WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1962

ENROLLED

HOUSE BILL No. 63

(By Mr. White)

PASSED January 8, 1962
In Effect Ninety Days from Passage

Filed in Office of the Secretary of State of West Virginia, 2-15-62

JOE F. BURDETT
SECRETARY OF STATE
AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, repealing sections six, eight and nine, and amending sections two, seven and ten of article six thereof, relating to the composition of the Senate and House of Delegates and to representation and apportionment of members of the House of Delegates.

Be it enacted by the Legislature of West Virginia:

Section 1. Submitting an Amendment to the State Constitution.—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hun-
dred sixty-two, which proposed amendment is as follows:

That article six of the Constitution be amended by repealing sections six, eight and nine, and amending sections two, seven and ten thereof to read as follows:

Composition of Senate and House of Delegates.

Section 2. The Senate shall be composed of thirty-two members, and the House of Delegates of one hundred members, subject to be increased according to the provisions of section ten of this article.

Provision for Delegate Representation.

Sec. 6. This section is hereby repealed.

Delegate Apportionment after Census.

Sec. 7. After every census the number of members of which the House of Delegates is composed shall be apportioned among the counties in accordance with the following steps:

(1) Ascertain the ratio of representation for the House of Delegates by dividing the whole population of the state by the number of members of which the House is to consist and rejecting the fraction of a unit, if any, resulting from such division.
(2) Divide the population of every county which has a population equal to or in excess of the ratio ascertained in step (1) by said ratio, and assign to each such county a number of Delegates equal to the quotient obtained by this division, excluding the fractional remainder.

(3) Assign to each county having a population less than the ratio ascertained in step (1) one Delegate.

(4) Any additional Delegates necessary to make up the number of which the House is to consist shall then be assigned on the basis of one Delegate each to those counties having the largest fractions unrepresented as determined in step (2), and not receiving a Delegate in step (3).

Designation of Delegate Districts.

Sec. 8. This section is hereby repealed.

Further Apportionments.

Sec. 9. This section is hereby repealed.

Arrangement of Senatorial Districts and Designation and Apportionment of Delegates.

Sec. 10. The arrangement of the Senatorial Districts, and the designation of the number and apportionment
of Delegates shall, notwithstanding the provisions of section twenty-two of this article, hereafter be declared by law only in accordance with sections four and seven of this article insofar as applicable at the first even-year regular session of the Legislature following each succeeding census taken by authority of the United States:

Provided, That said arrangement, designation and apportionment following the census taken for the year one thousand nine hundred sixty shall be declared by law as aforesaid at the regular session of the Legislature to be held in the year one thousand nine hundred sixty-three.

If the Legislature fails to declare the foregoing arrangement, designation and apportionment three days before the expiration of any such legislative session hereinabove specified, the Governor may, and it shall be his duty to issue a proclamation extending any such session for such further period as may, in his judgment, be necessary for the passage of legislation declaring such arrangement, designation and apportionment; but no other matter shall be considered during such extended session except a provision for the cost of the extended session, and the budget
bill if said session also extended for consideration of the budget bill in accordance with the provisions of section fifty-one of this article. The action of the Legislature in declaring such arrangement, designation and apportionment shall not be subject to veto by the Governor.

When so declared said arrangement, designation and apportionment shall apply to the first and subsequent general elections for members of the Legislature to be thereafter held until again declared following the succeeding census: Provided, That this provision shall not affect the qualification or term of office of any member of the Senate who was elected at the general election next preceding the declaration of said arrangement.

Sec. 2. Amendment to Be Known as the Fair Representation Amendment.—For convenience in referring to the said proposed amendment, and in the preparation of the form of the ballot hereinafter provided for, the said proposed amendment is hereby designated as the “Fair Representation Amendment”.

Sec. 3. Form of Ballot; Election.—For the purpose of enabling the voters of the state to vote on the question of
said proposed amendment to the constitution at the said
general election to be held in the year one thousand nine
hundred sixty-two, the board of ballot commissioners of
each county is hereby required to place upon, and at the
foot of, the official ballot to be voted at that election, the
following:

Ballot on "Fair Representation" Amendment

☐ For ratification of Fair Representation Amendment.

☐ Against ratification of Fair Representation Amend-

The said election on the proposed amendment at each
place of voting shall be superintended, conducted and re-
turned, and the result thereof ascertained by the same
officers and in the same manner as the election of officers
to be voted for at said election, and all the provisions of
the law relating to general elections, including all duties
to be performed by any officer or board, as far as practic-
able, and not inconsistent with anything herein contained,
shall apply to the election held under the provisions of
this act, except where it is herein otherwise provided.
The ballots cast on the question of said proposed amend-
ment shall be counted as other ballots cast at said election.

Sec. 4. Certificates of Election Commissioners; Canvass of Votes; Certifying Result.—As soon as the result is ascertained, the commissioners, or a majority of them, and the canvassers (if there be any), or a majority of them, at each place of voting shall make out and sign two certificates thereof in the following form or to the following effect:

"We, the undersigned, who acted as commissioners (or canvassers, as the case may be) of the election held at Precinct No. ..........., in the District of ..........., in the County of .... .................., on the ___ day of November, one thousand nine hundred sixty-two, upon the question of the ratification or rejection of the proposed constitutional amendment do hereby certify that the result of the said election is as follows:

"For ratification of Fair Representation Amendment ______ ................ votes.

Against ratification of Fair Representation Amendment ______ ................ votes."
Given under our hands this .......... day of November, one thousand nine hundred sixty-two."

The said two certificates shall correspond with each other in all respects and contain the full and true returns in said election at each place of voting on said question.

The said commissioners, or any one of them (or said canvassers, or any one of them, as the case may be), shall within four days, excluding Sunday, after that on which said election was held, deliver one of said certificates to the clerk of the county court of his county, together with the ballots, and the other to the clerk of the circuit court of the county.

The said certificates together with the ballots cast on the question of said proposed amendment, shall be laid before the commissioners of the county court at the courthouse at the same time the ballots, poll books and the certificates of election of the members of the Legislature are laid before them; and as soon as the result of said election in the county upon the question of such ratification or rejection is ascertained, two certificates of each result shall be made out and signed by said commissioners.
as a board of canvassers in the form or to the following effect:

"We, the board of canvassers of the County of ______________
_______________, having carefully and impartially examined
the returns of the election held in said county, in each
district thereof, on the ______ day of November, one
thousand nine hundred sixty-two, do certify that the
results of the election in said county, on the question of
the ratification or rejection of the proposed amendment
is as follows:

"For ratification of Fair Representation Amendment
____________ votes.

Against ratification of Fair Representation Amendment
____________ votes.

Given under our hands this ______ day of _________
_______________, one thousand nine hundred sixty-two."

One of the certificates shall be filed in the office of the
clerk of the county court, and the other forwarded by
mail to the secretary of state, who shall file and preserve
the same until the day on which the result of the said
Sec. 5. Proclamation of Result of Election by Governor.

—On the twenty-fifth day after the election is held, or as soon thereafter as practicable, the said certificates shall be laid before the governor, whose duty it shall be to ascertain therefrom the result of said election in the state, and to declare the same by proclamation published in one or more newspapers printed in the seat of government. If a majority of the votes cast at said election upon said question be for ratification of said amendment, the proposed amendment so ratified shall be in force and effect from and after the time of such ratification, as part of the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance in writing, and the cost of such
advertising shall in the first instance, if found necessary by him, be paid out of the governor's contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect [number] days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approval this the fifteenth day of February, 1962.

Governor