

ENROLLED BILL
(REGULAR SESSION, 1933)

House Bill No. 243

(By Mr. Zucker (by request))

Passed March 11, 1933

In Effect from Passage

Originated in the..... Takes effect..... passage

Clerk of the House of Delegates.

CORRECTLY ENROLLED

Clerk.

Chairman Senate Committee.

Chairman House Committee.

ENROLLED BILL

(H. B. No. 243)

[Passed March 11, 1933; in effect from passage.]

AN ACT to amend and reenact sections six, ten, eleven, twenty-six, twenty-seven, thirty, thirty-six, eighty-six and ninety-three, chapter sixteen, acts of the legislature of West Virginia, one thousand nine hundred twenty-seven (municipal charters), and add thereto section eleven-(a), relating to the charter of the city of Kenova, Wayne county, West Virginia.

Be it enacted by the Legislature of West Virginia:

That sections six, ten, eleven, twenty-six, twenty-seven, thirty, thirty-six, eighty-six and ninety-three, chapter sixteen of the acts of the legislature of West Virginia for the year one thousand nine hundred twenty-seven (municipal charters), relating to the charter of the city of Kenova, Wayne county, West Virginia, be amended and reenacted, and that sections eleven-(a) and eleven-(b) be enacted and added to the charter of the city of Kenova, Wayne county, West Virginia, to read as follows:

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Dennis A. Hyatt

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Section 6. The mayor, councilmen, chief of police and police
2 judge shall be elected by the qualified voters of said city. The
3 mayor, police judge, councilmen and chief of police shall be
4 elected for the term of two years, and shall hold their respec-
5 tive offices until their successors shall have been duly elected
6 and qualified.

Sec. 10. The first election held under this act shall be held
2 on the second Tuesday in June, one thousand nine hundred
3 thirty-three. Nominations for the respective elective offices
4 provided for under this act shall be made by party conventions
5 held by the two opposite political parties which at the last
6 preceding general election held in November at the voting places
7 in the several precincts in the said city of Kenova cast the
8 highest and next highest number of votes, and certificates of
9 said nominations shall be filed with the city clerk-treasurer at
10 least twenty days prior to said election: *Provided, however,* That
11 nominations may be made by petition as provided by the gen-
12 eral laws of the state of West Virginia: *Provided further,* That
13 the nominations provided for in this act shall be made not less
14 than twenty days nor more than thirty days prior to said elec-
15 tion, and all officers provided for shall qualify according to law

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16 and shall take their several offices, to which they were elected,
17 on the first day of July following their election.

Sec. 11. All regular elections for subsequent years shall be
2 held on the same day of the month as provided by this act,
3 biennially, and all the provisions herein shall apply to regular
4 elections.

5 The present mayor and all elective officers shall hold their
6 respective offices until the first day of July, one thousand nine
7 hundred thirty-three, or until their successors are elected and
8 qualified.

Sec. 11-(a). The common council of the city of Kenova shall
2 convene in special session on the third Tuesday in May next
3 preceding any special or regular municipal election, for the
4 purpose of appointing ballot commissioners and election officers
5 and transacting such other business as is necessary for the hold-
6 ing of the aforesaid election: *Provided*, That at least five days
7 before the aforesaid appointments are to be made, the clerk of
8 the city of Kenova shall notify the chairmen of the respective
9 municipal executive committees of the two opposite political
10 parties as aforesaid of such appointments: *Provided further*,
11 That if the chairman of either of the executive committees as

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12 aforesaid shall designate, in writing, a member of such party as
13 one of the said commissioners or clerks having the qualifications
14 of a voter, he (or she) shall be appointed by the aforesaid com-
15 mon council: *Provided further*, That the political party which
16 cast the highest number of votes at the last preceding general
17 election as aforesaid shall have the right to the majority of the
18 election officers of each election board and may designate not
19 more than two commissioners and one clerk for each election
20 board in the several precincts in the said city of Kenova, who
21 shall be appointed as aforesaid by the common council of said
22 city: *Provided further*, That a vacancy shall be filled in the same
23 manner as an original appointment, but immediate notice shall,
24 where necessary, be deemed compliance with the aforesaid five
25 day notice provision: *Provided further*, That if the board of
26 education of the independent school district of Ceredo-Kenova
27 shall appoint the same election officers (as those appointed as
28 aforesaid by the common council) to conduct a special or regu-
29 lar school election to be held at the voting places in the several
30 election precincts of the city of Kenova and on the same date
31 as the aforesaid municipal election, such election officers shall
32 conduct such special or regular school election in conjunction

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During A. Higgins
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33 with the aforesaid municipal election: *Provided further*, That
34 the necessary ballots, ballot boxes, poll books, tally sheets, and
35 other election supplies shall be furnished the aforesaid election
36 officers by the secretary of the aforesaid board of education:
37 *Provided further*, That the ballots, ballot boxes, poll books,
38 tally sheets, and all other records of said school special or regu-
39 lar election shall be returned to the secretary of the afore-
40 said board of education by one of the aforesaid commissioners
41 of election immediately after the completion of the count, tabu-
42 lation and declaration of the result of the aforesaid special or
43 regular school election as held at the voting places in the several
44 precincts of the city of Kenova. *Provided further*, That for the
45 purpose of conducting the aforesaid special or regular school
46 election, the secretary of the aforesaid board of education shall
47 furnish the aforesaid election officers a registration of the voters
48 as adopted and certified by the aforesaid board of education
49 for the aforesaid special or regular school election to be held in
50 the several election precincts of the city of Kenova, or in lieu
51 thereof an official statement by the aforesaid board of education
52 that it has adopted the same registration of voters for the en-
53 suing special or regular school election as that adopted by the

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54 aforesaid common council for the ensuing special, or regular
55 municipal election: *Provided further*, That the common council
56 of the city of Kenova shall have the right to take whatever addi-
57 tional steps (mutually agreeable to the common council and the
58 board of education of the said independent school district of
59 Ceredo-Kenova) are practicable and necessary to further con-
60 solidate the aforesaid elections: *Provided further*, That the cost
61 of holding such elections shall be prorated between the said
62 board of education and the city of Kenova.

Sec. 11-(b). The common council of the city of Kenova
2 shall convene in regular or special session on the first Tuesday
3 in May next preceding any special or regular municipal elec-
4 tion to be held in said city, for the purpose of hearing matters
5 pertaining to the registration of voters; said city council, when
6 so sitting, shall adopt as the official registration of voters for
7 the ensuing special or regular municipal election a list certi-
8 fied and furnished by the clerk of the county court of the regis-
9 tration of the voters of the respective precincts in the city of
10 Kenova as adopted by the county court for the next preceding
11 general election held in the precincts of said city; at the afore-
12 said meeting, the city council shall appoint registrars, one each

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13 from the two opposite political parties which at the last pre-
14 ceding general election held as aforesaid cast the highest and
15 next highest number of votes. Said registrars shall sit together
16 at each voting precinct on the second Friday and Saturday next
17 preceding the ensuing special or regular municipal election
18 for the purpose of further amending, correcting, and com-
19 pleting the aforesaid certified registration of voters as furnished
20 by the clerk of the county court. The aforesaid registrars shall
21 each receive five dollars per day for their services. The city
22 council at its regular place of meeting shall sit on Tuesday
23 next preceding any special or regular municipal election for
24 the purpose of completing and certifying the official registra-
25 tion of voters for the ensuing special or regular municipal elec-
26 tion.

Sec. 25. The mayor, in addition to any duties conferred in
2 any other section of this act, shall have the following duties: He
3 shall be the chief executive officer of the city, and shall have and
4 exercise all the rights, powers and duties conferred by this act.
5 He shall have direct supervision of the police department, and
6 all policemen, including the chief of police. He shall see that
7 the laws and ordinances of the city and resolutions and orders

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8 of the common council are enforced, that the peace and good
9 order of the city are preserved, that persons and property within
10 the city are protected; he shall be presiding officer of the com-
11 mon council and a member thereof, and shall have the right to
12 vote on all questions. He shall be a conservator of the peace
13 and ex officio a justice of the peace. He shall receive an annual
14 salary of three hundred dollars per annum.

Sec. 26. It shall be the duty of all councilmen elected, ap-
2 pointed and qualified, to attend all meetings of the common
3 council; and they may be required to attend such meetings upon
4 written notice, signed by the mayor and served on them by the
5 chief of police or other policeman. The councilmen shall re-
6 ceive an annual salary of two hundred dollars per annum.

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Sec. 27. The police judge shall be ex officio a justice of the
2 peace, with authority to issue warrants or other process: *Pro-*
3 *vided, however,* That he shall not exercise any civil jurisdiction
4 of such justice until he shall have given the bond required by
5 law as a justice of the peace. The police judge shall have ju-
6 risdiction of all offenses committed within the corporate limits
7 of the city of Kenova or within one mile of the corporate limits
8 thereof: *Provided, however,* That such jurisdiction shall not ex-

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9 tend to the corporate limits of any adjoining incorporated city,
10 town or village. Said police judge shall likewise have jurisdic-
11 tion of any offense under the state laws, and may impose any
12 fine or imprisonment for a violation of such state law as a
13 justice of the peace is now, or may hereafter, be authorized to
14 do under the law of this state. The police judge shall have
15 jurisdiction of all offenses for violations of any city ordinances,
16 and may impose such fines and imprisonment as are authorized
17 by such ordinances and this act, and may direct that riotous
18 and disorderly persons in the city be arrested and detained
19 without issuing any warrant therefor. The police judge shall
20 have jurisdiction to commit persons charged with felony or
21 misdemeanor to jail, to take bond for their appearance before
22 the grand jury of any court having jurisdiction thereof, shall
23 have power to issue executions for all fines, penalties and costs
24 imposed by him, may require the immediate payment thereof,
25 and, in default of such payment, may commit the person so in
26 default to jail until fine, penalty and costs shall be paid or satis-
27 fied. And the person in default of the payment of fine, penalty
28 and costs, may be required to work on the streets, roads, alleys
29 or other public improvements of the city until such fine and

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30 costs are paid, the person so employed to receive the sum of one
31 dollar per day for each day of ten hours he shall be employed
32 and his board and lodging. Any person sentenced to imprison-
33 ment or any person against whom a fine in excess of ten dollars
34 or more is assessed shall be allowed to appeal from the deci-
35 sion of the police judge to the circuit court of Wayne county,
36 upon execution of an appeal bond with surety deemed sufficient
37 by the police judge, and in a penalty double the fine and costs,
38 which bond shall be conditioned that the person proposing to
39 appeal will perform and satisfy any judgment which may be
40 entered against him by the circuit court of Wayne county on
41 such appeal. And in no case shall a fine of less than ten dollars
42 be assessed by the police judge, if the defendant, his agent or
43 attorney demand that such fine be made as much as ten dollars:
44 *Provided*, That if the ordinance under which such person is
45 fined does not authorize a fine of ten dollars or more as a maxi-
46 mum fine, the person, his agent or attorney may require that
47 said police judge assess the maximum fine authorized in such
48 ordinance; and the person so fined shall be entitled to an ap-
49 peal from the judgment of said police judge assessing such
50 maximum fine. If any appeal be taken as herein authorized,

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51 the warrant, if any warrant there be, the transcript of the
52 judgment, the appeal bond and all other original papers of the
53 case shall be forthwith mailed to the clerk of the circuit court
54 of Wayne county, West Virginia, and the police judge shall
55 append to such papers bound together the same certificate now
56 required of justices of the peace for transcripts of appeal cases.
57 And the said circuit court of Wayne county shall proceed to
58 try the case as if upon an indictment or presentment, and may
59 render such judgment, including that of costs, as the law and
60 offense may demand. The police judge shall receive a salary
61 of two hundred dollars per annum, and in addition thereto,
62 shall be paid for his services the same amounts as justices of the
63 peace are now paid, which amounts may be taxed as part of
64 the costs in any proceeding or trial had before said police judge.

Sec. 30. The city attorney shall be a practicing attorney at
2 law, duly admitted to practice as a resident attorney of the
3 state of West Virginia; he shall likewise be a resident of the
4 county of Wayne, state of West Virginia. The said attorney
5 shall be legal adviser and counsel for the city of Kenova, and
6 for all of its officers on matters pertaining to their respective
7 duties. He shall prosecute and defend all suits for and against

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H. B. Rogers

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8 the city; he shall prepare all contracts, bonds and other instru-
9 ments required by the common council; he shall furnish to the
10 common council or any officer of the city, an opinion on any
11 question pertaining to the city government; he is hereby author-
12 ized and required to apply in the name of the city to any court
13 of competent jurisdiction for an order of injunction to restrain
14 any misapplication of funds of the city, the abuse of the cor-
15 porate powers of the city, and the execution or performance of
16 any illegal contract made by the city, or any contract which is
17 procured by fraud or corruption; said attorney shall prepare
18 all ordinances when required so to do by the common council,
19 and he shall do and perform any and all other things, which
20 the common council may, by ordinance or resolution require.

21 The city attorney shall receive as compensation the sum not
22 to exceed two hundred fifty dollars per annum, and he may
23 receive such other compensation for special work as may be
24 agreed upon between said city attorney and the common council.

25 The common council may, in its discretion, employ and pay
26 special counsel in any matter, not to exceed one hundred fifty
27 dollars in any calendar year.

Sec. 36. The compensation of all appointive officers as de-

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2 fined in this act shall be fixed by the common council: *Provided,*
3 *however,* That the compensation of the city engineer and city
4 attorney may be paid on the basis of a yearly salary or a fee
5 system, and that the salaries of all appointive officers may be
6 changed at any time upon a majority vote of the council.

Sec. 86. The common council shall have the power to appoint
2 a health commissioner who shall be a regular practicing physi-
3 cian, and reside within the limits of the city. The compensation
4 of said commissioner shall be fixed by the council and shall not
5 be more than one hundred fifty dollars per year: *Provided,*
6 *however,* That in case of epidemic or dire distress, extra com-
7 pensation may be allowed not to exceed one hundred dollars
8 in any calendar year.

Sec. 93. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

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James L. Smith
 Chairman Senate Committee.

Wm. S. Shriver
 Speaker of the House of Delegates.

Geo. I. Kace
 Clerk of the House of Delegates.

Wm. S. Shriver
 President of the Senate.

Wm. S. Shriver
 Clerk of the Senate.

James L. Smith
 Chairman House Committee.

The within is.....

this.....day of....., 1933.

.....
 Governor.

Filed in the office of the Secretary of State
 of West Virginia. **MAR 18 1933**

Wm. S. O'BRIEN,
 Secretary of State