

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2699

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[Introduced January 28, 2019; Referred
to the Committee on Government Organization then
the Judiciary.]

1 A BILL to amend and reenact §8-6-5 of the Code of West Virginia, 1931, as amended, relating to
2 municipal annexation by minor boundary adjustment; and providing that 50 percent or
3 more of the land area annexed by minor boundary adjustment shall include land that is
4 occupied residential.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. ANNEXATION.

PART IV. ANNEXATION BY MINOR BOUNDARY ADJUSTMENT.

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

1 (a) ~~In the event~~ If a municipality desires to increase its corporate limits by making a minor
2 boundary adjustment, the governing body of the municipality may apply to the county commission
3 of the county wherein the municipality or the major portion of the territory thereof, including the
4 territory to be annexed, is located for permission to effect annexation by minor boundary
5 adjustment. The municipality shall pay the costs of all proceedings before the commission.

6 (b) In addition to any other annexation configuration, a municipality may incorporate by
7 minor boundary adjustment: (i) Territory that consists of a street or highway as defined in §17C-
8 1-35 of this code and one or more freeholders; or (ii) territory that consists of a street or highway
9 as defined in section §17C-1-35 of this code which does not include a freeholder but which is
10 necessary for the provision of emergency services in the territory being annexed: Provided, That
11 50 percent or more of the land area annexed by minor boundary adjustment shall include land
12 that is occupied residential.

13 (c) A county commission may develop a form application for annexation for minor
14 boundary adjustment. An application for annexation by minor boundary adjustment shall include,
15 but not be limited to:

- 16 (1) The number of businesses located in and persons residing in the additional territory;
17 (2) An accurate map showing the metes and bounds of the additional territory;

18 (3) A statement setting forth the municipality's plan for providing the additional territory
19 with all applicable public services such as police and fire protection, solid waste collection, public
20 water and sewer services and street maintenance services, including to what extent the public
21 services are or will be provided by a private solid waste collection service or a public service
22 district;

23 (4) A statement of the impact of the annexation on any private solid waste collection
24 service or public service district currently doing business in the territory proposed for annexation
25 in the event the municipality should choose not to utilize the current service providers;

26 (5) A statement of the impact of the annexation on fire protection and fire insurance rates
27 in the territory proposed for annexation;

28 (6) A statement of how the proposed annexation will affect the municipality's finances and
29 services; and

30 (7) A statement that the proposed annexation meets the requirements of this section.

31 (d) Upon receipt of a complete application for annexation by minor boundary adjustment,
32 the county commission shall determine whether the application meets the threshold requirements
33 for consideration as a minor boundary adjustment including whether the annexation could be
34 efficiently and cost effectively accomplished under §8-6-2 or §8-6-4 of this code.

35 (e) If the application meets the threshold requirements, the county commission shall order
36 publication of a notice of the proposed annexation to the corporate limits and of the date and time
37 set by the commission for a hearing on the proposal. Publication shall be as in the case of an
38 order calling for an election, as set forth in §8-6-2 of this code. A like notice shall be prominently
39 posted at not less than five public places within the area proposed to be annexed.

40 (f) In making its final decision on an application for annexation by minor boundary
41 adjustment, the county commission shall, at a minimum, consider the following factors:

42 (1) Whether the territory proposed for annexation is contiguous to the corporate limits of
43 the municipality. For purposes of this section, "contiguous" means that at the time the application
44 for annexation is submitted, the territory proposed for annexation either abuts directly on the
45 municipal boundary or is separated from the municipal boundary by an unincorporated street or
46 highway, or street or highway right-of-way, a creek or river, or the right-of-way of a railroad or
47 other public service corporation, or lands owned by the state or the federal government;

48 (2) Whether the proposed annexation is limited solely to a Division of Highways right-of-
49 way or whether the Division of Highways holds title to the property in fee;

50 (3) Whether affected parties of the territory to be annexed oppose or support the proposed
51 annexation. For purposes of this section, "affected parties" means freeholders, firms, corporations
52 and qualified voters in the territory proposed for annexation and in the municipality and a
53 freeholder whose property abuts a street or highway, as defined in §17C-1-35 of this code, when:
54 (i) The street or highway is being annexed to provide emergency services; or (ii) the annexation
55 includes one or more freeholders at the end of the street or highway proposed for annexation;

56 (4) Whether the proposed annexation consists of a street or highway as defined in §17C-
57 1-35 of this code and one or more freeholders;

58 (5) Whether the proposed annexation consists of a street or highway as defined in §17C-
59 1-35 of this code which does not include a freeholder but which is necessary for the provision of
60 emergency services in the territory being annexed;

61 (6) Whether another municipality has made application to annex the same or substantially
62 the same territory; and

63 (7) Whether the proposed annexation is in the best interest of the county as a whole.

64 (g) If the county commission denies the application for annexation by minor boundary
65 adjustment, the commission may allow the municipality to modify the proposed annexation to

66 meet the commissions objections. The commission must order another public hearing if significant
67 modifications are proposed.

68 (h) The final order of the commission shall include the reasons for the grant or denial of
69 the application.

70 (i) The municipality applying for annexation or any affected party may appeal the
71 commission's final order to the circuit court of the county in which the municipality or the major
72 portion thereof, including the area proposed to be annexed, is located. The county commission
73 may participate in any appeal taken from its order in the same manner and to the same extent as
74 a party to the appeal. The order may be reviewed by the circuit court as an order of a county
75 commission ordering an election may be reviewed under §8-5-16 of this code.

NOTE: The purpose of this bill is to require that the land area annexed by municipal annexation by minor boundary adjustment shall include that 50 percent or more of the land area annexed is occupied residential.

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