

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939

ENROLLED

SENATE BILL No. 257

(By Mr. La Folle Mr. President

PASSED March 11th 1939

In Effect Twenty days for Passage



ENROLLED
Senate Bill No. 257

(BY MR. LAFON, Mr. President)

[Passed March 11, 1939; in effect ninety days from passage.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending 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*
2 *the Constitution.* The question of the ratification or rejection
3 of an amendment to the constitution of the state of West Vir-
4 ginia, proposed in accordance with the provisions of section
5 two of article fourteen of said constitution, amending sections
6 one, two, eight and seventeen of article seven thereof, shall be
7 submitted to the voters of the state at the next general

8 election to be held in the year one thousand nine hundred
9 forty, which proposed amendment is as follows:

PROPOSED AMENDMENT

Article 7. Executive Department.

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

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

Sec. 8. *Appointment of Officers.* The governor shall nomi-
2 nate, and by and with the advice and consent of the senate
3 (a majority of all the senators elected concurring by yeas and

4 nays) appoint all heads of such executive departments as may
5 be established by law, and all other officers whose offices may
6 be created by law and whose appointment or election is not
7 otherwise provided for. Provisions may be made by law for
8 the appointment of state superintendent of free schools by
9 a board appointed by the governor. In no event shall any
10 such head of an executive department or such other officer
11 be appointed or elected by the Legislature.

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

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

Sec. 3. *Form of Ballot; Election.* For the purpose of

2 enabling the voters of the state to vote on the question of said
3 proposed amendment to the constitution at the general election
4 to be held in the year one thousand nine hundred forty, the
5 board of ballot commissioners of each county is hereby required
6 to place upon, and at the foot of, the official ballot to be voted
7 at said election, the following:

8 Ballot on constitutional "Elective State Officials Amend-
9 ment" amending sections one, two, eight and seventeen of
10 article seven of the state constitution.

11 ☐ For ratification of "Elective State Officials Amend-
12 ment".

13 ☐ Against ratification of "Elective State Officials Amend-
14 ment".

15 The election on the proposed amendment, at each place of
16 voting, shall be superintended, conducted and returned, and
17 the result thereof ascertained by the same officers and in the
18 same manner as the election of officers to be voted for at said
19 election, and all of the provisions of law relating to general
20 elections, including all duties to be performed by any officer
21 or board, as far as applicable and not inconsistent with any-
22 thing herein contained, shall apply to the election held under

23 the provisions of this act, except when it is herein otherwise
24 provided. The ballots cast on the question of said proposed
25 amendment shall be counted as other ballots cast at said elec-
26 tion.

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

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

15 Amending sections one, two, eight and seventeen of article
16 seven:

17 For ratification of "Elective State Officials Amendment"

18votes.

19 Against ratification of "Elective State Officials Amend-

20 ment" votes.

21 Given under our hands this day of November,

22 one thousand nine hundred forty.

23 The said two certificates shall correspond with each other

24 in all respects, and contain the full and true returns of said

25 election at each place of voting on said questions. The said

26 commissioners, or any one of them (or said canvassers, or any

27 one of them, as the case may be), shall within four days, ex-

28 cluding Sunday, after that on which said election was held,

29 deliver one of said certificates to the clerk of the county court

30 of the county, together with the ballots, and the other to the

31 clerk of the circuit court of the county.

32 The said certificates, together with the ballots cast on the

33 question of said proposed amendment, shall be laid before the

34 commissioners of the county court at the courthouse at the

35 same time the ballots, poll books and the certificates of the

36 election for the members of the Legislature are laid before

37 them; and as soon as the result of said election in the county

38 upon the question of such ratification or rejection is ascer-
39 tained, two certificates of such result shall be made out and
40 signed by said commissioners, as a board of canvassers, in
41 the following form or to the following effect:

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

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

51 Against ratification of "Elective State Officials Amend-
52 ment" votes.

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

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

Sec. 5. *Proclamation of Result of Election by Governor.*

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

Sec. 6. *Publication of Proposed Amendment by Governor.*

2 The Governor shall cause the said proposed amendment, with
3 the proper designation for the same as hereinbefore adopted,
4 to be published one time, at least three months before such
5 election, in some newspaper in every county in this state in
6 which a newspaper is printed, at a price to be agreed upon in
7 advance in writing, and the cost of such advertising shall in
8 the first instance, if found necessary by him, be paid out of
9 the governor's contingent fund and be afterwards repaid
10 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

Nell H. Walker

Chairman House Committee

Originated in the *Senate*

Takes effect *thirty days* after passage

Spencer

Clerk of the Senate

Pro H. H. H. H.

Clerk of the House of Delegates

Wm. S. O'Brien

President of the Senate

James Kay Thomas

Speaker House of Delegates

The within *approved* this the *16th*

day of *March*, 1939.

James A. Loh

Governor

Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1939**

Wm. S. O'BRIEN,
Secretary of State