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
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:


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

Sec. 2. Declaration of Policy.—The Legislature declares: (1) That recent technological developments make
possible an enemy attack of unprecedented destructiveness, which may result in the death or inability to act of a large proportion of the membership of the Legislature; (2) that to conform in time of attack to existing legal requirements pertaining to the Legislature would be impracticable, would admit of undue delay, and would jeopardize continuity of operation of a legally constituted Legislature; and (3) that it is therefore necessary to adopt special provisions as hereinafter set out for the effective operation of the Legislature.

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

(a) “Attack” means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or methods.

(b) “Unavailable” means absent from the place of session (other than on official business of the Legislature), or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator,
whether or not such absence or inability would give rise
to a vacancy under existing constitutional or statutory
provisions.

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

Sec. 5. Status, Qualifications and Term of Emergency
Interim Successors.—An emergency interim successor is
one who is designated for possible temporary succession
to the powers and duties, but not the office, of a legislator.
No person shall be designated or serve as an emergency
interim successor unless he may under the constitution
and statutes hold the office of the legislator to whose
powers and duties he is designated to succeed, but no con-
stitutional or statutory provision prohibiting a legislator
from holding another office or prohibiting the holder of
another office from being a legislator shall be applicable
to an emergency interim successor. An emergency interim
successor shall serve at the pleasure of the Legislature
designating him or of any subsequent incumbent of the
legislative office.

Sec. 6. Contingent Method of Designating Emergency
Interim Successors.—Prior to an attack, if a legislator
fails to designate the required minimum number of emer-
gency interim successors within thirty days following the
effective date of this article or, after such period, if for any
reason the number of emergency interim successors for
any legislator falls below the required minimum and re-
mains below such minimum for a period of thirty days,
then the floor leader of the same political party in the
same house as such legislator shall promptly designate as
many emergency interim successors as are required to
achieve such minimum number, but the emergency in-
terim successors so designated shall not have a rank in
order of succession higher than that of any remaining
emergency interim successor previously designated by a
Each emergency interim successor designated by the respective floor leaders shall serve at the pleasure of the person designating him, but the legislator for whom the emergency interim successor is designated or any subsequent incumbent of his office may change the rank in order of succession or replace at his pleasure any emergency interim successor so designated.

Sec. 7. Recording and Publication.—Each designation of an emergency interim successor shall become effective when the legislator or floor leader designated in section six making the designation files with the secretary of state the successor's name, address and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or floor leader designated in section six so acting, files this information with the secretary of state. All such data shall be open to public inspection. The secretary of state shall inform the governor, the state office of civil defense, the clerk of the house concerned and all emergency interim successors, of all such designations,
remove and change in order of succession. The clerk of
each house shall enter all information regarding emer-
gency interim successors for the house in its public journal
at the beginning of each legislative session and shall enter
all changes in membership or order of succession as soon
as possible after their occurrence.

Sec. 8. Oath of Emergency Interim Successors.—
Promptly after designation each emergency interim suc-
cessor shall take the oath required for the legislator to
whose powers and duties he is designated to succeed. No
other oath shall be required.

Sec. 9. Duty of Emergency Interim Successors.—Each
emergency interim successor shall keep himself generally
informed as to the duties, procedures, practices and cur-
rent business of the Legislature, and each legislator shall
assist his emergency interim successors to keep them-
selves so informed.

Sec. 10. Place of Legislative Session.—Whenever in the
event of an attack, or upon finding that an attack may be
imminent, the governor deems the place of session then
prescribed to be unsafe, he may change it to any place
within or without the state which he deems safer and con-
venient.

Sec. 11. Assumption of Powers and Duties of Legislator

by Emergency Interim Successor.—If in the event of an
attack a legislator is unavailable, his emergency interim
successor highest in order of succession who is not un-
available shall, except for the power and duty to appoint
duty to appoint
emergency interim successors, exercise the powers and
assume the duties of such legislator. An emergency in-
terim successor shall exercise these powers and assume
these duties until the incumbent legislator, and emer-
gency interim successor higher in order of succession, or
a legislator appointed or elected and legally qualified can
act. Each house of the Legislature shall, in accordance
with its own rules, determine who is entitled under the
provisions of this article to exercise the powers and assume
the duties of its members. All constitutional and statu-
tory provisions pertaining to ouster of a legislator shall
be applicable to an emergency interim successor who is
exercising the powers and assuming the duties of a
legislator.
Sec. 12. Privileges, Immunities and Compensation of Emergency Interim Successors.—When an emergency interim successor exercises the powers and assumes the duties of a legislator, he shall be accorded the privileges and immunities, compensation, allowances and other perquisites 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 legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other perquisites 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 construed or held unconstitutional or for any reason be invalid, 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.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect 
90 days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker, House of Delegates

The within approved this the 20th day of March, 1959.

[Signature]
Governor