WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1941

ENROLLED

HOUSE BILL No. 360

(By Mr. Eddy)

PASSED March 5, 1941

In Effect from Passage
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 West Virginia, to consolidate with the city of Morgantown and become one municipality under the name of the city of Morgantown.
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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 tinguous 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-
palities for voting upon such question. Such order or
resolution shall describe the boundaries of any such un-
incorporated territory proposed to be included within
said consolidated municipality.

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

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

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

Shall_________________________(name of municipality or description of unincorporated territory, as the case may be) be consolidated with_________________________, and_________________________, and become one municipality to be known as the city of Morgantown?

( ) For Consolidation

( ) Against Consolidation

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

Sec. 7. Manner of Holding Elections; Certificate of Results.—The county court shall furnish sealed ballot boxes to the proper officers of the municipalities wherein such elections are to be held and to the proper officers appointed by the county court at the voting places designated by said county court for such unincorporated ter-
ritory wherein such election is to be held. Said elections shall be conducted and the results thereof duly ascertained, declared and certified by the election officials for each voting place to the county court, together with the ballot boxes and ballots therein, in the same manner as at a general election, and the said county court shall proceed to canvass the votes cast and certify over their signatures the results of their canvas, showing in their certificate the number of votes for and the number of votes against the consolidation in each of the said municipalities and in said unincorporated territory.

Sec. 8. Results and Effects of Elections.—A majority of the votes cast upon the question of consolidation in each of said municipal corporations must be in the affirmative to authorize such municipality to become a part of the proposed consolidated municipality, and a majority of the votes cast upon such question in unincorporated territory contiguous to any of said municipalities must be in the affirmative to authorize the annexation thereof so as to become a part of said proposed consolidated municipality. Such proposed consolidation shall not be effective
unless a majority of the votes cast upon the question of consolidation within the municipality of Morgantown are in the affirmative, and then shall be effective only as to each of the other municipalities and said unincorporated territory in which the majority of votes cast are in the affirmative for such consolidation; and provided further that for the consolidation with the municipality of Morgantown to be effective as to any other such municipality or unincorporated territory, such municipality or unincorporated territory must adjoin the municipality of Morgantown or another municipality or unincorporated territory adjoining the municipality of Morgantown which has voted affirmatively to consolidate with the said municipality of Morgantown.

Sec. 9. Effective Date of Consolidation.—Such consolidation shall be effective as of the beginning of the first day of the fiscal year of the city of Morgantown next succeeding the date of said elections, unless that day is less than ninety days prior to such date, in which event such consolidation shall not be effective until the first day of the next fiscal year thereafter.
Sec. 10. Charter and Ordinances of Consolidated Municipality.—When the consolidation becomes effective, the consolidating municipalities and contiguous unincorporated territory affected shall constitute and be one municipality under the name of "The City of Morgantown." The charter of the city of Morgantown shall be and remain the charter for the whole of the consolidated municipality, until supplanted. The ordinances, resolutions, orders, rules and regulations in force in the city of Morgantown shall extend to and be in force throughout the whole of the newly consolidated municipality until they are supplanted. And the ordinances, resolutions, orders, rules and regulations of the other municipalities shall cease to be operative.

Sec. 11. Commission on Wards and Election Districts.—Within two weeks after the certificate of the county court of the result of such elections is made, a joint commission shall be formed consisting of the mayor and the clerk of each municipality to be included in such consolidation, and three inhabitants of each of said consolidating municipalities to be appointed by the respective councils
thereof. Such commission shall be called together by the mayor of the city of Morgantown at a time and place to be fixed by him, but not later than ten days from the formation of the commission. The commission shall organize by selecting a chairman and clerk. The clerk shall keep a record of all proceedings and expenses and shall file the same, verified as to the truth and correctness thereof, in the office of the clerk of the said county court of Monongalia county within fourteen days after the commission has filed its report and certificate hereinafter prescribed.

The commission shall fix and determine the ward lines and election districts of the consolidated municipality, and shall determine the number of wards into which such consolidated municipality shall be divided. The commission shall, within forty-five days from the date of its organization, make a report and certificate over the signatures of a majority of its members, and shall file the same in the office of the clerk of said county court. The certificate shall set forth and accurately describe the ward lines and election districts fixed by the commission, and
shall contain a proper map of the consolidated municipality with such lines set out thereon. The clerk of the commission shall cause a copy of the certificate to be filed in the office of the secretary of state of the state of West Virginia, and also a copy in the office of the assessor of Monongalia county.

The lines fixed and determined by the commission shall be those of the consolidated municipality until changed in accordance with law. Wards shall be formed of contiguous territory. No election district shall be in more than one ward. In dividing the consolidated municipality into wards and election districts the commission shall have regard for, and shall take into consideration, the election laws of the state, as well as the area and population in all wards and election districts, and shall divide and arrange the same so that each will contain, as nearly as practicable, an equal number of inhabitants.

A notice setting forth the new ward lines and election districts as fixed by the commission shall be published by the clerk thereof in at least one newspaper of general circulation in said Monongalia county for two successive
weeks next succeeding the filing of the certificate with the clerk of the county court. The expenses of the publication shall be paid by the new municipality. Upon the completion of the publication, the wards and election districts of the consolidating municipalities shall be superseded. The commission shall appoint, in accordance with the charter provisions of the new municipality, election officers to serve at the election provided for by section twelve of this bill.

The commission may employ an engineer, or engineers, and clerks, and an attorney, to assist in performing its duties; and the commission may provide for compensation to be allowed to its clerk, engineers, clerks and attorney, which shall be paid by the new municipality. The commission members shall not receive compensation for their services, but all expenses incurred by them in the performance of their duties, when itemized and sworn to by the chairman and clerk, shall be paid by the new municipality.

Sec. 12. Election of New Councilmen.—An election shall be held upon the first Tuesday in June next preceding the
date when the consolidation becomes effective for the
election of councilmen for the new municipality. Two
councilmen shall be elected from each ward, one council-
man from each ward to be elected for one year and one
councilman from each ward to be elected for two years.
Such election shall be conducted in accordance with the
charter of the new municipality and as though the con-
solidation had become effective. Persons elected to of-
vice at the election held under this section shall take office
upon the day the consolidation becomes effective. There-
after, the election of councilmen shall be as provided by
the charter of said consolidated municipality.

Sec. 13. Officers and Employees of Consolidating Mu-
cipalities.—When the consolidation becomes effective,
the terms of all councilmen of the consolidating municipal-
ites shall cease and be at an end and all administrative
officers and appointees thereof of said consolidating mu-
icipalities shall cease to hold such offices and positions,
except that the administrative officers and employees of
the city of Morgantown shall continue to serve until sup-
planted or replaced under the provisions of the charter
and ordinances of the consolidated municipality.

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

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

Sec. 14. Succession to Rights and Properties of Merged
Municipalities.—The new consolidated municipality shall,
when the consolidation becomes effective, be vested with
all the rights and properties of the municipalities of
which it is formed, and shall be responsible and liable
for all contracts, debts and obligations of such municipal-
ities. But the lands and properties in each of the munici-
palities superseded by such consolidation shall not be
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.

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

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

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

The tax commissioner shall cause an audit and settle-
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.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approval this the 13th day of March, 1941.

Governor.

Filed in the office of the Secretary of State of West Virginia on March 7, 1941.

Wm. S. O'Brien,
Secretary of State