WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1935

ENROLLED

SENATE BILL No. 295

(By Mr. Barnhart)

PASSED March 9, 1935

In Effect 90 days from Passage
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 West Virginia, 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 of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred thirty-six, which proposed amendment is as follows:
PROPOSED AMENDMENT

Section 35. The state of West Virginia shall never be made defendant in any court of law or equity, except the state of West Virginia, including any subdivision thereof, or any municipality therein, or any officer, agent, or employee thereof, may be made defendant in any garnishment or attachment proceeding, as garnishee or suggestee.

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

Sec. 3. For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution at the general election to be held in the year one thousand nine hundred thirty-six, the board of ballot commissioners of each county is hereby required to place upon, and at the foot of, the official ballots to be voted at said election, the following:

Ballot on constitutional "garnishee amendment," amending section thirty-five, article six.
For ratification of garnishee amendment.

Against ratification of garnishee amendment.

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

Sec. 4. As soon as the result is ascertained the commissioners, or a majority of them, and the canvassers (if there be any), or a majority of them, at each place of voting, shall make out and sign two certificates thereof in the following form or to the following effect: "We, the undersigned, who acted as commissioners (or canvassers, as the case may be), of the election held at precinct number ............., in the district of ........................., in the county of ........................., on the .......... day of
November, one thousand nine hundred thirty-six, upon the ques-
tion of the ratification or rejection of the proposed constitutional
amendment to section thirty-five, article six, do hereby certify
that the result of said election is as follows:

Amending section thirty-five, article six:

For ratification of garnishee amendment ................................ votes.
Against ratification of garnishee amendment ........................ votes.

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

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

The said certificates, together with the ballots cast on the
question of said proposed amendment, shall be laid before the
commissioners of the county court at the courthouse at the same
time the ballots, poll books and the certificates of the election
for the members of the legislature are laid before them; and as
soon as the result of said election in the county upon the ques-
tion of such ratification or rejection is ascertained, two certif-
icates of such result shall be made out and signed by said com-
missioners, as a board of canvassers, in the following form or to
the following effect

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

For ratification of garnishee amendment ...................... votes.
Against ratification of garnishee amendment ................ votes.
Given under our hands this ............... day of ......................,
one thousand nine hundred thirty-six."

One of the certificates shall be filed in the office of the clerk
of the county court, and the other forwarded by mail to the
secretary of state, who shall file and preserve the same until the
day on which the result of said election in the state is to be
ascertained, as hereinafter stated.

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

Sec. 6. The governor shall cause the said proposed amend-
ment, with the proper designation for the same as hereinbefore
adopted, to be published one time, at least three months before
such election, in some newspaper in every county in this state
in which a newspaper is printed, at a price to be agreed upon
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 prescribed by the constitution of the state, has become a law without his approval.

This the 15th day of March, 1935.

[Signature]
SECRETARY OF STATE
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within this the day of ____________, 1935.

Governor

Filed in the office of the Secretary of State of West Virginia on MAR 15, 1935 by Wm. S. O'Brien, Secretary of State