WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2350

(By: Del. Bradley)

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Passed: April 5, 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
annexed into a municipality shall be protected in the continuation of agricultural use after being annexed.

PART II. ANNEXATION BY ELECTION.

§8-6-2. Petition for annexation.

Five percent or more of the freeholders of a municipality desiring to have territory annexed thereto may file their petition in writing with the governing body thereof, setting forth the change proposed in the metes and bounds of the municipality, and asking that a vote be taken upon the proposed change. Such petition shall be verified and shall be accompanied by an accurate survey map showing the territory which would be annexed to the corporate limits by the proposed change. The governing body, upon bond in penalty prescribed by the governing body with good and sufficient surety being given by petitioners, and conditioned to pay the costs of such election if a majority of the legal votes cast are against the proposed change in boundary, shall thereupon order a vote of the qualified voters of such municipality to be taken upon the proposed change on a date and at a time and place therein to be named in the order, not less than twenty nor more than thirty days from the date thereof. The governing body shall, at the same time, order a vote of all of the qualified voters of the additional territory, and of all of the freeholders of such additional territory, whether they reside or have a place of business therein or not, to be taken upon the question on the same day, at some convenient place in or near such additional territory: Provided, That the additional territory to be included shall conform to the requirements of section one, article two of this chapter, and the determination that the additional territory does so conform shall be reviewable by the circuit court of the county in which the municipality or the major portion of the territory thereof, including the area proposed to be annexed, is located upon certiorari to the governing body, in accordance with the provisions of article three, chapter fifty-three of this code. The governing body shall cause the order to be published, at the cost of the municipality, as a Class II-0 legal advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the
municipality and the additional territory. The first
publication must be at least fourteen days prior to the
date upon which the vote is to be taken. The order so
published shall contain an accurate description by metes
and bounds of the additional territory proposed to be
annexed to the corporate limits by the proposed change,
and, if practicable, shall also contain a popular descrip-
tion of such additional territory.

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

☐ For Annexation
☐ Against Annexation

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

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

If a majority of all of the legal votes cast both in the
municipality and in the territory are in favor of the
proposed annexation, then the governing body shall
proceed as specified in the immediately succeeding
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-
nance provide for the annexation of additional territory
without ordering a vote on the question if (1) a majority of the qualified voters of such additional territory file with the governing body their petition to be annexed, and (2) a majority of all freeholders of such additional territory, whether they reside or have a place of business therein or not, file with the governing body their petition to be annexed: Provided, That the additional territory shall conform to the requirements of section one, article two of this chapter, and the determination that the additional territory does so conform or that the requisite number of petitioners have filed the required petitions shall be reviewable by the circuit court of the county in which the municipality or the major portion of the territory thereof, including the area proposed to be annexed, is located upon certiorari to the governing body, in accordance with the provisions of article three, chapter fifty-three of this code. A qualified voter of the additional territory who is also a freeholder of the additional territory may join only in the voters' petition of such additional territory. It shall be the responsibility of the governing body to enumerate and verify the total number of eligible petitioners, in each category, from the additional territory. In determining the total number of eligible petitioners, in each category, a freeholder or any other entity that is a freeholder shall be limited to one vote or one signature on a petition as provided in this section. There shall be allowed only one signature on a petition per parcel of property and any freehold interest that is held by more than one individual or entity shall be allowed to sign a petition only upon the approval by the majority of the individuals or entities that have an interest in the parcel of property. A qualified voter of the additional territory who is also a freeholder of the additional territory shall be counted only as a freeholder and if all of the eligible petitioners are qualified voters, then only a voters' petition shall be required. If satisfied that the additional territory conforms to the requirements of section one, article two of this chapter and that the petition is sufficient in every respect, the governing body shall enter such fact upon its journal and forward a certificate to that effect to the county commission of the county wherein the municipal-
ity or the major portion of the territory thereof, including the additional territory, is located. The county commission shall thereupon enter an order along the lines of the order described in the immediately preceding section of this article. After the date of such order, the corporate limits of the municipality shall be as set 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 corporate limits by making a minor boundary adjustment, the governing body of such municipality may apply to the county commission of the county wherein the municipality or the major portion of the territory thereof, including the territory to be annexed, is located for permission to effect such annexation by minor boundary adjustment.

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

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

4 If the freeholders of the area proposed to be annexed who are present or are represented at the hearing are not substantially opposed to the proposed boundary change, the commission may enter an order changing the corporate limits of the municipality as requested, which order may be reviewed by the circuit court as an order of a county commission ordering an election may
be reviewed under section sixteen, article five of this
chapter. After the date of such order, the corporate
limits of the municipality shall be as set forth therein,
unless judicial review is sought under the provisions of
said section sixteen. If the proposed change is substan-
tially opposed at the hearing by any such freeholder, the
commission shall dismiss the application. Dismissal of
any such application shall not preclude proceedings in
accordance with the provisions of sections two and three
or section four of this article. The municipality shall pay
the costs of all proceedings under this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick Clarke  
Chairman Senate Committee

J. L. Latimer  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Joe L. Willey  
Clerk of the Senate

Donald F. Kopp  
Clerk of the House of Delegates

Paul B. Toms  
President of the Senate

Speaker of the House of Delegates

The within .......................................................... this the ......................

day of .................................................., 1989.

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Governor