

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 202

(By Mr. Speaker M. Arnold)



PASSED March 1 1941

In Effect ninety days from Passage

202

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(BY MR. SPEAKER, MR. ARNOLD)

[Passed March 1, 1941; in effect ninety days from passage.]

AN ACT to repeal sections fourteen and fifteen, article two, and section thirty-four, article five, and to amend and reenact section five, article one; section twelve, article two; sections six and eight, article three; sections nine, ten and twelve, article four; sections four, five, seventeen, twenty-nine and thirty-one, article five; section five, article ten; and section sixteen, article eleven; all in chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and all relating to public assistance and relief.

Be it enacted by the Legislature of West Virginia:

That sections fourteen and fifteen, article two, and section thirty-four, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section five, article one; section twelve, article two; sections six and eight, article three; sections nine,

ten and twelve, article four; sections four, five, seventeen, twenty-nine and thirty-one, article five; section five, article ten; and section sixteen, article eleven; all in chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1. State Department of Public Assistance.

Section 5. *Definitions.*—For the purposes of this chapter:

2 “State department” means the State Department of
3 Public Assistance.

4 “State board” means the State Advisory Board.

5 “Director” means the Director of the State Department
6 of Public Assistance.

7 “County council” means a county public assistance
8 council.

9 “County director” means a director appointed by a
10 county council.

11 “County department of public assistance” means the
12 county director, the county council, and the employees
13 and appointees of the county council.

Article 2. State Advisory Board.

Section 12. *Powers and Duties.*—The state board shall,

2 in addition to its functions as an advisory body, have
3 the following powers and duties to:

4 (1) Recommend to the governor persons to be ap-
5 pointed members of the county councils.

6 (2) Perform the functions devolving upon the board
7 under the provisions of article 10 of this chapter.

8 (3) Keep minutes of the transactions of each session,
9 regular or special, which shall be public records and filed
10 with the state department.

Article 3. The Director of Public Assistance.

Section 6. *Powers and Duties.*—The director shall be the
2 executive and administrative head of the department,
3 and as such shall have the power and duty to:

4 (1) Exercise general supervision of, and make and
5 revise rules and regulations for, the government of the
6 department.

7 (2) Prescribe uniform regulations pertaining to in-
8 vestigations, reinvestigations, and case supervision by
9 county councils and directors.

10 (3) Prescribe uniform methods of recording and ac-
11 counting to be employed by the county councils and
12 directors.

13 (4) Sign and execute, in the name of the state, by
14 "The State Department of Public Assistance", and by
15 and with the consent and approval of the state board,
16 any contract or agreement with the federal govern-
17 ment or its agencies, other states, subdivisions of this
18 state, corporations, associations, partnerships or individ-
19 uals.

20 (5) Supervise the fiscal affairs and responsibilities of
21 the department.

22 (6) Organize the department so as to comply with the
23 requirements of this chapter and with the standards re-
24 quired by federal legislation.

25 (7) Adopt a merit system of personnel management
26 in conformity with federal legislation and promulgate in
27 connection therewith a classification and compensation
28 plan.

29 (8) Order, with the approval of the state board, two
30 or more counties to employ a single county director and
31 a joint staff of assistants and employees.

32 (9) Make such reports as will comply with the re-

33 quirements of federal legislation and with the provisions
34 of this chapter.

35 (10) Cooperate with federal and state governments
36 for the more effective attainment of the purposes of this
37 chapter.

38 (11) Keep a complete and accurate record of all pro-
39 ceedings; record and file all bonds or contracts; and
40 assume responsibility for the custody and preservation
41 of all papers and documents pertaining to his office.

42 (12) Make an annual report to the governor of the
43 condition, operation, and functioning of the department.

44 (13) Exercise any other powers necessary and proper
45 to standardize state and county work, to expedite business,
46 to assure fair consideration of application for aid and
47 to promote the efficiency of the service.

48 (14) Invoke any legal, equitable or special remedies
49 for the enforcement of his orders or the enforcement of
50 the provisions of this chapter.

51 (15) Initiate programs for, or cooperate with other
52 agencies in, developing services for the prevention of

53 blindness, the conservation of vision, and the vocational
54 and social adjustment of the blind.

Sec. 8. *Assistants and Employees.*—The director shall
2 appoint the heads of the divisions of the department and
3 shall employ such assistants and employees as may be
4 necessary to the efficient operation of the department, in
5 accordance with the provisions of the merit system of
6 personnel management provided for in sub-section 7,
7 section 6 of this article.

8 No such assistant or employee shall be a candidate for
9 or hold any other public office or trust, nor shall he be a
10 member of any political committee, nor shall he serve
11 as an election official.

Article 4. County Public Assistance Council.

Section 9. *County Director of Public Assistance.*—The
2 county council shall appoint a “County Director of Public
3 Assistance” from the register of persons certified by
4 the state department as qualified to perform the duties
5 of that office. The county council shall fix the compen-
6 sation of the county director in accordance with the
7 compensation plan established by the state director.

8 The county director shall devote his entire time to
9 the duties of his office.

10 The county director shall be the ex officio secretary
11 of the county council.

12 *Sec. 10. Assistants and Employees.*—The county coun-
13 cil, upon the recommendation of the county director
14 and with the approval of the state department, shall
15 appoint or employ, from a register of persons certified
16 by the state department as qualified to perform the duties
17 of the position to be filled, such assistants and employees
18 as may be required. In counties having a negro popula-
19 tion of ten percent or more of the total county population,
20 as determined by the last federal census, the county
21 council shall appoint an assistant director from the negro
22 race.

23 The compensation of appointees and employees of the
24 county council shall be fixed by the county council in
25 accordance with the compensation plan established by
26 the state director. In addition to their regular compen-
27 sation, the county director and his subordinates shall be
28 allowed their necessary traveling expenses. Requisitions

18 for traveling expenses shall be accompanied by a sworn
19 and itemized statement which shall be filed with the
20 county clerk and permanently preserved as a public re-
21 cord.

Sec. 12. *County Director, Powers and Duties.*—The

2 county director shall be the administrative officer in
3 charge of, and responsible for, the county activities pro-
4 vided by this chapter and, as such, shall have the follow-
5 ing powers and duties:

6 (1) Perform all duties imposed upon him by the pro-
7 visions of this chapter.

8 (2) Execute in accordance with the provisions of this
9 chapter the instructions of the state director and the
10 county council.

11 (3) Supervise and direct the work of his subordinates
12 and assistants.

13 (4) Prepare and submit such reports and information
14 as may be required by the state board, the state director,
15 or the county council.

16 (5) Observe standard administrative procedure and
17 methods required by the state director.

- 18 (6) Cooperate with charitable organizations, agencies
19 and institutions within the county.

Article 5. Public Assistance.

Section 4. *Blind Persons*.—A blind person shall be
2 eligible for public assistance who:

3 (1) Has vision in the better eye, with correcting glas-
4 ses, of twenty two-hundredths or less or a disqualifying
5 field defect sufficient to incapacitate him for self-support.

6 (2) Has resided in the state for at least one year
7 immediately preceding the application.

8 (3) Has not made an assignment or transfer of prop-
9 erty for the purpose of qualifying for assistance.

10 (4) Is not an inmate of a public institution. An in-
11 mate may apply for assistance to begin after his dis-
12 charge from such institution.

13 (5) Is actually in need and has not sufficient income
14 or other resources to provide a subsistence compatible
15 with decency and health.

Sec. 5. *Dependent Children*.—A dependent child shall
2 be eligible for public assistance who:

3 (1) Has not attained the age of eighteen years.

4 (2) Is deprived of parental support or care by reason
5 of the death, continued absence from home, or physical
6 or mental incapacity of a parent.

7 (3) Is living with his father, mother, grandfather,
8 grandmother, brother, sister, stepfather, stepmother,
9 stepbrother, stepsister, uncle or aunt in a place of resi-
10 dence maintained by such relative as his own home.

11 (4) Has resided in the state for one year immediately
12 preceding application for assistance, or was born, within
13 one year immediately preceding application, of a mother
14 who resided within the state for one year immediately
15 preceding such birth.

16 (5) Is living in a suitable family home conforming
17 to the standards of care and health fixed by this chapter
18 and the regulations of the state department.

19 (6) Is needy because the person caring for him is
20 unable to support him, and, unless public assistance is
21 granted, will become a public charge.

Sec. 17. *Limitation of Amount.*—The amount of public
2 assistance granted from state funds to an aged person,
3 a blind person, or a dependent child, shall not in any

4 case exceed the amount which may be received for
5 matching from the federal government. Thus, the total
6 amount of public assistance from all sources shall not
7 in any case exceed twice the amount received for match-
8 ing from federal funds.

Sec. 29. *Agreement to Reimburse.*—As a condition of
2 receiving public assistance, an aged person shall submit
3 to the county council a properly acknowledged agreement
4 granting to the state a lien upon all or any part of his
5 real or personal property including that subsequently ac-
6 quired, as may be required by the rules of the state de-
7 partment. The lien shall attach upon the signing of the
8 agreement and shall be for the total amount of public
9 assistance paid to such person.

Sec. 31. *Insurance Policies.*—As a condition of receiving
2 public assistance, an aged person shall assign to the state
3 department any life insurance policy owned by him and
4 payable to him or to his estate, as security for the amount
5 of public assistance granted to him, subject, however, to
6 the personal property exemption provided for in section
7 thirty-six of this article.

Article 10. Fiscal Provisions.

Section 5. *County Funds.* The amount of the county fund provided each year by a county court shall not be less than fifteen per cent of the total which the county is legally authorized to levy for current purposes by section ten, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended: *Provided, however,* That the said fifteen per cent of such total shall not be required to be provided by the county court if it shall be determined, prior to the laying of the county's levies, that an amount less than such per cent will be sufficient to meet the reasonably anticipated general needs of the county. Such a determination shall require the agreement of at least two of the following persons: The tax commissioner, the state director, and the member of the county court who is ex officio member of the county council at the time such determination is made. Such a determination shall be in writing; shall state the specific amount determined upon as sufficient to meet the reasonably anticipated general relief needs of the county; shall be signed by the three persons designated or by at

21 least two of them; and shall be filed of record in the office
22 of the tax commissioner. Complete duplicates shall be
23 filed in the office of the state director and with the county
24 court, respectively. The county court shall levy for gen-
25 eral relief not less than the amount so determined and
26 agreed: *Provided, further,* That if a county court finds
27 that expenditures mandatory under other provisions of
28 law aggregate in excess of eighty-five per cent of the total
29 amount which the county court is authorized by law to
30 levy for current purposes, the court may petition the tax
31 commissioner for authority to provide an amount less
32 than that required by the first paragraph of this section.
33 If the tax commissioner finds that other mandatory ex-
34 penditures for the county will exceed eighty-five per cent
35 of the authorized total levy for current purposes, he may
36 authorize the county court to provide a lesser amount
37 than that required by said first paragraph, but he shall
38 require the maximum amount possible under the circum-
39 stances.

Article 11. General Provisions.

Section 16. *Confidential Character of Public-Assistance*
2 *Records; Misuse of Public-Assistance Lists and Records.—*

3 The regulatory power of the state director shall include
4 the power to establish and enforce reasonable rules and
5 regulations governing the custody, use, and preservation
6 of the records, papers, files, and communications of the
7 state department and county councils. Wherever, under
8 provisions of law, names and addresses of recipients of
9 public assistance are furnished to or held by any other
10 agency or department of government, such agency or
11 department of government shall be required to adopt
12 regulations necessary to prevent the publication of lists
13 thereof or their use for purposes not directly connected
14 with the administration of old age assistance, aid to the
15 blind, or aid to dependent children.

16 It shall be unlawful, except for purposes directly con-
17 nected with the administration of old-age assistance, aid
18 to the blind, or aid to dependent children, and in ac-
19 cordance with the rules and regulations of the state di-
20 rector, for any person or persons to solicit, disclose, re-
21 ceive, make use of, or to authorize, knowingly permit,
22 participate in, or acquiesce in the use of, any list of or
23 names of persons applying for or receiving such assist-

24 ance, directly or indirectly derived from the records,
25 papers filed, or communications of the state or county or
26 subdivisions or agencies thereof, or acquired in the course
27 of the performance of official duties.

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

C. H. McKown
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

A. Hale Watkins
Clerk of the Senate

Joseph
Clerk of the House of Delegates

Byron B. Randolph
President of the Senate

Malcolm P. Arnold
Speaker House of Delegates

The within approved this the 13th
day of March, 1941.

Matthew M. Neely
Governor.

Filed in the office of the Secretary of State
of West Virginia. MAR 13 1941

Wm. S. O'BRIEN,
Secretary of State