

Rec, Mar. 11, 1933

566

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 566

(By Mr. Carden)

Passed March 11, 1933

In Effect from Passage

Originated in the House Takes effect Passage

Clerk of the House of Delegates

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Clerk

Chairman Senate Committee

Chairman House Committee

ENROLLED BILL

(H. B. No. 566)

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

~~AN ACT~~ to create the independent school district of Barkers Ridge
in the county of Wyoming.

Be it enacted by the Legislature of West Virginia:

Section 1. The magisterial district of Barkers Ridge in the
2 county of Wyoming, as now bounded and designated in the rec-
3 ords in the office of the clerk of the county court of said county,
4 shall be and is hereby created an independent school district to
5 be known as "Barkers Ridge independent school district, herein-
6 after mentioned as Barkers Ridge district.

Sec. 2. There shall be a board of education for said district
2 composed of a president and two commissioners who shall con-
3 stitute a board of education for said district named "board of
4 education of Barkers Ridge district." Each member of said
5 board shall be a qualified voter and a bona fide resident of said

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6 district and shall have been such for at least two years prior to
7 his election, and shall be the owner of real estate which shall
8 have been charged with taxes in his name on the tax records of
9 Wyoming county for at least two years prior to his election.

Sec. 3. The president and commissioners now in office shall
2 serve to the end of the term to which they have respectively been
3 elected.

Sec. 4. The board of education shall consist of a president and
2 two commissioners to be elected by the qualified voters of the
3 district at large. The president and one commissioner shall be
4 elected at the general election in one thousand nine hundred
5 thirty-four and serve for a period of four years, for which they
6 were elected, and until their successors are elected or appointed
7 and have qualified according to law. The other commissioner
8 shall be elected at the general election in one thousand nine
9 hundred thirty-six and shall serve for a period of four years,
10 for which he or she was elected, and until his or her successor
11 is elected or appointed and has qualified according to law. Their
12 terms of office shall commence on the first day of July next after
13 their election, and shall continue for four years. Thereafter the

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14 board of education shall perpetuate itself by the above described
15 manner.

Sec. 5. Before entering upon their duties as officers, the said
2 president and each of said commissioners shall be required to
3 qualify by taking and subscribing the following oath of office:
4 "I,....., do solemnly swear (or affirm) that
5 I will faithfully perform the duties of president of the board of
6 education (or school commissioner) of Barkers Ridge district
7 during the term for which I was elected, to the best of my abil-
8 ity; so help me God."

9 The secretary of the board of education is authorized to ad-
10 minister said oath, a copy of which shall be kept and preserved
11 by him in the files of his office.

Sec. 6. The salaries of the members of the board shall be fixed
2 by the board: *Provided*, That the salary of the president shall
3 not exceed the sum of sixty dollars per annum and the salary of
4 each commissioner shall not exceed the sum of forty-eight dol-
5 lars per annum.

Sec. 7. Vacancies in the office of president or commissioners
2 shall be filled by its own members and, in case of a tie, the county
3 superintendent of schools shall make the appointment of a duly

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Sec. 8. The board of education of Barkers Ridge district shall be a body corporate in law by the name of "board of education of Barkers Ridge district" and as such, may sue and be sued, plead and be impleaded, contract and be contracted with, purchase, hold, sell and convey real or personal property for the purpose of education within the district, receive any gift, donation or devise for the benefit of education; employ attorneys, become parties to suits and contracts, and do and perform any and all other corporate acts as necessary and proper to the advancement of free school education in said district. It shall succeed and be substituted to all of the rights of the former board of education of the district of Barkers Ridge in the county of Wyoming, and may prosecute any and all suits and proceedings now pending, or which may have been brought and prosecuted in the name of the former board of education for the recovery of any money or property, or damage to any property due to or vested in said board of education, and said board of education shall be liable in its corporate capacity for all claims

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19 legally existing against said board of education; the title to all
20 real estate and personal property now vested in the board of
21 education of Barkers Ridge district in the county of Wyoming
22 shall be and is hereby vested in the board of education of the
23 independent district hereby created, and all legal contracts of
24 the former board now shall be and are hereby declared to be
25 binding on the new board and on all parties to said contracts.

Sec. 9. At the first meeting in July, one thousand nine hun-
2 dred thirty-three, the board shall elect a secretary whose term
3 of office shall begin at the time of his election and shall continue
4 not to exceed a period of four years, as determined by the board.
5 The board shall determine the time for which the secretary shall
6 serve, and shall elect a new secretary upon the expiration of his
7 term. The secretary shall serve during the term for which he is
8 elected and until his successor is elected and qualified, but he
9 may be removed by the board of education of Barkers Ridge in-
10 dependent school district at any regular meeting for immorality,
11 misconduct, neglect of duty, or lack of proficiency. Any vacancy
12 in the office shall be filled for the unexpired term by the board.
13 The secretary shall qualify by executing his bond with good
14 security in such penalty as the board may prescribe, to be

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Sec. 10. The board of education shall hold its regular meetings
2 on the first Monday in July, the first and third Tuesdays in
3 August, and, when the schools are in session, on the fourth
4 Saturday in each calendar month, or other regular day in the
5 fourth week of the month to be agreed upon by the board, all
6 such meetings to be held at a place to be designated by the board
7 at its first meeting held on the first Monday in July in each year.

13 A majority of all the members of a board of education shall
14 constitute a quorum and such board shall not transact any
15 official business except when assembled as a board.

Sec. 11. The secretary shall record in a well-bound book to
2 be provided for the purpose, all official acts and proceedings of
3 the board, which shall be a public record open to the inspection
4 of all persons interested therein; he shall also keep and preserve

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5 books of account which shall show the resources of the board for
6 each current year and the funds from which the same is derived;
7 all credits to be charged against said resources by way of delin-
8 quents, commissions and otherwise; all disbursements made by
9 the board and on account of what fund, and the balance to the
10 credit of each fund, together with a descriptive entry, showing
11 for what purpose each item of disbursement is made, which books
12 of account shall always show the financial resources of the dis-
13 trict and shall always be open to the inspection of any taxpayer
14 of the said district; he shall also preserve in his office all papers
15 containing evidences of title, contract and obligation; and in
16 general, shall record and keep in his office all records, papers and
17 documents as shall be required by this act, and perform such
18 duties, not inconsistent herewith, as may be prescribed by the
19 board; he shall make such reports as are required to be made by
20 secretaries of the board of education by the general school laws
21 of the state; for his services he shall receive a salary to be fixed
22 by the board.

Sec. 12. Admission to the various schools in the district shall

2 be gratuitous to all children, wards and apprentices of actual
3 residents within the district between the ages of six and twenty-

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4 one years: *Provided*, That pupils, who are nonresidents of the
5 district may be allowed to attend the schools of the independent
6 school district hereby created upon the payment of such tuition
7 as the board of education may prescribe, which tuition, however,
8 shall not be less than the sum of five dollars per month for stu-
9 dents in the high school of said district, and not less than three
10 dollars per month for students in the grade classes of said
11 district.

Sec. 13. The superintendent shall require a school census to
2 be taken on or before the twentieth of October of each year.
3 The enumeration shall distinguish between males and females
4 and white and colored. The enumeration shall be made by the
5 teachers of the district; but they shall receive no compensation
6 therefor.

Sec. 14. The enumeration shall be taken and reported in
2 separate classes as follows:

3 (1) All youths who on the first day of July following, will be
4 not less than six nor more than twenty years of age;

5 (2) All youths who on the above date will be not less than six
6 nor more than sixteen years of age;

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7 (3) All youths who on the above date will be not less than
8 seven nor more than sixteen years of age;

9 (4) All youths who on the above date will be over fourteen
10 and under sixteen years of age.

11 The person making the report shall verify it and accompany
12 it with an affidavit that he used all reasonable diligence in its
13 preparation and that he believes it to be accurate. He shall
14 deliver the report to the secretary not later than the twentieth
15 day of October. If he fails to do so or the report is not complete
16 and accurate, the secretary shall deduct from his month's salary
17 an amount sufficient to defray the expenses of a proper enum-
18 eration.

Sec. 15. When a proper report is not received on the date
2 prescribed the secretary shall employ a competent person to
3 make the proper report. The person making the enumeration
4 and report shall receive reasonable compensation for the time
5 actually necessary to prepare the report. Payment shall be made
6 from the teachers' fund by an order of the board drawn on the
7 sheriff.

Sec. 16. The state superintendent of schools, in his report to
2 the auditor, shall specify separately the enumeration of youths

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3 in said district, and in the apportionment of the school funds,
4 the amount due said district shall be certified to the secretary
5 of said board separately and requisition therefor shall be drawn
6 in favor of the board of education of said district, and shall be
7 deposited with the sheriff of Wyoming county.

Sec. 17. The board of education shall provide by condemna-
2 tion, purchase, lease, construction or otherwise, such school
3 houses and grounds, furniture, fixtures and appliances as may
4 be necessary for school purposes, and keep and maintain the
5 same in good order and repair; shall supply said school build-
6 ings with fuel and other things necessary for comfort and con-
7 venience; and shall pay all charges incurred by virtue of any of
8 the provisions of this act which are not chargeable to the teach-
9 ers' fund. In order to provide the funds which are necessary for
10 the purpose of this section, the board of education shall annually,
11 at its first regular meeting in August, make an estimate of the
12 amount of money needed in the district for the purpose of main-
13 taining the school for the term fixed, and the secretary shall
14 record such estimate in his record for public inspection. At the
15 second regular meeting in August, or as soon thereafter as prac-
16 ticable, the board of education shall proceed to lay such levy on

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17 the property taxable in said district, in the manner, within the
18 limits and not to exceed the amounts prescribed by the general
19 school laws of the state relating to levy by the board of education
20 for that purpose.

21 All contracts made by the board, to the extent that they shall
22 involve the levy of any future year, shall be void, and no debts
23 shall be contracted or incurred by the board in any one year
24 which shall exceed the funds available for that purpose, unless
25 the object, nature and extent thereof shall have been submitted
26 to the voters of the district, at a special election to be called by
27 the board for that purpose, and shall have received a majority
28 of all the votes cast for and against the same: *Provided*, That in
29 case a bond issue is voted upon, a three-fifths vote of all votes
30 cast shall be necessary for such bond issue; the president of said
31 board shall issue a proclamation of said election, in which he
32 shall recite the object, nature and extent of the indebtedness
33 proposed to be incurred, and for what purpose; which procla-
34 mation shall be published once in each week for four weeks,
35 previous to the day of election, in at least two newspapers pub-
36 lished in said county of Wyoming. Every special election held
37 pursuant to the provisions of this section, except as herein other.

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38 wise specially provided, shall be held and conducted and the
39 results certified in the manner prescribed by the general elec-
40 tions. The proceeds of taxes so levied, or property sold, of all
41 donations and devises applicable to any of the purposes men-
42 tioned in this section shall constitute a fund, to be called the
43 "building fund," to be appropriated exclusively to the purpose
44 mentioned in this section.

Sec. 18. In addition to the levy mentioned in the preceding
2 section, the board of education shall for the support of the
3 schools in the district annually levy such tax on the taxable
4 property in the district, as will with the money received from the
5 state for the support of free schools, be sufficient to keep the
6 schools in operation for not less than eight months in the year
7 for the grades; and nine months for the high school; and the
8 board may, if in its opinion the same is deemed advisable, con-
9 tinue any of said grade schools in said district for a period not
10 to exceed nine months in the year. Such levy shall not exceed
11 the limits prescribed for such purpose by the general school laws
12 of the state. The proceeds of this levy, together with the money
13 received from the state aforesaid, shall constitute a special fund,
14 to be called the "teachers' fund," and no part thereof shall be

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15 used for any purpose than the payment of teachers' salaries and
16 the salary of the superintendent.

Sec. 19. Upon the failure of the board of education to lay the
2 levies required by this act, or any of them, they may, upon the
3 petition of any taxpayer of the district, be compelled to do so
4 by the circuit court of Wyoming county by writ of mandamus.

5 The taxes so levied by the board of education shall be collected
6 in the same manner and at the same time as the state and county
7 taxes by the sheriff of Wyoming county; and he shall credit the
8 same to the proper fund or funds. The sheriff shall report in
9 writing to the board of education monthly, and as otherwise
10 required by said board as to the condition of the several funds.
11 The sheriff shall receive for his services the salary or emolument
12 provided for by the statute laws of the State of West Virginia
13 and none other.

Sec. 20. The board of education upon the recommendation of
2 the superintendent shall prescribe all necessary rules and regu-
3 lations for the government of the schools of the district; for the
4 admission of pupils therein and for the exclusion of pupils
5 dangerous to the health or detrimental to the morals and discip-
6 line of the schools; it shall hire all teachers, establish and main-

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tain high schools and evening schools as may be necessary and
with the approval of the superintendent designate such branches
of learning as shall be taught therein; upon the recommendation
of the said superintendent it may prescribe the textbooks other
than those adopted by the state textbook commission to be used
in the schools of the district and establish a system of grades by
which admission to the high school shall be regulated.

Sec. 21. The board of education is hereby given the power
to abandon any schools within the district which in its opinion
are not necessary, and shall have the power to consolidate any of
the schools in the district. It shall, however, be the duty of the
board to provide for the transfer of pupils from any schools so
abandoned, and if in the opinion of the board the same should
be rendered necessary by the abandonment or consolidation of
any of said schools, the board shall have the power and authority
to provide for the transportation of any pupils to said schools to
which they are transferred.

Sec. 22. No money shall be disbursed except by order of the
board, duly entered of record, and every order on the treasurer
for payment of money shall be signed by the president and secre-
tary, and shall specify upon its face the particular account to

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5 which the same is chargeable.

Sec. 23. On or before the first meeting in July, after this act
2 takes effect, the board of education shall appoint a superintend-
3 ent of schools and fix his salary; whose term of office shall begin
4 at the time of the appointment and continue not to exceed a
5 period of three years, as determined by the board; but he may
6 be removed at any time for immorality, misconduct, or lack of
7 efficiency; any vacancy in the office shall be filled by the board
8 for the unexpired term. The superintendent shall have general
9 supervision of the conduct of the schools, make all necessary re-
10 ports and perform such other duties as the board may prescribe.
11 Such superintendent may act as agricultural club agent.

Sec. 24. On or before the first Monday in July of each year
2 the board of education shall employ a sufficient number of teach-
3 ers for its schools. These teachers shall be nominated by the
4 superintendent of schools and no teacher shall be employed who
5 does not hold a valid West Virginia certificate.

Sec. 25. Teachers shall be subject in all respects to the rules
2 and regulations adopted by the board, and they may be removed
3 by the board for incompetency, immorality or misconduct after

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4 due hearing upon complaint of the supervisor or any member of
5 the board.

Sec. 26. Every person having under his control a child or
2 children between the ages of seven and sixteen years, residing in
3 Barkers Ridge independent school district, shall cause such child
4 or children to attend public school in said district, and such
5 attendance shall begin at the beginning and shall be continued
6 through the school year thereof, and for every neglect of such
7 duty the person offending shall be guilty of a misdemeanor and
8 shall, upon conviction thereof, be fined two dollars for the first
9 offense and five dollars for each subsequent offense together with
10 the cost of prosecution, and in the discretion of the court or
11 justice, be required to enter into a bond in the penal sum of
12 fifty dollars conditioned that the person so convicted will cause
13 such child or children to attend public school in accordance with
14 the provisions of this act. Such bond shall be made payable to
15 the board of education of Barkers Ridge district and any amount
16 which may be recovered thereon shall be placed to the credit of
17 the building fund of said district. Any failure to give bond in
18 the manner and within the time prescribed shall be a misde-

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19 meanor and punished by a fine of not less than five dollars nor
20 more than ten dollars and the cost of prosecution.

21 An offense as intended and provided by this act, shall consist
22 in the failure of such person to send to school any such child or
23 children for more than one day in any one week in which the
24 schools are in session unless the attendance of such child or
25 children be prevented by personal sickness: *Provided*, That if
26 such child or children have been outhewise instructed for a
27 like period of time in the branches of learning required by law
28 to be taught in public schools, or have already acquired such
29 branches or if, in the opinion of the superintendent of the school
30 district the mental or physical condition of such child or chil-
31 dren is such as to render such attendance inexpedient or imprac-
32 ticable, such penalty shall not be incurred.

33 Any fine so collected shall be paid to the secretary of the
34 board of education, who shall pay the same to the sheriff and
35 take his receipt therefor, and the sheriff shall deposit the same
36 in the proper account to the credit of the building fund of the
37 district.

38 If any person against whom such proceedings shall be insti-
39 tuted shall satisfactorily prove in the course of such proceedings

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40 that he has made all proper effort to compel such child or chil-
41 dren to attend a school as hereinbefore provided, and that be-
42 cause of the disobedience of such child he has been unable to do
43 so, such fact shall constitute a defense to such proceedings.
44 Thereupon the truant officer shall take such proper proceedings
45 before the proper court to have such child judged incorrigible
46 and committed to the boy's industrial school at Pruntytown or
47 the girls' industrial home at Salem.

Sec. 27. To aid in the enforcement of this act the board of
2 education shall appoint and employ one or more truant officers
3 whose compensation shall not exceed five dollars per day and
4 whose term of office shall be fixed by the board. The truant
5 officer shall be vested with police powers and authority to serve
6 warrants, and shall have authority to enter workshops, factories,
7 stores and all other places where children shall be employed and
8 do whatever may be necessary in the way of investigation or
9 otherwise, to enforce this act. The truant officer shall have full
10 authority without warrant to apprehend any child between the
11 ages of seven and fifteen years who shall have been reported to
12 him in writing by the superintendent or principal and to place
13 such child in a public school which he should have attended or

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14 in which he should have been, or has been enrolled, or to place
15 such child, at the expense of the parent, guardian or other per-
16 son having such child under his control in such private school
17 as the parents, guardian or other person having such child
18 under his control shall select. In case such parent, guardian
19 or other person having such child under his control shall refuse
20 or fail, immediately upon being notified to select such private
21 school, then the said truant officer shall at once place such child
22 in the public school of the district in which such child resides.

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Sec. 28. Any person who induces or attempts to induce any
2 such child unlawfully to absent himself from school, or harbors
3 or employs such child unlawfully absent from school while the
4 school in the district in which the child lives is in session, shall
5 be guilty of a misdemeanor and shall be punished by a fine of
6 twenty-five dollars, and may be imprisoned not to exceed ten
7 days in jail.

8 The truant officer shall institute proceedings against any
9 person or persons violating this act, and perform such other
10 offices as the superintendent or the board of education may deem
11 necessary to preserve the morals and secure the good conduct of
12 any school child or children, and to enforce this act.

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13 Such officer shall keep a record of his transactions for the
14 inspection and information of the superintendent or the board
15 of education, and shall make such reports to the superintendent
16 or the board throughout the year, as he or it may require. The
17 principals, teachers of all schools, public and private or other-
18 wise, in such school district, shall report to the superintendent
19 the names, ages, and residences of all pupils of compulsory age
20 in attendance at their respective schools, together with such
21 other facts as the superintendent may require to facilitate the
22 carrying out of the provisions of this act, and said superinten-
23 dent shall furnish blanks for such purposes and such reports
24 shall be made at such times or time as the said superintendent
25 shall prescribe by rules to be adopted by him. Such principals
26 and teachers shall report to the proper truant officer or to the
27 superintendent of school of the said school district all cases
28 of truancy and unlawful absentee in their respective schools as
29 soon as practicable after truancy or absence.

30 If any person shall fail to comply with the provisions of this
31 section requiring reports to be made as aforesaid, he shall be
32 guilty of misdemeanor and punished by a fine of five dollars
33 and the cost of prosecution. Any fine so collected shall be paid

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34 the secretary of the board of education and by him paid to the
35 sheriff, who shall receipt him therefor, deposit the same in the
36 proper account and place it to the credit of the building fund
37 of the district. If to any prosecution instituted under the pro-
38 visions of this act, a satisfactory defense shall be made, so that
39 proceedings shall be dismissed or the defendant shall be judged
40 not guilty, the cost of any such prosecution shall then be paid
41 by the board of education of Barkers Ridge district out of the
42 funds under its control.

43 When so directed by the superintendent or the board of ed-
44 ucation or when it otherwise comes to the notice of any truant
45 officer of said school district, such officer shall examine into any
46 case of truancy or unexplained absence of the school children
47 of compulsory age in said school district. When any children
48 are not attending school without lawful excuse and in violation
49 of the provisions of this act, the truant officer shall notify in
50 writing the person having control of such child or children to
51 send the same to school. But the serving of such notice shall
52 not be essential preliminary to prosecution under the provisions
53 of this act. Any court or justice of the peace of Wyoming

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54 county shall have jurisdiction over and take cognizance of all
55 offenses provided by this act.

Sec. 29. All provisions of the general schol law of this state
2 which are inconsistent or in conflict with any of the provisions
3 of this act shall be void within said district of Barkers Ridge;
4 otherwise to have full force and effect.

Sec. 30. All other acts and parts of acts inconsistent here-
2 with are hereby repealed.

Sec. 31. If a part of this act is for any reason declared un-
2 constitutional, the decision of the court shall not affect the
3 validity of any remaining portion.

Sec. 32. This act shall not be effective unless the same shall
2 first be submitted to the voters of the magisterial district of
3 Barkers Ridge, of Wyoming county, at a special election called
4 for that purpose, and adopted by a majority of the votes cast
5 for and against the same at said election. The board of educa-
6 tion shall call such election within four months after this act
7 takes effect, and such election shall be held at all precincts in
8 such district upon notice published once a week for two weeks
9 in some newspaper published in the county of Wyoming and
10 by notice posted at each precinct in said district for ten days

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11 preceding such election. Said election shall be conducted,
12 officers appointed, returns canvassed and result declared as
13 any school election in said district is now authorized by law.

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P. M. Hiner
Speaker of the House of Delegates.

Geo. W. Hall
Clerk of the House of Delegates.

P. S. Mainwaring
President of the Senate.

David D. Lindley
Clerk of the Senate.

James A. Smith
Chairman House Committee.

The within is... *disapproved*
by request of delegate *Orie Gorden*
who introduced the same,
this... *17* day of... *March*..., 1933.

H. S. Kump
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1933**
Wm. S. O'BRIEN,
Secretary of State