

WEST VIRGINIA LEGISLATURE

EXTRAORDINARY SESSION, 1946

ENROLLED

HOUSE BILL No. 6

(By Mr. Davis, of Kanawha)

PASSED March 23, 1946

In Effect from Passage

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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 section two of article twelve thereof and to be known as the "Education Amendment".

Be it enacted by the Legislature of West Virginia:

Section 1. *Submitting An Amendment to Section Two of Article Twelve of the State Constitution.*—The question of the ratification or rejection of an amendment to the constitution of the State of West Virginia, proposed in accordance with the provisions of section two of article fourteen of the constitution, amending section two of article twelve thereof, shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred forty-six, which proposed amendment is as follows:

Proposed Amendment

ARTICLE 12. EDUCATION

Supervision of Free Schools and Colleges

Section 2. The general supervision of the free schools
2 of the State, and of such state colleges as may be desig-
3 nated by the Legislature, shall be vested in the State
4 Board of Education, and the general supervision of the
5 state university shall be vested in the Board of Governors
6 of West Virginia University. In addition thereto, each
7 board shall perform such other duties in relation to pub-
8 lic education as may be prescribed by law. Each board
9 shall consist of nine members, to be appointed by the
10 Governor, by and with the advice and consent of the
11 Senate, for overlapping terms of nine years, except that
12 the original appointments shall be for terms of one, two,
13 three, four, five, six, seven, eight, and nine years, re-
14 spectively. At least one member of the State Board of
15 Education shall be of the Negro race. No more than five
16 members of each board shall belong to the same political
17 party, and in addition to the general qualifications other-
18 wise required by this Constitution, the Legislature may

19 prescribe other specific qualifications for membership on
20 each board. No member of either board may be removed
21 from office by the Governor except for official miscon-
22 duct, incompetence, neglect of duty, or gross immorality,
23 and then only in the manner prescribed by law for the
24 removal by the Governor of state elective officers.

25 The elective office of State Superintendent of Free
26 Schools is hereby abolished, but this provision shall in
27 no way impair the right of the present incumbent to
28 serve the remainder of the term for which he was elected.
29 Hereafter, the State Board of Education shall, in the man-
30 ner prescribed by law, select the State Superintendent
31 of Free Schools, who shall serve at its will and pleasure.
32 He need not be a resident of the State at the time of his
33 selection but must reside therein at the time he assumes
34 the duties of his office. He shall be the chief school officer
35 of the State and shall have such powers and shall per-
36 form such duties as may be prescribed by law. The State
37 Superintendent of Free Schools selected by the State
38 Board of Education shall be a member of the Board of
39 Public Works.

Sec. 2. *Amendment to be Known as the "Education Amendment"*.—For convenience in referring to the proposed amendment and in the preparation of the form of the ballot hereinafter provided for, the proposed amendment is hereby designated and shall be known as the "Education Amendment".

Sec. 3. *Form of Ballot; Election*.—For the purpose of enabling the voters of the State to vote on the question of the proposed amendment to the constitution at the general election to be held in the year one thousand nine hundred forty-six, 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 that election, the following:

Ballot on constitutional "Education Amendment", amending section two of article twelve of the state constitution.

☐ For ratification of "Education Amendment".

☐ Against ratification of "Education Amendment".

The election on the proposed amendment, at each place of voting, shall be superintended, conducted and re-

16 turned, and the result thereof ascertained by the same
17 officers and in the same manner as the election of officers
18 to be voted for at the election, and all of the provisions
19 of law relating to general elections, including all duties
20 to be performed by any officer or board, as far as appli-
21 cable and not inconsistent with anything herein con-
22 tained, shall apply to the election held under the pro-
23 visions of this act, except when it is herein otherwise
24 provided. The ballots cast on the question of the pro-
25 posed amendment shall be counted as other ballots cast
26 at the election.

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

8 “We, the undersigned who acted as commissioners (or
9 canvassers, as the case may be), of the election held at
10 precinct number_____, in the district of_____,

11 in the county of _____, on the fifth day of No-
12 vember, one thousand nine hundred forty-six, upon the
13 question of the ratification or rejection of the proposed
14 constitutional amendment to section two of article twelve,
15 do hereby certify that the result of that election is as
16 follows:

17 For ratification of 'Education Amendment'

18 _____ votes.

19 Against ratification of 'Education Amendment'

20 _____ votes.

21 Given under our hands this _____ day of No-
22 vember, one thousand nine hundred forty-six."

23 The two certificates shall correspond with each other
24 in all respects, and contain the full and true returns of
25 the election at each place of voting on the question of
26 the proposed amendment. The commissioners, or any
27 one of them (or the canvassers, or any one of them, as
28 the case may be), shall within four days, excluding Sun-
29 day, after that on which the election was held, deliver
30 one of the certificates to the clerk of the county court
31 of the county, together with the ballots, and the other to

32 the clerk of the circuit court of the county.

33 The certificates, together with the ballots cast on the
34 question of the proposed amendment, shall be laid be-
35 fore the commissioners of the county court at the court-
36 house at the same time the ballots, poll books and the
37 certificates of the election for the members of the Legis-
38 lature are laid before them; and as soon as the result of
39 the election in the county upon the question of such
40 ratification or rejection is ascertained, two certificates
41 of such result shall be made out and signed by the com-
42 missioners, as a board of canvassers, in the following
43 form or to the following effect:

44 "We, the board of canvassers of the county of.....
45, having carefully and impartially examined
46 the returns of the election held in this county, in each
47 district thereof, on the fifth day of November, one thou-
48 sand nine hundred forty-six, do certify that the result
49 of the election in this county on the question of the
50 ratification or rejection of the proposed constitutional
51 amendment to section two of article twelve is as fol-
52 lows:

53 For ratification of 'Education Amendment'

54 -----votes.

55 Against ratification of 'Education Amendment'

56 -----votes.

57 Given under our hands this-----day of-----,

58 one thousand nine hundred forty-six."

59 One of the certificates shall be filed in the office of the
60 clerk of the county court, and the other forwarded by
61 mail to the secretary of state, who shall file and pre-
62 serve it until the day on which the result of the election
63 in the State is to be ascertained, as hereinafter stated.

Sec. 5. *Proclamation of Result of Election by Gov-*
2 *ernor.*—On the twenty-fifth day after the election is held,
3 or as soon thereafter as practicable, the certificates shall
4 be laid before the governor, whose duty it shall be to
5 ascertain therefrom the result of the election in the State,
6 and declare such result by proclamation published in one
7 or more newspapers printed at the seat of government.
8 If a majority of the votes cast at the election upon the
9 question be for the ratification of the proposed amend-
10 ment, such amendment so ratified shall be of force and

11 effect from and after the time of such ratification as part
12 of the constitution of the State.

Sec. 6. *Publication of Proposed Amendment by Gov-*
2 *ernor.*—The governor shall cause the proposed amend-
3 ment, with its proper designation as hereinbefore adopted,
4 to be published one time, at least three months before
5 such election, in some newspaper in every county in this
6 State in which a newspaper is printed, at a price to be
7 agreed upon in advance in writing, and the cost of such
8 advertising shall in the first instance, if found necessary
9 by him, be paid out of the governor's contingent fund
10 and be afterwards repaid to such fund by appropriation
11 of the Legislature.

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

Charles C. Morris
Chairman Senate Committee

James H. Granger, Jr.
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Howard Hughes
Clerk of the Senate

Belknap
Clerk of the House of Delegates

Amos M. Vickers
President of the Senate

John E. Auer
Speaker House of Delegates

The within Approved this the 28th
day of March, 1946.

Clarence M. Messersmith
Governor.

of West Virginia

MAR 29 1946

Wm. S. O'Brien,
Secretary of State

