-
25 natures of a majority of its members, and shall file the
26 same in the office of the clerk of said county court. The
27 certificate shall set forth and accurately describe the ward
28 lines and election districts fixed by the commission, and

29 shall contain a proper map of the consolidated municipal-
30 ity with such lines set out thereon. The clerk of the com-
31 mission shall cause a copy of the certificate to be filed in
32 the office of the secretary of state of the state of West
33 Virginia, and also a copy in the office of the assessor of
34 Monongalia county.

35 The lines fixed and determined by the commission
36 shall be those of the consolidated municipality until
37 changed in accordance with law. Wards shall be formed
38 of contiguous territory. No election district shall be in
39 more than one ward. In dividing the consolidated mu-
40 nicipality into wards and election districts the commis-
41 sion shall have regard for, and shall take into considera-
42 tion, the election laws of the state, as well as the area and
43 population in all wards and election districts, and shall
44 divide and arrange the same so that each will contain,
45 as nearly as practicable, an equal number of inhabitants.

46 A notice setting forth the new ward lines and election
47 districts as fixed by the commission shall be published by
48 the clerk thereof in at least one newspaper of general cir-
49 culation in said Monongalia county for two successive

50 weeks next succeeding the filing of the certificate with
51 the clerk of the county court. The expenses of the publica-
52 tion shall be paid by the new municipality. Upon the com-
53 pletion of the publication, the wards and election districts
54 of the consolidating municipalities shall be superseded.
55 The commission shall appoint, in accordance with the
56 charter provisions of the new municipality, election of-
57 ficers to serve at the election provided for by section
58 twelve of this bill.

59 The commission may employ an engineer, or engineers,
60 and clerks, and an attorney, to assist in performing its
61 duties; and the commission may provide for compensa-
62 tion to be allowed to its clerk, engineers, clerks and attor-
63 ney, which shall be paid by the new municipality. The
64 commission members shall not receive compensation for
65 their services, but all expenses incurred by them in the
66 performance of their duties, when itemized and sworn to
67 by the chairman and clerk, shall be paid by the new mu-
68 nicipality.

Sec. 12. *Election of New Councilmen.*—An election shall
2 be held upon the first Tuesday in June next preceding the

3 date when the consolidation becomes effective for the
4 election of councilmen for the new municipality. Two
5 councilmen shall be elected from each ward, one council-
6 man from each ward to be elected for one year and one
7 councilman from each ward to be elected for two years.
8 Such election shall be conducted in accordance with the
9 charter of the new municipality and as though the con-
10 solidation had become effective. Persons elected to of-
11 fice at the election held under this section shall take office
12 upon the day the consolidation becomes effective. There-
13 after, the election of councilmen shall be as provided by
14 the charter of said consolidated municipality.

Sec. 13. *Officers and Employees of Consolidating Mu-*
2 *nicipalities.*—When the consolidation becomes effective,
3 the terms of all councilmen of the consolidating municipal-
4 ites shall cease and be at an end and all administrative
5 officers and appointees thereof of said consolidating mu-
6 nicipalities shall cease to hold such offices and positions,
7 except that the administrative officers and employees of
8 the city of Morgantown shall continue to serve until sup-

9 planted or replaced under the provisions of the charter
10 and ordinances of the consolidated municipality.

11 Policemen and firemen of the consolidating municipal-
12 ities shall, when the consolidation becomes effective, con-
13 tinue as policemen and firemen of the new municipality.
14 They shall be subject to the orders and control of the
15 city manager of the new municipality, until the heads of
16 the police and fire departments are chosen and placed
17 in charge thereof.

18 Tenure of office and pension laws applicable to the em-
19 ployees of the consolidating municipalities shall not be
20 affected by said consolidation.

Sec. 14. Succession to Rights and Properties of Merged

2 *Municipalities.*—The new consolidated municipality shall,
3 when the consolidation becomes effective, be vested with
4 all the rights and properties of the municipalities of
5 which it is formed, and shall be responsible and liable
6 for all contracts, debts and obligations of such municipal-
7 ities. But the lands and properties in each of the muni-
8 cipalities superseded by such consolidation shall not be
9 taxed or assessed for the debts or obligations of another

10 of the municipalities thus superseded. The lands and
11 properties in each of the constituent and superseded mu-
12 nicipalities shall be taxed and assessed for the debts and
13 obligations of its superseded government until the same
14 shall be paid and satisfied.

Sec. 15. Taxes and Obligations of Merged Municipalities.

2 —The taxes and assessments, levied or imposed by any
3 of the superseded municipalities remaining outstanding
4 and unpaid, and all other moneys due and owing any of
5 such municipalities when the consolidation becomes ef-
6 fective, shall be collected by the new consolidated munici-
7 pality and shall be applied to the purpose for which raised
8 or owing, and if not raised or owing for a specific purpose,
9 shall be applied to the reduction or payment of the bonded
10 or other indebtedness, if any, of the superseded municipal-
11 ity.

12 Proceedings pending to enforce the payment or collec-
13 tion of taxes and assessments in any of the consolidating
14 municipalities shall be carried to completion by the
15 proper officers of the new consolidated municipality; and
16 all taxes and assessments theretofore levied and assessed

17 by any of the consolidating municipalities shall be valid
18 and effectual as if originally levied and assessed by the
19 new municipality. The governing body of the new mu-
20 nicipality is authorized to perform all necessary acts to
21 confirm and effectuate such levies and assessments.

Sec. 16. *Transfer of Funds and Property.*—Immediately
2 upon the installation of the new municipal government,
3 the officers having custody of the funds of the consolidat-
4 ing municipalities shall deliver all funds in their posses-
5 sion into the custody of the proper fiscal officer of the new
6 municipality, who shall acknowledge delivery by giving
7 his receipt therefor.

8 The mayor or other chief executive officers shall super-
9 vise and direct the transfer of all personal property,
10 books, papers, vouchers, or other documents belonging to
11 the consolidating municipalities to the proper officers of
12 the new government, who shall cause a complete inven-
13 tory to be made of all assets, real and personal, thus re-
14 ceived by the new government.

15 The tax commissioner shall cause an audit and settle-
16 ment of officers' accounts to be made forthwith.

Sec. 17. *Permits and Licenses Issued by Merged Municipalities.*—Permits and licenses granted to any place or person by any of the consolidating municipalities, shall, subject to their conditions, remain in full force and effect and be recognized by the new municipality until the expiration of the term for which they were granted. But this section shall not be construed to prevent the revocation of any such permit or license before its expiration in the manner provided by law.

Sec. 18. *Legal Proceedings Pending at Merger.*—No suit, action or proceeding pending in any court or before any board or department, wherein one of the consolidating municipalities is a party, or in which it is interested, or by the determination of which it might be affected, shall abate by reason of the consolidation, but the new municipality shall be substituted in the place and stead of such consolidating municipality, and the suit, action or proceeding shall continue as if the consolidation had not taken place.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

C. H. McKown

Chairman Senate Committee

Leon Rice

Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

A. H. Watkins

Clerk of the Senate

J. H. Luff

Clerk of the House of Delegates

Byron B. Randolph

President of the Senate

Malcolm R. Arnold

Speaker House of Delegates

The within approved this the 14,

day of March, 1941.

Matthew M. Neely
Governor.

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Filed in the office of the Secretary of State
of West Virginia. MAR 17 1941

Wm. S. O'BRIEN,
Secretary of State