

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No. 115

(By Mr. *Comm. Sub. for*)

PASSED *March 6th.* 1961

In Effect *July 10th, 1961* Passage

Filed in Office of the Secretary of State
of West Virginia MAR 16 1961
JOE F. BURDETT
SECRETARY OF STATE

115

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 115

(Originating in the Committee on the Judiciary)

[Passed March 6, 1961; in effect July 1, 1961.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven, relating to the creation and establishment of the West Virginia human rights commission and providing for its personnel, powers, functions and services.

Be it enacted by the Legislature of West Virginia:

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

Article 11. Human Rights Commission.

Section 1. *Human Rights Commission Created; Status,*

2 *Powers and Objects.*—A West Virginia human rights com-

3 mission is hereby created and established in the state
4 government. The commission shall have the powers and
5 authority and shall perform the functions and services
6 as in this article prescribed and as otherwise provided
7 by law. The commission shall encourage and endeavor
8 to bring about mutual understanding and respect among
9 all racial, religious and ethnic groups within the state
10 and shall strive to eliminate all discrimination in employ-
11 ment and places of public accommodation by virtue of
12 race, creed or religious belief. Unless the context clearly
13 requires another meaning or reference, the word "com-
14 mission" as used in this article shall be construed to mean
15 and to refer to the West Virginia human rights commis-
16 sion.

Sec. 2. Commission Composition; Terms; Oath of Office;

2 *Expenses.*—The commission shall be composed of nine
3 members, all residents and citizens of the state of West
4 Virginia and broadly representative of the several racial,
5 religious and ethnic groups residing within the state, to
6 be appointed by the governor by and with the advice and
7 consent of the Senate. Not more than five members of

8 the commission shall be members of the same political
9 party and at least one member but not more than three
10 members shall be from any one congressional district.

11 Members of the commission shall be appointed for
12 terms of three years commencing on the first day of July
13 of the year of their appointments, except that the nine
14 members first appointed hereunder shall be appointed for
15 terms of from one to three years, respectively, so that the
16 terms of three members of the commission will expire
17 on the thirtieth day of June of each succeeding year there-
18 after. Upon the expiration of the initial terms, all sub-
19 sequent appointments shall be for terms of three years
20 each, except that appointments to fill vacancies shall be
21 for the unexpired term thereof. Members shall be eligible
22 for reappointment. Before assuming and performing any
23 duties as a member of the commission, each commission
24 member shall take and subscribe to the official oath pre-
25 scribed by section five of article four of the constitution
26 of West Virginia, which executed oath shall be filed in
27 the office of the secretary of state.

28 No member of the commission shall receive any salary

29 or compensation for his services as such, but each mem-
30 ber shall be reimbursed for his reasonable and necessary
31 travel expenses incurred in performance of his commis-
32 sion services.

Sec. 3. *Commission Organization and Personnel.*—As
2 soon as practical after the first day of July following crea-
3 tion of the commission, the governor shall call a meeting
4 thereof to be convened at the state capitol. The commis-
5 sion shall at the meeting organize by electing one of its
6 members as chairman of the commission and one as vice-
7 chairman thereof for a term of one year or until their
8 successors are elected and qualified. Annually thereafter,
9 as soon as practical after the first day of July, the com-
10 mission shall elect a chairman and vice-chairman from
11 its membership and such other officers as may be found
12 necessary and proper for its effective organization.

13 When organized, the commission shall select an execu-
14 tive director who shall serve at the will and pleasure of
15 the commission. The executive director shall serve as
16 secretary of the commission. The executive director shall
17 have a college degree. He shall be selected with particular

18 reference to his training, experience and qualifications for
19 the position and shall be paid an annual salary, payable in
20 monthly installments, from any appropriations made
21 therefor. The commission, upon recommendation of the
22 executive director, may employ, prescribe the duties for,
23 and fix the salaries and compensation within available
24 appropriations, of such personnel as may be necessary for
25 the effective and orderly performance of the functions and
26 services of the commission.

27 The commission shall equip and maintain its offices at
28 the state capitol and shall hold its annual organization^g_h
29 meeting thereat. The commission may hold other meet-
30 ings during the year at such times and places within the
31 state as may be found necessary and proper in the dis-
32 charge of its duties. Any five members of the commission
33 shall constitute a quorum for the transaction of business.
34 Minutes of its meetings shall be kept by its secretary.

35 The executive director and other commission personnel
36 shall be reimbursed for necessary and reasonable travel
37 and subsistence expenses incurred in performance of com-
38 mission services upon presentation of properly verified
39 expense accounts as prescribed by law.

Sec. 4. *Commission Powers; Functions; Services.*—The

2 commission is hereby authorized and empowered:

3 (a) To cooperate and work with federal, state and local
4 government officers, units, activities and agencies in the
5 promotion and attainment of more harmonious under-
6 standing and greater equality of rights between and among
7 all racial, religious and ethnic groups in this state;

8 (b) To enlist the cooperation of racial, religious and
9 ethnic units, community and civic organizations, indus-
10 trial and labor organizations and other identifiable groups
11 of the state in programs and campaigns devoted to the
12 advancement of tolerance, understanding and the equal
13 protection of the laws for all groups and peoples;

14 (c) To act as conciliator in matters of employment and
15 places of public accommodation involving race, color, re-
16 ligion, national origin or ancestry, but no decision of the
17 commission shall be binding upon any parties to the con-
18 ciliation;

19 (d) To receive and consider complaints involving em-
20 ployment and places of public accommodation and to
21 initiate its own consideration of any situations, circum-

22 stances or problems, including therein any racial, religious
23 or ethnic group tensions, prejudice, disorder or discrimi-
24 nation reported or existing within the state relating to
25 employment and places of public accommodation.

26 (e) To hold and conduct public and private hearings
27 on complaints, matters and questions before the commis-
28 sion and, in connection therewith, to

29 (1) Administer oaths, take the testimony of any per-
30 son under oath, and make reimbursement for travel and
31 other reasonable and necessary expenses in connection
32 with such attendance;

33 (2) Compile hearing records and furnish copies of the
34 whole or any parts thereof to the governor, the Legisla-
35 ture and such other governmental officials and agencies
36 as may be concerned therewith;

37 (3) Furnish copies of public hearing records to inter-
38 ested parties involved therein upon their payment of the
39 reasonable costs thereof to the commission;

40 (4) Delegate to the executive director, or to any
41 five members of the commission the power and au-
42 thority to hold and conduct the hearings, as herein

43 provided, but all decisions and action growing out of or
44 upon any such hearings shall be reserved for determina-
45 tion by the commission;

46 (f) To encourage, promote and conduct studies and
47 research projects in matters and questions involving and
48 relating to human rights and to compile and make public
49 reports thereon;

50 (g) To recommend to the governor and Legislature
51 policies, procedures, practices and legislation in matters
52 and questions affecting human rights;

53 (h) To delegate to its executive director and to such
54 other investigative and research personnel as it may em-
55 ploy such powers, duties and functions as may be neces-
56 sary and expedient in carrying out the objectives and
57 purposes of this article;

58 (i) To prepare a written report on its work, functions
59 and services for each year ending on the thirtieth day of
60 June and to deliver copies thereof to the governor on or
61 before the first day of December next thereafter;

62 (j) To do all other acts and deeds necessary and proper
63 to carry out and accomplish effectively the objects, func-
64 tions and services contemplated by the provisions of this

65 article, including the promulgation of rules and regula-
66 tions implementing the powers and authority hereby vest-
67 ed in the commission.

68 (k) Notwithstanding any other provisions of this ar-
69 ticle, any person called as a witness before the commis-
70 sion may, in that person's discretion, demand either a
71 public or private hearing.

Sec. 5. *Assistance to Commission; Legal Services.*—The
2 commission may call upon other officers, departments
3 and agencies of the state government to assist in its hear-
4 ings, programs and projects. The attorney general of the
5 state shall render legal services to the commission upon
6 request made by the commission or by the chairman or
7 the executive director thereof.

Sec. 6. *Construction; Separable Provisions.*—The pro-
2 visions of this article shall be liberally construed to ac-
3 complish the objectives and purposes hereof. If any pro-
4 vision of this article be held invalid or unconstitutional
5 by any court of competent jurisdiction, such invalidity
6 or unconstitutionality shall not affect or invalidate the
7 other provisions hereof, all of which are declared and
8 shall be construed to be separate and separable.

Enr. Com. Sub. for H. B. No. 115] 10

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

Harmon Davis, JR.
Chairman Senate Committee

Mrs. M. M. Withers
Chairman House Committee

Originated in the House.

Takes effect July 1st, 1961 passage.

J. Howard Myers
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Howard Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 16th
day of March, 1961.

W. M. Bann
Governor

Filed in Office of the Secretary of State
of West Virginia MAR 16 1961
JOE F. BURDETT
SECRETARY OF STATE