WEST VIRGINIA CODE CHAPTER 1 ARTICLE 3

WV Legislature

§1-3-1. Notice of intention to create new county.

When it is intended to apply to the Legislature for the passage of an act to create a new county, a notice of such intention shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county from which any part of such new county is proposed to be taken.

WV Legislature

§1-3-2. Survey and census; area and population.

The county court of each of the counties out of which the new county is proposed to be formed, at its first session after the notice mentioned in the next preceding section has been published, as required by said section, shall order a survey of the whole county, and of that portion thereof proposed to be included in the new county, to be made by the surveyor of such county, if there be one, and if not by some other competent surveyor, in order to ascertain the number of square miles in the county, as well as in that portion thereof proposed to be included in such new county. Such court shall also appoint some one or more competent person or persons to take a census of the population of such county, and of that part thereof proposed to be included in such new county, in order to ascertain whether or not there will remain in such county a population of six thousand after the creation of such new county. It shall be the duty of the surveyor so directed or appointed to make such survey, and of the person or persons so appointed to take the census, as soon as their fees are paid or secured to be paid in a manner satisfactory to them to proceed in the shortest time practicable to make such survey and take such census and make report thereof to the county court by which they were appointed; and the surveyor shall return and file with his report two fair plats and certificates of the survey made by him showing the metes and bounds of the county and the number of square miles of territory contained therein, and the number of square miles contained within that portion thereof proposed to be included in the new county, and the metes and bounds thereof. The return of such survey and census shall be noted in the records of the court, and such reports shall be filed and preserved by the clerk of such court in his office, and a notice in writing that such return of the survey and census has been made shall be sent to the county court of the other county out of which such new county is proposed to be formed.

WV Legislature

§1-3-3. Submission of question of creation of new county to voters; copies of surveys, census and declaration of result of election.

If it appear, by such surveys and census, that there are within the limits of the proposed new county at least four hundred square miles of territory and at least six thousand population, and that no county is thereby reduced below four hundred square miles of territory or below six thousand population, and that no part of any county having a population of not more than six thousand, or a territory of not more than four hundred square miles, is included within such proposed new county, the county court of each of the counties from which such new county is proposed to be taken shall order a vote of the qualified voters of such county within the lines of such proposed new county to be taken on a day named for the purpose, which shall be on the same day in each county and on the fourth Tuesday after the day of the return of such reports and census to the county court of the county where such reports and census are returned last, at each place of voting within the lines of such proposed new county, or, if there be no place of voting therein, at such place or places therein as the court may direct, of which time and place a notice shall be posted by the sheriff of each of such counties at each place of voting therein as provided by such order, at least fifteen days before such election. The court shall, at the same time, appoint commissioners of election for each of such places of voting, and all the laws relating to a general election shall, as far as applicable, govern and control the holding of such election at the several places of voting, the ascertaining of the result thereof at each of such places and the returns thereof, and the declaring of the general result of such election at all the places of voting in each of such counties. The ballots used at such election shall have printed on them the words “For new county,” and “Against new county.” And it shall be the duty of the clerk of the county court of each of such counties to deliver to any person who may demand the same, and pay or tender his legal fees therefor, copies of such surveys, census and declaration of the result of such election in his county, duly certified by him to be true copies. The fees for such copies shall be the same as are allowed by law for other copying done by such clerk.

WV Legislature

§1-3-4. Plat of new county.

From the plats showing the portion of each county to be included in the proposed new county, mentioned in section two of this article, a plat of the proposed new county shall be prepared under the joint supervision of the surveyors who made the plats of such portions, which plat shall bear the joint certificate of such surveyors as to the surveys included therein and shall show the courses and distances of the boundary line of such new county, and the streams and other natural objects or points on such boundary line, and a copy of the plat so certified shall be returned by the surveyor of each county to the clerk of the county court thereof. Such return shall be noted in the records of the county court and such copy shall be filed and preserved by such clerk in his office.

WV Legislature

§1-3-5. Certificates to accompany application to Legislature.

Every application to the Legislature for the formation of a new county must be accompanied by duly certified copies of the surveys, plat of the proposed new county, census and order of the county court declaring the result of such election as aforesaid, together with satisfactory evidence that all the provisions of this article have been fully complied with.

WV Legislature

§1-3-6. Payment of expenses.

All the expenses attending the publication of the notices, the surveying, and the taking of the census, as required in sections one and two of this article, shall be paid by the parties applying for the proposed new county. The expenses incident to the election in each county shall be paid by it and the laws relating to the payment of general election expenses, so far as applicable, shall govern such payment, but in the event that the proposed new county is created, such election expenses shall be paid by the new county to each county that made such expenditures.

WV Legislature

§1-3-7. Filing plat of new county after its creation; change of boundaries.

If the proposed new county be created with the boundaries specified in the plat and certificate of survey mentioned in section four of this article, a copy of such plat and certificate showing the courses and distances of the boundary line of such new county, and the streams and other natural objects or points referred to in the act creating the same, shall be filed in the office of the Secretary of State, and a similar copy in the office of the clerk of the county court of such new county. But if such new county be created with different boundaries than those so specified, the lines thereof, so far as they differ from those originally run as aforesaid, shall be run and marked by the surveyor of such new county and the surveyors of the counties out of which the same may be formed. They shall make a report of their proceedings to the Secretary of State, and also to the clerk of the county court of each of such counties, accompanied by a plat similar in all respects to the one hereinbefore provided for. Such surveying shall be done at the expense of such new county.

WV Legislature

§1-3-8. Collection of and accounting for public funds; officers' fees; execution of process.

All taxes and levies assessed or laid in any county from which a new county is formed, before the time when the act creating such new county becomes effective, shall be collected, accounted for and paid; and all officers' fees in the hands of any sheriff or other officer at that time shall be accounted for and paid; and all process and precepts delivered to such sheriff or other officer before that time shall be executed, returned and satisfied; and such sheriff or other officer shall have like powers and liabilities in relation thereto as if such act had not passed.

WV Legislature

§1-3-9. Jurisdiction of courts; transfer of cases.

The courts which, at the time of the passage of the act creating a new county, had jurisdiction over the counties from which it is formed shall retain jurisdiction over all actions, suits and proceedings therein pending at the passage of the act, and shall try and determine the same, and award execution and other process thereon, except in cases in which the plaintiff and one or more of the defendants reside or do business in the new county; which last-mentioned cases, together with the papers and a transcript of the record of the proceedings therein had, shall, after that day, if either party so desires, be transferred to the proper court of the new county, and there tried and determined as other cases brought in the new county.

WV Legislature

§1-3-10. Transfer of proceedings pending before a justice.

Any proceeding pending before a justice of an old county at the time the act creating a new county becomes effective, which, if brought after that time, would be required by law to be brought before a justice of the new county, shall be transferred, together with the papers and a transcript of the record, to some justice of the new county.

WV Legislature

§1-3-11. Jurisdiction of old officers to continue until new officers appointed.

The sheriffs and other officers of the counties from which a new county is formed shall, until the sheriff and other officers of the new county are appointed in the manner provided by law for the filling of vacancies in such offices, continue to have and exercise all the jurisdiction, power and authority which they had at the time of the passage of the act creating such new county.

WV Legislature

§1-3-12. Officers of old county required to reside therein.

In any case where the residence of a sheriff or other officer required to reside within the county is, by the creation of a new county, included within the limits of the new county, such sheriff or other officer may retain his office provided he change his residence, within fifteen days after the act creating the new county becomes effective, to some place within the boundaries of the old county, as changed. If such sheriff or other officer does not so change his residence, then his office shall be deemed vacated and shall be filled as in the case of vacancies in such office.

WV Legislature

§1-3-13. District offices not vacated.

The creation of a new county shall not vacate the office of any justice, constable, or other officer of any district which is included in whole or in part in the new county, provided such justice, constable, or other district officer resides within the limits of such new county.

WV Legislature

§1-3-14. Notice and survey in case of changing county line.

When it is proposed to change a county line, a notice thereof shall be published prior to the application for a survey of the proposed change as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county from which any territory is proposed to be taken. At any time after such notice has been published, the county court of the county, a part of whose territory is proposed to be attached to another county, shall, on application of any person interested, and at his expense, cause a survey of the proposed change of line to be made by the surveyor of the county, or by some competent surveyor appointed for the purpose. The surveyor so appointed, or directed, to make such survey shall, as soon as his fees therefor are paid or secured to be paid to his satisfaction, proceed to make such survey and return a plat and report thereof to said court, and the clerk thereof shall file and preserve the same in his office; and shall, as provided in section three of this article, make out and deliver to any person who may demand the same, a certified copy thereof. Every application to the Legislature for the change of a county line shall be accompanied by a duly certified copy of such plat and report. If the county court of such county refuse to order such survey to be made, or if the surveyor appointed by such court to make such survey fail or refuse to do so, then and in that event the county court of the county to which such territory is proposed to be added shall, on the application of any person interested, and at his expense, order the survey to be made and appoint a surveyor to make the same; and the surveyor so appointed shall, as soon as his fees therefor are paid or secured to be paid to his satisfaction, make and report such survey to the county court of his county as hereinbefore required.

WV Legislature