

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4616

BY DELEGATES MOYE, CAMPBELL AND SPONAUGLE

[Introduced February 13, 2018; Referred
to the Committee on Political Subdivisions 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 requiring a majority of affected parties to authorize minor boundary annexation.

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 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 §17C-1-35 of this code which does not include a freeholder but which is necessary
10 for the provision of emergency services in the territory being annexed.

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

14 (1) The number of businesses located in and persons residing in the additional territory;

15 (2) An accurate map showing the metes and bounds of the additional territory;

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

20 district;

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

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

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

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

29 (d) Upon receipt of a complete application for annexation by minor boundary adjustment,
30 the county commission shall determine whether the application meets the threshold requirements
31 for consideration as a minor boundary adjustment including whether the annexation could be
32 efficiently and cost effectively accomplished under section two or four of this article.

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

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

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

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

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

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

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

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

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

63 (g) The county commission may not consider the petition until the municipality provides a
64 verified petition of a majority of affected parties to the proposed annexation that support the
65 annexation. For purposes of this section, "affected parties" means freeholders, firms, corporations
66 and qualified voters in the territory proposed for annexation, as defined in §17C-1-35 of this code.
67 When: (i) The street or highway is being annexed to provide emergency services; or (ii) the
68 annexation includes one or more freeholders at the end of the street or highway proposed for
69 annexation, then a majority of freeholders whose property abuts a street or highway must sign a
70 petition requesting the annexation.

71 ~~(g)~~ (h) If the county commission denies the application for annexation by minor boundary

72 adjustment, the commission may allow the municipality to modify the proposed annexation to
73 meet the commissions objections. The commission must order another public hearing if significant
74 modifications are proposed.

75 ~~(h)~~ (i) The final order of the commission shall include the reasons for the grant or denial of
76 the application.

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

NOTE: The purpose of this bill is to require a majority of affected persons to a minor boundary adjustment annexation to approve of the annexation.

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