

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 99

(By Mr. Kaufman and Mr. Riley)

PASSED February 21<sup>st</sup> 1961

In Effect thirty days from Passage

Filed in Office of the Secretary of State

of West Virginia March 4, 1961

JOE F. BURDETT  
SECRETARY OF STATE

**ENROLLED**

**Senate Bill No. 99**

(By MR. KAUFMAN AND MR. RILEY)

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[Passed February 21, 1961; in effect ninety days from passage.]

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AN ACT to amend and reenact sections one, two, three, four, five, six, seven, eight, nine and eleven-a, article one, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article one by adding thereto two new sections designated sections three-a and nine-a, all relating to public libraries.

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

That sections one, two, three, four, five, six, seven, eight, nine and eleven-a, article one, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article one be further

amended by adding thereto two new sections designated sections three-a and nine-a, all to read as follows:

**Article 1. Public Libraries.**

Section 1. *Public Library and Governing Authority Defined.*—The term “public library” as used in this article shall be construed to mean a library maintained wholly or in part by any governing authority from funds derived by taxation and the services of which are free to the public, except for those charges for which provision may be made elsewhere in this article. The term shall not, however, include special libraries, such as law, medical or other professional libraries, or school libraries which are maintained primarily for school purposes. (The term “governing authority” shall be construed to mean county court, county board of education or the governing body of any municipality.)

Sec. 2. *Power of Governing Authority to Establish and Maintain Libraries; Levy.*—A governing authority, either by itself or in cooperation with one or more other such governing authorities, shall have the power to establish, equip and maintain a public library, or to take over,

6 maintain or support any public library already estab-  
7 lished. Any library established, maintained or supported  
8 by a governing authority may be financed either (1) by  
9 the appropriation from the general funds of the governing  
10 authority of a sum sufficient for the purpose, or (2) by  
11 the imposition of an excess levy for library purposes, in  
12 accordance with the provisions of section sixteen, article  
13 eight, chapter eleven of this code.

14 Such sums as are appropriated hereunder may be trans-  
15 ferred to the public library board for deposit and dis-  
16 bursement as the public library board shall direct. By  
17 such transfer the governing authority designates the pub-  
18 lic library board as its disbursing agent.

Sec. 3. *Regional Library Defined; Apportionment of*  
2 *Regional Library Expenses.*—A regional library is a public  
3 library established and/or maintained by two or more  
4 counties, by action of their governing authorities, under  
5 the terms of a contract to which they all agree. The ex-  
6 penses of the regional library shall be apportioned be-  
7 tween or among the counties concerned on such a basis as  
8 shall be agreed upon in the contract.

Sec. 3-a. *Authority of Regional Library Board to Dis-*  
2 *burse Funds.*—The governing authorities which maintain  
3 a regional library may contribute the apportioned sum to  
4 the regional library board, such contributions to be de-  
5 posited as the regional library board shall direct and to  
6 be disbursed by the officer designated by that board. By  
7 such contribution the governing authority designates the  
8 regional library board as its disbursing agent.

Sec. 4. *Contract with Existing Public Library.*—The  
2 governing authority may, in lieu of supporting and main-  
3 taining its own public library, enter into a contract with  
4 an existing public library and make annual payments of  
5 money to such library, whose library materials and serv-  
6 ices shall be available without charge to all persons living  
7 within the area represented by such governing authority.  
8 Any school board may contract for school library service  
9 from an existing public library which shall agree to  
10 furnish books to a school or schools under the terms of the  
11 contract.

12 All money paid to a library under such a contract shall

13 be expended solely for the maintenance and support of  
14 the library.

Sec. 5. *Board of Library Directors; Qualifications; Term  
2 of Office; No Compensation.*—Whenever a public library  
3 is established under this article the governing authority  
4 or authorities, shall appoint a board of five directors,  
5 chosen from the citizens at large of such governmental  
6 division or divisions, with reference to their fitness for  
7 such office, except that in a regional library the board of  
8 directors shall consist of not less than five nor more than  
9 ten members, with a minimum of one member from each  
10 county in the region, the total number of directors and  
11 the apportionment of directors by county to be determined  
12 by joint action of the governing authorities concerned.  
13 In either case directors shall hold office for five years from  
14 the first day of July following their appointment, and  
15 until their successors are appointed and qualified: *Pro-*  
16 *vided*, That upon their first appointment under this article  
17 a proportionate number shall be appointed for one year,  
18 for two years, for three years, for four years and for five  
19 years; and thereafter all appointments shall be for terms

20 of five years. Vacancies in the board shall be immediately  
21 reported by the board to the governing authority and  
22 filled by appointment in like manner, and, if an unexpired  
23 term, for the remainder of the term only. A director may  
24 be removed for just cause in the manner provided by the  
25 by-laws of the library board. No compensation shall be  
26 paid or allowed any director.

Sec. 6. *Board of Library Directors; Powers and Duties.*

2 —The board of directors of each public library established  
3 or maintained under this article shall: (a) Immediately  
4 after appointment, meet and organize by electing one  
5 member as president and one as secretary, and such other  
6 officers as may be necessary. All officers shall hold office  
7 for one year and shall be eligible for reelection. (b) Adopt  
8 such by-laws, rules, and regulations as are necessary for  
9 its own guidance and for the administration, supervision,  
10 and protection of the library and all property belonging  
11 thereto as may not be inconsistent with the provisions of  
12 this article. (c) Supervise the expenditure of all money  
13 credited to the library fund. All money appropriated or  
14 collected for public library purposes shall be deposited

15 in the treasury of the governing authority to the credit of  
16 the library fund, to be paid out on the certified requisition  
17 of the library board, in the manner provided by law for  
18 the disbursement of other funds of such governing au-  
19 thority, or shall be deposited as the library's board of  
20 directors shall direct and be disbursed by the officer  
21 designated by that board, such officer before entering  
22 upon his duties to give bond payable to and in an amount  
23 fixed by the board of directors of the library, conditioned  
24 for the faithful discharge of his official fiscal duties. The  
25 cost of such bond shall be paid from the library fund. The  
26 books, records, and accounts of the library board shall be  
27 subject to audit and examination by the office of the state  
28 tax commissioner of West Virginia. (d) Lease or purchase  
29 and occupy suitable quarters, or erect upon ground se-  
30 cured through gift or purchase, an appropriate building  
31 for the use of such library; and have supervision, care,  
32 and custody of the grounds, rooms, or buildings con-  
33 structed, leased, or set apart for library purposes. (e)  
34 Employ a head librarian, and upon his recommendation  
35 employ such other assistants as may be necessary for the  
36 efficient operation of the library.

Sec. 7. *Free Use of Libraries.*—Each library established  
2 or maintained by any governing authority shall be free  
3 for the use of all persons living within the area repre-  
4 sented by such governing authority, except for those  
5 charges for which provision may be made elsewhere in  
6 this article. The use of the library is subject to reason-  
7 able rules and regulations adopted by the library board.  
8 The board may extend the privilege and use of the library  
9 to nonresidents upon such terms and conditions as it may  
10 prescribe.

11 The board may exclude from the use of the library un-  
12 der its charge any person who wilfully and persistently  
13 violates any rule or regulation prescribed for the use of  
14 the library or its facilities.

Sec. 8. *Board of Library Directors; Annual Report.*—  
2 The board of directors shall make an annual report for  
3 the fiscal year ending June thirtieth to the governing au-  
4 thority or authorities appointing it, stating the conditions  
5 of the library property, the various sums of money re-  
6 ceived from the library fund, and all other sources, and  
7 how such money was expended, the number of books and

8 periodicals on hand, the number added and withdrawn  
9 during the year, the number of books lent, the number of  
10 registered users of such library, with such other statistics,  
11 information and suggestions as may be deemed of general  
12 interest. A copy of this report shall be sent to the West  
13 Virginia library commission.

Sec. 9. *Library Board to be a Corporation; Vesting of*  
2 *Title to Bequests or Donations.*—The board of directors  
3 of each public library shall be a corporation; and as such  
4 it may contract and be contracted with, sue and be sued,  
5 plead and be impleaded and shall have and use a common  
6 seal.

7 The title to all bequests or donations of cash or other  
8 personal property or real estate for the benefit of such  
9 library shall be vested in the board of directors to be held  
10 in trust and controlled by such board according to the  
11 terms and for the purposes set forth in the deed, gift,  
12 devise or bequest: *Provided, however,* That the person  
13 making the bequest or donation of cash or other personal  
14 property or real estate for the benefit of such library  
15 shall have the right and privilege to vest the title thereto

16 in a trustee, or trustees, of his own selection, and to pro-  
17 vide for the selection of successor trustees, and to desig-  
18 nate the manner in which said fund or property shall be  
19 invested and used.

Sec. 9-a. *Miscellaneous Receipts.*—The board of direc-  
2 tors of a library established or maintained under this  
3 article may fix, establish, and collect such reasonable fees,  
4 service and rental charges as may be appropriate; may  
5 assess fines, penalties, damages, or replacement costs for  
6 the loss of, injury to, or failure to return any library prop-  
7 erty or material; and may sell surplus, duplicated, obso-  
8 lete, or other unwanted materials or equipment belong-  
9 ing to the library. All moneys received from these or  
10 other sources in the course of the administration and op-  
11 eration of the library shall be deposited in the library  
12 fund and shall be disbursed by the board of directors in  
13 the manner prescribed elsewhere in this article.

Sec. 11-a. *Application of Article.*—Nothing in this arti-  
2 cle shall be construed to abolish or abridge any power or  
3 duty conferred upon any public library already estab-  
4 lished by virtue of any city or town charter or other spe-

5 cial act, or to affect any existing local laws allowing or  
6 providing municipal aid to libraries. Any library now  
7 operating under any city or town charter or other special  
8 act has, however, the privilege of reorganizing under the  
9 provisions of this article.

10 All powers granted herein shall be considered to be  
11 conferred upon public libraries existing at the time of the  
12 passage of this act.

13 Any provision concerning the disbursement of funds  
14 including the designation of the depository of the library  
15 funds or of the library board's disbursing officer con-  
16 tained in this article may be adopted by a library board  
17 organized under the provisions of this article, notwith-  
18 standing any other provisions of law.

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

*Arnold Davis, Jr.*  
Chairman Senate Committee

*Mrs. W. W. Withers*  
Chairman House Committee

Originated in the Senate.

Takes effect *ninety days from* passage.

*Thomas H. Ryan*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*Howard E. Carson*  
President of the Senate

*Julius W. Singleton Jr.*  
Speaker House of Delegates

The within *approved* this the *first*  
day of *March*, 1961.

*W. W. Baum*  
Governor

