

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 751**

SENATOR RUCKER, *original sponsor*

[Originating in the Committee on Government  
Organization; reported on February 19, 2020]



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 §8-6-4 of this code. Agreement with the county  
31 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 of  
80 the county in 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.