WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1937

ENROLLED

SENATE BILL No. 325

(By Mr.__________________________)

PASSED March 13, 1937

In Effect 90 days from Passage
AN ACT to give effect to the Municipal Home Rule Amendment to the state constitution by adding a new chapter to the code of West Virginia, one thousand nine hundred thirty-one, to be designated as chapter eight-a.

Be it enacted by the Legislature of West Virginia:

That a new chapter designated eight-a be added to the code of West Virginia, one thousand nine hundred thirty-one, to read as follows:
CHAPTER 8-A

ARTICLE I. General Provisions.

Section 1. Purpose; Short Title. The purpose of this chapter is to give effect to the "Municipal Home Rule Amendment" to the state constitution. It may be cited as the "Municipal Home Rule Law".

Sec. 2. Definitions. For the purpose of this chapter, unless the context clearly requires a different meaning:

"Home rule charter" shall mean a charter adopted under this chapter;

"Governing body" shall mean the council or commission created by the charter which enacts ordinances and resolutions and is responsible for the public policy of the city;

"Administrative authority" shall mean the officer or body which is responsible for the conduct and management of the affairs of the city in accordance with general law, the charter and the ordinances, resolutions and orders of the governing body;

"City" shall mean a municipal corporation with a population in excess of two thousand;
"Town" or "village" shall mean a municipal corporation with a population of two thousand or less;

"Voter" shall mean a person qualified to vote in accordance with the provisions of general law and the city charter.

Sec. 3. *Legislative Interpretation.* The legislature hereby declares its interpretation of the Municipal Home Rule Amendment to be that a single classification by population of municipalities in this state is required which shall exclude any other classification of municipalities by population for any purpose. It is, therefore, the intention of the legislature that the classification established by section four of this article, shall give effect to the constitutional mandate and shall be the only classification by population applying to municipalities in this state. It is the further intention of the legislature that subsequent legislation affecting municipalities in this state shall treat municipalities differently upon the basis of population, only in accordance with the general classification established by section four of this article.

Sec. 4. *Classification of Municipal Corporations.* Pursuant to the mandate of the Municipal Home Rule Amend-
ment, municipal corporations are hereby classified by population into four classes as follows:

(1) Every municipal corporation, the population of which exceeds fifty thousand persons, shall be a class I city;

(2) Every municipal corporation, the population of which is more than ten thousand and not more than fifty thousand persons shall be a class II city;

(3) Every municipal corporation, the population of which is more than two thousand and not more than ten thousand persons shall be a class III city;

(4) Every municipal corporation not included in any of the foregoing classes shall be known as a town or village.

Transition from one to another class of municipal corporation shall occur automatically when the requisite population qualification has been met.

Sec. 5. Prior Classification. Provisions of general law establishing classifications by population in effect at the time of the adoption of the Municipal Home Rule Amendment or enacted prior to the adoption of this enabling act under the amendment shall operate as follows:
(1) The provisions of an act of the Legislature, regular session, one thousand nine hundred thirty-seven, known and designated as house bill number two, and chapter sixty of the acts of the Legislature of one thousand nine hundred thirty-three, regular session, and as amended, shall be in full force and effect notwithstanding the provisions of this act as to classifications by population, and nothing herein contained shall supersede the provisions of said house bill number two, or said chapter sixty of the acts of the Legislature, one thousand nine hundred thirty-three, as amended, or to amend, modify, or repeal any part thereof.

(2) The provisions of section seventeen, article four, chapter eight of the official code shall apply only to class I, II and III cities;

(3) The provisions of section eighteen, article four, chapter eight of the official code shall apply only to class I, II, and III cities;

(4) The provisions of sections nineteen and twenty, article four, chapter eight of the official code shall apply only to class I, II, and III cities;
(5) The provisions of section nine, as amended by the legislature of West Virginia regular session, one thousand nine hundred and thirty-seven article six, chapter eight of the official code shall apply only to class I and II, and shall be optional with class III cities;

(6) The provisions of section fifty-three, article twelve, chapter eleven of the official code shall apply only to class I, II, and III cities;

(7) The provisions of section fifteen, article one, chapter forty-seven of the official code shall apply only to class I, II, and III cities.

Sec. 6. Population. For the purposes of this chapter population shall be determined by reference to the last preceding census taken under the authority of the congress of the United States or the legislature of West Virginia.

Sec. 7. General Enumeration of Powers of Home Rule Cities. Every city from and after the effective date of a charter adopted under this chapter, shall be empowered:

(1) To have and use a common seal;

(2) To contract and be contracted with and to institute, maintain and defend any action or proceeding in any court;
(3) For any municipal purpose to take, purchase, hold and lease real and personal property within and without the limits of the city, and to acquire by condemnation real and personal property within or without the limits of the city for the purposes set forth in and in accordance with chapter fifty-four of the official code;

(4) To take by gift, grant, bequest or devise and to hold and administer real and personal property within and without the limits of the city, absolutely or in trust for any public or municipal purpose, upon such terms and conditions as may be prescribed by the grantor or donor and accepted by the city.

Sec. 8. Manner of Exercise of Municipal Powers. Subject to the provisions of this or any other general law, the powers granted by this chapter shall be exercised, in the manner prescribed, and by the officer, officers or official body designated, by a charter or charter amendment adopted under this chapter, but no provision hereof or of any such charter or charter amendment shall operate to enlarge the grant of powers contained herein, or limit the jurisdiction or power of any state officer or body under
10 general law. If the matter is not covered by general law
11 or by such a charter or charter amendment, the governing
12 body of the city shall have power to determine by ordinance
13 in what manner and by whom such powers shall be
14 exercised.

Sec. 9. *Existing Status of Cities Confirmed.* The corpo-
2 rate being and powers of every city now existing is hereby
3 confirmed. General and special laws and municipal char-
4 ters in effect upon the adoption of this chapter shall remain
5 in operation and effect unless amended or repealed by this
6 chapter, or until amended or repealed by a general law
7 hereafter enacted, or until a municipal charter is amended
8 in accordance with article two of this chapter.

Sec. 10. *Adoption of Powers Granted by this Chapter*
2 by Amendment to Existing Charter. A city which shall
3 continue to operate under a charter in force upon the
4 effective date of this chapter may by charter amendment
5 hereunder adopt any of the powers conferred by articles
6 four and five of this chapter. It shall derive none of
7 those powers from this chapter until so adopted. It shall
8 suffice that an amendment shall make an identifying re-
ference to the section or subsection of this chapter, as the case may be, sought to be adopted. Section three of article five hereof may be so adopted only as a whole. An amendment so adopted shall entirely supersede prior charter provisions on the same subject.

Sec. 11. Application of other General Laws. Except as otherwise expressly provided in this chapter none of the provisions of chapter eight of the official code shall apply to cities which adopt a charter under this chapter. To the extent that provisions of chapter eight constitute parts of the existing charter of a city they shall not be affected hereby but shall continue as such until superseded by a charter or charter amendment adopted under this chapter or by any other general law. All other general laws relating to municipal corporations shall continue to apply to cities except to the extent otherwise expressly provided in this chapter.

Sec. 12. Sanctions, Enforcement of Ordinances. The governing body of a city may provide by ordinance for penalties, in the form of fines, forfeitures and imprisonment in the city jail, for the violation of the ordinances of the
city. It may also maintain a suit in equity in the name of
the city to compel compliance with, or to restrain by injunction
the violation of any ordinance. The maximum fine and the
maximum imprisonment which may be provided shall be
five hundred dollars and six months, respectively, or both.
Provision may be made to contract for lodging city
prisoners in the jail of any county in which any part of the
city lies, or of an adjoining county, for part or all of their
terms of imprisonment. Police officers of a city shall have
the same authority of pursuit and arrest beyond their
normal jurisdiction as has a sheriff.

placed on the amount of taxes upon real and personal prop-
erty that may be levied, or the amount of a mandatory levy,
for the support of a specific municipal service or activity
by any provision of general law, shall not apply to cities
under this chapter in the exercise of powers granted to them
by this chapter. But the total amount of taxes upon real
and personal property levied for municipal purposes in any
year shall not exceed the limitations stipulated by article
eight, chapter eleven of the official code.
Sec. 14. Reference. A reference contained in this chapter to another provision of the official code shall be construed to mean the provision as amended. Where additional sections are added to the subject matter of sections as referred to in this chapter, the reference shall include such additional sections.

ARTICLE II. Home Rule Procedure; Charter Elections.

Section 1. Grant of Charter-making Power. The voters of any city may frame, adopt and amend the charter of the corporation in the manner provided by this article.

Sec. 2. Initiation of Proceedings for Framing a Charter. The governing body of a city may, by the affirmative vote of two-thirds of its members, and shall, upon petition bearing the signatures, written in their own handwriting, of voters of the city equal in number to fifteen per centum, if a class I or class II city, and ten per centum, if a class III city, of the total registration of voters therein or if there be no registration of voters then a like per centum of duly qualified voters for the last preceding general election, provided by ordinance for the submission at the next regular municipal
Enrolled Joint Com. Sub. for S. B. No. 325 | 12

11 election, to the voters of the city of the question, "Shall a
12 charter be framed by representatives of the voters?"
13 The ordinance shall provide for a special election if a peti-
14 tion bearing the signatures of voters of the city equal in
15 number to twenty per centum, if a class I or class II city,
16 and fifteen per centum if a class III city, of such registration
17 or qualified voters and expressly requesting that a special
18 election be called for the purpose, shall be presented to the
19 governing body more than one hundred and twenty days
20 prior to the date of the next regular municipal election.
21 The special election shall be held not less than thirty nor
22 more than sixty days after the petition shall have been pre-
23 sented to the governing body.

Sec. 3. The Ballot; Election of a Charter Board. Pro-
2 vision shall be made for the election of a charter board con-
3 currently with the submission of the question whether a
4 charter shall be framed. The names of the candidates for
5 membership on the charter board shall be set out in alpha-
6 betical order beneath the question on a special ballot. A
7 voter who shall vote "No" on the question may, neverthe-
8 less, vote for such candidates. The ballot shall bear instruc-
tions to this effect, and also instructions which shall indicate
that the names of the candidates are arranged alphabetically
simply for convenience, the number of candidates for which
the voter may vote (which shall be the same as the number
of members to be elected), and that cumulative voting is
permitted.

After such an election the votes on the question shall be
counted and canvassed. If the result be in the affirmative
the votes cast for members for the charter board shall be
counted and canvassed and the candidates, in the number to
be chosen, who received the highest number of votes shall be
declared elected.

Sec. 4. Notice of Election. The notice of an election on
the question whether a charter shall be framed shall consist
of the initiatory ordinance and a brief prefatory statement
setting out the purpose and date of the election, naming the
candidates, if any, nominated by the governing body for
membership on the charter board and stating how and within
what time limit other nominations may be made. It shall
be published once a week for three consecutive calendar weeks
in two newspapers of opposite politics published in the city,
10 if there be such, and if not, it shall be published in the news-
11 paper having the largest circulation in the city and posted
12 at ten or more public places within the city not less than
13 thirty days prior to the date set for the election. The first
14 publication shall be made not less than thirty days prior to
15 the date fixed for the election.

Sec. 5. Charter Board; Number, Qualifications and Nomina-
2 tion of Members. A charter board shall consist of eleven
3 members in a class I or class II city and of seven members
4 in a class III city. Members shall be elected at large. Any
5 person who has been a qualified voter of a city for two years
6 at the date of the election of members shall be eligible for
7 membership on the charter board.

8 The governing body of a class I or class II city may nomi-
9 nate five candidates, and that of a class III city three candi-
10 dates for members of a charter board. Other nominations
11 may be made by petition bearing the signatures, written in
12 their own handwriting, of not less than two hundred regis-
13 tered voters of the city. Nominations by the governing body
14 shall be made in the initiatory ordinance. Nominating peti-
15 tions may be filed at any time after the adoption of an ini-
tiatory ordinance and not less than ten days prior to the
date fixed for the election.

Sec. 6. Charter Board, Cumulative Voting for Members.

Each voter entitled to vote on the question of framing a charter may cast as many votes for members of the charter board as there are members to be elected. He may cumulate all his votes for one candidate or distribute them among the several candidates as he sees fit.

Sec. 7. Organization and Powers of Charter Board. A charter board shall convene within ten days after election and perfect its organization by electing a chairman and clerk from its membership and by determining the rules of its proceedings. A journal shall be kept by the clerk upon which shall be entered, upon demand by any member, the vote by "ayes" and "nays" on any question. A majority shall constitute a quorum. Any voter or taxpayer of a city may file with a charter board thereof any written material bearing upon the purposes of the board that he sees fit and the board shall give material so filed such consideration as it merits. The charter drafting process may be carried on through committees but their work shall be advisory only.
Enrolled Joint Com. Sub. for S. B. No. 325] 16

14 A charter board shall complete its draft of charter within
15 one hundred and twenty days after the date of its organiza-
16 tion meeting.

Sec. 8. *Reference of Draft of Charter to the Attorney*

2 *General.* A draft of charter shall, upon its completion, be
3 certified at once to the attorney general of the state. It shall
4 be his duty to examine the draft to determine whether it is
5 consistent in all respects with the constitution and general
6 laws of the state. Within thirty days after receipt of such a
7 draft he shall certify to the charter board in what particu-
8 lars, if any, the draft is, in his opinion, inconsistent or in
9 conflict with the constitution or general laws of the state.

Sec. 9. *Public Hearing on Draft of Charter.* When it
2 shall have completed its draft of charter a charter board
3 shall conduct a public hearing thereon. Notice of the time,
4 place and purpose of the hearing shall be given by publica-
5 tion at least ten days prior to the date set for the hearing in
6 two newspapers of opposite politics published in the city, if
7 there be such, and if not, by publication in a newspaper of
8 general circulation in the city. Notice shall also be posted
9 in at least ten public places in the city at least ten days
prior to the date set for the hearing. The notice shall state where copies of the draft of charter may be obtained. The hearing may be continued by the charter board by adjournments over a period not exceeding fourteen days.

Sec. 10. Completion, Authentication and Filing of Draft of Charter. A charter board shall have thirty days after the conclusion of the hearing required by section nine of this article, or the receipt of the certificate of the attorney general, required by section eight of this article, whichever shall occur later, to make any changes it may consider necessary or desirable in its draft of charter.

The completed draft of charter shall be signed in triplicate by at least a majority of the members of the board and two copies shall be filed with the clerk or other recording officer of the city, and one with the clerk of the county court.

Sec. 11. First Charter Board a Continuing Body. The members of the first charter board elected in a city under this act shall hold office for a period of six years, in the event their draft of charter is adopted. Any vacancy occurring during that period shall be filled temporarily by appointment by majority action of the remaining members. A suc-
Enrolled Joint Com. Sub. for S. B. No. 325] 18

7 cessor shall be elected at the next regular municipal election
8 in the same manner as elective city officers, to hold office for
9 the remainder of the term.
10 The board shall make a continuing study of the functioning
11 of the city government under a home rule charter adopted
12 during its life and may, by a two-thirds vote of its members
13 and not less than four years after such charter shall have
14 taken effect, require the submission to the voters of the city
15 of the question whether the charter shall be revised. By a
16 like vote and at any time not less than one year after the
17 charter shall have taken effect the board may require the
18 submission of one or more proposed charter amendments to
19 the voters of the city. In the event revision is voted pursuant
20 to such submission the board as then constituted shall proceed
21 to prepare a revision of the charter and the process of revi-
22 sion as so initiated shall be the same as that for the framing
23 and adoption of a new charter under this chapter.

Sec. 12. Submission of Charter to the Voters. The pro-
2 posed charter shall be submitted to the voters at a special
3 election to be held at the time determined by the charter
4 board. Notice of the time, place and purpose of a charter
election shall be given by publication once a week for three
consecutive calendar weeks in two newspapers of opposite
politics published in the city, if there be such, and if not, in
a newspaper of general circulation in the city. Notice shall
be posted at ten or more public places within the city not
less than thirty days prior to the date set for the election.
The first of said publications shall be made not less than
thirty days prior to the date fixed for the election. Each such
notice of election shall state that any qualified voter of the
city may obtain a copy of the proposed charter from a desig-
nated officer and place upon request.

Sec. 13. When a Home Rule Charter Takes Effect. A
home rule charter shall take effect on the first day of the
fiscal year next after the date of its adoption, if the interim
exceeds sixty days; and otherwise on the first day of the sec-
ond fiscal year after its adoption.

If a proposed charter shall be approved by the voters of a
city one of the signed copies on file with the recording officer
of the city, with a certified copy of the declaration of result
of the election showing the total votes cast for and against
adoption attached, shall be certified forthwith to the clerk
of the house of delegates of the legislature, in his capacity
as keeper of the rolls. The same shall be preserved by said
clerk as an authentic public record. After the effective date
of a charter so filed all courts shall take judicial notice of
its provisions.
A copy of the declaration of the result of the election
showing the total votes cast for and against adoption shall
be certified to the clerk of the county court for filing with
the signed copy of the charter previously deposited with
him.

Sec. 14. Home Rule Charter Supersedes Existing
Charter; Effect on Local Legislation and Administrative
Law. A home rule charter shall entirely supersede the prior
charter of a city. All legislative and administrative acts or
rules theretofore adopted by the governing body and ad-
ministrative agencies of a city which are inconsistent or in
conflict with a home rule charter, shall continue in force for
sixty days after the effective date of the home rule charter,
unless sooner modified or repealed by competent authority;
but at the end of this period, shall to the extent of such
inconsistency or conflict, be of no further force or effect.
Sec. 15. Charter Amendment. The voters of a city may amend an existing special charter or a charter adopted under the provisions of this chapter. An amendment may be initiated in the same manner as for the adoption of a charter. An amendment to a charter adopted hereunder may also be initiated in the manner provided in section eleven of this article.

A special election shall be called to pass upon a proposed charter amendment if (1) the date of the next regular municipal election shall be more than ninety days after the date fixed for such special election; (2) the governing body by the affirmative vote of two-thirds of its members shall determine as a fact that an emergency exists which requires that the proposal be submitted without delay; or (3) a petition expressly requesting the election, which has been signed by twenty per centum of the total registration of the voters in the city for the last preceding general election, in case of a class I or class II city, or by fifteen per centum thereof, in case of a class III city, has been filed with the governing body. In any other case a proposed charter amendment shall be submitted at the next regular municipal election. The
petition or ordinance proposing a charter amendment shall set it out in full.

The date of a special election for the purpose shall be fixed by the initiatory ordinance. The notice of the election shall state the time, place and purpose thereof and shall set out the proposed amendment or amendments at length or state that copies may be obtained by any qualified voter from a designated officer at a stated place upon request. Notice shall be published and posted, as in the case of a charter election.

A charter amendment shall take effect on the date that the canvass and declaration of result showing approval by the voters has been made and entered in the minutes of the governing body, and one copy thereof with a copy of the canvass and declaration of result attached shall be certified to the clerk of the house of delegates, as keeper of the rolls, and another to the clerk of the county court.

Sec. 16. Charter Revision. A charter adopted pursuant to this article may be revised in like manner as framed and adopted but no revision shall be made within four years of the effective date of such a charter or of the last preceding revision, as the case may be.
Sec. 17. Submission of Alternative Provisions. A charter, charter revision or charter amendment may be proposed with alternative provisions for submission to the voters and the same may be voted upon separately without prejudice to the primary question whether the proposed charter, charter revision or amendment shall be adopted or to other provisions thereof.

Sec. 18. Qualifications for Voting Registration. The qualifications for voting at an election held under this article shall be those prescribed by the constitution and by chapter three of the official code. For purposes of any election in a city under this article the latest registration of voters for regular municipal elections shall be used.

Sec. 19. Requisite Vote; Ballot. A simple majority of the votes cast on the question shall be determinative of any proposition submitted to the voters of a city under this article. A separate, special ballot without party designation shall be used at every election held under this article even though conducted at the same time as another election, whether general or special.
Sec. 20. Conduct of Elections; Canvass and Declaration of Result. A special election held under this article shall be conducted in like manner as a regular municipal election. The governing body of a city shall canvass the returns at relatively the same time with reference to an election held hereunder and in the same manner as county courts are required to do with respect to general elections, and shall declare the result of the election. This requirement shall apply to any election held under this article whether it be special or conducted in conjunction with a regular municipal election. The canvass and declaration of result shall be entered in the minutes of the governing body on the date made.

Sec. 21. Expense of Proceeding. The governing body of a city shall make full provision for the expense of advertising and holding any election and all other proper expenses incurred in complying with the provisions of this article, including the expenses of a charter board, but the members of a charter board shall receive no compensation.

Sec. 22. Election Officials. In a special election held under this article, election officials shall be of the number
and shall perform the duties prescribed by general law.

Election officials shall be appointed by the local governing body, but the proponents and opponents of the new charter or charter amendment shall be entitled to representation among the election officials at each polling place. Election officials shall be designated as follows:

(1) The proponents and the opponents, or either, of a new charter or a charter amendment, if organized, may not less than ten days prior to the date of the special election file with the local governing body a list of persons nominated as election officials to represent their organization. The governing body shall appoint as election officials the persons so nominated. If the proponents or opponents, or either, of a new charter or charter amendment desire representation at a special charter or charter amendment election as an organization they shall, within ten days after the official notice of the election has been published for the first time, submit to the governing body a statement showing the name, officers and members of their organization. An organization shall have as members at least five per cent of the registered voters of the city.
24 A person shall not be a member of more than one such
25 organization;
26 (2) If the proponents and opponents, or either, of a new
27 charter or charter amendment are not organized, the govern-
28 ing body shall not less than eight days prior to the special
29 election appoint as representatives of proponents and op-
30 ponents or either as the case may be an equal number of
31 persons known to be in favor of the proposed charter or
32 amendment and of persons known to be opposed to the
33 proposed charter or amendment, to act at each polling place.

ARTICLE III.—Home Rule Charters; Ordinances.

Section 1. Home Rule Charters. A home rule charter
2 shall provide for a form of city government in accordance
3 with Plans, I, II, III or IV of this article. The intention of
4 sections two through five inclusive of this article is to
5 establish basic requirements of alternative plans of structure
6 and organization. The structure and organization of a city
7 government under a home rule charter may be specified by
8 the charter in respects other than those enumerated, and in
9 elaboration of the basic requirements, in so far as such pro-
visions do not conflict with the purpose and the provisions of the alternative plans prescribed.

Sec. 2. **Plan I: "Mayor-council Plan."** A home rule charter may provide for a form of government as follows:

1. (1) A city council, elected at large or by wards, or both, by the voters of the city;
2. (2) A mayor elected by the voters of the city;
3. (3) Such other elective officers as the charter may prescribe;
4. (4) The mayor and council shall be the governing body.

Sec. 3. **Plan II: "Strong-mayor Plan."** A home rule charter may provide for a form of government as follows:

1. (1) A mayor elected by the voters of the city;
2. (2) A city council elected at large or by wards, or both, by the voters of the city;
3. (3) The council shall be the governing body;
4. (4) The mayor shall be the administrative authority;
5. (5) Other officers and employees shall be appointed by the mayor or by his order in accordance with this chapter.

Appointments by the mayor or by his order may be made subject to the approval of the council.
Sec. 4. **Plan III:** "Commission Government." A home rule charter may provide for a form of government as follows:

1. A commission of three or five members elected at large by the voters of the city;
2. The commissioners shall be as follows: a commissioner of public affairs, a commissioner of finance, a commissioner of public safety, a commissioner of public works, and a commissioner of streets. A charter for a class III city shall, and a charter for a class I or class II city may provide for a commission of three members to be a commissioner of finance, a commissioner of public works, and a commissioner of public safety;
3. The members of the commission shall elect a mayor from among their membership;
4. The commission shall be the governing body and administrative authority of the city;
5. Officers and employees, other than members of the commission shall be appointed in accordance with this chapter, by the commission or by each commissioner with respect to his department as the charter may prescribe.
Sec. 5. Plan IV: "Manager Plan." A home rule charter may provide for a form of government as follows:

(1) A council of not to exceed seven members elected at large by the voters of the city;

(2) A mayor elected by the council from among its membership, who shall serve as the presiding officer of the council;

(3) A city manager who shall be appointed by the council;

(4) The council shall be the governing body;

(5) The manager shall be the administrative authority. He shall manage the affairs of the city under the supervision of the council and he shall be responsible to them.

He shall appoint or employ in accordance with this chapter all subordinates and employees for whose duties or work he is responsible to the council.

Sec. 6. Municipal Officers and Employees. Subject to the provisions of the state constitution, general law and this chapter, a home rule charter or, in the absence of charter provisions, a governing body may determine and regulate the number, method of selection, tenure, qualifications, com-
Sec. 7. **Elections.** Regular city elections under a home rule charter shall be held on the first Tuesday in June at which elective city officers shall be chosen to take office upon the first day of July next ensuing for a term of as many years, not to exceed four, as the charter may prescribe.

Persons shall be eligible to vote at city elections who are qualified to vote at general elections in this state and who have resided in the city for at least sixty days. But a charter may provide that a person shall be ineligible to vote in city elections who has not lived within the city for at least six months.

A home rule charter shall provide a method and time of registering voters, nominating candidates, conducting elections, and determining and certifying results of elections. A charter may prescribe that county registration books be used for the purposes of registration, and that the provisions of general law with respect to primary and general elections, so far as applicable, shall apply to city elections.
The provisions of article seven, chapter three of the official code relating to offenses and penalties shall apply to all elections held under this chapter.

Sec. 8. Initiative Referendum and Recall. A home rule charter may provide for any or all of the following:

1. The initiation of ordinances by petition of not less than ten per cent of the voters;
2. The submission to the voters of a proposed ordinance at a regular or special election upon the petition of not less than ten per cent of the voters or upon resolution of the governing body;
3. The holding of a special election to submit to the voters the question of the recall of an elected officer upon petition of not less than twenty per cent of the voters. Not more than one recall election shall be held with respect to an officer during his term of office.

Sec. 9. Ordinances. In the following enumerated cases the action of a governing body shall be by ordinance:

1. Levying taxes or providing for the collection of fees of any kind;
2. Requiring a license to do business;
6 (3) Relating to offenses and penalties;
7 (4) Authorizing the issuance of bonds or other forms of indebtedness;
8 (5) Providing for a public improvement;
9 (6) Providing for the purchase of private property by the city or for the sale of property belonging to the city;
10 (7) Laying out or vacating a public street, alley, or way;
11 (8) Relating to zoning;
12 (9) Granting franchises to public utilities;
13 (10) Providing for a contractual or other agreement with another jurisdiction;
14 (11) Relating to such other matters as the charter may require;
15 (12) Any other case in which an ordinance is required by this chapter.

Sec. 10. *Ordinance Procedure.* The governing body of a city shall enact an ordinance in the cases specified by section nine of this article in accordance with the following requirements:

1 (1) An ordinance shall be read at not less than two meet-
33 [Enrolled Joint Com. Sub. for S. B. No. 325]

ings with at least one week intervening between each meet-
ing;

(2) Before final passage an ordinance shall be published in two newspapers of opposite politics published in the city, if such there be, and otherwise in one newspaper so published. If no newspaper is published in the city, publication shall be in a newspaper of general circulation in the city;

(3) An ordinance shall not be finally passed until after three days have elapsed after the date of publication and persons interested have been given an opportunity to attend a meeting of the council and be heard with respect to the ordinance;

(4) An ordinance shall not be materially amended at the same meeting at which finally passed. If materially amended after publication the ordinance shall be republished and considered as though publication had not taken place.

A home rule charter may prescribe a procedure for the enactment of ordinances in greater detail than prescribed by this section, but the provisions of this section shall be required. A governing body may enact an ordinance under
suspension of the rules prescribed by this section only in the case of a pressing public emergency making a procedure in accordance with the section dangerous to the public health, safety, or morals, and by the affirmative vote of two-thirds of the members elected to the governing body. The nature of the emergency shall be set out in full in the ordinance.

ARTICLE IV. Powers of Home Rule Cities.

Section 1. General Provisions. Every city, from and after the adoption of a charter under this chapter shall have all the powers conferred by this chapter upon cities of the class to which it belongs. A city operating under a home rule charter may exercise its powers beyond the boundaries of the city so far as may be necessary to assure the effective exercise of its powers within the city, but no authority is conferred hereby to exercise governmental powers within the limits of any other municipality.

Sec. 2. General Provisions; Police Power. A city shall have the power to protect and promote the public safety, health, morals and welfare by the exercise of the powers granted by this article. The enumeration of powers in this article shall not operate to exclude the exercise of other
powers fairly incidental thereto or reasonably implied and
within the purposes of this chapter; and the provisions of
this article shall be given full effect without regard to the
common law rule of strict construction.

Sec. 3. Public Morals, Peace and Good Order. A city
can exercise its police power to protect the public morals,
safety and good order. It may prevent and suppress con-
duct and practices which are immoral, disorderly, lewd,
offensive and indecent.

Sec. 4. Police Department. A city may provide for and
maintain a police department. The department shall be
subject to authority, control and discipline of the local
administrative authority.

Sec. 5. Police Court. A city may provide for the creation
and maintenance of a police court and for the selection by
appointment or by election of a police judge. The police
court shall have criminal jurisdiction over violations of city
ordinances and the criminal jurisdiction of a justice of the
peace. A person convicted in a police court shall have the
right to an appeal de novo to the court having jurisdiction
over appeals from justice of the peace courts in the county.
in the same manner as provided by law for appeals from
justice of the peace courts.

Sec. 6. Fire Department. A city may provide for, equip
and maintain a fire department. The department shall be
subject to the authority, control and discipline of the local
administrative authority.

A city may contribute to the support of a volunteer fire
department by providing a fire house, fire fighting equip-
ment, necessary paid personnel and incidental requirements
to maintain the department upon an efficient basis. A
volunteer fire department shall be subject to the authority
of the local governing body.

Sec. 7. Public Library. A city may provide for the
establishment and maintenance of a public library by
ordinance or may submit the question to the voters of the
municipality in accordance with article one, chapter ten of
the official code.

Sec. 8. Public Recreation. A city may provide for the
establishment and maintenance of public recreation and play-
grounds by ordinance or in accordance with article two,
chapter ten of the official code.
Sec. 9. *Public Health Unit.* A city may establish and maintain a public health unit in accordance with section two, article two, chapter sixteen of the official code. A public health unit shall exercise its powers subject to the supervision and control of the state public health council and the state department of health.

Sec. 10. *Purchasing.* A city may provide for the centralized purchasing of materials, supplies and equipment. A city may, by agreement with the state director of purchases, purchase through the state department of purchases or may make agreements with one or more other municipalities, counties, and/or county boards of education, for centralized purchasing for all governmental units which are parties to such an agreement.

Sec. 11. *Retirement Pensions for Policemen and Firemen.*

Cities of class I and class II shall, and cities of class III may provide for pension and relief funds for firemen or policemen, or both, by charter provisions, or by ordinance, in accordance with sections ten through twenty-one, article six, chapter eight of the official code. Amounts paid into a pension and relief fund shall be held in trust for the pur-
poses of the fund, and shall not be used for or diverted to any other purpose. A city may extend a pension and relief fund to include all or specific classes of other city employees.

Sec. 12. **Regulatory Licenses.** A city may regulate the business of and require a special license to be obtained by:

1. Hawkers, peddlers, solicitors and other persons selling from door to door;
2. Persons maintaining or operating pool rooms, auditoriums, theaters, and other places of public gathering and recreation;
3. Persons dealing in second hand or used articles, including pawn brokers and junk dealers;
4. Businesses or activities affecting the public health or safety;
5. Any other business or practice to which the police power extends.

Sec. 13. **Municipal Inspection.** A city may provide for the entering and inspection of private premises for the purpose of the enforcement of state law and city ordinances. This section shall not be construed to authorize an unreason-
able search or seizure in violation of section six, article three of the state constitution.

Sec. 14. Permits for Construction and Alteration. The city may require a permit as a condition precedent to the construction, alteration or repair of any structure or of any equipment or parts of structures that are regulated by state law or city ordinance.

Sec. 15. Hazards to Life and Property: Abatement of Nuisances. The city may provide for the elimination of hazards to public health and safety and may define and abate public nuisances.

Sec. 16. Animals Within City Limits. A city may regulate or prohibit the keeping of animals within the city limits. A city may provide for the impounding, sale and destruction of animals kept contrary to law or found running at large.

Sec. 17. Articles Unfit for Human Use or Consumption. A city may regulate or prohibit the purchase or sale of articles which are unfit for human use or consumption or which may be contaminated or otherwise unsanitary.

Sec. 18. Accumulation of Refuse. A city may prohibit
the accumulation and require the disposal of garbage, refuse,

waste, ashes, trash and any other similar matter.

Sec. 19. Building Regulation: General and Special

Codes. A city may, by ordinance, or by a code of ordinances:

(1) Regulate the erection, construction, repair and alteration of structures of every kind within the city. A city may prohibit, within specified territorial limits the erection, construction, repair and alteration of structures of wood or other combustible material. Regulations may extend to excavations upon private property;

(2) Regulate electric wiring prescribing minimum specifications to be followed in installation, alteration or repairs;

(3) Regulate plumbing by prescribing minimum specifications to be followed in the installation, alteration or repair of plumbing including equipment, water and sewer pipe, traps, drains, cesspools and septic tanks.

Sec. 20. Opening of Streets. A city may provide for the opening and excavation of public streets, and ways, and public places of the city, and may regulate the conditions under which such openings may be made. Regulations shall apply to streets maintained by the state only in the absence
of regulations applying thereto prescribed by the state road
commission pursuant to general law.

Sec. 21. *Regulation of Traffic.* A city may regulate the
use of public streets and ways, and public places of the
city. Regulations applying to streets or ways maintained
by the state shall be subject to provisions of law relating
to state roads and the regulations prescribed by the state road
commission.

Sec. 22. *Conservation; Shade Trees, Lowlands and Water
Courses.* A city may provide for:
(1) The protection and conservation of shade or orna-
mental trees whether on public or private property and
the removal of trees or limbs of trees in dangerous con-
dition;
(2) The construction and maintenance of water drains
and the drainage of swamps or marsh lands;
(3) The construction, maintenance and covering over of
water courses.

Sec. 23. *Signs, Billboards and Advertising.* A city may
regulate by ordinance the location and placing of signs,
billboards, posters and similar advertising.
Sec. 24. Planning and Zoning. A city may provide for city planning and zoning in accordance with article five, chapter eight of the official code.

Sec. 25. Public Property and Improvements. A city shall have power:

(1) To establish and maintain public buildings, including a city hall, public auditoriums and a city jail, necessary or appropriate for the performance of municipal functions;

(2) To lay out, establish, construct, maintain, operate, alter and discontinue streets, sewers and drainage systems, sewage disposal plants and street lighting systems;

(3) To establish, construct and maintain, operate, alter and discontinue bridges, tunnels and ferries, and approaches thereto;

(4) To establish, construct, maintain and operate markets, parks, recreation grounds, municipal camps, and parking lots, and upon the discontinuance thereof to sell and convey the same;

(5) To control and administer the water front and water-ways of the city, and to establish, maintain, operate and regulate flood control works, wharves and public landings,
warehouses and all adjuncts and facilities for navigation and
commerce and the utilization of the water front and water-
ways and adjacent property;
(6) To establish, maintain, manage and administer
hospitals, sanitaria, dispensaries and public baths;
(7) To establish, maintain and operate airports as pro-
vided by article eleven, chapter eight of the official code;
(8) To establish, maintain and operate cemeteries;
(9) To establish, maintain, manage and administer ab-
butoirs, incinerators and all other facilities for the efficient
removal and destruction of garbage, refuse and other offensive
matter;
(10) To exercise its police powers to protect the water-
shed and water supply of the city and to exercise general
police jurisdiction over any territory beyond its limits
owned by the city or over which it has a right-of-way.

Sec. 26. Municipal Ownership and Operation of Public
Utilities. Subject to general law a city shall have power to
acquire or establish, improve, operate, maintain and repair,
within or without the city, water systems and electric and gas
systems for the production and distribution of light, heat
and power primarily for the benefit of the city and con-
sumers therein. A city may acquire watersheds, water
and riparian rights, plant sites, rights-of-way and any and all
other property and appurtenances necessary or appropriate
for such a system. The products and services of any such
utility may be sold to consumers outside the city limits to
the extent, in the judgment of the governing body, that they
are not required to satisfy the needs of consumers within
the city.

A city may purchase the franchises and properties of a
privately owned public utility which the city would have
the authority to acquire and construct as an original under-
taking.

Sec. 27. Alienation of Municipal Public Utilities. No
city shall alienate the franchises and properties of a munici-
pal public utility or lease the same for a period in excess of
ten years unless the proposition shall first have been sub-
mitted to the voters of the city in the manner provided by
this chapter for the submission of proposed charter amend-
ments and shall have been approved by a majority of the
voters voting thereon. This limitation does not apply to such
45  [Enrolled Joint Com. Sub. for S. B. No. 325

9 parts of the franchises or properties of a municipal utility
10 system as the governing body shall determine to be unneces-
11 sary for the efficient rendering of the services to the city
12 and consumers within the city.

Sec. 28. Franchises. A city shall have power to grant
2 franchises or rights to use the streets, waters, water front,
3 public ways and public places in the city. No franchise shall
4 be granted for a period in excess of twenty-five years, nor
5 until after a public hearing has been held thereon after notice
6 of the time, place and purpose of the hearing shall have been
7 given once a week for four successive calendar weeks in a
8 newspaper of general circulation in the city.

Sec. 29. General Welfare; Miscellaneous Powers. A city
2 shall have power:
3 (1) To investigate and inquire into all matters of concern
4 to the city or its inhabitants;
5 (2) To establish, maintain, manage and administer instru-
6 mentalities other than free public schools for the instruction,
7 enlightenment, improvement, entertainment, recreation and
8 welfare of its inhabitants as it may deem appropriate or neces-
9 sary for the public interest;
(3) To create, maintain and administer a system or systems for the enumeration, identification and registration, or either, of the inhabitants of the city and visitors thereto, or such classes thereof as may be deemed advisable;

(4) To appropriate and expend not exceeding twenty-five cents per capita per annum for advertising the city and the entertainment of visitors.

Sec. 30. Civil Service. A city may provide by charter provision for a merit system for all or any class of city employees in addition to those classes for which a merit system is made mandatory by general law.

Sec. 31. Intermunicipal Contracts and Agreements. Two or more cities, a city and a town or village, a city and a county whether the city is located within the county or not, or a city and a county board of education may engage jointly in the exercise of any power, the making of any improvement, or the promotion and maintenance of any undertaking which the several parties are empowered to exercise or undertake separately under this chapter or by any other provision of general law or special act.
The contract or agreement shall be reduced to writing, and before final approval by the governing bodies involved, shall be submitted to the attorney general. After approval, by the governing bodies concerned certified copies of the contract or agreement shall be filed in the office of the county clerk of the county or counties in which the local jurisdictions are located, and in the office of the state tax commissioner. A contract or agreement shall be limited in duration to one fiscal year unless ratified by popular vote of the qualified voters of the several jurisdictions voting separately at a regular or special election.

Sec. 32. Special Powers of Class I and Class II Cities.

A class I or class II city shall have the power:

(1) To operate and maintain passenger transportation lines and facilities. Such lines may be operated for a distance of not exceeding three miles beyond the limits of the city, but may not be operated within the limits of another municipality without the consent of the governing body thereof;

(2) For the purpose of inquiring into and investigating matters of concern to the city and its inhabitants, to require
the attendance and testimony of witnesses and the production of evidence. In case of failure or refusal of a witness to appear and testify, or to produce evidence, the governing body may invoke the aid of the circuit court of the county. Upon proper showing, the circuit court shall issue an order requiring a witness to appear and to produce evidence and to give testimony concerning the matter in question. A person who fails or refuses to obey the order of the circuit court may be punished by the court as for contempt.

A claim that any such testimony or evidence may tend to incriminate the person giving the testimony or evidence shall not excuse the witness, but such testimony or evidence shall not be used against the witness in any criminal prosecution under the laws of the state or a municipal ordinance;

(3) To provide for a sealer of weights and measures who shall exercise his powers in accordance with article one, chapter forty-seven of the official code.

**ARTICLE V. Taxation and Finance.**

Section 1. *General Property and Benefit Taxes.* A city shall have power:

(1) To levy and collect taxes on real and personal prop-
49 | Enrolled Joint Com. Sub. for S. B. No. 325

4 
5 
6 
7 
8 
9 
10 
11 
12 
13 
14 
15 
16 

Sec. 2. Capitation Taxes. A city shall have power to levy and collect an annual capitation tax upon all inhabitants who have attained the age of twenty-one years. The governing body may exempt from such tax all persons who are dependent in whole or in part upon public assistance for their support. The rate of such tax shall not exceed two dollars per person and the revenue so produced shall be applied pri-
Enrolled Joint Com. Sub. for S. B. No. 325] 50

8 marily to the maintenance and repair of streets and other
9 public ways and places.

Sec. 3. License and Privilege Taxes. A city may levy
2 and collect an annual license tax upon businesses, occupations,
3 or economic activities regularly conducted within the city,
4 and a special license tax upon an itinerant or transitory busi-
5 ness occupation or economic activity conducted within the
6 city, as follows:
7 (1) Upon any public utility business exercising a fran-
8 chise from the city. The annual tax shall not exceed five
9 hundred dollars in class I cities, three hundred fifty dollars
10 in class II cities, and two hundred dollars in class III cities;
11 (2) Upon any manufacturing or other production busi-
12 ness or activity. The annual tax shall not exceed two hundred
13 dollars in class I cities, one hundred fifty dollars in class II
14 cities, and one hundred dollars in class III cities;
15 (3) Upon any wholesale or other intermediate distribution
16 business or activity. The annual tax shall not exceed one
17 hundred fifty dollars in class I cities, one hundred twelve
18 dollars fifty cents in class II cities and seventy-five dollars
19 in class III cities;
(4) Upon any amusement or entertainment business or activity, other than literary, dramatic, musical, or benevolent societies not conducted for private profit or gain. The annual tax shall not exceed two hundred dollars in class I cities, one hundred fifty dollars in class II cities, and one hundred dollars in class III cities;

(5) Upon the business of selling tangible personal property at retail, except farmers selling products produced by them, and upon any service business, agency or calling. The annual tax shall not exceed one hundred dollars in class I cities, seventy-five dollars in class II cities, and fifty dollars in class III cities;

(6) Upon any profession, recognized and regulated as such by the laws of this state. The annual tax shall not exceed twenty-five dollars in a class I or class II city and fifteen dollars in a class III city;

(7) If the business, occupation, or activity taxed under this section is conducted at two or more separate places, or locations, each of which is a distinct branch or business unit, a separate license tax may be imposed and collected for each place or location;
(8) A license tax levied under this section may be further
classified within the classes for which maximum amounts of
taxes are fixed to the extent that such further classifications
are not unreasonable or discriminatory in effect.

Sec. 4. Motor Vehicle Operator's Tax. A city may levy
and collect an annual motor vehicle operator's license tax of
not exceeding two dollars. The tax shall apply only to inhab-
itants of the city.

Sec. 5. Amusement Tax. A city may levy and collect an
admission and amusement tax upon any public amusement
or entertainment conducted for private profit or gain. The
tax shall be added to and collected with the price of admis-
sion, or other charge for the amusement or entertainment.
The tax shall not exceed three per cent of the admission price
or charge, but a tax of one cent may be levied and collected
in any case.

Sec. 6. Domestic Animals. A city may levy and collect
an annual license tax upon the privilege of keeping a domestic
animal.

Sec. 7. Preservation of Prior Taxing Powers. A city may
include within a home rule charter, and may continue to
exercise under a home rule charter, powers of taxation, other
than property taxes, which are contained in a special charter
in effect upon the adoption of this chapter, and which are
not in conflict with general law.

Sec. 8. *Fees and Charges for Municipal Services.* A city
shall have power to charge and collect reasonable rates, fees
and charges for municipal services other than those rendered
as fire and police protection, subject to the provisions of
chapter twenty-four, of the official code of West Virginia as
amended. In the case of police power services, which may
be mandatory upon those served, the charge shall be based
upon and shall not substantially exceed the cost of render-
ing the same.

Sec. 9. *Borrowing Power.* A city shall have power to
borrow money on the general faith and credit of the city for
any municipal purpose in the manner and subject to the limi-
tations provided by article nine of chapter eight and by chap-
ter thirteen of this code.

Sec. 10. *Audits and Accounts.* The provisions of article
nine, chapter six of the official code shall apply to cities under
this chapter. A home rule charter or, in the absence of char-
Enrolled Joint Com. Sub. for S. B. No. 325 | 54

4 4 ter provision, a governing body of a city may provide for a
5 5 system of budgeting, accounting, and record-keeping, and for
6 6 the conduct of the transactions of the city, but such provi-
7 7 sion shall not conflict with article nine, chapter six of the
8 8 official code or with the regulations or orders promulgated
9 9 under it by the state tax commissioner.

CONSOLIDATION

ARTICLE VI.

Section 1. Authority to Consolidate. Any two or more
2 2 adjoining municipalities in this state, lying in the same
3 3 county, may consolidate and become one municipality in the
4 4 manner provided in this article.

Sec. 2. Petition and Resolution. Upon the presentation
2 2 to the governing body of a municipality of a petition, signed
3 3 by twenty per cent of the qualified voters thereof, requesting
4 4 consolidation with one or more municipalities and setting
5 5 forth the name by which the consolidated municipality is to
6 6 be known, the governing body shall forthwith adopt a
7 7 resolution proposing such consolidation.

Sec. 3. Order for Elections. The governing body shall
2 2 forthwith present a copy of the resolution to the circuit court
of the county or the judge in vacation. If the court, or
judge receives copies of such resolutions from the respective
governing bodies of two or more municipalities proposing
to consolidate with each other, it shall be the duty of the
court or judge to call, by written order, an election to be
held within such municipalities for a determination, by the
qualified voters of the respective municipalities, upon the
question of consolidation. The order shall set the date for the
elections, which date shall be not less than thirty nor more
than sixty days from the date of the order, and shall be on
the same day in each of the municipalities concerned.
The order shall state the names of the municipalities, the
object of the election, and the name by which the con-
solidated municipality is to be known.
The order shall forthwith be filed in the office of the clerk
of the county court, and true copies shall at once be served
upon the clerk, or other recording officer, of each of the
municipalities concerned.

Sec. 4. Elections. The elections shall be held as are
other municipal elections. The provisions of law governing
3 regular municipal elections shall, except as otherwise pro-
4 vided herein, apply to those held under this article.
5 The question of the consolidation of the same municipalities
6 shall not be submitted to the voters thereof more often than
7 once in two years.

Sec. 5. Ballots; Expenses of Elections. The ballots to
2 be used shall be in substantially the following form:
3 Shall .............................................................................. (name
4 the municipalities) be consolidated and become one munici-
5 pality, to be known as ....................................................?
6 (name of the proposed new municipality).
7 For consolidation □
8 Against consolidation □
9 The expenses of the elections shall be borne by the separate
10 municipalities.

Sec. 6. Counting and Canvassing; Certificate of Results.
2 The county court shall furnish sealed ballot boxes to the
3 proper officers of the municipalities wherein the elections are
4 to be held. The municipal officers responsible for the custody
5 of the ballots, shall, immediately upon the closing of the
6 elections, transmit the ballot boxes to the county court, sealed
and unopened. The county court shall proceed to count and
 canvass the votes cast, and shall forthwith certify over their
 signatures to the circuit court or judge in vacation the result
 of the canvass, showing distinctly in their certificate the
 number of votes for and the number of votes against the
 consolidation in each of the municipalities, and also the num-
 ber of voters in each municipality who voted on the question.

Sec. 7. Endorsement of Certificate; Filing. If a majority
 of the qualified voters in each of the municipalities are shown
 by the county court’s certificate to have voted in favor of the
 consolidation, the circuit court or judge, if satisfied as to the
 correctness of the returns evidenced by that certificate, shall
 so certify upon the certificate. He shall cause the same to be
 filed forthwith in the office of the clerk of the county court,
 and to be published in a newspaper of general circulation in
 the municipalities so voting.

Sec. 8. Effective Date of Consolidation. The consolida-
tion shall be effective at twelve o’clock noon of the first
day of the fiscal year next succeeding the date of the elections
unless that day is less than ninety days prior to such date,
in which event the consolidation shall be effective at twelve
6 o'clock noon of the first day of the fiscal year next but one
7 succeeding that date.

Sec. 9. Charter and Ordinances of New Municipalities.
2 When the consolidation becomes effective, the consolidated
3 municipalities shall constitute and be one municipality under
4 the name set forth in the initiatory petitions and the election
5 order.
6 The charter of the consolidating municipality having the
7 largest population shall, when the consolidation becomes
8 effective, be and remain the charter for the whole of the
9 consolidated territory, until supplanted.
10 The ordinances, resolutions, orders, rules and regulations
11 in force in the consolidating municipality having the largest
12 population when the consolidation becomes effective, shall
13 extend to and be in force throughout the newly consolidated
14 municipality, until they are supplanted. And the ordinances,
15 resolutions, orders, rules and regulations of the other
16 municipalities shall cease to be operative.

Sec. 10. Ward Representation. If the charter applying
2 to the new municipality provides for ward or other territorial
3 representation, in whole or in part, upon the membership
of the governing body, every ward or similar division in the
new municipality shall be entitled to representation upon
the governing body of the new municipality.

The commission provided for in section eleven of this
article shall give careful attention to this section before
commencing upon their prescribed duties.

Sec. 11. Commission on Wards and Election Districts.

Within one week after the filing and publication provided
for in section seven of this article, a joint commission shall
be formed consisting of the mayor or other chief executive
officer and the clerk or other recording officer of each
municipality to be consolidated, and three inhabitants thereof
appointed by the governing body.

The commission shall be called together by the mayor or
other chief executive of the consolidating municipality
largest in population, at a time and place fixed by him,
but not later than ten days from the formation of the
commission. The commission shall organize by selecting a
chairman and clerk. The clerk shall keep a record of all
proceedings and expenses and shall file the same, not more
than fourteen days after the commission has filed its report
and certificate hereinafter prescribed, in the office of the
clerk of the county court, together with an affidavit as to
the truth and correctness thereof.

The commission shall fix and determine the ward lines
(if the largest municipality is so divided) and election dis-
tricts of the new municipality. The commission shall, within
forty-five days from the date of its organization, make a
report and certificate over the signatures of a majority of
its members, and shall file the same in the office of the
clerk of the county court. The certificate shall set forth
and accurately describe the ward lines, if any, and election
district lines fixed by the commission, and shall contain a
proper map of the new municipality with such lines set out
thereon. The clerk of the commission shall cause a copy
of the certificate to be filed in the office of the secretary
of state.

The lines fixed and determined by the commission shall
be those of the new municipality until changed in accord-
ance with law. Wards, if any, shall be formed of contiguous
territory. No election district shall be in more than one
ward. In dividing the new municipality into wards and
election districts, the commission shall have regard for, and shall take into consideration, the election laws of the state, as well as the area and population in all wards and election districts, and shall divide and arrange the same so that each will contain, as nearly as possible, an equal number of inhabitants.

A notice setting forth the ward lines, if any, and election district lines as fixed by the commission shall be published by the clerk thereof, in at least one newspaper of general circulation in the municipalities concerned, for two successive weeks next succeeding the filing of the certificate with the clerk of the county court. The expenses of the publication shall be paid by the new municipality. Upon the completion of the publication, the wards and election districts of the consolidating municipalities shall be superseded. The commission shall appoint, in accordance with the charter of the new municipality, election officers to serve at the election provided for by section twelve of this article.

The commission may employ an engineer and an attorney to assist in performing its duties. The commission may provide for compensation to be allowed to its clerk, engineer
and attorney, which shall be paid by the new municipality.

The commission members shall not receive compensation for their services, but all expenses incurred by them in the performance of their duties, when itemized and sworn to by the chairman and clerk, shall be paid by the new municipality.

Sec. 12. *Election of New Officers.* An election shall be held upon the first Tuesday in June next preceding the date when the consolidation becomes effective for the election of officers for the new municipality. The officers shall be elected and the election shall be conducted in accordance with the charter which shall apply to the new municipality and as though the consolidation had become effective.

Persons elected to office at the election held under this section shall take office upon the day the consolidation becomes effective, for the term specified by the charter applying to the new municipality.

Sec. 13. *Officers and Employees of Old Municipalities.*

When the consolidation becomes effective, the terms of office of all officers and officials of the consolidating municipalities,
enrolled Joint Com. Sub. for S. B. No. 325

4 elected or appointed, shall, except as herein otherwise pro-
5 vided, cease and be at an end.

6 Policemen and firemen of the consolidating municipalities
7 shall, when the consolidation becomes effective, continue as
8 policemen and firemen of the new municipality. They shall
9 be subject to the orders and control of the mayor or other
10 chief executive officer of the new municipality, until the
11 heads of the police and fire departments are chosen and
12 placed in charge thereof.

13 Tenure of office and pension laws applicable to the em-
14 ployees of consolidating municipalities shall not be affected
15 by the provisions of this article.

Sec. 14. Succession. The new municipality shall, when
2 the consolidation becomes effective, be vested with all the
3 rights and properties of the municipality of which it was
4 formed, and shall be responsible and liable for all contracts,
5 debts and obligations of such municipalities. But the lands
6 and property in a municipality superseded under this article
7 shall not be taxed or assessed for the debts or obligations
8 of another municipality thus superseded. The lands and
9 properties in each of the constituent and superseded munici-
palities shall be taxed and assessed for the debts and obligations of its superseded government until the same shall be paid and satisfied.

Sec. 15. Obligations and Proceedings. The taxes and assessments, levied or imposed by one of the superseded municipalities, remaining outstanding and unpaid, and all other moneys due and owing such municipality when the consolidation becomes effective shall be collected by the new municipality and shall be applied to the purposes for which raised or owing, and if not raised or owing for a specific purpose, shall be applied to the reduction or payment of the bonded or other indebtedness, if any, of the superseded municipality.

Proceedings pending to enforce the payment or collection of taxes and assessments in any of the consolidating municipalities shall be carried to completion by the proper officers of the new municipality; and all taxes and assessments therebefore levied and assessed by any of the consolidating municipalities shall be valid and effectual as if originally levied and assessed by the officers of the new municipality. The governing body of the new municipality is authorized to
perform all necessary acts to confirm and effectuate such
levies and assessments.

Sec. 16. *Transfer of Funds and Property.* Immediately
upon the installation of the new municipal government the
officers having custody of the funds of the consolidated
municipalities shall deliver all funds in their possession
into the custody of the proper fiscal officer of the new munici-
ality, who shall acknowledge delivery by giving his receipt
therefor.

The mayor or other chief executive officer shall supervise
and direct the transfer of all personal property, books,
papers, vouchers, or other documents belonging to the con-
solidated municipalities, to the proper officers of the new
government. He shall also cause a complete inventory to
be made of all assets, real and personal, thus received by
the new government.

The tax commissioner shall cause an audit and settlement
of officers' accounts to be made forthwith.

Sec. 17. *Permits and Licenses.* Permits and licenses
granted to any place or person by any of the consolidating
municipalities shall, subject to their conditions, remain in
full force and effect and be recognized by the new munici-
ality until the expiration of the term for which they were
granted. But this section shall not be construed to prevent
the revocation of any such permit or license before its
expiration in the manner provided by law.

Sec. 18. Legal Proceedings. No suit, action or proceed-
ing pending in any court or before any board or department,
wherein one of the consolidating municipalities is a party,
or in which it is interested, or by the determination of which
it might be affected, shall abate by reason of the consolida-
tion, but the new municipality shall be substituted in the
place and stead of such consolidating municipality, and the
suit, action or proceeding shall continue as if the consolida-
tion had not taken place.

Sec. 19. Municipalities in Different Counties. Two or
more adjoining municipalities in different counties may
consolidate and become one municipality in the manner
provided in this article for the consolidation of adjoining
municipalities lying in the same county. But where a
county court or clerk, or circuit court is designated in this
article, it shall, as to municipalities in different counties, be
the county court or clerk, and the circuit court of the county
wherein the consolidating municipality or part thereof
having the largest population is located.

Sec. 20. Annexation. Unincorporated territory may be
annexed to and become part of a municipality contiguous
thereto in accordance with sections twenty to twenty-four
inclusive, of this article.

Sec. 21. Petition. Ten per cent of the inhabitants of the
municipality may file a petition, in writing and signed by
them, with the governing body, setting forth by metes and
bounds the territory proposed to be annexed and asking
that a vote be taken upon the proposed annexation. Upon
the filing of the petition, the governing body shall order a
vote of the qualified voters of the municipality to be taken
upon the proposed annexation at a time to be named in
the order, but not less than twenty nor more than sixty
days from the date of the order. The governing body shall,
at the same time, order a vote of all the qualified voters re-
siding in the contiguous territory, and of all the qualified
voters owning any part of such territory whether resident
thereon or not, to be taken upon the question on the same
15 day at some convenient place on or near such contiguous
territory. The orders shall be published, at the cost of the
municipality, in a newspaper of general circulation in the
municipality and the contiguous territory, once a week for
two successive weeks, the first publication to be at least
fourteen days prior to the day the vote is to be taken. The
orders so published shall contain an accurate description
by metes and bounds of the territory proposed to be an-
nexed, and, if practicable, shall contain also a popular de-
scription of such territory.

Sec. 22. Ballots. The ballots shall be in substantially the
following form:

(Here shall be a map showing plainly the municipality, and
the territory proposed to be annexed.)

Shall the territory indicated on the map be annexed to
and become part of ........................................ (name
of the municipality).

For annexation □

Against annexation □

Sec. 23. Election. The election shall, except as herein
otherwise provided, be held and conducted by the proper
officers of the municipality. The circuit court or judge of
the county wherein the municipality or the portion thereof
greatest in population lies, shall appoint persons to attend
the election, which persons shall have the right to challenge
the casting of any vote on the question of the annexation.
The court or judge shall appoint and designate three such
challengers to serve at each place of voting both in the
municipality and in the territory proposed to be annexed.
A challenger so appointed and designated shall be a resi-
dent of the municipality or territory where he officiates.
The county court of the county where the municipality or
portion thereof greatest in population lies, shall furnish
sealed ballot boxes, which at the close of the voting shall be
transmitted sealed and unopened to the county court, which
shall proceed to count and canvass the votes cast.

Sec. 24. Certification of Results. The county court shall
forthwith certify to the circuit court or judge, hereinbefore
designated, the results of the election. If a majority of the
votes cast by the qualified voters of the municipality, and
by a majority of the qualified voters residing in and owning
any portion of the contiguous territory are in favor of the
7 annexation, the circuit court or judge shall endorse the
8 certificate to that effect and shall file the endorsed certificate
9 in the office of the clerk of the county court. The annexa-
10 tion shall be effective as of the date of such filing.

Sec. 25. *Minor Boundary Adjustments.* In the case of a
2 minor boundary adjustment, the governing body of a muni-
3 cipality may apply to the circuit court, or judge in vacation
4 having jurisdiction over the area to be annexed. Application
5 shall show the metes and bounds of the area to be
6 annexed, the number of persons residing therein, and a
7 proper map of the area.
8 The court or judge, if satisfied that the annexation applied
9 for is only a minor boundary adjustment, shall order publi-
10 cation of a notice that annexation has been proposed, and
11 shall set a time for a hearing on the question. Publication
12 shall be as in the case of an annexation election. Notice
13 shall be prominently posted at not less than five public
14 places within the area to be annexed.
15 If the proposed annexation is not substantially opposed
16 at the hearing by a person having an interest in the land
17 within the area to be annexed, the court or judge may enter
an order changing the boundaries of the municipality to embrace the annexed area. If the annexation is substantially opposed at the hearing by a proper party the court or judge shall dismiss the application. The municipality shall pay the costs of the proceedings under this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the

Takes effect

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,

1937.

Governor

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.

Filed in the office of the Secretary of State of West Virginia. MAR 19 1937

Wm. S. O'BRIEN,
Secretary of State