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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 1064

(By Mr. Del. Diver)



Passed April 5, 1985

In Effect From Passage

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 1064**

(By DELEGATE GIVEN)

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[Passed April 5, 1985; in effect from passage.]

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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.**

1 If on the returns being canvassed on the question of  
2 incorporation of a city, such canvassing to be done by the  
3 county commission, a majority of the legal votes cast be in  
4 favor of such incorporation, then the legal votes cast for  
5 members of the charter board shall be counted and canvassed  
6 by the county commission, and the candidates in the number  
7 to be chosen who received the highest number of votes shall  
8 be declared elected. The charter board shall be convened at  
9 a suitable place within the territory, by the member receiving  
10 the highest number of votes, not less than five days nor more  
11 than ten days after the canvass of the returns. He shall notify  
12 the other members of the board in writing of the time and  
13 place of the first meeting of the charter board. At such first  
14 meeting, the board shall perfect its organization by electing a  
15 chairman and secretary from its membership and by determin-  
16 ing the rules to govern its proceedings. Any vacancy in the  
17 membership of the board occurring before a charter is  
18 approved by the qualified voters of the incorporated territory  
19 shall be filled by appointment by majority action of the  
20 remaining members, and any vacancy occurring after approval  
21 of a charter as aforesaid shall be filled as specified in section  
22 nine of this article. A journal shall be kept by the secretary,  
23 in which journal shall be entered, upon demand by any  
24 member, the vote by ayes and nays on any question. A  
25 majority of the members of said board shall constitute a  
26 quorum. The board shall specify the manner for nominating  
27 and electing candidates for the first elective offices provided  
28 for in the proposed charter at the election to be held on the  
29 question of approval of the charter. It shall fix the date of  
30 said election and it shall do and provide all other things  
31 necessary for making nominations and holding and conducting  
32 such election. Any qualified voter and any freeholder of the  
33 incorporated territory may file with said charter board any  
34 written material bearing upon the purposes of the board, and  
35 the board shall give such material so filed such consideration  
36 as it may deem proper. The charter drafting process may be  
37 carried on through committees, but their work shall be  
38 advisory only. The charter board shall complete its draft of  
39 a charter within ninety days after its first meeting. It shall be  
40 the duty of the charter board to provide in the charter so

41 drafted for a form of city government in accordance with one  
42 of the following plans:

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

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

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

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

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

56 (2) The council shall be the governing body;

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

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

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

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

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

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

76 (4) The commission shall be the governing body and

77 administrative authority; and

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

82 Plan IV—“*Manager Plan.*” Under this plan:

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

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

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

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

103 Plan V—“*Manager-Mayor Plan.*” Under this plan:

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

113 (2) There shall be a mayor elected at large by the qualified  
114 voters of the municipality as may be established by the charter,

115 who shall serve as a member and the presiding officer of the  
116 council; and a city manager who shall be appointed by the  
117 council;

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

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

125 The purpose of the provisions of this section pertaining to  
126 Plan I, Plan II, Plan III, Plan IV and Plan V is to establish  
127 basic requirements of alternative plans of structure and  
128 organization of city government. The structure and organiza-  
129 tion of a city government may be specified by the charter in  
130 respects other than those enumerated, and in elaboration of  
131 the basic requirements, insofar as such charter provisions do  
132 not conflict with the purpose and the provisions of the  
133 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  
2 the legal votes cast at the election thereon, the charter shall  
3 take effect on July first next after the date of the election. If  
4 approved as aforesaid, one of the signed copies of the charter  
5 on file with the recorder of the city, together with a certified  
6 copy of the declaration of the results of the election showing  
7 the total legal votes cast for and against approval, shall be  
8 certified forthwith by such recorder to the clerk of the House  
9 of Delegates, in his capacity as keeper of the rolls. The same  
10 shall be preserved by said clerk of the House of Delegates as  
11 an authentic public record. After the effective date of a charter  
12 so filed, all courts shall take judicial notice of its provisions.

13 If the charter is approved as aforesaid, a certified copy of  
14 the declaration of the results of the election showing the total

15 legal votes cast for and against approval shall be forwarded  
16 by the recorder of the city to the clerk of the county  
17 commission for filing with the signed copy of the charter  
18 previously filed with him.

19 Rejection of the proposed charter by a majority of the legal  
20 votes cast shall have the same effect as a majority vote against  
21 the question of framing a charter as specified in section two  
22 of this article, and no further effort shall be made to have a  
23 charter approved until the question of framing a charter is  
24 again submitted to the qualified voters of the city and is  
25 approved by a majority vote, subject to the two-year limitation  
26 set forth in said section two of this article.

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

*Blaine O. Williams*

Chairman Senate Committee

*Floyd Fuller*

Chairman House Committee

Originating in the House.

Takes effect from passage.

*Isabel C. Hanks*

Clerk of the Senate

*Donald L. Kopp*

Clerk of the House of Delegates

*Sam Turberville*

President of the Senate

*Joseph P. Albright*

Speaker of the House of Delegates

The within *approved* this the *27<sup>th</sup>*  
day of *April*, 1985.

*Archie Shaffer*

Governor



PRESENTED TO THE

GOVERNOR

Date 4/12/85

Time 11:17 A.M.