

Rec., Mar. 10, 1933

16

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 71

(By Mr. Perry)

Passed March 3, 1933

In Effect from Passage

Originated in the.....

Takes effect.....

Passage.....

John S. Hall
Clerk of the House of Delegates.

John S. Hall
Clerk.

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Seneca D. Stone
Chairman Senate Committee.

James L. Smith
Chairman House Committee.

ENROLLED BILL

(H. B. No. 71)

[Passed March 3, 1933; in effect from passage.]

AN ACT to amend and reenact sections three, four, twelve, thirteen, fourteen, fifteen, sixteen, twenty-seven, thirty, thirty-four, thirty-five, thirty-seven, fifty-seven, fifty-nine and sixty of the acts of the legislature of West Virginia, being chapter six (municipal charters) of the acts of one thousand nine hundred fifteen, passed February eleven, one thousand nine hundred fifteen, and adding section sixteen-(a) thereto, relating to the city of Martinsburg.

Be it enacted by the Legislature of West Virginia:

That sections three, four, twelve, thirteen, fourteen, fifteen, sixteen, twenty-seven, thirty, thirty-four, thirty-five, thirty-seven, fifty-seven, fifty-nine and sixty of chapter six, (municipal charters), of the acts of the legislature of West Virginia, one thousand nine hundred fifteen, be amended and reenacted, and section sixteen-(a)

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added thereto, to read respectively as follows:

Section 3. The said city shall consist of seven wards, which shall be bounded as follows:

First Ward

Beginning in the line of the corporation line in the center of West Virginia avenue thence with the corporation line to the west side of Alabama avenue, and corner to ward number three; thence with the line of ward number three eastwardly to Porter avenue in the center of First street; thence eastwardly with the center of First street to the center of Winchester avenue; thence southwardly with Winchester avenue to the center of West Stephen street; thence eastwardly on West Stephen street to the intersection of Virginia avenue and Faulkner avenue; thence southwardly on Faulkner avenue to the center of West Virginia avenue, thence with center of same to the beginning.

Second Ward

Beginning in the line of the corporation line in center of West Virginia avenue; thence with the corporation line eastwardly and northeastwardly to the center of Tuscarora creek; thence west to the center of said creek and Spring run; thence southwestwardly up Spring run to the center of East Stephen

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21 street; then westwardly with East and West Stephen street to
22 the intersection of Virginia avenue and Faulkner avenue; thence
23 south to the center of Faulkner avenue; thence southwardly
24 with the center of same to the center of West Virginia avenue;
25 thence along center of same to the beginning.

26

Third Ward

27 Beginning in the center of West King street and South Maple
28 avenue; then northwardly with the center of South Maple ave-
29 nue to the center of West Burke street; thence westwardly along
30 the center of West Burke street to the center of South Raleigh
31 street; thence southwardly along center of same to the center of
32 West King street; thence along center of same to the corner of
33 corporation line at Tennessee avenue; thence with corporation
34 line to the corner of same west side of Alabama avenue; thence
35 southwardly with the west side of Alabama avenue to the corner
36 of ward number one; thence with line of same to the center of
37 Virginia avenue and West Stephen street; thence eastwardly
38 center of West Stephen street to the center of South Maple ave-
39 nue; thence northwardly along center of same to the beginning.

40

Fourth Ward

41 Beginning at the center of West Stephen street and South

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42 Maple avenue; thence with the center of South Maple avenue
43 and South Maple avenue to the center of West Burke street;
44 thence eastwardly on the center of same to the center of the Bal-
45 timore and Ohio railroad, southeastwardly along the center of
46 said railroad to the corner of corporation line east of Tuscarora
47 creek; thence with the corporation line to the center of Tus-
48 carora creek, westwardly up center of Tuscarora creek to the
49 center of Spring run and Tuscarora creek; thence southwardly
50 with Spring run to the center of East Stephen street; thence
51 with the center of said street to the beginning.

Fifth Ward

52 Beginning at the center of West King street and South Ral-
53 eigh street, thence westwardly with the center of West King
54 street to the corporation corner at Tennessee avenue; thence
55 with the corporation line northeastwardly to the center of Balti-
56 more and Ohio railroad; thence eastwardly along the center of
57 said railroad to the center of East Race street; thence west-
58 wardly up the center of East Race street to the center of Maple
59 avenue along the same; thence south along the same to the cen-
60 ter of East Burke street; thence westwardly along West Burke
61 street to the center of Raleigh street; thence southwardly along
62

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63 Raleigh street to the center of West King street to the place of
64 beginning.

65

Sixth Ward

66 Beginning at the center of Liberty street and Third street,
67 thence eastwardly with the center line of Liberty street east-
68 wardly to the corporation line; thence southwestwardly with
69 the corporation line to the corner of same east of bridge over
70 Tuscarora creek to ward number four and center of Baltimore
71 and Ohio railroad tracks; thence westwardly along center of
72 said railroad to the center line of East Burke street; thence
73 westwardly with Burke street to the center of Maple avenue;
74 thence northwardly with Maple avenue to the center of West
75 Race street to the Baltimore and Ohio railroad tracks; thence
76 northwardly along said Baltimore and Ohio railroad to the cen-
77 ter of North Queen street; thence along North Queen street to
78 the center of Liberty and Third streets to the center of begin-
79 ning.

80

Seventh Ward

81 Beginning at the corporation line of the west side of the Mar-
82 tinsburg and Williamsport turnpike at a small bridge or cul-
83 vert; thence with corporation line southeastwardly and south-

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84 westwardly, west and southwestwardly to the corner of ward
85 number six intersection with corporation line and center of
86 Liberty street to the center of North Queen street; thence south-
87 wardly with North Queen street to the center of Baltimore and
88 Ohio railroad tracks; thence westwardly with the said Baltimore
89 and Ohio railroad tracks to the corporation line and corner of
90 ward number five; thence with corporation line northeastwardly
91 and southeastwardly to the beginning.

92

Municipal Authorities

ARTICLE 4

Section 4. The municipal authorities of the city of Martins-
2 burg shall be the mayor, and one councilman each of the seven
3 wards, who shall constitute the council.

ARTICLE 8

Section 12. The first election under this act shall be held on
2 the second Tuesday in June in the year one thousand nine hun-
3 dred thirty-four, and on the same day every two years there-
4 after. Such elections, and all subsequent elections, shall be held
5 in such manner as is, or shall be prescribed by law.

6 No more than two election commissioners shall be of the same
7 political party, and the clerks and challengers shall be one each

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8 of two political parties. The council may at any time change
9 the names and boundaries of precincts, may create more pre-
10 cincts in each ward and may arrange all or any of the precincts
11 in any wards, but shall be so made as to have as nearly as prac-
12 ticable not more than six hundred voters residing in any one
13 precinct, and it shall be the duty of the council to arrange said
14 precincts, if after any election more than six hundred votes
15 be cast at the precinct, so that the new precinct will, as far
16 as practicable, contain not more than six hundred voters each.
17 Special elections for any purpose must be authorized by the
18 council and called by the mayor. Notices of all special elections
19 must be given by publication in two newspapers of general cir-
20 culation, published in the city of Martinsburg, at least thirty
21 days before the date fixed for such special election and by post-
22 ing such notices in such manner as the council may prescribe.
23 The council shall sit on the second day after every election
24 as a board of canvassers, each member of the council having
25 one vote; and as such board of canvassers, they shall canvass,
26 ascertain, publish and declare the result of any election held;
27 and the circuit court of Berkeley county shall have power to
28 control proceedings of said board of canvassers by mandamus

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29 and prohibition. The said board shall keep in a separate book
30 a record of its proceedings, and shall take down and record any
31 evidence, motion, or paper filed, or offered by any candidate,
32 which book and record shall be open to the public and shall be
33 kept in the custody of the recorder.

34 *Election of Officers*

ARTICLE 9

Section 13. On the second Tuesday in June, one thousand
2 nine hundred thirty-four, and on the same day every two years
3 thereafter, there shall be elected by the qualified voters of the
4 city, a mayor, who shall hold his office from the first day of
5 July succeeding in the year in which he is elected for a term
6 of two years, and until his successor is elected and qualified.

ARTICLE 9

Section 14. No person shall be eligible to the office of mayor
2 except a citizen entitled to vote at the election at which he is
3 elected, and has been assessed and paid taxes in the city of Mar-
4 tinsburg upon a valuation of at least five hundred dollars' worth
5 of real or personal property therein, for the year pre-
6 vious, and any person elected to said office who has not been
7 assessed and paid taxes on such amount of property or who

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8 shall be or become an officer or employee of any person, firm
9 or corporation holding any franchise or contract under or with
10 said city shall not qualify or enter upon the performance of the
11 duties thereof, but such office shall become vacant and shall be
12 filled by a qualified person as provided herein for other vacan-
13 cies.

ARTICLE 9

Section 15. On the second Tuesday in June, one thousand
2 nine hundred thirty-four, there shall be elected one councilman
3 from each ward of said city as constituted under this act. Said
4 councilmen so elected in each of said seven wards shall hold
5 their office for the term of two years from the first day of
6 July, one thousand nine hundred thirty-four. At each election
7 thereafter seven councilmen, that is to say, one from each ward,
8 shall be elected by the qualified voters thereof for the term of
9 two years from the first day of July, following their election.

ARTICLE 9

Section 16. Councilmen must be residents at the time of their
2 election, and voters in the ward from which they are elected,
3 and have been assessed and paid taxes in the city of Martins-
4 burg for the year previous upon a valuation of at least one

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5 hundred dollars (\$100.00) worth of real or personal property
6 therein, and any person elected to said office who has not been
7 assessed and paid taxes on such amount of property or who
8 shall be or become an officer or employee of any person, firm
9 or corporation holding any franchise or contract under or with
10 said city, or shall remove from said ward, shall not qualify or
11 enter upon the performance of the duties thereof, such office
12 shall become vacant and shall be filled by a qualified person as
13 provided herein for other vacancies. And the circuit court of
14 Berkeley county is hereby given jurisdiction by mandamus on
15 quo warranto at the suit of any taxpayer in the city to declare
16 and enforce such vacancy.

ARTICLE 9

Section 16-(a). Primary elections shall not be held, but can-
2 didates for elective offices may be nominated by nominating con-
3 ventions. Organized political parties, desiring to nominate
4 candidates shall hold ward meetings on the call of the chairman
5 of such party, not earlier than April fifteenth or later than May
6 first before any city election, at some place designated in each
7 ward, at which a candidate to represent such party for council
8 from such ward in the ensuing election shall be chosen, to-

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9 gether with the number of delegates to which the ward is en-
10 titled to a convention to choose the candidate of such party for
11 mayor, which convention shall be held on the second Tuesday in
12 May, preceding such election, at the hour and place designated
13 by the chairman of such party. The chairman of such meet-
14 ings and conventions shall certify to the recorder for placing
15 upon the official ballot the candidate nominated thereat. The
16 executive committee for each ward shall be selected in the same
17 manner and at the same time the delegates to the mayoralty
18 convention are chosen. Candidates shall not be nominated in
19 any other way.

20

Appointive Officers

ARTICLE 18

Section 30. The council shall appoint a recorder and audi-
2 tor, sergeant, treasurer, city attorney, commissioner of streets,
3 water superintendent, chief of fire department and building in-
4 spector, policemen, and all other officers, all of whom shall be
5 residents of the county of Berkeley, and the council shall pre-
6 scribe the duties and fix the salaries of such officers and also
7 fix the salaries of all other officers not otherwise provided for
8 in this act.

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James L. Smith

Chairman House Committee.

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Duties of Commissioner of Streets

ARTICLE 21

Section 34. The council shall appoint a commissioner of
2 streets for said city, who shall be a competent civil engineer,
3 and who shall perform all such duties as may now or hereafter,
4 by ordinance, be imposed upon him. His salary shall be fixed
5 by council from term to term.

6

Duties of Treasurer

ARTICLE 22

Section 35. The council shall appoint a treasurer, whose
2 duties shall be to keep all funds of the city in some bank or
3 banks in said city in his name as treasurer of the city of Martins-
4 burg, which shall pay interest on such deposits equal at least
5 to that paid by state depositories on all funds of the state of
6 West Virginia, and in the same manner at the same time. Be-
7 fore receiving any such deposits, such banks shall give bond in
8 such penalty as the council shall prescribe and with sureties
9 to be approved by said council, conditioned for the prompt
10 payment whenever lawfully required of all city moneys, or parts
11 thereof, which may be deposited with them, which bond shall
12 be renewed at such times as the council may require.

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13 Before receiving any money under said election, said treas-
14 urer shall give bond in such amount and with such provisions as
15 the council may by ordinance prescribe; his salary shall be fixed
16 by the council from term to term.

17 In addition to the duties herein set forth the treasurer shall
18 perform such other duties as may be required by the council.

19

Duties of City Attorney

ARTICLE 23

Section 37. The council shall appoint a city attorney who
2 shall be the legal adviser of the city and all its officers in all
3 matters arising and in which legal proceedings may be taken;
4 he shall prosecute all suits, actions and proceedings instituted
5 on behalf of said city and defend all suits and actions against
6 said city, and, when requested in writing, shall give his written
7 opinion to the mayor and council, or any standing committee
8 thereof, upon such legal questions as may be referred to him
9 affecting the city's interest; he shall perform such other duties
10 as may be required. It shall be his duty to attend ses-
11 sions of the police court, when requested by the mayor, and
12 prosecute all trials therein and all appeals that are taken from

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James D. Hyman

Chairman Senate Committee.

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13 such court, and for his services he shall receive such compensa-
14 tion as the council shall provide.

15

Fire Department

ARTICLE 35

Section 57. The council shall, appoint the salaried members
2 of the fire department; said fire department shall be under the
3 supervision and subject to rules and regulations prescribed by
4 the council. The council shall fix their salaries from time to time.

5 The council shall appoint a civil service commission, consisting
6 of three members, none of whom shall be members of the council,
7 or of the paid or volunteer fire department, and not more than
8 two of whom shall be of the same political party. One shall be
9 appointed for two years, one for four, and the other for six
10 years; every two years one member of the commission shall be
11 appointed, and all members shall be eligible to succeed them-
12 selves.

12-a This commission shall have power to conduct examina-
13 tions, as to the fitness of all salaried members of the fire depart-
14 ment, and to recommend suitable men for appointment by the
15 council. The council shall make no appointments except from
16 those recommended by said commission. The council shall adopt

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James L. Smith

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17 by proper ordinance, rules and regulations governing the activi-
18 ties of said commission.

19 *Existing Officers and Ordinances*

ARTICLE 37

Section 59. All officers, agents and employees of the city of
2 Martinsburg, shall remain in and hold their offices and discharge
3 the duties thereof, until the first day of July, one thousand nine
4 hundred thirty-four, unless the term of office sooner expires and
5 thereafter until their successors are qualified, and all existing
6 officers not provided for by this act, shall be abolished as of the
7 first day of July, one thousand nine hundred thirty-four, ex-
8 cept firemen, who shall hold office until their successors are
9 appointed and qualified as provided in this act.

10 All valid ordinances and regulations passed and adopted by
11 the council, on or before the first day of January one thousand
12 nine hundred thirty-three, and not inconsistent with this act,
13 shall be and remain in full force, unless and until repealed, and
14 the council now in office shall continue to exercise its powers,
15 as such, until the first day of July one thousand nine hundred
16 thirty-four.

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House
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17 All acts in conflict or inconsistent with this act are to the
18 extent of any such conflict, hereby repealed. If any clause, para-
19 graph or section of this act should be declared to be unconsti-
20 tutional, all other clauses, paragraphs and sections thereof shall
21 not be affected thereby.

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James A. Hume
Chairman Senate Committee.

James L. Smith
Chairman House Committee.

R. M. Hines
Speaker of the House of Delegates.

John S. Hall
Clerk of the House of Delegates.

R. B. Matthews
President of the Senate.

Robert Smiley
Clerk of the Senate.

The within is.....

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

.....
Governor.

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