

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1962

ENROLLED

HOUSE BILL No. 63

(By Mr. White)

PASSED February 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

ENROLLED

House Bill No. 63

(By MR. WHITE)

[Passed February 8, 1962; in effect ninety days from passage.]

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-

8 dred sixty-two, which proposed amendment is as follows:

9 That article six of the Constitution be amended by re-
10 pealing sections six, eight and nine, and amending sec-
11 tions two, seven and ten thereof to read as follows:

12 **Composition of Senate and House of Delegates.**

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

17 **Provision for Delegate Representation.**

18 Sec. 6. This section is hereby repealed.

19 **Delegate Apportionment after Census.**

20 Sec. 7. After every census the number of members of
21 which the House of Delegates is composed shall be appor-
22 tioned among the counties in accordance with the follow-
23 ing steps:

24 (1) Ascertain the ratio of representation for the House
25 of Delegates by dividing the whole population of the state
26 by the number of members of which the House is to con-
27 sist and rejecting the fraction of a unit, if any, resulting
28 from such division.

29 (2) Divide the population of every county which has
30 a population equal to or in excess of the ratio ascertained
31 in step (1) by said ratio, and assign to each such county
32 a number of Delegates equal to the quotient obtained by
33 this division, excluding the fractional remainder.

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

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

42 **Designation of Delegate Districts.**

43 Sec. 8. This section is hereby repealed.

44 **Further Apportionments.**

45 Sec. 9. This section is hereby repealed.

46 **Arrangement of Senatorial Districts and Designation**

47 **and Apportionment of Delegates.**

48 Sec. 10. The arrangement of the Senatorial Districts,
49 and the designation of the number and apportionment

50 of Delegates shall, notwithstanding the provisions of sec-
51 tion twenty-two of this article, hereafter be declared by
52 law only in accordance with sections four and seven of
53 this article insofar as applicable at the first even-year
54 regular session of the Legislature following each succeed-
55 ing census taken by authority of the United States:
56 *Provided*, That said arrangement, designation and appor-
57 tionment following the census taken for the year one
58 thousand nine ^{hundred} ~~hundred~~ sixty shall be declared by law as
59 aforesaid at the regular session of the Legislature to be
60 held in the year one thousand nine hundred sixty-three.

61 If the Legislature fails to declare the foregoing arrange-
62 ment, designation and apportionment three days before
63 the expiration of any such legislative session hereinabove
64 specified, the Governor may, and it shall be his duty to
65 issue a proclamation extending any such session for such
66 further period as may, in his judgment, be necessary for
67 the passage of legislation declaring such arrangement,
68 designation and apportionment; but no other matter shall
69 be considered during such extended session except a pro-
70 vision for the cost of the extended session, and the budget

71 bill if said session (~~S~~) also extended for consideration of
72 the budget bill in accordance with the provisions of sec-
73 tion fifty-one of this article. The action of the Legislature
74 in declaring such arrangement, designation and apportion-
75 ment shall not be subject to veto by the Governor.

76 When so declared said arrangement, designation and
77 apportionment shall apply to the first and subsequent
78 general elections for members of the Legislature to be
79 thereafter held until again declared following the succeed-
80 ing census: *Provided*, That this provision shall not affect
81 the qualification or term of office of any member of the
82 Senate who was elected at the general election next
83 preceding the declaration of said arrangement.

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

Sec. 3. Form of Ballot; Election.—For the purpose of
2 enabling the voters of the state to vote on the question of

3 said proposed amendment to the constitution at the said
4 general election to be held in the year one thousand nine
5 hundred sixty-two, the board of ballot commissioners of
6 each county is hereby required to place upon, and at the
7 foot of, the official ballot to be voted at that election, the
8 following:

9 Ballot on "Fair Representation" Amendment

10 ☐ For ratification of Fair Representation Amendment.

11 ☐ Against ratification of Fair Representation Amend-
12 ment.

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

24 ment shall be counted as other ballots cast at said election.

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

8 “We, the undersigned, who acted as commissioners (or
9 canvassers, as the case may be) of the election held at
10 Precinct No. _____, in the District of _____, in
11 the County of _____, on the _____ day
12 of November, one thousand nine hundred sixty-two, upon
13 the question of the ratification or rejection of the pro-
14 posed constitutional amendment do hereby certify that
15 the result of the said election is as follows:

16 “For ratification of Fair Representation Amendment
17 _____ votes.

18 Against ratification of Fair Representation Amendment
19 _____ votes.

20 Given under our hands this day of November,
21 one thousand nine hundred sixty-two.”

22 The said two certificates shall correspond with each
23 other in all respects and contain the full and true returns
24 in said election at each place of voting on said question.
25 The said commissioners, or any one of them (or said
26 canvassers, or any one of them, as the case may be),
27 shall within four days, excluding Sunday, after that on
28 which said election was held, deliver one of said certifi-
29 cates to the clerk of the county court of his county,
30 together with the ballots, and the other to the clerk of
31 the circuit court of the county.

32 The said certificates together with the ballots cast on
33 the question of said proposed amendment, shall be laid
34 before the commissioners of the county court at the court-
35 house at the same time the ballots, poll books and the
36 certificates of election of the members of the Legislature
37 are laid before them; and as soon as the result of said
38 election in the county upon the question of such ratifi-
39 cation or rejection is ascertained, two certificates of each
40 result shall be made out and signed by said commissioners

41 as a board of canvassers in the form or to the following
42 effect:

43 "We, the board of canvassers of the County of.....
44, having carefully and impartially examined
45 the returns of the election held in said county, in each
46 district thereof, on the day of November, one
47 thousand nine hundred sixty-two, do certify that the
48 results of the election in said county, on the question of
49 the ratification or rejection of the proposed amendment
50 is as follows:

51 "For ratification of Fair Representation Amendment
52 votes.

53 Against ratification of Fair Representation Amendment
54 votes.

55 Given under our hands this day of
56, one thousand nine hundred sixty-two."

57 One of the certificates shall be filed in the office of the
58 clerk of the county court, and the other forwarded by
59 mail to the secretary of state, who shall file and preserve
60 the same until the day on which the result of the said

61 election in the state is to be ascertained as hereinafter
62 stated.

Sec. 5. Proclamation of Result of Election by Governor.

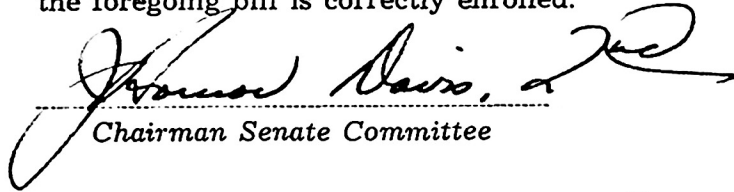
2 —On the twenty-fifth day after the election is held, or as
3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to
5 ascertain therefrom the result of said election in the state,
6 and to declare the same by proclamation published in
7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

Sec. 6. Publication of Proposed Amendment by Gover-

2 **nor.**—The governor shall cause the said proposed amend-
3 ment, with the proper designation for the same as here-
4 inbefore adopted, to be published one time at least three
5 months before such election in some newspaper in every
6 county in which a newspaper is printed, at a price to be
7 agreed upon in advance in writing, and the cost of such

8 advertising shall in the first instance, if found necessary
9 by him, be paid out of the governor's contingent fund
10 and be afterwards repaid to such fund by appropriation
11 of the Legislature.

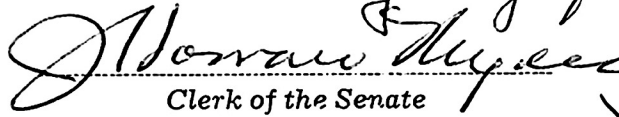
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

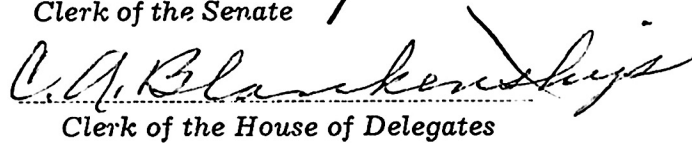

Chairman Senate Committee

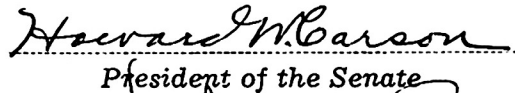

Chairman House Committee

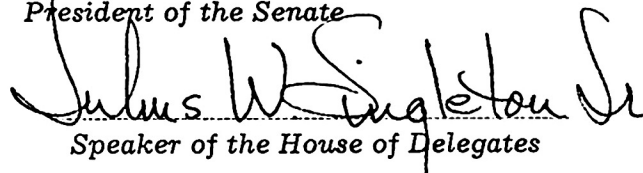
Originated in the House.

Takes effect ninety days from passage.

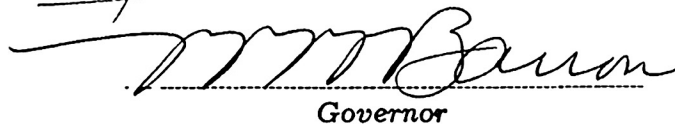

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the Fifteenth
day of February, 1962.


Governor

