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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 2050

(By ~~Del.~~ Del. Bradley)

— ● —

Passed April 8, 1989

In Effect Ninety Days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2050
(By DELEGATE BRADLEY)

[Passed April 8, 1989; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, four and five, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal annexation; annexation by a majority of qualified voters and freeholders without an election; petition for annexation; and annexation by minor boundary adjustment.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four and five, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6. ANNEXATION.

PART I. GENERAL.

§8-6-1. Annexation of unincorporated territory.

1 Unincorporated territory may be annexed to and
2 become part of a municipality contiguous thereto only
3 in accordance with the provisions of this article.

4 Any farmlands or operations as described in article
5 nineteen, chapter nineteen of this code which may be

6 annexed into a municipality shall be protected in the
7 continuation of agricultural use after being annexed.

PART II. ANNEXATION BY ELECTION.

§8-6-2. Petition for annexation.

1 Five percent or more of the freeholders of a munic-
2 ipality desiring to have territory annexed thereto may
3 file their petition in writing with the governing body
4 thereof, setting forth the change proposed in the metes
5 and bounds of the municipality, and asking that a vote
6 be taken upon the proposed change. Such petition shall
7 be verified and shall be accompanied by an accurate
8 survey map showing the territory which would be
9 annexed to the corporate limits by the proposed change.
10 The governing body, upon bond in penalty prescribed by
11 the governing body with good and sufficient surety
12 being given by petitioners, and conditioned to pay the
13 costs of such election if a majority of the legal votes cast
14 are against the proposed change in boundary, shall
15 thereupon order a vote of the qualified voters of such
16 municipality to be taken upon the proposed change on
17 a date and at a time and place therein to be named in
18 the order, not less than twenty nor more than thirty days
19 from the date thereof. The governing body shall, at the
20 same time, order a vote of all of the qualified voters of
21 the additional territory, and of all of the freeholders of
22 such additional territory, whether they reside or have
23 a place of business therein or not, to be taken upon the
24 question on the same day, at some convenient place in
25 or near such additional territory: *Provided*, That the
26 additional territory to be included shall conform to the
27 requirements of section one, article two of this chapter,
28 and the determination that the additional territory does
29 so conform shall be reviewable by the circuit court of
30 the county in which the municipality or the major
31 portion of the territory thereof, including the area
32 proposed to be annexed, is located upon certiorari to the
33 governing body, in accordance with the provisions of
34 article three, chapter fifty-three of this code. The
35 governing body shall cause the order to be published,
36 at the cost of the municipality, as a Class II-0 legal
37 advertisement in compliance with the provisions of

38 article three, chapter fifty-nine of this code, and the
 39 publication area for such publication shall be the
 40 municipality and the additional territory. The first
 41 publication must be at least fourteen days prior to the
 42 date upon which the vote is to be taken. The order so
 43 published shall contain an accurate description by metes
 44 and bounds of the additional territory proposed to be
 45 annexed to the corporate limits by the proposed change,
 46 and, if practicable, shall also contain a popular descrip-
 47 tion of such additional territory.

48 The election shall be held, superintended and con-
 49 ducted, and the results thereof ascertained, certified,
 50 returned and canvassed in the same manner and by the
 51 same individuals as elections for municipal officers. The
 52 ballots, or ballot labels where voting machines are used,
 53 shall have written or printed on them the words:

54 ☐ For Annexation

55 ☐ Against Annexation

56 Any freeholder which is a firm or corporation may
 57 vote by its manager, president, or executive officer duly
 58 designated in writing by such firm or corporation. Even
 59 though an individual who is a qualified voter of the
 60 municipality or the territory is also a freeholder of the
 61 territory, such person shall be entitled to vote only once.

62 When an election is held in any municipality in
 63 accordance with the provisions of this section, another
 64 such election relating to the same proposed change or
 65 any part thereof shall not be held for a period of one
 66 year.

67 If a majority of all of the legal votes cast both in the
 68 municipality and in the territory are in favor of the
 69 proposed annexation, then the governing body shall
 70 proceed as specified in the immediately succeeding
 71 section of this article.

PART III. ANNEXATION WITHOUT ELECTION.

§8-6-4. Annexation without an election.

1 The governing body of a municipality may by ordi-
 2 nance provide for the annexation of additional territory

3 without ordering a vote on the question if (1) a majority
4 of the qualified voters of such additional territory file
5 with the governing body their petition to be annexed,
6 and (2) a majority of all freeholders of such additional
7 territory, whether they reside or have a place of business
8 therein or not, file with the governing body their
9 petition to be annexed: *Provided*, That the additional
10 territory shall conform to the requirements of section
11 one, article two of this chapter, and the determination
12 that the additional territory does so conform or that the
13 requisite number of petitioners have filed the required
14 petitions shall be reviewable by the circuit court of the
15 county in which the municipality or the major portion
16 of the territory thereof, including the area proposed to
17 be annexed, is located upon certiorari to the governing
18 body, in accordance with the provisions of article three,
19 chapter fifty-three of this code. A qualified voter of the
20 additional territory who is also a freeholder of the
21 additional territory may join only in the voters' petition
22 of such additional territory. It shall be the responsibility
23 of the governing body to enumerate and verify the total
24 number of eligible petitioners, in each category, from
25 the additional territory. In determining the total
26 number of eligible petitioners, in each category, a
27 freeholder or any other entity that is a freeholder shall
28 be limited to one vote or one signature on a petition as
29 provided in this section. There shall be allowed only one
30 signature on a petition per parcel of property and any
31 freehold interest that is held by more than one individ-
32 ual or entity shall be allowed to sign a petition only upon
33 the approval by the majority of the individuals or
34 entities that have an interest in the parcel of property.
35 A qualified voter of the additional territory who is also
36 a freeholder of the additional territory shall be counted
37 only as a freeholder and if all of the eligible petitioners
38 are qualified voters, then only a voters' petition shall be
39 required. If satisfied that the additional territory
40 conforms to the requirements of section one, article two
41 of this chapter and that the petition is sufficient in every
42 respect, the governing body shall enter such fact upon
43 its journal and forward a certificate to that effect to the
44 county commission of the county wherein the municipal-

45 ity or the major portion of the territory thereof,
 46 including the additional territory, is located. The county
 47 commission shall thereupon enter an order along the
 48 lines of the order described in the immediately preced-
 49 ing section of this article. After the date of such order,
 50 the corporate limits of the municipality shall be as set
 51 forth therein.

PART IV. ANNEXATION BY MINOR BOUNDARY ADJUSTMENT.

§8-6-5. Annexation by minor boundary adjustment.

1 In the event a municipality desires to increase its
 2 corporate limits by making a minor boundary adjust-
 3 ment, the governing body of such municipality may
 4 apply to the county commission of the county wherein
 5 the municipality or the major portion of the territory
 6 thereof, including the territory to be annexed, is located
 7 for permission to effect such annexation by minor
 8 boundary adjustment.

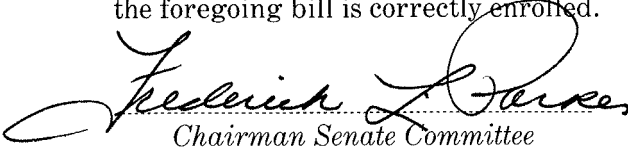
9 Such application shall disclose the number of persons
 10 residing in the territory to be annexed to the corporate
 11 limits by the proposed change, and shall have attached
 12 thereto an accurate map showing the metes and bounds
 13 of such additional territory.

14 If satisfied that the proposed annexation is only a
 15 minor boundary adjustment, the county commission
 16 shall order publication of a notice of the proposed
 17 annexation to the corporate limits and of the date and
 18 time set by the commission for a hearing on such
 19 proposal. Publication shall be as in the case of an order
 20 calling for an election, as set forth in section two of this
 21 article. A like notice shall be prominently posted at not
 22 less than five public places within the area proposed to
 23 be annexed.

24 If the freeholders of the area proposed to be annexed
 25 who are present or are represented at the hearing are
 26 not substantially opposed to the proposed boundary
 27 change, the commission may enter an order changing
 28 the corporate limits of the municipality as requested,
 29 which order may be reviewed by the circuit court as an
 30 order of a county commission ordering an election may

31 be reviewed under section sixteen, article five of this
32 chapter. After the date of such order, the corporate
33 limits of the municipality shall be as set forth therein,
34 unless judicial review is sought under the provisions of
35 said section sixteen. If the proposed change is substan-
36 tially opposed at the hearing by any such freeholder, the
37 commission shall dismiss the application. Dismissal of
38 any such application shall not preclude proceedings in
39 accordance with the provisions of sections two and three
40 or section four of this article. The municipality shall pay
41 the costs of all proceedings under this section.

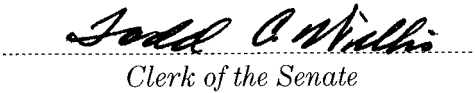
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

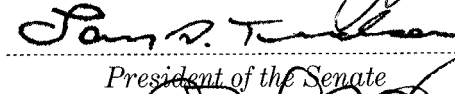

Chairman House Committee

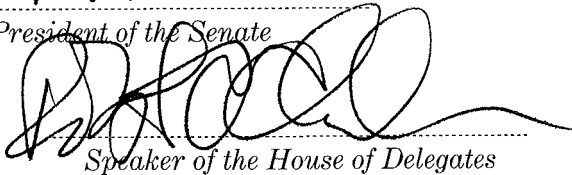
Originating in the House.

Takes effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within this the
day of, 1989.

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Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/89

Time 10:16