WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 99

(By Mr.)

 Passed ........................................... 21st January, 1961

In Effect ........................................... Passage

Filed in Office of the Secretary of State
of West Virginia March 1, 1961

JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

Senate Bill No. 99
(By Mr. KAUFMAN and Mr. RILEY)

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

AN ACT to amend and reenact sections one, two, three, four,
five, six, seven, eight, nine and eleven-a, article one, chap­
ter 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 Vir­
ginia, 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:


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

Such sums as are appropriated hereunder may be transferred to the public library board for deposit and disbursement as the public library board shall direct. By such transfer the governing authority designates the public library board as its disbursing agent.

Sec. 3. Regional Library Defined; Apportionment of Regional Library Expenses.—A regional library is a public library established and/or maintained by two or more counties, by action of their governing authorities, under the terms of a contract to which they all agree. The expenses of the regional library shall be apportioned between or among the counties concerned on such a basis as shall be agreed upon in the contract.
Sec. 3-a. Authority of Regional Library Board to Disburse Funds.—The governing authorities which maintain a regional library may contribute the apportioned sum to the regional library board, such contributions to be deposited as the regional library board shall direct and to be disbursed by the officer designated by that board. By such contribution the governing authority designates the regional library board as its disbursing agent.

Sec. 4. Contract with Existing Public Library.—The governing authority may, in lieu of supporting and maintaining its own public library, enter into a contract with an existing public library and make annual payments of money to such library, whose library materials and services shall be available without charge to all persons living within the area represented by such governing authority. Any school board may contract for school library service from an existing public library which shall agree to furnish books to a school or schools under the terms of the contract.

All money paid to a library under such a contract shall
be expended solely for the maintenance and support of
the library.

Sec. 5. *Board of Library Directors; Qualifications; Term
of Office; No Compensation.*—Whenever a public library
is established under this article the governing authority
or authorities, shall appoint a board of five directors,
chosen from the citizens at large of such governmental
division or divisions, with reference to their fitness for
such office, except that in a regional library the board of
directors shall consist of not less than five nor more than
ten members, with a minimum of one member from each
county in the region, the total number of directors and
the apportionment of directors by county to be determined
by joint action of the governing authorities concerned.
In either case directors shall hold office for five years from
the first day of July following their appointment, and
until their successors are appointed and qualified: *Pro-
vided,* That upon their first appointment under this article
a proportionate number shall be appointed for one year,
for two years, for three years, for four years and for five
years; and thereafter all appointments shall be for terms
of five years. Vacancies in the board shall be immediately
reported by the board to the governing authority and
filled by appointment in like manner, and, if an unexpired
term, for the remainder of the term only. A director may
be removed for just cause in the manner provided by the
by-laws of the library board. No compensation shall be
paid or allowed any director.

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

—The board of directors of each public library established
or maintained under this article shall: (a) Immediately
after appointment, meet and organize by electing one
member as president and one as secretary, and such other
officers as may be necessary. All officers shall hold office
for one year and shall be eligible for reelection. (b) Adopt
such by-laws, rules, and regulations as are necessary for
its own guidance and for the administration, supervision,
and protection of the library and all property belonging
thereto as may not be inconsistent with the provisions of
this article. (c) Supervise the expenditure of all money
credited to the library fund. All money appropriated or
collected for public library purposes shall be deposited
in the treasury of the governing authority to the credit of
the library fund, to be paid out on the certified requisition
of the library board, in the manner provided by law for
the disbursement of other funds of such governing au-
thority, or shall be deposited as the library's board of
directors shall direct and be disbursed by the officer
designated by that board, such officer before entering
upon his duties to give bond payable to and in an amount
fixed by the board of directors of the library, conditioned
for the faithful discharge of his official fiscal duties. The
cost of such bond shall be paid from the library fund. The
books, records, and accounts of the library board shall be
subject to audit and examination by the office of the state
tax commissioner of West Virginia. (d) Lease or purchase
and occupy suitable quarters, or erect upon ground se-
cured through gift or purchase, an appropriate building
for the use of such library; and have supervision, care,
and custody of the grounds, rooms, or buildings con-
structed, leased, or set apart for library purposes. (e)
Employ a head librarian, and upon his recommendation
employ such other assistants as may be necessary for the
efficient operation of the library.
Sec. 7. Free Use of Libraries.—Each library established or maintained by any governing authority shall be free for the use of all persons living within the area represented by such governing authority, except for those charges for which provision may be made elsewhere in this article. The use of the library is subject to reasonable rules and regulations adopted by the library board. The board may extend the privilege and use of the library to nonresidents upon such terms and conditions as it may prescribe. The board may exclude from the use of the library under its charge any person who wilfully and persistently violates any rule or regulation prescribed for the use of the library or its facilities.

Sec. 8. Board of Library Directors; Annual Report.—The board of directors shall make an annual report for the fiscal year ending June thirtieth to the governing authority or authorities appointing it, stating the conditions of the library property, the various sums of money received from the library fund, and all other sources, and how such money was expended, the number of books and
periodicals on hand, the number added and withdrawn during the year, the number of books lent, the number of registered users of such library, with such other statistics, information and suggestions as may be deemed of general interest. A copy of this report shall be sent to the West Virginia library commission.

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

The title to all bequests or donations of cash or other personal property or real estate for the benefit of such library shall be vested in the board of directors to be held in trust and controlled by such board according to the terms and for the purposes set forth in the deed, gift, devise or bequest: Provided, however, That the person making the bequest or donation of cash or other personal property or real estate for the benefit of such library shall have the right and privilege to vest the title thereto
in a trustee, or trustees, of his own selection, and to pro-
vide for the selection of successor trustees, and to desig-
nate the manner in which said fund or property shall be
invested and used.

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

Sec. 11-a. Application of Article.—Nothing in this arti-
cle shall be construed to abolish or abridge any power or
duty conferred upon any public library already estab-
lished by virtue of any city or town charter or other spe-
cial act, or to affect any existing local laws allowing or
providing municipal aid to libraries. Any library now
operating under any city or town charter or other special
act has, however, the privilege of reorganizing under the
provisions of this article.

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

Any provision concerning the disbursement of funds
including the designation of the depository of the library
funds or of the library board's disbursing officer con-
tained in this article may be adopted by a library board
organized under the provisions of this article, notwith-
standing any other provisions of law.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect 15 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor