WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

Com. Sub. for
HOUSE BILL No. 1064

(By Mr. Del. Divine)

Passed Aprils, 1985
In Effect from Passage
AN ACT to amend and reenact section two, article three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section five, article four of said chapter, all relating generally to the framing and adopting of city charters; election of charter boards; convening and organizing of charter boards; powers and duties of charter boards; requiring that a city charter provide for a form of city government; specifying such forms of city government as may be provided in a city charter; effective date of an approved charter; recordation of an approved charter and the election results relating thereto; and rejection of a proposed charter.

Be it enacted by the Legislature of West Virginia:

That section two, article three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section five, article four of said chapter be amended and reenacted, all to read as follows:

ARTICLE 3. FRAMING AND ADOPTING AN ORIGINAL CHARTER FOLLOWING INCORPORATION OF A CITY; REVISING OR AMENDING A CHARTER; EXPENSES OF INCORPORATION.
§8-3-2. Charter board for cities—Organization; journal; quorum; duties; time for draft of charter; form of city government.

If on the returns being canvassed on the question of incorporation of a city, such canvassing to be done by the county commission, a majority of the legal votes cast be in favor of such incorporation, then the legal votes cast for members of the charter board shall be counted and canvassed by the county commission, and the candidates in the number to be chosen who received the highest number of votes shall be declared elected. The charter board shall be convened at a suitable place within the territory, by the member receiving the highest number of votes, not less than five days nor more than ten days after the canvass of the returns. He shall notify the other members of the board in writing of the time and place of the first meeting of the charter board. At such first meeting, the board shall perfect its organization by electing a chairman and secretary from its membership and by determining the rules to govern its proceedings. Any vacancy in the membership of the board occurring before a charter is approved by the qualified voters of the incorporated territory shall be filled by appointment by majority action of the remaining members, and any vacancy occurring after approval of a charter as aforesaid shall be filled as specified in section nine of this article. A journal shall be kept by the secretary, in which journal shall be entered, upon demand by any member, the vote by ayes and nays on any question. A majority of the members of said board shall constitute a quorum. The board shall specify the manner for nominating and electing candidates for the first elective offices provided for in the proposed charter at the election to be held on the question of approval of the charter. It shall fix the date of said election and it shall do and provide all other things necessary for making nominations and holding and conducting such election. Any qualified voter and any freeholder of the incorporated territory may file with said charter board any written material bearing upon the purposes of the board, and the board shall give such material so filed such consideration as it may deem proper. The charter drafting process may be carried on through committees, but their work shall be advisory only. The charter board shall complete its draft of a charter within ninety days after its first meeting. It shall be the duty of the charter board to provide in the charter so
drafted for a form of city government in accordance with one
of the following plans:

Plan I—“Mayor-Council Plan.” Under this plan:

(1) There shall be a city council, elected at large or by
wards, or both at large and by wards, by the qualified voters
of the city; a mayor elected by the qualified voters of the city;
and such other elective officers as the charter may prescribe;
and

(2) The mayor and council shall be the governing body and
administrative authority.

Plan II—“Strong-Mayor Plan.” Under this plan:

(1) There shall be a mayor elected by the qualified voters
of the city; and a city council elected at large or by wards,
or both at large and by wards, by the qualified voters of the
city;

(2) The council shall be the governing body;

(3) The mayor shall be the administrative authority; and

(4) Other officers and employees shall be appointed by the
mayor or by his order in accordance with this chapter, but
such appointments by the mayor or by his order may be made
subject to the approval of the council.

Plan III—“Commission Government.” Under this plan:

(1) There shall be, except as hereinafter in this plan
provided, a commission of five members elected at large by
the qualified voters of the city;

(2) The members of the commission shall be a commissioner
of public affairs, a commissioner of finance, a commissioner
of public safety, a commissioner of public works and a
commissioner of streets: *Provided,* That a charter for a Class
I or Class II city may, and a charter for a Class III city shall,
provide for a commission of three members, viz., a commis-
sioner of finance, a commissioner of public works and a
commissioner of public safety;

(3) The members of the commission shall elect a mayor
from among their membership;

(4) The commission shall be the governing body and
(5) Officers and employees, other than members of the commission, shall be appointed in accordance with this chapter by the commissioners or by each commissioner with respect to his department, as the charter may prescribe.

Plan IV—"Manager Plan." Under this plan:

(1) There shall be a council of not less than five nor more than eleven members, elected either at large or from such geographical districts as may be established by the charter, or partly at large and partly from such geographical districts, and the charter may empower the council to change, from time to time, such districts without amending the charter: Provided, That the change of such districts shall not take effect during the terms of office of the members of such council making such change;

(2) There shall be a mayor elected by the council from among its membership who shall serve as the presiding officer of the council; and a city manager who shall be appointed by the council;

(3) The council shall be the governing body; and

(4) The manager shall be the administrative authority. He shall manage the affairs of the city under the supervision of the council and he shall be responsible to such council. He shall appoint or employ, in accordance with this chapter, all subordinates and employees for whose duties or work he is responsible to the council.

Plan V—"Manager-Mayor Plan." Under this plan:

(1) There shall be a council of not less than five nor more than eleven members, elected either at large or from such geographical districts as may be established by the charter, or partly at large and partly from such geographical districts, and the charter may empower the council to change, from time to time, such districts without amending the charter: Provided, That the change of such districts shall not take effect during the terms of office of the members of such council making such change;

(2) There shall be a mayor elected at large by the qualified voters of the municipality as may be established by the charter,
who shall serve as a member and the presiding officer of the
council; and a city manager who shall be appointed by the
council;

(3) The council shall be the governing body; and

(4) The manager shall be the administrative authority. He
shall manage the affairs of the city under the supervision of
the council and he shall be responsible to such council. He
shall appoint or employ, in accordance with this chapter, all
subordinates and employees for whose duties or work he is
responsible to the council.

The purpose of the provisions of this section pertaining to
Plan I, Plan II, Plan III, Plan IV and Plan V is to establish
basic requirements of alternative plans of structure and
organization of city government. The structure and organiza-
tion of a city government may be specified by the charter in
respects other than those enumerated, and in elaboration of
the basic requirements, insofar as such charter provisions do
not conflict with the purpose and the provisions of the
alternative plans prescribed.

ARTICLE 4. FRAMING AND ADOPTING A CHARTER OTHER THAN
IMMEDIATELY FOLLOWING INCORPORATION; REV­
ISING OR AMENDING A CHARTER; ELECTIONS AND
EXPENSES.

§8-4-5. Approval of charter; effective date; certification; judicial
notice; recordation; effect of rejection.

1 If the proposed charter shall be approved by a majority of
the legal votes cast at the election thereon, the charter shall
take effect on July first next after the date of the election. If
approved as aforesaid, one of the signed copies of the charter
on file with the recorder of the city, together with a certified
copy of the declaration of the results of the election showing
the total legal votes cast for and against approval, shall be
certified forthwith by such recorder to the clerk of the House
of Delegates, in his capacity as keeper of the rolls. The same
shall be preserved by said clerk of the House of Delegates as
an authentic public record. After the effective date of a charter
so filed, all courts shall take judicial notice of its provisions.

13 If the charter is approved as aforesaid, a certified copy of
the declaration of the results of the election showing the total
legal votes cast for and against approval shall be forwarded
by the recorder of the city to the clerk of the county
commission for filing with the signed copy of the charter
previously filed with him.

Rejection of the proposed charter by a majority of the legal
votes cast shall have the same effect as a majority vote against
the question of framing a charter as specified in section two
of this article, and no further effort shall be made to have a
charter approved until the question of framing a charter is
again submitted to the qualified voters of the city and is
approved by a majority vote, subject to the two-year limitation
set forth in said section two of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 27th day of April, 1985.

Governor