

ENROLLED BILL

Senate Bill No. 4

(By Mr. Hatfield)

Passed March 11, 1931

In Effect Ninety days from Passage

Originating in the.....*Senate*..... Takes effect.....*ninety days from*..... Passage
M. S. Hayes.....*R. M. Kilduff*
Clerk of the Senate. Clerk of the House of Delegates.

CORRECTLY ENROLLED
James W. Maddox.....*Joseph B. Smith*
Chairman House Committee. Chairman Senate Committee.

ENROLLED BILL

(S. B. No. 4)

[Passed March 11, 1931; in effect ninety days from passage.]

AN ACT providing for security against old age want, creating a county system of old age pension relief, prescribing the qualifications of the beneficiaries thereof, providing for public funds by tax levy to maintain the same, prescribing the powers and duties of county courts and administrative officers in relation thereto, and providing penalties for violations of the provisions thereof.

Be it enacted by the Legislature of West Virginia:

That a new article, creating a county system of old age pension relief, be and the same is hereby added to chapter nine of the code of West Virginia of one thousand nine hundred and thirty-one, to

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be known as Article III, "Old Age Pensions", to follow immediately after Article II of said code, and to read as follows:

Section 1. The care and relief of aged persons who are in need and whose physical or other conditions or disabilities seems to render permanent their inability to provide properly for themselves is hereby declared to be a special matter of public concern and a necessity in promoting the public health and welfare. To provide such care and relief at public expense, a county system of old age pension relief is hereby established, to operate in a uniform manner with due regard to the varying living conditions and costs of living. The terms "pension relief" or "relief", whenever used in this article, shall be construed to include assistance, aid, care or support to the class of persons affected thereby; and whenever the masculine pronoun is used it shall be deemed to include the feminine gender.

Sec. 2. Every county court of the state of West Virginia is hereby authorized to establish a system of old age pensions in accordance with the provisions of this article; but before said county pension system shall be established and placed into effect, the county court of any county shall submit to a vote of the people of the county, at any general election held therein,

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7 or at any special election called for the purpose, the question
8 of whether or not said system of old age pension relief shall be
9 established. If a majority of the qualified voters voting at any
10 such election favor old age pension relief, the county court
11 shall provide and maintain said relief beginning with the next
12 fiscal year after the holding of said election. When old age
13 pension relief shall be established in any county, it shall con-
14 tinue therein until changed by a vote of the people. After it
15 becomes effective in any county and has continued therein for
16 a period of two years, the county court thereof may, upon its
17 own motion, and shall, upon the written petition of five hun-
18 dred taxpayers of the county, who are legal voters thereof, sub-
19 mit to a vote of the people of the county, at a general or special
20 election therein, the question of whether or not said system
21 of old age pension shall be continued. If a majority of the
22 qualified voters voting at such election shall vote against the
23 continuance of said old age pension relief, then the county
24 court shall discontinue said system as of the thirtieth day of
25 June next following the date of said election, and the rights of
26 all persons receiving the benefits of such relief shall cease and
27 determine as of that date, and the county court shall cause

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28 written notice, by due course of mail, to be given to the bene-
29 ficiaries of pension relief, to the effect that the pension relief
30 system has been discontinued by a vote of the people, and in
31 addition thereto, the county court shall publish for two suc-
32 cessive weeks in two newspapers published in the county and
33 representing opposite political parties, if there be such, a proc-
34 lamation to the effect that the old age pension system of the
35 county has been discontinued by a vote of the people. If there
36 be but one political party represented in the county by a
37 newspaper published therein, then said proclamation shall be
38 published in one of the papers of said party. If there be no
39 newspaper published in said county, then same shall be pub-
40 lished in some newspaper of general circulation therein. If at
41 any said election said county pension system is discontinued
42 by a majority of the voters thereof, the question of maintaining
43 a system of old age pension relief shall not again be submitted
44 to a vote of the people within a period of five years from the
45 date of the last election, at which said question was submitted.
46 But where the system is discontinued by a vote of the people
47 of the county, the county court may, upon its own motion, and
48 shall, upon the written petition of five hundred taxpayers of

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49 the county who are qualified voters therein, again submit the
50 question of establishing an old age pension system to the voters
51 of the county, after the expiration of five years from the time
52 said election was held, in which said old age pension system
53 was discontinued, and if reestablished by a vote of the people,
54 it shall continue unless again suspended as herein provided.

Sec. 3. Any person while residing in any county, which
2 maintains a system of old age pension relief, who shall comply
3 with the provisions of this article, shall be entitled to a pension
4 in old age. The amount of such pension shall be fixed with due
5 regard to the conditions in each case, but in no case shall it be
6 an amount which shall exceed a total of one dollar per day.

Sec. 4. An old age pension hereunder may be granted only
2 to an applicant who (1) has attained the age of sixty-five years
3 or more; (2) has been a citizen of the United States for at least
4 fifteen years before making application for a pension; (3) has
5 resided in the State of West Virginia and the county in which
6 he makes application continuously for at least ten years imme-
7 diately preceding the date of application, but continuous resi-
8 dence in the state and county shall not be deemed to have been
9 interrupted by periods of absence therefrom, if the total of such

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10 periods does not exceed three years. And absence in the service
 11 of the State of West Virginia or the United States shall not
 12 be deemed to interrupt residence in the state and county if a
 13 domicile be not acquired outside of the state or county; (4) is
 14 not at the time of his application an inmate of any public or
 15 private home for the aged, or any public home, or any public
 16 or private institution of a custodial, correctional or curative
 17 character, except in the case of temporary medical or surgical
 18 care in a hospital; (5) is not because of his physical or mental
 19 condition in need of continued institutional care; (6) during
 20 the period of ten years immediately preceding such date has
 21 not been imprisoned for a felony; (7) has not, within one year
 22 preceding such application for pension, been an habitual tramp
 23 or beggar; (8) has no child or other person responsible under
 24 the law of this State for his support, and able to support him;
 25 (9) has no property, income or other means of support; (10)
 26 has not disposed of or deprived himself, directly or indirectly,
 27 of any property for the purpose of qualifying for old age
 28 pension relief; (11) does not receive a pension from the United
 29 States, or any state or foreign government, or compensation
 30 under the laws of the state of West Virginia.

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Sec. 5. It shall be the duty of the county court to provide
2 adequately for those eligible for old age pension relief, and who
3 apply therefor, under the provisions of this article. The amount
4 and nature of the relief which any such person shall receive,
5 and the manner of providing it, shall be determined by the
6 county court with due regard to the conditions existing in each
7 case, in accordance with reasonable rules and regulations made
8 by said court not inconsistent with the provisions of this article.
9 Relief may include, among other things, medical and surgical
10 care and nursing, in the discretion of the court. The relief
11 granted under this article shall whenever practicable be pro-
12 vided for the recipient in his own or some other suitable family
13 home. The court shall determine in each instance the amount
14 of regular relief to which the applicant is entitled and enter
15 an order fixing the same, and issue to the beneficiary thereof
16 a certificate showing the amount of the monthly allowance to
17 which he is entitled during the continuance of said relief allow-
18 ance. Where a pensioner under this article is seriously ill and
19 in actual need of medical and surgical care and nursing, and
20 the amount of the regular relief provided for him is not suffi-
21 cient to provide for any such medical, surgical and nursing

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22 care, the county court may provide such additional allowance
23 as may be absolutely necessary to pay the expense thereof, and
24 shall enter an order authorizing the payment of such extra-
25 ordinary expense.

Sec. 6. Any person requesting, or applying for pension re-
2 lief under this article, shall make his application therefor to
3 the county court of the county in which he resides. The ap-
4 plicant may apply in person, or the application may be made
5 by another in his behalf. The application shall be made in writ-
6 ing, or reduced to writing, and it shall specify that it is made for
7 old age pension relief under the provisions of this article. The
8 application shall be verified by the person making the same, or by
9 some other reputable person who is acquainted with the facts
10 stated in the petition, and the petition or application should be
11 supported by other competent testimony if available. In consider-
12 ing any such application, the commissioners of the court may
13 make a personal investigation of the condition and circumstances
14 of the applicant, or the court may, in its discretion, appoint some
15 reputable person to make such an investigation in its behalf.
16 Upon any such application being filed, as aforesaid, any citizen
17 or group of citizens of the county may file with the court objec-

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18 tions to the granting of any old age pension relief prayed for
19 in the application, and it shall be the duty of the court to hear
20 evidence offered either in support of or in opposition to the
21 granting of such relief. Any applicant or protestant feeling
22 aggrieved by the action of the court, may, as a matter of right,
23 appeal to the circuit court of the county for further relief. On
24 any such appeal, the original papers filed with the county court,
25 including a transcript of the evidence taken therein, shall con-
26 stitute the record before the circuit court, and the court shall
27 determine the case upon the original record thus presented; or,
28 in lieu of the original record, a complete transcript of the record
29 in the county court certified by the clerk thereof, may be used
30 on appeal at the option of the appellant. The decision of the
31 circuit court shall be certified by the clerk thereof to the clerk
32 of the county court wherein application was made, and the
33 original record, if used, on appeal, shall be returned to the
34 clerk of the county court for its files; and the judgment of the
35 circuit court in any such appeal shall be final.

Sec. 7. Any person who by means of wilful false statement
2 or representation or by impersonation or other fraudulent de-
3 vice obtains or attempts to obtain or aids or abets any person

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4 to obtain any old age pension relief, to which he is not entitled,
5 shall be guilty of a misdemeanor, and on conviction thereof,
6 shall be fined not more than five hundred dollars, or imprisoned
7 in the county jail not more than one year, or be punished by
8 both such fine and imprisonment. And if, upon the death of
9 any beneficiary under this article, it is ascertained that there is
10 any property or estate of which the beneficiary died seized or
11 possessed, or to which he was otherwise lawfully entitled in his
12 lifetime, other than household goods and personal property not
13 exceeding in value the sum of three hundred dollars, the county
14 court shall have a prior lien, second only to taxes, upon such
15 estate, if any, to the amount of the aggregate payments made
16 to the beneficiary under this article, plus three per cent interest
17 on payments so made. In the event of the existence and dis-
18 covery of any such estate upon the death of any such bene-
19 ficiary, it shall be the duty of the prosecuting attorney of the
20 county to proceed, in the name and on behalf of the county
21 court for the use and benefit of the old age pension relief fund,
22 to collect from any such estate any funds so found to be due.

Sec. 8. Any person who has knowledge that old age pension
2 relief is being improperly granted or administered under this

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3 article, may file a complaint in writing with the county court
4 setting forth the particulars of such violation. Upon receipt
5 of such complaint, the county court shall make an investigation
6 of the allegations set forth in such complaint; or if at any time
7 the county court has reason to believe that any such relief has
8 been improperly granted, or fraudulently obtained, it shall
9 cause an investigation to be made. Upon the filing of any such
10 complaint, or upon the determination of the court to make an
11 investigation, it shall be the duty of the court to notify the
12 pensioner of the time and place of the hearing to be held by
13 the court thereon; and the petitioner, or the complainant, may
14 appear in person or by counsel at any such investigation and
15 hearing. If it shall appear as a result of the filing of such com-
16 plaint or investigation that the relief was improperly granted,
17 or that the pensioner has come into the possession of property
18 or estate or other means of support and is no longer in need of
19 such relief, the county court may revoke any certificate thereto-
20 fore issued by it to the pensioner and discontinue any further
21 payments for old age relief under this article, and make any
22 other order that it may deem necessary in the premises. Either
23 party feeling aggrieved by the action of the court shall have

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24 the right of appeal to the circuit court of the county in the
25 manner and form provided in section six hereof.

Sec. 9. The county court of every county which maintains
2 a system of old age pension relief under this article shall keep
3 and maintain an accurate permanent record of all proceedings
4 relating to old age pensions. The clerk of the county court shall
5 do all necessary clerical work in connection with said pension
6 system, and keep and preserve permanent and accurate records
7 and accounts pertaining to the same, and without any additional
8 compensation therefor. Said records and accounts, including
9 the order book, shall be kept separate, distinct and apart from
10 all other fiscal records and accounts of the office of the county
11 clerk, and shall be open to inspection during office hours by
12 any citizen or taxpayer of the county. In addition to the rec-
13 ords and accounts and files of papers kept and preserved by
14 the county court in the clerk's office thereof, it shall be the
15 duty of the clerk to keep and preserve a book of accounts in
16 which he shall open a separate account in the name of each
17 person receiving old age relief under this article, and the clerk
18 shall enter on the debit side of said account the amount of each
19 separate payment made to the beneficiary thereof, together with

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20 the date of the payment and the number of the draft, voucher
21 or check issued for each payment. The account of each pen-
22 sioner shall bear the number of his pension certificate; and said
23 book of accounts shall be carefully indexed by arranging the
24 names of the pensioners in alphabetical order, and giving the
25 page reference to the personal account of each. When pension
26 relief has been allowed by the court and proper orders entered
27 directing the same, it shall be the duty of the clerk of the county
28 court to issue drafts or vouchers on the last day of each month,
29 payable to the beneficiaries thereof and to deliver the same. If
30 any beneficiary under this article is convicted of any crime, mis-
31 demeanor, or felony, or other offense, punishable by imprison-
32 ment for one month or a longer period, the county court shall
33 direct that payment be not made during such period. Upon the
34 conviction of any beneficiary of old age pension herein provided,
35 of a heinous offense involving imprisonment for a period of
36 more than ninety days, his right to receive further relief shall,
37 *ipso facto*, cease and determine. Furthermore, if the bene-
38 ficiary is found incapable of taking care of his money or him-
39 self, on the testimony of reputable witnesses, the county court
40 may direct any installment or payment of pension relief to said

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41 beneficiary to be paid to any reputable person for his benefit,
42 or the court may suspend payment for such period of time as
43 it deems fit.

Sec. 10. All pensions provided for hereunder shall be exempt
2 from any tax levied by the state or any subdivision thereof, and
3 exempt from levy and sale, garnishment, attachment or other
4 process whatsoever, and shall be inalienable in any form.

Sec. 11. In aid of the effective administration and enforce-
2 ment of the provisions of this article, the county court of any
3 county having a population, according to the last decennial
4 census of the United States, of thirty-five thousand or more,
5 may, in its discretion, appoint some reputable and discreet per-
6 son to be known as "county pension agent", and fix his salary
7 in an amount not to exceed the sum of two hundred fifty dollars
8 per month. Such county pension agent shall hold said appoint-
9 ment at the will and pleasure of the county court, and may be
10 removed at any time with or without cause. The county court
11 may allow reasonable actual expenses of said agent incurred
12 in and about the performance of his duties as such. The salary
13 and expenses of said pension agent shall be paid out of the old
14 age pension fund hereinafter provided for. It shall be the duty

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15 of any such county pension agent to investigate, supervise and
16 enforce the provisions of this article under the direction and
17 authority of the county court.

Sec. 12. The pension records and accounts of each county
2 court and the clerk thereof shall be subject to inspection, super-
3 vision and audit by the tax commissioner of West Virginia in
4 the same manner and with the same effect as provided by law
5 for other public funds; and the clerk of the county court of
6 each county maintaining a system of old age pension relief
7 shall annually make report to the tax commissioner of all re-
8 ceipts and disbursements of the county pension relief fund, and
9 in such manner and upon such forms as the tax commissioner
10 may require. Said report shall be made by said clerk within a
11 period of thirty days after the end of each fiscal year.

Sec. 13. Every county court which maintains a system of
2 old age pension relief under this article shall each year at the
3 levy estimate and levy period provided by general law for the
4 making up of estimates and the laying of levies, make up an
5 estimate of the necessary and probable amount needed for old
6 age pension relief, and lay a special levy sufficient for said
7 relief fund, not to exceed the sum of five cents on each one

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8 hundred dollars of assessed valuation of property in the county.
9 The estimates and levies herein provided shall be published in
10 the manner provided by law for general county levies. Said
11 special levy shall apply to all of the taxable property of the
12 county, including that in incorporated cities and towns. Said
13 special levy shall be in addition to all other county levies pro-
14 vided by general law. The fund arising from said special levy
15 shall be known and designated as "the old age pension fund",
16 and no part of said fund shall be expended for any other pur-
17 pose than that for which the same is provided. The sheriff-
18 treasurer of the county shall keep and preserve said fund in a
19 separate and distinct account from all other funds, and shall
20 not pay out of said fund any sum of money for any purpose
21 than the old age pension relief system. The sheriff-treasurer
22 and the sureties on his bond shall be held responsible and account
23 for this fund, and the sheriff-treasurer shall make settlement and
24 account therefor in the manner provided by law for other funds
25 in his hands.

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Joseph O. Smith
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Lawrence Meadows
Chairman House Committee.

J. Alfred Taylor
Speaker of the House of Delegates.

Robert
Clerk of the House of Delegates.

W. H. White
President of the Senate.

M. S. Hodges
Clerk of the Senate.

The within is *Approved*

this *13th* day of *March*, 1931.

W. H. Bailey
Governor.

Filed in the office of the Secretary of State
of West Virginia MAR 14 1931

GEORGE W. SHARP,
Secretary of State.