

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

SENATE BILL No. 212

(By Mr. Spencer)



PASSED March 5 1935

In Effect from Passage

212

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**Senate Bill No. 212**

(BY MR. SPILLERS)

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

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AN ACT to amend and reenact sections five, six, twelve, thirteen, and eighteen of "The Greater Wheeling Charter", chapter twenty-one, acts of the Legislature of West Virginia, one thousand nine hundred fifteen, approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred fifteen, as last amended and reenacted by chapter six, acts of the Legislature of West Virginia (municipal charters), one thousand nine hundred twenty-nine, relating to the charter of the city of Wheeling.

*Be it enacted by the Legislature of West Virginia:*

That sections five, six, twelve, thirteen and eighteen of "The Greater Wheeling Charter", chapter twenty-one, acts of the Legislature of West Virginia, one thousand nine hundred fifteen, approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred fifteen, as last amended and reenacted by chapter six, acts of the Legislature of West Virginia (municipal charters), one thousand nine hundred twenty-nine, be amended and reenacted to read as follows:

Section 5. The first election for manager-mayor and councilmen under this amendment to the charter shall be held on the fourth Thursday in May, one thousand nine hundred thirty-five and every regular city election for manager-mayor and councilmen shall be held every four years thereafter on the fourth Thursday in May. All elections for manager-mayor and councilmen shall be conducted and the results ascertained and declared in accordance with the election laws of West Virginia in effect at the time of said election so far as the same may be applicable and not inconsistent with any of the provisions of this act, except that all other elections or votes

12 on any question by the qualified voters of said city shall be  
13 held or taken at such places under the supervision of such  
14 persons and subject to such regulations as are consistent with  
15 the said election laws of West Virginia and ordained by  
16 council.

17 The city council at its regular meeting held on the first  
18 Tuesday in April next before every election for the offices of  
19 manager-mayor and councilmen shall appoint for each voting  
20 precinct in the city two competent persons as registrars one  
21 each from the two political parties which at the last preceding  
22 state and county election cast the highest number of votes in  
23 the county of Ohio but the city executive committee of such  
24 political parties may present to the council a writing signed  
25 by the chairman of the committee of each party requesting the  
26 appointment of a qualified voter of his political party, as  
27 registrar, with his city address, for each precinct in the city  
28 and the council shall appoint the person named in such writ-  
29 ing as such registrar. No person shall be eligible to appoint-  
30 ment as a registrar, or in any way act as such, who has been  
31 convicted of a felony, or who holds any elective or appointive  
32 office or is an employee under the laws of the city of Wheeling.

33 county of Ohio, state of West Virginia or of the United States  
34 or who is not a qualified voter in the precinct for which he is  
35 appointed, or who can not read and write the English lan-  
36 guage. If such registrar shall fail or refuse to serve, the  
37 vacancy shall be filled either by the city council, or the man-  
38 ager-mayor of the city in vacation, in the manner hereinbefore  
39 provided for the appointment of registrars, and the city clerk  
40 shall notify all such persons of their appointment as registrars.  
41 Said registrars shall before entering upon the discharge of  
42 their duties take an oath to support the constitution of the  
43 United States, the constitution of West Virginia, and to per-  
44 form the duties of their office to the best of their ability and  
45 that they are legal members of the party for which they are,  
46 respectively appointed. The said oath shall be filed in the  
47 office of the city clerk. The city clerk shall cause to be pre-  
48 pared suitable books and blanks for the registration of the  
49 voters and such books shall be so arranged as required by  
50 law for the registration of voters for general elections held  
51 in the state of West Virginia and all the provisions, duties  
52 and obligations as set forth in the election laws of West Vir-  
53 ginia shall apply to the registration of voters hereunder, ex-

54 cept as herein otherwise set out, and the city clerk shall  
55 perform the duties required of the county clerk.

56 As soon as possible after their appointment the registrars  
57 shall proceed to register the names of all the qualified voters  
58 in their respective precincts and shall complete said registra-  
59 tion on or before the third Thursday in April preceding said  
60 election, and, for the purpose of amending, correcting and  
61 completing said registration, shall sit together at some con-  
62 venient place within the voting precinct for two days, com-  
63 mencing the fourth Thursday in April preceding said election  
64 from nine o'clock A. M. to one o'clock P. M. and from two  
65 o'clock P. M. to nine o'clock P. M., and shall give notice of the  
66 time and place of their sitting for such registration and cor-  
67 rection by posting written or printed notices of the time and  
68 place of such sitting for five days prior thereto at not less  
69 than three of the most conspicuous places in said voting pre-  
70 cinct, one of which shall be at the place of voting in said  
71 precinct. At the time of said sitting the books of registration  
72 shall be open for public inspection, and the said registrars,  
73 in the manner hereinbefore provided shall register all qualified  
74 voters who have not theretofore been so registered by them

75 and complete and finish their registration of the voters within  
76 their said precinct and make out two alphabetical lists of the  
77 registered voters within said precinct entitled to vote at the  
78 ensuing election as registered by them and shall sign and  
79 return the same to the city clerk on or before the first Thurs-  
80 day in May preceding said election; each of the said registrars  
81 shall receive the same compensation as may be provided by  
82 the laws of West Virginia for the performance of similar  
83 duties in state and county elections. The registration books  
84 shall be sent to the polling place along with the ballots and  
85 no person who is not duly registered thereon shall be allowed  
86 to vote at said election.

Sec. 6. Said city shall have a city council of not less than  
2 twelve members composed of one member from each ward in  
3 said city. All councilmen shall take office on the first day of  
4 July, following their election, and shall serve for a term of  
5 four years and until their successors are elected and have  
6 qualified, unless sooner removed from office as hereinafter  
7 provided. They shall be residents and qualified voters of their  
8 respective wards in said city. No one elected a member of  
9 such city council or manager-mayor shall be eligible to hold

10 such office who shall be interested directly or indirectly in  
11 the profits or emoluments of any contract, job, work or service  
12 for the city, or in any sale to it of any property, real or  
13 personal; or be, directly or indirectly, a holder or owner of  
14 any bond or stock of any public utility corporation enjoying  
15 a franchise privilege or easement in or from such city; or be  
16 an officer, agent, trustee, servant or employee of such a cor-  
17 poration. If any such person shall serve or attempt or con-  
18 tinue to serve as a member of such city council or manager-  
19 mayor, who is not eligible for such office, he shall be guilty of  
20 a felony, and upon conviction thereof, be confined in the peni-  
21 tentiary of this state not less than one nor more than five  
22 years. The manager-mayor shall be nominated and elected  
23 from the city at large and shall serve for a term of four years  
24 and until his successor is elected and has qualified, unless  
25 sooner removed from office as hereinafter provided. He shall  
26 be the chairman or presiding officer of council and shall be  
27 known officially as the manager-mayor of the city and recog-  
28 nized as such for ceremonial purposes, and for the purpose  
29 of being served with civil process against the city, and for the  
30 performance of all duties imposed upon him by this charter.



Sec. 12. The council shall appoint the following named  
2 officers of the city, to-wit: a clerk who shall be known as the  
3 city clerk and who shall keep all records of the meetings of  
4 the city council and perform such other duties as may be re-  
5 quired by this charter or the council; an auditor who shall  
6 be known as the city auditor and who shall audit the finances  
7 of the city of Wheeling and perform such other duties as are  
8 prescribed in this charter or as the city council by ordinance  
9 or resolution shall prescribe. All appointees of council shall  
10 hold office at the pleasure of council and receive such com-  
11 pensation therefor as council may determine.

12 Council may, by contract with the board of commissioners  
13 of Ohio county, provide that the same person may be ap-  
14 pointed to the office of city health officer and act as such  
15 city health officer and also be appointed or selected by the  
16 board of commissioners of Ohio county as county health offi-  
17 cer, during the same period of time, and perform similar duties  
18 for the city of Wheeling, and the county of Ohio, and council  
19 may contract with said board of commissioners of Ohio county  
20 whereby said board and said city of Wheeling shall agree upon  
21 the amount of compensation to be paid said joint health officer

22 and the part of the compensation of any such health officer  
23 so appointed to fill both offices, to be paid by each the city of  
24 Wheeling and the board of commissioners; and council may  
25 likewise contract with said board for a division of the expenses  
26 of any joint city and county health officer if the same person  
27 shall be selected to fill the office of both city health officer and  
28 county health officer and a joint health office maintained.

Sec. 13. The duties and powers of the manager-mayor  
2 shall be:

- 3 (a) To see that the laws and ordinances are enforced;
- 4 (b) To appoint the following officers of the city: A city  
5 solicitor who shall perform such duties as are prescribed in  
6 this charter or as the city council by ordinance shall prescribe;  
7 a judge of police court, a chief of police, a chief of fire de-  
8 partment, a city health officer, such commissioners of municipal  
9 loans and bond issues as may be required by state law or city  
10 ordinances and all other officers and employees of the city  
11 except those whom council is authorized to appoint by the  
12 preceding section. Said officers and employees so appointed  
13 shall continue in their offices and/or employment during the  
14 will and pleasure of the manager-mayor. All such appoint-

15 ments and/or employments shall be upon merit and fitness alone.

16 (c) To exercise supervision and control over all departments  
17 and divisions created herein or that hereafter may be created  
18 by the council, except the council and other officers by it  
19 appointed;

20 (d) To attend all meetings of council with the right to take  
21 part in discussions, and he shall have the right to cast the  
22 deciding vote in case of a tie.

23 (e) To recommend to the council for adoption such measure  
24 as he may deem necessary or expedient;

25 (f) To keep the council fully advised as to the financial  
26 condition and needs of the city;

27 (g) To supervise the conduct and performance of their  
28 duties by other officers and employees of the city, except the  
29 members of the city council, reporting to such council any  
30 failure of performance of duty by any of the other appointees  
31 of such council and enforcing the proper performance of their  
32 duties by the officers and employees appointed by him, to the  
33 end that the city's business shall be efficiently and economically  
34 transacted;

35 (h) To perform such other duties as may be prescribed by

36 this amendment to the charter or be required of him by ordi-  
37 nance or resolution of the council. The manager-mayor shall  
38 devote his whole working time to the performance of the  
39 duties of his office, and while occupying such office he is not  
40 to be engaged directly or indirectly or be interested in any  
41 other business than the performance of his duties concerning  
42 the affairs of the city of Wheeling.

43 Wherever the term councilman at large, mayor, or city  
44 manager is used in any of the sections of the charter of the  
45 city of Wheeling in effect at the time of the passage of this  
46 amendment, or is used in any of the ordinances of said city  
47 in effect at the time of the passage of this amendment, it shall  
48 mean the manager-mayor, who shall perform all duties and  
49 exercise such rights as have heretofore been delegated to the  
50 above-named officials.

Sec. 18. Candidates to be voted for at all general municipal  
2 elections at which a manager-mayor and councilmen are to be  
3 elected under the provisions of this charter shall be nominated  
4 at a primary election and no other names shall be printed on  
5 the ballots used at the general elections except those selected  
6 in the manner prescribed by this amendment to the charter.

7 The first primary election for manager-mayor and council-  
8 men under this amendment to the charter, shall be held on the  
9 second Thursday in May, one thousand nine hundred thirty-  
10 five, and every primary election for manager-mayor and  
11 councilmen shall be held every four years thereafter on the  
12 second Thursday in May.

13 At the regular meeting of the city council held on the first  
14 Tuesday in May preceding every primary and general election  
15 for the offices of manager-mayor and councilmen there shall  
16 be appointed three judges and two poll clerks for said pri-  
17 mary and general election for each voting precinct in the city  
18 in the manner herein provided, one judge and one poll clerk  
19 shall be appointed from each of the two political parties which  
20 at the last preceding state and county election cast the highest  
21 number of votes in Ohio county, and if at any time during the  
22 said meeting of council the city executive committee of either  
23 political party from which said judges and poll clerks are to  
24 be selected or appointed shall present to said council a writing  
25 signed by them or by the chairman of said committee in their  
26 behalf requesting the appointment of qualified voters of their  
27 political party with their city address and who are otherwise

28 qualified to act as such officials under the laws of West  
29 Virginia it shall be the duty of the said council to appoint  
30 the persons named in such writing as such election officials.

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

34 All acts and parts of acts in conflict herewith are hereby  
35 repealed.

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

*Clinton Howard*  
Chairman Senate Committee

*James M. Pickens*  
Chairman House Committee

Originated in the *Senate*

Takes effect *from* passage.

*Charles D. Smith*  
Clerk of the Senate

*W. H. Hall*  
Clerk of the House of Delegates

*Chas. E. Hays*  
President of the Senate

*John S. Peter*  
Speaker House of Delegates

The within.....this the.....

day of....., 1935.

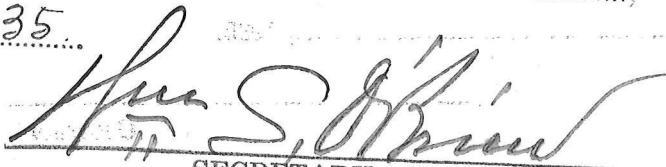
.....  
Governor

Filed in the office of the Secretary of State  
of West Virginia. **MAR 15 1935**

Wm. S. O'BRIEN,  
Secretary of State

I certify that the foregoing act,  
having been presented to the Governor for  
his approval, and not having been returned  
by him to the House of the Legislature in  
which it originated within the time pre-  
scribed by the constitution of the state, has  
become a law without his approval

This the 15<sup>th</sup> day of March,  
1935...

  
\_\_\_\_\_  
SECRETARY OF STATE