

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935

ENROLLED

HOUSE BILL No. 171

(By Mr. Paul and Winter)

PASSED February 5, 1935

In Effect from Passage

Filed in the office of the Secretary of State
of West Virginia FEB 11 1935

Wm. S. O'BRIEN,
Secretary of State

171

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House Bill No. 171
[BY MESSRS. PAUL AND WINTER]

[Passed February 5, 1935; in effect from passage.]

AN ACT to amend and reenact section four, chapter one hundred twenty-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, relating to the charter of the city of Logan; providing for the nomination by primary election of candidates for mayor and councilmen to be voted upon at municipal elections as provided by the charter of said city, and providing for the election of municipal executive committeemen by the several political parties.

Be it enacted by the Legislature of West Virginia:

That section four, chapter one hundred twenty-four, acts of the Legislature of West Virginia, regular session one thousand nine hundred thirty-three, be and same hereby is amended and re-enacted as follows:

Section 4. Candidates to be voted for at all general municipal

2 elections at which a mayor and councilmen are to be elected under
3 the provisions of this charter shall be nominated at a primary
4 election, and no other names shall be printed on the ballots used
5 at the general election except those selected in the manner pre-
6 scribed by this amendment to the charter.

7 The first primary election for mayor and councilmen under
8 this amendment to the charter shall be held on the second Tues-
9 day in March, one thousand nine hundred thirty-five, and every
10 primary election for mayor and councilmen shall be held bi-
11 ennially thereafter on the second Tuesday in March.

12 At a meeting of the city council to be held on the last Tues-
13 day in February preceding every primary and general election
14 for the offices of mayor and councilmen there shall be ap-
15 pointed three judges and two poll clerks for said primary and
16 general election for each voting precinct in the city in the man-
17 ner herein provided.

18 One judge and one poll clerk shall be appointed from each of
19 the two political parties which at the last preceding state and
20 county election cast the highest number of votes in Logan
21 county, and if at any time during said meeting of council the
22 city executive committee of either political party from which

23 said judges and poll clerks are to be selected or appointed shall
24 present to said council a writing signed by them, or by the
25 chairman of said committee in their behalf, requesting the ap-
26 pointment of qualified voters of their political party who are
27 otherwise qualified to act as such officers under the laws of
28 West Virginia, it shall be the duty of said council to appoint
29 the persons named in such writing as such election officers.

30 The remaining judge for each election precinct in the city
31 may be of either of the above named political parties, and shall
32 be appointed by the council.

33 The said city executive committees, or the chairman thereof,
34 may appoint a challenger for each election precinct in the city,
35 subject to the same provisions governing the appointment,
36 qualifications and duties of challengers as set forth in the elec-
37 tion laws of the state of West Virginia.

38 The city executive committees now existing shall continue in
39 office and to function until their successors are elected under
40 this act.

41 Such judges, poll clerks and challengers shall receive for
42 their services the same compensation that is provided by state
43 law for compensation for such similar officers and said election

44 officers shall have the same duties and responsibilities, and shall
45 take and subscribe to the same oaths, and shall conduct the elec-
46 tions in conformity with and be subject to the same regulations
47 and penalties as are provided by the state law governing elec-
48 tions and offenses against the same in so far as the same may be
49 applicable.

50 Any person who is eligible to hold the office of mayor or coun-
51 cilman may file in the mayor's office a certificate declaring
52 himself a candidate for the nomination of such, which certificate
53 shall be in the form and effect as follows :

54 I,, hereby certify that I am a candidate
55 for the nomination for the office of mayor (or councilman), to
56 represent the party, and desire my name printed
57 on the official ballot of said party to be voted at the primary
58 election to be held on the second Tuesday in March, 19.....; that
59 I am a qualified voter of the City of Logan, County of Logan,
60 and State of West Virginia; that my residence is in the City of
61 Logan; that I am eligible to hold the said office; that I am a
62 member of and affiliated with said political party; that I am
63 a candidate for said office in good faith.

64

.....
(Signature of Candidate)

65

66 Subscribed to and acknowledged before me this day
67 of, 19.....

68

.....
(Signature of officer taking affidavit)

70 Such certificate shall be filed in the mayor's office at least
71 ten days before the primary election day, and shall be signed
72 and acknowledged by the candidate before some officer quali-
73 fied to administer oaths, who shall certify the same.

74 Immediately upon the expiration of the time for filing the
75 above certificates the mayor shall cause to be published for one
76 week in two newspapers of opposite politics in said city the
77 names of the persons as they are to appear upon the respective
78 primary ballots of each political party, and the said mayor shall
79 thereupon have the primary ballots printed and authenticated
80 with a facsimile of his signature. There shall be a separate
81 primary ballot of candidates for each political party who have
82 filed their petition as required by this act on different color of
83 paper, and the primary ballot of no two political parties shall
84 be of the same color or tint. The same color shall be used for
85 sample primary ballots of each party, but there shall be printed
86 across the face of such sample ballot in large words "sample

87 ballot'' but no sample ballot shall be voted or counted. Said
88 official primary ballots shall be printed in accordance with the
89 election laws of West Virginia governing the printing of ballots
90 for state and county elections, and shall be of the form and effect
91 as follows:

92 OFFICIAL BALLOT OF

93 The Party

94 The City of Logan, Primary Election, March, 19.....

95 (To vote for a candidate mark an "X" in the square opposite
96 to the left of his name.)

97 FOR MAYOR.

98 (Vote for One)

99 ☐ A B

100 ☐ C D

101 ☐ E F

102 FOR COUNCILMEN

103 (Vote for Five)

104 ☐ A B

105 ☐ C D

106 ☐ E F

107 Etc.

108 Official ballot, attest:

109 Facsimile of the signature, ,Mayor.

110 On the back of the ballot there shall be printed in black ink,
111 plain and legible, the name of the political party as contained
112 in the heading followed by the word "ballot." Under this
113 designation shall be printed two blank lines, followed by the
114 words "poll clerks."

115 At said primary election to be held on the second Tuesday in
116 March, one thousand nine hundred thirty-five, and biennially
117 on the second Tuesday in March thereafter, the said political
118 parties of the city shall elect one committeeman from each
119 voting precinct in the city to serve until the next primary
120 election, or until their successors are elected and qualified.

121 Candidates for the office of committeeman shall file in the
122 mayor's office a certificate declaring themselves as in the
123 case of candidates for the nomination of mayor and council-
124 man and their names shall be placed upon separate ballots for
125 each voting precinct as in the primary ballot. Upon the
126 result of the election of committeemen being declared, the
127 successful candidates shall qualify by taking an oath to faith-
128 fully perform the duties of their office to the best of their
129 skill and judgment.

130 Unless otherwise provided in this amendment to the char-
131 ter all primary and general elections held in said city shall
132 be conducted and the results thereof certified and returned,
133 and officially determined in accordance with the provisions of
134 the election laws of the state of West Virginia in force at the
135 time of holding said elections, and the penalties therein pre-
136 scribed for offenses relating to said elections shall be en-
137 forced against the defenders of said municipal election. On
138 the day following a primary election the city council shall
139 canvass the returns received from the polling precincts, and
140 declare the results thereof. The candidate on each ticket re-
141 ceiving the highest number of votes for mayor and the five
142 candidates on each ticket receiving the highest number of votes
143 for councilman shall be the candidates whose names shall be
144 placed upon the ballots at the next ensuing general election,
145 and the committeeman from each voting precinct for each
146 party receiving the highest number of votes shall be declared
147 elected.

148 If two or more persons on the same ticket receive an equal
149 number of votes for the nomination of the same office, or in
150 case of committeemen for the same office, and more than the

151 other candidates, so that there is no choice at the primary, or
152 election of committeemen, the city council shall determine by
153 lot the name out of those voted on at the primary and tied as
154 aforesaid to be placed on the ballots for the next ensuing
155 general election, or as the case may be, the committeeman
156 elected.

157 The necessary and legitimate expenses of the holding of any
158 such primary, as well as of any regular or special municipal
159 election in said city, for ballots, stationary forms, ballot boxes,
160 booths, voting places, registrars, judges, clerks and challengers
161 and notices of the election shall be paid by the city. At every
162 such primary or general election the polls shall open at six-
163 thirty a. m. and close at six-thirty p. m.

164 In the event of a demand by any candidate for a recount of
165 the votes cast at any primary or general election held in said
166 city or in the event of the institution of a proceeding to con-
167 test said election, the council in office at the time of said elec-
168 tion shall pass on and decide such recount or contest of election
169 in like manner as provided for in contests for state, county
170 and district officers and the council by their proceedings in
171 such cases shall as nearly as practicable conform with like pro-

172 cedings of the county court in such cases. Candidates desiring
173 a recount shall file their application with the council imme-
174 diately upon the completion of the canvassing of the votes and
175 the said council shall continue in session from day to day until
176 such recount is completed, and the result declared, using due
177 diligence to the end that the result of the primary election be
178 declared in due time for the printing and publication of the
179 ballot for the general election as herein provided for.

180 Unless otherwise herein provided in this amendment to the
181 charter, the secretary to the mayor shall be charged with all
182 the duties and responsibilities which under the general elec-
183 tion laws of West Virginia devolve upon the clerks of the
184 county court and the circuit court, and the mayor and council
185 shall be charged with all the duties and responsibilities which
186 under the general election laws of West Virginia devolve upon
187 the board of canvassers, and upon the county court, and they
188 shall be subject to all the penalties therein prescribed for of-
189 fenses relating to elections.

190 The candidates thus nominated by each of said political
191 parties for the office of mayor and councilman receiving the
192 largest vote in the ensuing city election shall be declared elected.

193 On the Thursday next following any election hereunder the
194 council shall meet and canvass, ascertain, declare and record
195 the results of said election. The general election laws gov-
196 erning the ascertainment and declaration of the results of elec-
197 tion of county officers and relating to appeals and proceed-
198 ings for review or reversal of decisions of the board of can-
199 vassers concerning the same are hereby made applicable to all
200 elections of officers held under this act.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Clinton Howard
Chairman Senate Committee

Charles M. Pickers
Chairman House Committee

Originated in the

House of Delegates

Takes effect

from

passage.

Charles M. Pickers
Clerk of the Senate

Charles M. Pickers
Clerk of the House of Delegates

Charles E. Hodge
President of the Senate

John E. Lott
Speaker House of Delegates.

The within *approved* this the *8th*

day of *February*, 1935.

H. S. Lott
Governor.