

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED

SENATE BILL NO. 252

(By Mr. Taylor & Bowers)

PASSED March 6, 1957

In Effect 90 days from Passage



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Senate Bill No. 252

(By MR. TAYLOR AND MR. BOWERS)

[Passed March 6, 1957; 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, amending sections one, two and seventeen of article seven thereof and section two of article twelve thereof, all relating to the state superintendent of free schools.

Be it enacted by the Legislature of West Virginia:

Section 1. *Submitting an Amendment to the State Constitution.*— That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hun-

8 dred fifty-eight, which proposed amendment is as fol-
9 lows:

Article 7. Executive Department.

Section 1. *Executive Department.*—The executive de-
2 partment shall consist of a Governor, secretary of state,
3 auditor, treasurer, commissioner of agriculture and at-
4 torney general, who shall be, ex officio, reporter of the
5 court of appeals. Their terms of office shall be four years
6 and shall commence on the first Monday after the second
7 Wednesday of January next after their election. They
8 shall reside at the seat of government during their terms
9 of office, keep there the public records, books and papers
10 pertaining to their respective offices and shall perform
11 such duties as may be prescribed by law.

Sec. 2. *Election.*—An election for Governor, secretary
2 of state, auditor, treasurer, commissioner of agriculture
3 and attorney general shall be held at such times and
4 places as may be prescribed by law.

Sec. 17. *Vacancies in Other Executive Departments.*—If
2 the office of secretary of state, auditor, treasurer, commis-
3 sioner of agriculture or attorney general shall become

4 vacant by death, resignation, or otherwise, it shall be the
5 duty of the Governor to fill the same by appointment,
6 and the appointee shall hold his office until his successor
7 shall be elected and qualified in such manner as may
8 be prescribed by law. The subordinate officers of the exe-
9 cutive department and the officers of all public institu-
10 tions of the state shall keep an account of all moneys re-
11 ceived or disbursed by them respectively, from all sour-
12 ces and for every service performed, and make a semi-
13 annual report thereof to the Governor under oath or af-
14 firmation; and any officer who shall wilfully make a false
15 report shall be deemed guilty of perjury.

Article 12. Education.

Section 2. *Supervision of Free Schools.*—The general
2 supervision of the free schools of the state shall be vested
3 in the West Virginia board of education which shall per-
4 form such duties as may be prescribed by law. The board
5 shall consist of nine members to be appointed by the
6 Governor, by and with the advice and consent of the
7 Senate, for overlapping terms of nine years, except that
8 the original appointments shall be for terms of one, two,

9 three, four, five, six, seven, eight, and nine years, re-
10 spectively. No more than five members of the board shall
11 belong to the same political party, and in addition to the
12 general qualifications otherwise required by the Con-
13 stitution, the Legislature may require other specific quali-
14 fications for membership on the board. No member of
15 the board may be removed from office by the Governor ex-
16 cept for official misconduct, incompetence, neglect of duty,
17 or gross immorality, and then only in the manner prescrib-
18 ed by law for the removal by the Governor of state elec-
19 tive officers.

20 The West Virginia board of education shall, in the man-
21 ner prescribed by law, select the state superintendent of
22 free schools who shall serve at its will and pleasure. He
23 shall be the chief school officer of the state and shall have
24 such powers and shall perform such duties as may be
25 prescribed by law.

26 The state superintendent of free schools shall be a
27 member of the board of public works as provided by
28 subsection B, section fifty-one, article six of this Con-
29 stitution.

Sec. 2. *Amendment to be Known as the "State Superintendent of Free Schools Amendment"*.—For convenience in referring to said proposed amendment, and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the "State Superintendent of Free Schools 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 said general election to be held in the year one thousand nine hundred fifty-eight, 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 "State Superintendent of Free Schools Amendment".

☐ For ratification of "State Superintendent of Free Schools Amendment"

☐ Against ratification of "State Superintendent of Free Schools Amendment."

15 The said election on the proposed amendment at each
16 place of voting shall be superintended, conducted and re-
17 turned, and the result thereof ascertained by the same
18 officers and in the same manner as the election of officers
19 to be voted for at said election, and all the provisions of
20 the law relating to general elections, including all duties
21 to be performed by any officer or board, as far as practic-
22 able, and not inconsistent with anything herein contained,
23 shall apply to the election held under the provisions of
24 this act, except when it is herein otherwise provided. The
25 ballots cast on the question of said proposed amendment
26 shall be counted as other ballots cast at said election.

Sec. 4. *Certificates of Election Commissioners; Canvass*
2 *of Vote; Certifying Result.*—As soon as the result is as-
3 certained, the commissioners, or a majority of them, and
4 the canvassers (if there be any), or a majority of them,
5 at each place of voting, shall make out and sign two cer-
6 tificates thereof in the following form or the following
7 effect: "We, the undersigned, who acted as commissioners
8 (or canvassers, as the case may be) of the election held
9 at Precinct No., in the district of,

10 in the county of....., on the fourth day
11 of November, one thousand nine hundred fifty-eight, upon
12 the question of the ratification or rejection of the pro-
13 posed constitutional amendment, do hereby certify that
14 the result of said election is as follows:

15 "For ratification of State Superintendent of Free Schools
16 Amendment.....votes.

17 "Against ratification of State Superintendent of Free
18 Schools Amendment.....votes.

19 "Given under our hands this.....day of
20 November, one thousand nine hundred fifty-eight."

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

31 The said certificates, together with the ballots cast on
32 the question of said proposed amendment, shall be laid
33 before the commissioners of the county court at the court
34 house at the same time the ballots, poll books, and the
35 certificates of election of the members of the Legislature
36 are laid before them; and as soon as the result of said
37 election in the county upon the question of such ratifica-
38 tion or rejection is ascertained, two certificates of such
39 result shall be made out and signed by said commission-
40 ers as a board of canvassers, in the form or to the fol-
41 lowing effect:

42 "We, the board of canvassers of the county of.....
43, having carefully and impartially ex-
44 amined the returns of the election held in said county, in
45 each district thereof, on the fourth day of November,
46 one thousand nine hundred fifty-eight, do certify that the
47 results of the election in said county, on the question of
48 the ratification or rejection of the proposed amendment
49 is as follows:

50 "For ratification of State Superintendent of Free Schools
51 Amendment.....votes.

52 "Against ratification of State Superintendent of Free
53 Schools Amendment.....votes.

54 "Given under our hands this.....day of
55 November, one thousand nine hundred fifty-eight."

56 One of the certificates shall be filed in the office of the
57 clerk of the county court, and the other forwarded by mail
58 to the secretary of state, who shall file and preserve the
59 same until the day on which the result of said election
60 in the state is to 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
3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to
5 ascertain therefrom the result of said election in the
6 state, and declare the same by proclamation published
7 in one or more newspapers printed at the seat of govern-
8 ment. If a majority of the votes cast at said election upon
9 said question be for ratification of said amendment, the
10 proposed amendment so ratified shall be in 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 *enor.*—The governor shall cause the said proposed
3 amendment, with the proper designation for the same as
4 hereinbefore adopted, to be published one time at least
5 three months before such election in some newspaper in
6 every county in which a newspaper is printed, at a price
7 to be agreed upon in advance, in writing, and the cost
8 of such advertising shall in the first instance, if found
9 necessary by him, be paid out of the governor's contingent
10 fund and be afterwards repaid to such fund by appropria-
11 tion of the Legislature.

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

E. H. McCourt
Chairman Senate Committee

W. Chilton
Chairman House Committee

Originated in the Senate.

Takes effect *90 days from* passage.

John Howard Kuyper
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Reph J. Bean
President of the Senate

W. E. Hammy
Speaker House of Delegates

The within *approved* this the *15th*
day of *March*, 1957.

Jeff H. Underwood
Governor



Filed In the Office of the Secretary of State
of West Virginia. **MAR 15 1957**
D. PITT O'BRIEN
SECRETARY OF STATE