WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1935

ENROLLED

SENATE BILL No. 39

(By Mr. Kanturkey)

PASSED Feb. 12, 1935

In Effect 90 days from Passage

Filed in the office of the Secretary of State of West Virginia FEB. 11 1935
Wm. S. O'Brien,
Secretary of State
AN ACT to amend and reenact sections four, six, seven, eight, 
nine (a), twelve, thirteen, sixteen, eighteen, nineteen, twenty, 
twenty-one, twenty-two and twenty-three, and to repeal 
section twenty-six, chapter one, acts of the Legislature of 
West Virginia, regular session, one thousand nine hundred 
twenty-seven (municipal charters), relating to the charter 
of the city of Hinton, and to repeal all acts and parts of 
acts inconsistent with the provisions of this act.

Be it enacted by the Legislature of West Virginia:

That section twenty-six, chapter one, acts of the Legislature 
of West Virginia, regular session, one thousand nine hundred 
twenty-seven (municipal charters) is hereby repealed and sections 
four, six, seven, eight, nine-(a), twelve, thirteen, sixteen, eighteen,
nineteen, twenty, twenty-one, twenty-two and twenty-three of
said chapter are amended and reenacted to read as follows:

Section 4. The municipal authority of the city of Hinton
shall consist of and be vested in a mayor and four members
of the council, who shall be elected by the voters of the whole
city; and the mayor and the four members of the council
elected by the voters of the whole city as herein provided, shall
constitute and be "the council of the city of Hinton."

Sec. 6. The subordinate officers of said city may consist
of such officers as the council from time to time by ordinance
may provide, including, at the discretion of the council, a
city manager, recorder, chief of police, city attorney and city
health officer. The salaries, powers and duties of any such
subordinate officers appointed by the council shall be set out
and designated in the ordinance providing for their appoint-
ment, which appointments shall be made in the manner here-
inafter provided, but in no event shall the council appoint any
of its members as a clerical assistant, recorder, or for the per-
formance of any other duties than those of councilmen.

Sec. 7. The mayor and members of the council of the said
city shall enter upon the duties of their respective offices on
3 the first day of July next after their election, and continue for
4 a period of two years, unless they shall sooner be removed from
5 office for cause, by an affirmative vote of a majority of all the
6 members elected to the council, after five days due notice, or
7 shall resign. All subordinate and appointive officers shall
8 enter upon the duties of their respective offices, as soon as they
9 shall have been appointed and qualified, and give bond as
10 required by this act or by ordinance of the city and shall hold
11 and continue in their respective offices during the will and
12 pleasure of the council.

13 All election officers of the said city, shall continue in their re-
14 spective offices until the end of their present terms of office,
15 and their successors have been duly elected or appointed,
16 qualified, and shall have given bond, as required by this act,
17 for the faithful performance of the duties of their respective
18 offices.

Sec. 8. No person shall be eligible to the office of mayor,
2 recorder, city manager or councilman, unless at the time of
3 his election, he is legally entitled to vote in the city election for
4 member of the common council, and was for the preceding
5 year assessed with taxes upon real or personal property within
6 said city, of the assessed aggregate value of five hundred dollars, 7 and shall have actually paid the taxes regularly assessed 8 against it. He shall be an actual bona fide citizen of the 9 United States of America, and a resident of the city for one 10 year last preceding his election. The mayor or any member 11 of the common council, ceasing to possess any of the qualifications specified in this section, or if convicted of any crime while 13 in office, or found guilty of malfeasance, misfeasance or non- 14 feasance by an affirmative vote of all the members elected 15 to the council, shall immediately forfeit his office, after being 16 first given five days notice in writing of the charges filed 17 against him by the mayor, any member of the council, or any 18 citizen of the city.

Sec. 9 (a). Any person who is eligible to hold the office 2 of mayor or member of the council of the said city, may file 3 with the city manager or recorder of said city, a certificate 4 declaring himself a candidate for the nomination for such 5 office, which certificate shall be in form or effect as follows:
6 I, ............................................, do hereby certify that I am a 7 candidate for the nomination for the office of mayor of the 8 city of Hinton, (or for the office of member of the council
9 of the city of Hinton,) to represent the..........................

10 political party, and desire my name printed on the official
11 ballot of said party, to be voted at the city primary election to
12 be held in said city on the......day of.........................., 19......
13 I further certify that I am a legally qualified voter of the
14 said city of Hinton, and state of West Virginia; that my
15 residence is No..........., .........................Street, in the said
16 city of Hinton; that I am eligible to hold said office and I am a
17 member of and affiliated with said political party, and that
18 I am a candidate for the said office in good faith.
19

(Signature of Candidate).

20 Subscribed, sworn to and acknowledged before me this....... 

21 day of..........................., 19......

22

Notary Public.

23 Such announcement shall be signed and acknowledged by
24 the candidate before some officer qualified to administer oaths,
25 and such certificate shall be filed with the city manager at
26 least ten days before the date of such primary election.
27
28 (b) All candidates of any political party to be voted for at
any municipal election for the office of mayor and member of
the council of said city, shall be nominated by a primary
election, to be held and conducted in said city. All such
primary elections shall be held in said city on the second
Tuesday in May, next before the general city election in the
year in which the mayor and members of the council of said
city are to be elected. Such primary election shall be held in
the manner provided for in the nomination of state, county
and district officers by the general election laws of this state
in force at the time of such primary election, with the excep-
tion that the duties provided in the general election law to be
performed by the county court, shall be performed by the
council of said city, and the duties to be performed under
the general election laws by the clerks of the circuit court
and county court shall be performed by the city manager or
recorder of said city. The general election laws governing
primary elections in force at the time of such primary election
relating to the nomination of party candidates and officers of
elections, shall govern such city primary election, the same as
if such primary election laws were reenacted in ex tenso by
this act, with the exception that no political party shall nomi-
more than one candidate for mayor of said city, and four
candidates for members of the council of said city, at any
primary election.

The candidate of each political party for mayor receiving
the highest number of votes in the whole city, and the four
candidates of each political party for members of the council
in said city receiving the highest number of votes in the whole
city, shall be declared nominated as such political party’s can-
didate for mayor and members of the council, and
their names shall be placed on the ballot for the general city
election, as the candidates of their respective political party
for mayor and such members of the council to be voted for at
such general city election.

(c) The general city election for the election of a mayor and
the four members of the council of said city shall be held on
the second Tuesday in June in the year one thousand nine
hundred thirty-five, and each two years thereafter; said gen-
eral city election shall be held and conducted under the pro-
visions of the general election laws of this state in force at
the date of such election and governed by the said general
election laws of this state in every respect, insofar as the
same are applicable to city elections, with the exception that
the duties to be performed by the county court shall be per-
formed by the council of the said city, and the duties to be
performed by the clerks of the county court and circuit court
shall be performed by the city manager or recorder of the
said city, respectively.

The returns of the election shall be made by the city officers
to the city manager or recorder, and by him submitted to the
council on the fifth day after such election, and the same shall
be canvassed, and the result thereof declared by the said coun-
cil on said day, or as soon as the council can finish and canvass
the returns of such election, whereupon the council shall cause
certificates of election to be issued and delivered to the per-
sons elected as mayor and members of the council of said
city.

(d) The mayor of the city of Hinton and the four members
of the council of said city so nominated and elected by the
voters of said city at the primary and city election held in
said city, as hereinbefore provided, shall hold and continue
in their respective offices as mayor and members of the council
of said city until the end of the thirtieth day of June, one
93 thousand nine hundred thirty-seven, when their respective
terms of office shall expire: Provided, That their successors
have been duly nominated and elected as hereinbefore pro-
vided: Provided, however, That the primary election held
under the act as amended for the nomination for mayor and
the four members of the council of said city, on the second
Tuesday in May, one thousand nine hundred thirty-five and
the general election for the election of mayor and the four
members of the council of said city, held on the second Tues-
day in June, one thousand nine hundred thirty-five, shall be
called, conducted and held in each of the eight voting pre-
cincts in said city of Hinton, as are now established and by
the boundaries of said eight voting precincts in said city of
Hinton as are now laid off and established, by the council of
the city of Hinton, in office on and before the first day of July,
one thousand nine hundred thirty-five.

The council of the city of Hinton in office before the first
day of July, one thousand nine hundred thirty-five, shall ap-
point all election officers necessary to hold and conduct
such primary and said general city election, held on the
second Tuesday in May and the second Tuesday in June,
one thousand nine hundred thirty-five, respectively; they
shall furnish all necessary ballots and supplies for such
primary and general city election and shall canvass and
declare the result thereof, hear and decide all contests over
the nomination or election of any officer at such primary
or general city election and cause to be executed and
delivered certificates of election to the mayor and the four
members of the council of said city so elected, and shall do
any and all things necessary to hold and ascertain the result
of said primary and said city election.

(f) The council of the city of Hinton, now in office or in
office as soon as this act is amended, and goes into effect, shall
provide for the registration of voters in each of the eight
voting precincts of said city, as provided by this act as
amended, shall furnish all necessary registration books and
blanks to make such registration, appoint the registrars, which
registration shall be made immediately after the appointment
of such registrars, and the said council of the city of Hinton
shall hold a regular or special session on the fifth day before
the first primary and city election to pass upon such registra-
Enrolled S. B. No. 39]

134 tion and correct the same in the manner provided by this
135 act.
136 (g) Each of the eight voting precincts of the city of Hinton,
137 as now established and the boundaries thereof, as now estab-
138 lished shall constitute, remain and be the eight voting pre-
139 cincts of said city, by the boundaries as now laid off and
140 established until the council of the said city of Hinton, shall
141 by ordinance, entered of record, change or designate, increase
142 or diminish said voting precincts and re-arrange the boun-
143 daries of the same: Provided, however, That any new voting
144 precinct established or any change made in the voting pre-
145 cincts of the city shall be made by ordinance, regularly passed
146 by the council of the city of Hinton and notice thereof given
147 by publication in one Democratic and one Republican news-
148 paper of general circulation, published in Summers county,
149 at least thirty days before said change takes effect.

Sec. 12. All qualified voters within the city of Hinton en-
2 titled to vote in the municipal elections held therein, shall be
3 registered in like manner, as are qualified voters of West Vir-
4 ginia registered under general laws in reference to the election
5 of state and county officers, in effect at the time of such regis-
6 tration, and such general laws shall in all things apply thereto,
7 except the fee for such registration shall be five cents for each
8 qualified voter so registered, and the powers conferred upon
9 the county court and the clerk of the county court by the
10 general laws in reference to the registration of voters for gen-
11 eral elections of state and county officers are hereby conferred
12 upon the council of the city of Hinton, city manager, or re-
13 corder, respectively: Provided further, That the registrars for
14 each of the respective wards of said city shall be appointed by
15 the present council at a regular or special meeting of said
16 council held on the third Monday in April next preceding any
17 general election in said city, and that the said registrars shall
18 complete such registration of voters on or before the first
19 Tuesday in May following, and shall on the first Tuesday in
20 May sit for one day in their respective voting precincts for
21 the purpose of correcting such registration, and shall thereupon
22 immediately return the registration books of the respective
23 voting precincts to the city manager or recorder of said city.
24 And the council of said city shall hold a regular or special
25 meeting on the fifth day, Sunday excluded, prior to the date
26 for holding of the primary election in said city, for the purpose
27 of correcting such registration, and registering any voters of
28 said city who are qualified, and who shall have been omitted or
29 failed to have been registered by the registrars: Provided
30 further, That the council of said city shall meet again five days
31 prior to the general city election for the purpose of correcting
32 further the registration of the voters of said city, and shall add
33 to such registration lists the names of any qualified voters of
34 said city who shall appear in person for the purpose of being
35 registered for said city election, and in all other respects the
36 general laws of the state, pertaining to the registration of
37 voters, shall govern the registration of voters for said city
38 primary and general election, insofar as the same may be
39 applicable thereto, unless otherwise provided by ordinance:
40 Provided, That in event the county court of Summers county
41 shall change the regular voting precincts embraced in what is
42 included in the territorial limits of the city by this act, for
43 the election of county and district officers, the council may by
44 ordinance provide for the adoption of the last registration of
45 voters made in each of the precincts for the nomination and
46 election of county and district officers, in lieu of the registra-
47 tion herein required to be made for city primaries and general
48 elections. The council shall sit on the fifth day, Sunday ex-
49 cluded, prior to any city primary or election for the purpose
50 of correcting the registration list, and shall correct the same
51 by striking from the registration books so adopted the names
52 of all persons who are not then qualified voters in each of the
53 respective voting precincts, and shall add to such registration
54 the names of all qualified voters who have been omitted from
55 such list or who have become qualified to vote in such voting pre-
56 cinct by reason of their age, residence therein, or any other
57 grounds that would legally qualify them to a vote in such voting
58 precinct; and such registration list when so corrected, may
59 be adopted as the registration for any city primary or city
60 election, under this act.

Sec. 13. The mayor and members of the council of said
2 city, and all other officers provided for in this act, or that may
3 be provided for by ordinances, shall, each, before entering
4 upon the duties of their office, and within fifteen days after
5 receiving their certificate of election, or appointment, take the
6 oath or affirmation prescribed by law for all officers in this
7 state, and make oath or affirmation that they will truly, faith-
8 fully and impartially, to the best of their ability, discharge the
9 duties of their respective offices, so long as they may continue therein; said oath or affirmation may be taken before any person authorized to administer oaths in this state at the time the same is taken, or before the mayor of the said city, but in any event a copy of said oath of said office shall be filed with the city manager or recorder, with the exception that the oath of office of the city manager, as provided herein, shall be filed with the mayor.

Sec. 16. The salary of the mayor shall not exceed three hundred dollars per year, payable monthly out of the city treasury. The salaries of the members of the city council shall not exceed twenty-five dollars per year each, payable semi-annually out of the city treasury. The salary of the city manager, if one is appointed by the council, and of clerical assistants used in the performance of duties in and for the city of Hinton shall be fixed by the council by ordinance or by resolution of the council appointing such city manager or clerks, payable monthly out of the city treasury: Provided, however, that the salary of any such clerical assistants and the salary of the recorder shall not exceed the sum of thirty-five dollars per month for any such appointee. The salary of the
12-b chief of police and all regular police officers, the city attorney,
12-c commissioner of health, and all other regular city officers and
13 employees provided for by ordinance, or by order of the coun-
14 cil, shall be fixed by the council at the time of, and in the order
15 or resolution appointing such officers or employees, and shall be
16 paid monthly out of the city treasury: Provided, That there
17 shall be deducted from the salary of each of the councilmen
18 five per cent of the annual salary so designated by the council,
19 for each regular meeting of the council that such member of
20 the council fails to attend. The salary, fees and compensation
21 of all police officers, and any other special officer of the city,
22 appointed by the mayor and the council shall be fixed and de-
23 termined by the council, and any such special officer so ap-
24 pointed, who is not paid a regular salary, shall not be entitled
25 to receive for his services any fees derived under the fee sys-
26 tem, which is provided by statute to be paid to constables for
27 like services, but that any special officer so appointed must be
28 placed on a regular salary so determined by the three-fifths vote
29 of the mayor and council.

Sec. 18. Whenever a vacancy for any cause shall occur in
2 the office of mayor or member of the council of said city,
3 the mayor and remaining members of the council, or in a case
4 of a vacancy in the office of mayor, the members of the council
5 of the said city, shall fill said vacancy by electing a mayor or
6 such member of the council to fill the office or offices for and
7 during the term of such officer.
8 In case of a vacancy in the office of the city manager, re-
9 corder or any other appointive officer of said city, the council
10 shall at its next regular meeting, or at a special meeting called
11 for the purpose, fill such vacancy in the same manner as such
12 officer was originally appointed or elected by the council.

Sec. 19. The mayor or any member of the council may be
2 removed from office by the council for intemperance, gross
3 immorality, gambling, malfeasance, misfeasance or non-feasance
4 in office, inability to act, refusal or neglect to perform the duties
5 of their respective offices imposed by this act, upon being served
6 with a notice in writing of the charges preferred against such
7 officer at a regular meeting of said council, or a special meeting
8 called for the purpose, followed by a hearing to be had on said
9 charges not earlier than five days after the service of said notice
10 in writing on such officer so sought to be removed, and it shall
11 require an affirmative vote of a majority of all the members
enrolled S. B. No. 39

12 elected to the council to remove such officer from the office to
13 which he shall have been elected. Any appointed officer who
14 holds his office at the pleasure of the council may be removed
15 from the office with or without cause, at any time by a like
16 vote of the council.

Sec. 20. The regular meetings of the council shall be publicly
2 held at such times and at such places in the city as it shall
3 from time to time ordain and appoint: Provided, That at the
4 first meeting of the council under this act, it shall provide by
5 ordinance or resolution entered of record, the time and place
6 of regular meetings of the council during the term of office,
7 and after each city election the new council elected shall, at
8 its first meeting, by like order or resolution, fix the time and
9 place for the regular meetings of the council during its term:
10 Provided further, That at no time shall a place be so designated
11 for a meeting of the council, either regular or special, to be
12 held at a place other than in the property which is owned by
13 the city. It shall be lawful for the council, by ordinance or
14 resolution entered of record, to vest in the mayor, or any
15 member or members of the city council, the authority to
16 call special meetings and to prescribe the mode and manner of
the giving of notice to the members of the council of the times and places of such special meetings. If a quorum of the members of the council fail to attend any regular or special meeting, those in attendance shall have authority to compel the attendance of the absent members under such reasonable penalty as may be provided by ordinance. The council shall provide for at least one regular meeting of the council in each month, and such other regular meetings as it deems necessary. In no event shall any meeting, either regular, special or executive, be closed to the public.

Sec. 21. The presence of the mayor or the president of the council, and three other members of the council shall be necessary to constitute a quorum for the transaction of business at all meetings of the council of said city.

Sec. 22. The mayor, or in his absence, the president of the council, shall preside at the meetings of said council, and shall have a vote on all matters before the council for consideration, the same as any member of the council, but in no event shall the said mayor or presiding officer have power and authority to cast the deciding vote on any matter where he has voted as a member of the council: Provided, That it shall require the
affirmative vote of a majority of all the members elected to the
council to appoint or remove any officer and to pass any ordi-
nance, franchise, resolution for bond issues or other matters
required by this act.

Sec. 23. At the first meeting of the city council provided
for by this act, the council shall elect one of its members as
president of the council, who shall hold such office during the
term of said council, and who shall be ex-officio vice-mayor of
the said city. In case of temporary absence of the mayor from
the city or his inability to act from any cause, or during any
vacancy in the office of mayor, the said president of the council
shall preside over the council and perform the duties of the
mayor; and, in addition to presiding over said council, he is
hereby vested with all the powers necessary for the performance
of the duties of the mayor of said city while acting as such
mayor, including the authority of the mayor pertaining to
civil and criminal jurisdiction, and shall perform such other
duties as may be required of him by the council.

All acts and parts of acts inconsistent with the provisions of
this act are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Clinton Howard
Chairman Senate Committee

Arnold W. Fickes
Chairman House Committee

Originated in the Senate

Takes effect 90 Days from passage.

Clerk of the Senate

Clerk of the House of Delegates

Pres. E. Hodge
President of the Senate

Speaker House of Delegates

The within approved this the 8th day of February, 1935.

Governor