WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED
SENATE BILL No. 257

(By Mr.

PASSED March 1st, 1939

In Effect Ninety Days from Passage

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.)
AN ACT to provide for the submission to the voters of the state of
an amendment to the constitution of the state of West Vir­
ginia, amending sections one, two, eight and seventeen of article
seven thereof, the said amendment to be known as the 'Elective
State Officials Amendment'.

Be it enacted by the Legislature of West Virginia:

Section 1. Submitting an Amendment to Article Seven of
the Constitution. The question of the ratification or rejection
of an amendment to the constitution of the state of West Vir­
ginia, proposed in accordance with the provisions of section
two of article fourteen of said constitution, amending sections
one, two, eight and seventeen of article seven thereof, shall be
submitted to the voters of the state at the next general
PROPOSED AMENDMENT

Article 7. Executive Department.

Section 1. State Officials to be Elected. The governor shall be the head of the executive department. The governor, a state auditor and an attorney general shall be elected by vote of the people. They shall reside at the seat of government during their terms of office and keep there the public records, books and papers pertaining to their respective offices. They shall perform such duties as may be prescribed by law. The attorney general shall be ex officio reporter of the supreme court of appeals.

Sec. 2. Election and Terms. An election for governor, auditor and attorney general shall be held at such times and places as may be prescribed by law. Their terms of office shall be four years and shall commence on the first Monday after the second Wednesday of January next after their election.

Sec. 8. Appointment of Officers. The governor shall nominate, and by and with the advice and consent of the senate (a majority of all the senators elected concurring by yeas and
mays) appoint all heads of such executive departments as may
be established by law, and all other officers whose offices may
be created by law and whose appointment or election is not
otherwise provided for. Provisions may be made by law for
the appointment of state superintendent of free schools by
a board appointed by the governor. In no event shall any
such head of an executive department or such other officer
be appointed or elected by the Legislature.

Sec. 17. Vacancies; Accounts and Reports; When Amend-
ment Effective. If the office of state auditor or attorney gener-
al becomes vacant by death resignation or otherwise, it shall
be the duty of the governor to fill the office by appointment,
and the appointee shall hold his office until his successor is duly
elected and qualified as prescribed by law.

Sec. 2. Amendment to be Known as the Elective State Of-
officials Amendment. For convenience in referring to said pro-
posed amendment and in the preparation of the form of the
ballot hereinafter provided for said proposed amendment is
hereby designated and shall be known as the "Elective State
Official Amendment".

Sec. 3. Form of Ballot; Election. For the purpose of
enabling the voters of the state to vote on the question of said
proposed amendment to the constitution at the general election
to be held in the year one thousand nine hundred forty, the
board of ballot commissioners of each county is hereby required
to place upon, and at the foot of, the official ballot to be voted
at said election, the following:
Ballot on constitutional "Elective State Officials Amend-
ment" amending sections one, two, eight and seventeen of
article seven of the state constitution.

For ratification of "Elective State Officials Amend-
ment".

Against ratification of "Elective State Officials Amend-
ment".

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

Sec. 4. Certificates of Election Commissioners; Canvass of
Vote; Certifying Result. As soon as the result is ascertained,
the commissioners, or a majority of them, and the canvassers
(if there be any), or a majority of them, at each place of
voting, shall make out and sign two certificates thereof in the
following form or to the following effect:

"We, the undersigned who acted as commissioners (or can-
vassers, as the case may be), of the election held at precinct
number .................., in the district of ..................., in
the county of ..................., on the .............. day of
November, one thousand nine hundred forty, upon the ques-
tion of the ratification or rejection of the proposed constitu-
tional amendment to article seven, do hereby certify that the
result of said election is as follows:

Amending sections one, two, eight and seventeen of article
seven:
For ratification of "Elective State Officials Amendment"... votes.

Against ratification of "Elective State Officials Amendment"... votes.

Given under our hands this... day of November, one thousand nine hundred forty.

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

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

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

For ratification of "Elective State Officials Amendment" ................................ votes.

Against ratification of "Elective State Officials Amendment" ............... votes.

Given under our hands this ................ day of ................................, one thousand nine hundred forty."

One of the certificates shall be filed in the office of the clerk of the county court, and the other forwarded by mail to the secretary of state, who shall file and preserve the same until the day on which the result of said election in the state is to be ascertained, as hereinafter stated.
Sec. 5. Proclamation of Result of Election by Governor.

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

Sec. 6. Publication of Proposed Amendment by Governor.

The Governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time, at least three months before such election, in some newspaper in every county in this state in which a newspaper is printed, at a price to be agreed upon in advance in writing, and the cost of such advertising shall in the first instance, if found necessary by him, be paid out of the governor's contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. O. Wiseman
Chairman Senate Committee

Neil H. Walker
Chairman House Committee

Originated in the Senate

Takes effect 

Clerk of the Senate
No Stace
Clerk of the House of Delegates

Harrington
President of the Senate

James Ray Thomas
Speaker House of Delegates

The within.............................................this the 16th
day of............................................. 1939.

Governor

Filed in the office of the Secretary of State of West Virginia MAR 17 1939
Wm. S. O'Brien
Secretary of State