

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

SENATE BILL No.

295

(By Mr.

Barnhart)



PASSED

March 9

1935

In Effect

90 days from

Passage

165

ENROLLED

Senate Bill No. 298

(BY MR. BARNHART)

[Passed March 9, 1935; in effect ninety days from passage.]

AN ACT to provide for the submission to the voters of the state of
an amendment to the constitution of the state of West Virginia,
amending section thirty-five of article six thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. That the question of the ratification or rejection
2 of an amendment to the constitution of West Virginia, proposed
3 in accordance with the provisions of section two, article fourteen
4 of said constitution, shall be submitted to the voters of the state
5 at the next general election, to be held in the year one thousand
6 nine hundred thirty-six, which proposed amendment is as fol-
7 lows:

PROPOSED AMENDMENT

Section 35. The state of West Virginia shall never be made
2 defendant in any court of law or equity, except the state of
3 West Virginia, including any subdivision thereof, or any muni-
4 cipality therein, or any officer, agent, or employee thereof, may
5 be made defendant in any garnishment or attachment proceed-
6 ing, as garnishee or suggestee.

Sec. 2. For convenience in referring to the said proposed
2 amendment and in the preparation of the form of the ballot
3 hereinafter provided for, said proposed amendment is hereby
4 designated as follows: To be known as the "garnishee amend-
5 ment".

Sec. 3. For the purpose of enabling the voters of the state to
2 vote on the question of said proposed amendment to the con-
3 stitution at the general election to be held in the year one thou-
4 sand nine hundred thirty-six, the board of ballot commissioners
5 of each county is hereby required to place upon, and at the foot
6 of, the official ballots to be voted at said election, the following:
7 Ballot on constitutional "garnishee amendment," amending
8 section thirty-five, article six.

9 ☐ For ratification of garnishee amendment.

10 ☐ Against ratification of garnishee amendment.

11 The election on the proposed amendment, at each place of
12 voting, shall be superintended, conducted and returned, and the
13 result thereof ascertained by the same officers and in the same
14 manner as the election of officers to be voted for at said election;
15 and all of the provisions of law relating to general elections, in-
16 cluding all duties to be performed by any officer or board, as far
17 as applicable and not inconsistent with anything herein con-
18 tained, shall apply to the election held under the provisions of
19 this act, except when it is herein otherwise provided. The
20 ballots cast on the question of said proposed amendment shall
21 be counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commissioners,
2 or a majority of them, and the canvassers (if there be any), or
3 a majority of them, at each place of voting, shall make out and
4 sign two certificates thereof in the following form or to the fol-
5 lowing effect: "We, the undersigned, who acted as commis-
6 sioners (or canvassers, as the case may be), of the election held
7 at precinct number, in the district of,
8 in the county of, on the day of

9 November, one thousand nine hundred thirty-six, upon the ques-
10 tion of the ratification or rejection of the proposed constitutional
11 amendment to section thirty-five, article six, do hereby certify
12 that the result of said election is as follows :

13 Amending section thirty-five, article six :

14 For ratification of garnishee amendment votes.

15 Against ratification of garnishee amendment votes.

16 Given under our hands this day of November, one
17 thousand nine hundred thirty-six.”

18 The said two certificates shall correspond with each other in
19 all respects, and contain the full and true returns of said elec-
20 tion at each place of voting on said question. The said com-
21 missioners, or any one of them (or said canvassers, or any one
22 of them, as the case may be), shall within four days, excluding
23 Sunday, after that on which said election was held, deliver one
24 of said certificates to the clerk of the county court of his county,
25 together with the ballots, and the other to the clerk of the
26 circuit court of the county.

27 The said certificates, together with the ballots cast on the
28 question of said proposed amendment, shall be laid before the
29 commissioners of the county court at the courthouse at the same

30 time the ballots, poll books and the certificates of the election
31 for the members of the legislature are laid before them; and as
32 soon as the result of said election in the county upon the ques-
33 tion of such ratification or rejection is ascertained, two certif-
34 icates of such result shall be made out and signed by said com-
35 missioners, as a board of canvassers, in the following form or to
36 the following effect

37 "We, the board of canvassers of the county of,
38 having carefully and impartially examined the returns of the
39 election held in said county, in each district thereof, on the
40 day of November, one thousand nine hundred thirty-
41 six, do certify that the result of the election in said county, on
42 the question of the ratification or rejection of the proposed con-
43 stitutional amendment to section thirty-five, article six, is as
44 follows

45 For ratification of garnishee amendment votes.

46 Against ratification of garnishee amendment votes.

47 Given under our hands this day of,

48 one thousand nine hundred thirty-six."

49 One of the certificates shall be filed in the office of the clerk

50 of the county court, and the other forwarded by mail to the
51 secretary of state, who shall file and preserve the same until the
52 day on which the result of said election in the state is to be
53 ascertained, as hereinafter stated.

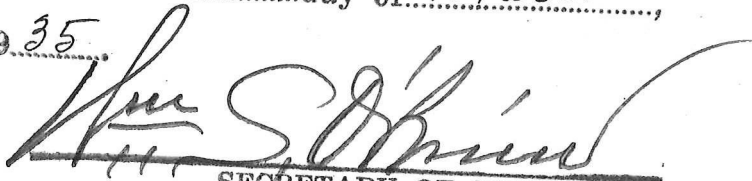
Sec. 5. On the twenty-fifth day after the election is held, or
2 as soon thereafter as practicable, the said certificate shall be laid
3 before the governor, whose duty it shall be to ascertain there-
4 from the result of said election in the state, and declare the same
5 by proclamation published in one or more newspapers printed
6 at the seat of government. If a majority of the votes cast at
7 said election upon said question be for the ratification of the
8 said amendment, the proposed amendment so ratified shall be
9 of force and effect from and after the time of such ratification
10 as part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amend-
2 ment, with the proper designation for the same as hereinbefore
3 adopted, to be published one time, at least three months before
4 such election, in some newspaper in every county in this state
5 in which a newspaper is printed, at a price to be agreed upon
6 in advance in writing, and the cost of such advertising shall

7 in the first instance, if found necessary by him, be paid out
8 of the governor's contingent fund and be afterwards repaid
9 to such fund by appropriation of the legislature.

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 15th day of March,
1935.



SECRETARY OF STATE

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

Clinton L. Howard

Chairman Senate Committee

Arnold M. Vickers

Chairman House Committee

Originated in the

Senate

Takes effect

90 days from

passage.

Charles M. ...

Clerk of the Senate

Geo. L. Wallace

Clerk of the House of Delegates

Chas. E. Hodge

President of the Senate

Thos. Pelton

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