

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 751

BY SENATOR RUCKER

[Introduced February 11, 2020; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §8-6-4a of the Code of West Virginia, 1931, as amended, relating
 2 to removing certain requirements when a municipality seeks to annex property within an
 3 urban growth boundary.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. ANNEXATION.

PART III. ANNEXATION WITHOUT ELECTION.

**§8-6-4a. Annexation without election for municipalities in counties that have an adopted
 countywide zoning ordinance which includes urban growth boundaries.**

1 (a) This section applies to municipalities in counties that have adopted a countywide
 2 zoning ordinance with designated urban growth boundaries and, prior to January 1, 2009, have
 3 adopted local impact fees pursuant to the provisions of §7-20-1 *et seq.* of this code that want to
 4 annex additional property without an election.

5 (b) For purposes of this section only:

6 (1) "Contiguous" means property that is next to, abutting and having a boundary that is
 7 coterminous with the municipality's designated urban growth boundary. The length of a street,
 8 highway, road or other traffic or utility easement, streams, rivers or other natural topography are
 9 not to be used to determine if a property is contiguous: *Provided*, That the width of a street,
 10 highway, road or other traffic or utility easement, streams, rivers or other natural topography may
 11 be used to determine contiguous boundaries.

12 (2) "Urban growth boundary" means a site-specific line, delineated on a zoning map or a
 13 written description in a zoning ordinance identifying an area around and outside the corporate
 14 limits of a municipality within which there is a sufficient supply of developable land within the
 15 boundary for at least a prospective 20-year period of municipal growth based on demographic
 16 forecasts and the time reasonably required to effectively provide municipal services to the
 17 identified area. The urban growth boundary may be called by any name chosen by the county

18 commission, but the word "boundary" shall be used in the name of the boundary. The boundary
19 shall be established by the county commission in agreement with each individual municipality
20 regarding that municipality's boundary. If the county commission and municipality cannot agree
21 upon the location or size of the boundary, either party may file for declaratory judgment relief in
22 the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution
23 by the circuit court. Once a county has adopted an urban growth boundary by its designation on
24 an adopted county zoning map, the gross area inside the boundary may not be reduced without
25 written consent of the municipality. The county commission shall review each urban growth
26 boundary at a period not to exceed 10 years or upon request of the individual municipality.

27 *(c) Procedure for a municipality to annex property within an urban growth boundary. --*

28 (1) If the proposed property to be annexed by a municipality is entirely within the
29 municipality's designated urban growth boundary, then the municipality may annex without an
30 election the proposed property. ~~pursuant to the provisions of section four of this article~~ Agreement
31 with the county commission is not required.

32 (2) If the proposed property to be annexed by minor boundary adjustment by a municipality
33 is entirely within the municipality's designated urban growth boundary, then the municipality may
34 annex without an election the proposed property ~~pursuant to the provisions of section four of this~~
35 ~~article~~ if the provisions of §8-6-5 of this code are followed, except that agreement with the county
36 commission is not required.

37 *(d) Procedure for a municipality to annex property within urban growth boundaries of two*
38 *or more municipalities. --*

39 If the proposed property to be annexed by a municipality is partially or wholly within
40 another municipality's urban growth boundary, then the municipality may annex without an
41 election the proposed property pursuant to the provisions of §8-6-4 of this code if the two
42 municipalities have executed an intergovernmental agreement regarding the annexation of the
43 subject property. Agreement with the county commission is not required.

44 (e) *Procedure for a municipality to annex contiguous property outside an urban growth*
45 *boundary. --*

46 (1) If the proposed property to be annexed by a municipality is outside the municipality's
47 designated urban growth boundary, then the municipality may annex without an election the
48 proposed property pursuant to the provisions of §8-6-4 of this code, if:

49 (A) The proposed property to be annexed is contiguous to the municipality, as defined in
50 this section; and

51 (B) The municipality has the county commission's agreement.

52 (2) Prior to the agreement of the county commission to the annexation of the proposed
53 property the county commission shall:

54 (A) Hold a public hearing;

55 (B) Place a notice on the subject property, which notice shall be the same as that required
56 for property to be rezoned; and

57 (C) At least 15 days prior to the public hearing, publish a notice of the date, time and place
58 of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-
59 1 *et seq.* of this code.

60 (f) *Procedure for a municipality to annex noncontiguous property outside an urban growth*
61 *boundary. --*

62 (1) If the proposed property to be annexed by a municipality is entirely outside the
63 municipality's designated urban growth boundary and is not contiguous to the municipality, as
64 defined in this section, then the municipality may annex without an election the proposed property
65 pursuant to the provisions of §8-6-4 of this code if the municipality has the county commission's
66 agreement and, prior to the agreement of the county commission to the annexation of the
67 proposed property, the county commission shall:

68 (A) Hold a public hearing;

69 (B) Place a notice on the subject property, which notice shall be the same as that required

70 for property to be rezoned; and

71 (C) At least 15 days prior to the public hearing, publish a notice of the date, time and place
72 of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-
73 1 *et seq.* of this code.

74 (2) After the public hearing and on-site notice, if the county commission finds, by a written
75 record, that the proposed annexation is for the good of the county as a whole, then the county
76 commission may agree to the annexation.

77 (g) Prior to the county commission entering an order for any annexation pursuant to this
78 section, the annexed property shall be surveyed by a licensed professional surveyor and a metes
79 and bounds description of the annexed property must be provided to the county commission in
80 which the property is located.

81 (h) After a municipality has annexed property pursuant to this section and the property has
82 been surveyed, the county commission shall enter an order. After the order is entered, the
83 corporate limits of the municipality include the annexed property.

NOTE: The purpose of this bill is to remove certain requirements when a municipality seeks to annex property within an urban growth boundary.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.