

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959



ENROLLED

HOUSE BILL No. 392

(By Mr. Seibert)



PASSED March 10 1959

In Effect 90 days from Passage



Filed in Office of the Secretary of State
of West Virginia MAR 20 1959
JOE F. BURDETT
SECRETARY OF STATE

392

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AN ACT to amend chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six, to provide for the continuity of the state Legislature in the event of an attack by an enemy of the United States.

Be it enacted by the Legislature of West Virginia:

That chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six, to read as follows:

Article 6. Emergency Interim Legislative Succession Act.

Section 1. *Short Title.*—This act shall be known as the
2 “Emergency Interim Legislative Succession Act.”

Sec. 2. *Declaration of Policy.*—The Legislature de-
2 clares: (1) That recent technological developments make

3 possible an enemy attack of unprecedented destructive-
4 ness, which may result in the death or inability to act of
5 a large proportion of the membership of the Legislature;
6 (2) that to conform in time of attack to existing legal
7 requirements pertaining to the Legislature would be im-
8 practicable, would admit of undue delay, and would jeop-
9 ardize continuity of operation of a legally constituted
10 Legislature; and (3) that it is therefore necessary to adopt
11 special provisions as hereinafter set out for the **effective**
12 operation of the Legislature.

Sec. 3. *Definitions.*—As used in this article:

2 (a) “Attack” means any action or series of actions
3 taken by an enemy of the United States resulting in sub-
4 stantial damage or injury to persons or property in this
5 state whether through sabotage, bombs, missiles, shellfire,
6 or atomic, radiological, chemical, bacteriological, or bio-
7 logical means or other weapons or methods.

8 (b) “Unavailable” means absent from the place of
9 session (other than on official business of the Legislature),
10 or unable, for physical, mental or legal reasons, to exer-
11 cise the powers and discharge the duties of a legislator,

12 whether or not such absence or inability would give rise
13 to a vacancy under existing constitutional or statutory
14 provisions.

Sec. 4. *Designation of Emergency Interim Successors*
2 *to Legislators.*—Each legislator shall designate not fewer
3 than three nor more than seven emergency interim suc-
4 cessors to his powers and duties and specify their order
5 of succession. Each legislator shall review and, as neces-
6 sary, promptly revise the designations of emergency in-
7 terim successors to his powers and duties to insure that
8 at all times there are at least three such qualified emer-
9 gency interim successors.

Sec. 5. *Status, Qualifications and Term of Emergency*
2 *Interim Successors.*—An emergency interim successor is
3 one who is designated for possible temporary succession
4 to the powers and duties, but not the office, of a legislator.
5 No person shall be designated or serve as an emergency
6 interim successor unless he may under the constitution
7 and statutes hold the office of the legislator to whose
8 powers and duties he is designated to succeed, but no con-
9 stitutional or statutory provision prohibiting a legislator

10 from holding another office or prohibiting the holder of
11 another office from being a legislator shall be applicable
12 to an emergency interim successor. An emergency interim
13 successor shall serve at the pleasure of the Legislature
14 designating him or of any subsequent incumbent of the
15 legislative office.

Sec. 6. *Contingent Method of Designating Emergency*

2 *Interim Successors.*—Prior to an attack, if a legislator
3 fails to designate the required minimum number of emer-
4 gency interim successors within thirty days following the
5 effective date of this article or, after such period, if for any
6 reason the number of emergency interim successors for
7 any legislator falls below the required minimum and re-
8 mains below such minimum for a period of thirty days,
9 then the floor leader of the same political party in the
10 same house as such legislator shall promptly designate as
11 many emergency interim successors as are required to
12 achieve such minimum number, but the emergency in-
13 terim successors so designated shall not have a rank in
14 order of succession higher than that of any remaining
15 emergency interim successor previously designated by a

16 legislator for succession to his own powers and duties.
17 Each emergency interim successor designated by the re-
18 spective floor leaders shall serve at the pleasure of the
19 person designating him, but the legislator for whom the
20 emergency interim successor is designated or any subse-
21 quent incumbent of his office may change the rank in
22 order of succession or replace at his pleasure any emer-
23 gency interim successor so designated.

Sec. 7. *Recording and Publication.*—Each designation
2 of an emergency interim successor shall become effective
3 when the legislator or floor leader designated in section
4 six making the designation files with the secretary of state
5 the successor's name, address and rank in order of suc-
6 cession. The removal of an emergency interim successor
7 or change in order of succession shall become effective
8 when the legislator or floor leader designated in section
9 six so acting, files this information with the secretary of
10 state. All such data shall be open to public inspection.
11 The secretary of state shall inform the governor, the state
12 office of civil defense, the clerk of the house concerned and
13 all emergency interim successors, of all such designations,

14 removals and changes in order of succession. The clerk of
15 each house shall enter all information regarding emer-
16 gency interim successors for the house in its public journal
17 at the beginning of each legislative session and shall enter
18 all changes in membership or order of succession as soon
19 as possible after their occurrence.

Sec. 8. *Oath of Emergency Interim Successors.*—

2 Promptly after designation each emergency interim suc-
3 cessor shall take the oath required for the legislator to
4 whose powers and duties he is designated to succeed. No
5 other oath shall be required.

Sec. 9. *Duty of Emergency Interim Successors.*—Each

2 emergency interim successor shall keep himself generally
3 informed as to the duties, procedures, practices and cur-
4 rent business of the Legislature, and each legislator shall
5 assist his emergency interim successors to keep them-
6 selves so informed.

Sec. 10. *Place of Legislative Session.*—Whenever in the

2 event of an attack, or upon finding that an attack may be
3 imminent, the governor deems the place of session then
4 prescribed to be unsafe, he may change it to any place

5 within or without the state which he deems safer and con-
6 venient.

Sec. 11. *Assumption of Powers and Duties of Legislator*
2 *by Emergency Interim Successor.*—If in the event of an
3 attack a legislator is unavailable, his emergency interim
4 successor highest in order of succession who is not un-
5 available shall, except for the power and duty to appoint
6 emergency interim successors, exercise the powers and
7 assume the duties of such legislator. An emergency in-
8 terim successor shall exercise these powers and assume
9 these duties until the incumbent legislator, and emer-
10 gency interim successor higher in order of succession, or
11 a legislator appointed or elected and legally qualified can
12 act. Each house of the Legislature shall, in accordance
13 with its own rules, determine who is entitled under the
14 provisions of this article to exercise the powers and assume
15 the duties of its members. All constitutional and statu-
16 tory provisions pertaining to ouster of a legislator shall
17 be applicable to an emergency interim successor who is
18 exercising the powers and assuming the duties of a
19 legislator.

Sec. 12. *Privileges, Immunities and Compensation of
Emergency Interim Successors.*—When an emergency in-
terim successor exercises the powers and assumes the
duties of a legislator, he shall be accorded the privileges
and immunities, compensation, allowances and other per-
quisites of office to which a legislator is entitled. In the
event of an attack, each emergency interim successor,
whether or not called upon to exercise the powers and
assume the duties of a legislator, shall be accorded the
privileges and immunities of a legislator while traveling
to and from a place of session and shall be compensated
for his travel in the same manner and amount as a legis-
lator. This section shall not in any way affect the privi-
leges, immunities, compensation, allowances or other per-
quisites of office of an incumbent legislator.

Sec. 13. *Separability.*—The various provisions of this
article shall be construed as separable and severable, and
should any of the provisions or parts thereof be con-
strued or held unconstitutional or for any reason be in-
valid, the remaining provisions of this article shall not be
thereby affected.

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

W. Graper
Chairman Senate Committee

Endora Andrews
Chairman House Committee

Originated in the House of Delegates

Takes effect *90 days from* passage.

Howard Meyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

H. K. Pauley
Speaker, House of Delegates

The within *approved* this the *20th*

day of *March*, 1959.

W. H. Underwood
Governor

