

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1968

ENROLLED

SENATE BILL NO. 104

(By Mr. Originary in the Senate
on the Judiciary)

PASSED February 8, 1968

In Effect Ninety days from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-16-68

#104

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Senate Bill No. 104

(Originating in the Committee on the Judiciary)

[Passed February 8, 1968; 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 of West Virginia, amending section fifty-one, article six thereof, relating to the annual budget generally, the budget bill and supplementary appropriation bills.

Be it enacted by the Legislature of West Virginia:

1 **Section 1. Submitting an Amendment to the State Con-**
2 **stitution.**—That the question of the ratification or rejection of an amendment to the constitution of West Virginia,
3 proposed in accordance with the provisions of section two,
4 article fourteen of said constitution, shall be submitted to
5 the voters of the state at the next general election, to be
6

7 held in the year one thousand nine hundred sixty-eight,
8 which proposed amendment is as follows:

9 That section fifty-one, article six of the constitution of
10 the state of West Virginia, be amended to read as follows:

"ARTICLE VI. THE LEGISLATURE.

1 **"Section 51. Budget and Supplementary Appropriation**
2 **Bills.**—The Legislature shall not appropriate any money
3 out of the treasury except in accordance with provisions
4 of this section.

5 **"Subsection A—Appropriation Bills**

6 **"(1)** Every appropriation bill shall be either a budget
7 bill, or a supplementary appropriation bill, as hereinafter
8 provided.

9 **"Subsection B—Budget Bills**

10 **"(2)** Within ten days after the convening of the regular
11 session of the Legislature in odd-numbered years, unless
12 such time shall be extended by the Legislature, and on
13 the second Wednesday of January in even-numbered
14 years, the governor shall submit to the Legislature a
15 budget for the next ensuing fiscal year. The budget shall
16 contain a complete plan of proposed expenditures and

17 estimated revenues for the fiscal year and shall show
18 the estimated surplus or deficit of revenues at the end
19 of each fiscal year. Accompanying each budget shall
20 be a statement showing: (a) An estimate of the revenues
21 and expenditures for the current fiscal year, including
22 the actual revenues and actual expenditures to the extent
23 available, and the revenues and expenditures for the
24 next preceding fiscal year; (b) the current assets, liabilities,
25 reserves and surplus or deficit of the state; (c) the
26 debts and funds of the state; (d) an estimate of the state's
27 financial condition as of the beginning and end of the fiscal
28 year covered by the budget; (e) any explanation the
29 governor may desire to make as to the important features
30 of the budget and any suggestions as to methods for
31 reduction or increase of the state's revenue.

32 “(3) Each budget shall embrace an itemized estimate
33 of the appropriations, in such form and detail as the
34 governor shall determine or as may be prescribed by
35 law: (a) For the Legislature as certified to the governor
36 in the manner hereinafter provided; (b) for the executive
37 department; (c) for the judiciary department, as provided

38 by law, certified to the governor by the auditor; (d) for
39 payment and discharge of the principal and interest of
40 any debt of the state created in conformity with the con-
41 stitution, and all laws enacted in pursuance thereof;
42 (e) for the salaries payable by the state under the con-
43 stitution and laws of the state; (f) for such other purposes
44 as are set forth in the constitution and in laws made in
45 pursuance thereof.

46 “(4) The governor shall deliver to the presiding officer
47 of each house the budget and a bill for all the proposed
48 appropriations of the budget clearly itemized and classi-
49 fied, in such form and detail as the governor shall deter-
50 mine or as may be prescribed by law; and the presiding
51 officer of each house shall promptly cause the bill to be
52 introduced therein, and such bill shall be known as the
53 ‘Budget Bill.’ The governor may, with the consent of
54 the Legislature, before final action thereon by the Leg-
55 islature, amend or supplement the budget to correct an
56 oversight, or to provide funds contingent on passage of
57 pending legislation, and in case of an emergency, he may
58 deliver such an amendment or supplement to the pre-

59 siding officers of both houses; and the amendment or
60 supplement shall thereby become a part of the budget
61 bill as an addition to the items of the bill or as a modifica-
62 tion of or a substitute for any item of the bill the amend-
63 ment or supplement may affect.

64 “(5) The Legislature shall not amend the budget bill
65 so as to create a deficit but may amend the bill by in-
66 creasing or decreasing any item therein: *Provided*, That
67 no item relating to the judiciary shall be decreased, and
68 except as otherwise provided in this constitution, the
69 salary or compensation of any public officer shall not be
70 increased or decreased during his term of office: *Pro-*
71 *vided further*, That the Legislature shall not increase
72 the estimate of revenue submitted in the budget with-
73 out the approval of the governor.

74 “(6) The governor and such representatives of the
75 executive departments, boards, officers and commissions
76 of the state expending or applying for state moneys as
77 have been designated by the governor for this purpose,
78 shall have the right, and when requested by either house
79 of the Legislature it shall be their duty, to appear and be

80 heard with respect to any budget bill, and to answer
81 inquiries relative thereto.

82 **“Subsection C—Supplementary Appropriation Bills**

83 “(7) Neither house shall consider other appropriations
84 until the budget bill has been finally acted upon by both
85 houses, and no such other appropriations shall be valid
86 except in accordance with the provisions following: (a)
87 Every such appropriation shall be embodied in a separate
88 bill limited to some single work, object or purpose there-
89 in stated and called therein a supplementary appropria-
90 tion bill; (b) each supplementary appropriation bill shall
91 provide the revenue necessary to pay the appropriation
92 thereby made by a tax, direct or indirect, to be laid and
93 collected as shall be directed in the bill unless it appears
94 from such budget that there is sufficient revenue avail-
95 able.

96 **“Subsection D—General Provisions**

97 “(8) If the budget bill shall not have been finally acted
98 upon by the Legislature three days before the expiration
99 of its regular session, the governor shall issue a proclama-
100 tion extending the session for such further period as may,

101 in his judgment, be necessary for the passage of the bill;
102 but no matter other than the bill shall be considered
103 during such an extension of a session except a provision
104 for the cost thereof.

105 “(9) For the purpose of making up the budget, the
106 governor shall have the power, and it shall be his duty,
107 to require from the proper state officials, including herein
108 all executive departments, all executive and administra-
109 tive officers, bureaus, boards, commissions and agencies
110 expending or supervising the expenditure of, and all
111 institutions applying for state moneys and appropriations,
112 such itemized estimates and other information, in such
113 form and at such times as he shall direct. The estimates
114 for the legislative department, certified by the presiding
115 officer of each house, and for the judiciary, as provided
116 by law, certified by the auditor, shall be transmitted to
117 the governor in such form and at such times as he shall
118 direct, and shall be included in the budget.

119 “(10) The governor may provide for public hearings
120 on all estimates and may require the attendance at
121 such hearings of representatives of all agencies and all

122 institutions applying for state moneys. After such public
123 hearings he may, in his discretion, revise all estimates
124 except those for the legislative and judiciary depart-
125 ments.

126 “(11) Every budget bill or supplementary appropria-
127 tion bill passed by a majority of the members elected
128 to each house of the Legislature shall, before it becomes
129 a law, be presented to the governor. The governor may
130 veto the bill, or he may disapprove or reduce items or
131 parts of items contained therein. If he approves he shall
132 sign it and thereupon it shall become a law. The bill,
133 items or parts thereof, disapproved or reduced by the
134 governor, shall be returned with his objections to each
135 house of the Legislature.

136 “Each house shall enter the objections at large upon
137 its journal and proceed to reconsider. If, after recon-
138 sideration, two thirds of the members elected to each
139 house agree to pass the bill, or such items or parts thereof,
140 as were disapproved or reduced, the bill, items or parts
141 thereof, approved by two thirds of such members, shall
142 become law, notwithstanding the objections of the gover-

143 nor. In all such cases, the vote of each house shall be
144 determined by yeas and nays to be entered on the
145 journal.

146 "A bill, item or part thereof, which is not returned by
147 the governor within five days (Sundays excepted) after
148 the bill has been presented to him shall become a law in
149 like manner as if he had signed the bill, unless the Leg-
150 isature, by adjournment, prevents such return, in which
151 case it shall be filed in the office of the secretary of
152 state, within five days after such adjournment, and
153 shall become a law; or it shall be so filed within such
154 five days with the objections of the governor, in which
155 case it shall become law to the extent not disapproved
156 by the governor.

157 "(12) The Legislature may, from time to time, enact
158 such laws, not inconsistent with this section, as may be
159 necessary and proper to carry out its provisions.

160 "(13) In the event of any inconsistency between any
161 of the provisions of this section and any of the other
162 provisions of the constitution, the provisions of this sec-
163 tion shall prevail. But nothing herein shall be construed

164 as preventing the governor from calling extraordinary
165 sessions of the Legislature, as provided by section ^{nineteen}~~eight~~
166 of this article, or as preventing the Legislature at such
167 extraordinary sessions from considering any emergency
168 appropriation or appropriations.

169 “(14) If any item of any appropriation bill passed under
170 the provisions of this section shall be held invalid upon
171 any ground, such invalidity shall not affect the legality
172 of the bill or of any other item of such bill or bills.”

1 **Sec. 2. Amendment to Be Known as the “Modern**
2 **Budget Amendment”; Summary of Purpose.**—In accord-
3 ance with the provisions of section thirteen, article six,
4 chapter three of the code of West Virginia, one thousand
5 nine hundred thirty-one, as amended, said proposed
6 amendment is hereby designated as the “Modern Bud-
7 get Amendment,” and the purpose of the proposed amend-
8 ment is summarized as follows: “To improve and sim-
9 plify the budget making process by vesting in one person,
10 the chief executive, the responsibility for preparing the
11 state budget for consideration by the Legislature.”

1 **Sec. 3. Publication of Proposed Amendment by Gover-**
2 **nor.**—The governor shall cause the said proposed amend-
3 ment, with the proper designation and the summary of
4 the purpose for the same as hereinbefore adopted and
5 stated, to be published one time at least three months
6 before such election in some newspaper in every county
7 in which a newspaper is printed, and the cost of such
8 advertising, determined in accordance with the provis-
9 ions of section three, article three, chapter fifty-nine of
10 the code of West Virginia, one thousand nine hundred
11 thirty-one, as amended, shall in the first instance, if
12 found necessary by him, be paid out of the governor's
13 contingent fund and be afterwards repaid to such fund
14 by appropriation of the Legislature.

1 **Sec. 4. Form of Ballot; Election.**—For the purpose of
2 enabling the voters of the state to vote on the question
3 of this proposed amendment to the constitution and any
4 other proposed amendments to the constitution which
5 may be submitted at the said general election to be held
6 in the year one thousand nine hundred sixty-eight, the
7 board of ballot commissioners of each county is hereby

8 required to place upon, and at the foot of, the official
9 ballot to be voted at that election under the heading
10 reading "Ballot on Constitutional Amendment(s)," in
11 the first position under said heading, the following:

12 No. 1 Modern Budget Amendment

13 ☐ For Ratification.

14 ☐ Against Ratification.

15 The said election on the proposed amendment at each
16 place of voting shall be superintended, conducted and
17 returned, 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
20 of the law relating to general elections, including all duties
21 to be performed by any officer or board, as far as prac-
22 ticable, and not inconsistent with anything herein con-
23 tained, shall apply to the election held under the provi-
24 sions of this act, except when it is herein otherwise pro-
25 vided. The ballots cast on the question of said proposed
26 amendment shall be counted as other ballots cast at said
27 election.

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

7 “We, the undersigned, who acted as commissioners (or
8 canvassers, as the case may be) of the election held at
9 Precinct No. _____, in the district of _____, in the
10 county of _____, on the _____ day of _____,
11 one thousand nine hundred sixty-eight, upon the question
12 of the ratification or rejection of the proposed constitu-
13 tional amendment, do hereby certify that the result of
14 said election is as follows:

15 “Amendment No. 1. Modern Budget Amendment

16 “For ratification _____ votes.

17 “Against ratification _____ votes.

18 “Given under our hands this _____ day of _____,
19 one thousand nine hundred sixty-eight.”

20 The said two certificates shall correspond with each
21 other in all respects and contain the full and true returns

22 in said election at each place of voting on said question.

23 The said commissioners, or any one of them (or said

24 canvassers ^{or} ~~or~~ any one of them, as the case may be), shall,
or shall (by FE)

25 within four days, excluding Sunday, after that on which

26 said election was held, deliver one of said certificates to

27 the clerk of the county court of the county, together with

28 the ballots, and the other to the clerk of the circuit court

29 of the county.

30 The said certificates, together with the ballots cast on

31 the question of said proposed amendment, shall be laid

32 before the commissioners of the county court at the

33 courthouse at the same time the ballots, poll books and

34 the certificates of election of the members of the Legis-

35 lature are laid before them; and as soon as the result

36 of said election in the county upon the question of such

37 ratification or rejection is ascertained, two certificates

38 of such result shall be made out and signed by said com-

39 missioners as a board of canvassers, in the form or to

40 the following effect:

41 "We, the board of canvassers of the county of _____,

42 having carefully and impartially examined the returns

43 of the election held in said county, in each district thereof,
44 on the _____ day of _____, one thousand nine hun-
45 dred sixty-eight, do certify that the result of the election
46 in said county, on the question of the ratification or re-
47 jection of the proposed amendment is as follows:

48 "Amendment No. 1. Modern Budget Amendment

49 "For ratification _____ votes.

50 "Against ratification _____ votes.

51 "Given under our hands this _____ day of _____,
52 one thousand nine hundred sixty-eight."

53 One of the certificates shall be filed in the office of the
54 clerk of the county court, and the other forwarded by
55 mail to the secretary of state, who shall file and preserve
56 the same until the day on which the result of said election
57 in the state is to be ascertained, as hereinafter stated.

1 **Sec. 6. Proclamation of Result of Election by Gover-**
2 **nor.**—On the twenty-fifth day after the election is held,
3 or as soon thereafter as practicable, the said certificates
4 shall be laid before the governor, whose duty it shall be
5 to 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 gov-
8 ernment. If a majority of the votes cast at said election
9 upon said question be for ratification of said amendment,
10 the 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.

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

William Tampa
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Howard Meyer
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. L. White
Speaker House of Delegates

The within approved this the 14
day of February, 1968.

H. C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 2/12/68

Time 3:02 P.M.

RECEIVED

FEB 19 1 03 PM '68

OFFICE OF
SECRETARY OF STATE
STATE OF MISSISSIPPI