

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



# ENROLLED

HOUSE BILL No. 115

(By Mr. Hudson)



PASSED March 7 1941

In Effect from Passage

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# House Bill No. 115

(BY MR. HUDSON)

[Passed March 7, 1941; in effect from passage.]

AN ACT to amend chapter six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article to be designated article eleven, relating to persons holding public offices or positions in the state or in any county, municipality, or other unit of state or local government, who enter the military, naval, marine corps or coast guard service of the United States of America, and the reassumption of such offices or positions by such persons, after the completion of such service.

*Be it enacted by the Legislature of West Virginia:*

That chapter six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article, to be designated article eleven, to read as follows:

**Article 11. Leave of Absence for Public Officers Entering Military Service.**

Section 1. *Persons Entitled to Leave.*—Any person holding any office or position of public trust, responsibility or service, elective or appointive, in the government of this state or in any county, municipality or any other unit or combined unit of government therein, who may enter the military, naval, marine corps or coast guard service of the United States of America, may obtain a leave of absence from such office or position and, upon the completion of and discharge from any of such armed services, shall have the right to reassume for the unexpired or remaining term thereof, the office or position held by such person at the time of entering any of such armed services. The officer, court, tribunal, board or person having the power to make an original appointment to such office or position, or to make an appointment to fill a vacancy therein, shall upon request, grant such leave of absence. The reassumption of any office or position as herein provided shall be without any prejudice whatsoever to the status, merit rating or standing of the holder thereof by reason of his absence therefrom while in the aforesaid armed services of the United States.

Sec. 2. *Period of Replacement Appointment.*—When-  
2 ever the holder of any such public office or position en-  
3 ters any of the services mentioned in section one hereof  
4 and another is named to perform the duties of said per-  
5 son's office or position, such other person shall not be  
6 named for a period longer than the period served by the  
7 holder of such office in the aforesaid armed services of  
8 the United States.

Sec. 3. *Limitations.*—This article shall not be construed:

- 2 (a) As any attempt to enlarge or to extend the length  
3 of term of any such public office or position or to create  
4 a definite term where no definite term with respect to  
5 such office or position has heretofore existed.
- 6 (b) As providing that the salary or wages payable to  
7 any person holding any such public office or position  
8 and performing the duties thereof shall be paid to such  
9 person when not performing said duties because of such  
10 service in the armed forces of the United States.

Sec. 4. *Provisions of Article Retroactive.*—The provi-  
2 sions of this article shall be retroactive as to all such per-  
3 sons who have entered the armed services of the United

4 States since July one, one thousand nine hundred forty.

Sec. 5. *Provisions of Article Severable.*—If any part or  
2 section of this article shall be declared unconstitutional  
3 or invalid by any court, such declaration shall not affect  
4 any other part or section hereof.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. H. McRown

Chairman Senate Committee

Leon Rice

Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Atlee Walker

Clerk of the Senate

J. Atchiff

Clerk of the House of Delegates

Byron B. Randolph

President of the Senate

Malcolm R. Arnold

Speaker House of Delegates

The within approved this the 14th

day of March, 1941.

Matthew M. Neely

Governor.

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Filed in the office of the Secretary of State  
of West Virginia. MAR 17 1941

Wm. S. O'BRIEN,  
Secretary of State