

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1966

ENROLLED

HOUSE BILL No. 300

(By ~~Mr.~~ *Originating in the House Committee*  
*on the Judiciary*)

PASSED Feb. 9, 1966

In Effect Ninety days from Passage



FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 2-15-66

# 300

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AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section ten, article eight thereof, relating to courts of record and the judges thereof.

*Be it enacted by the Legislature of West Virginia:*

**Section 1. Submitting an Amendment to the State**

2 **Constitution.**—That the question of the ratification or re-  
3 jection of an amendment to the constitution of West  
4 Virginia, proposed in accordance with the provisions of  
5 section two, article fourteen of said constitution, shall be  
6 submitted to the voters of the state at the next general  
7 election, to be held in the year one thousand nine hundred  
8 sixty-six, which proposed amendment is as follows:

9 That section ten, article eight of the constitution of the  
10 state of West Virginia, be amended to read as follows:

**“Article VIII—Judicial Department.**

“Section 10. Circuit Courts.—The State shall be di-  
2 vided into as many judicial circuits as the Legislature  
3 may prescribe. The judges of the circuit courts shall be  
4 elected by the qualified voters of the circuit in the  
5 manner prescribed by law and shall hold their offices for  
6 the term of eight years unless sooner removed in the  
7 manner prescribed by this constitution. Any such judge  
8 in office when this amendment takes effect shall continue  
9 in office in the circuit in which he resides until his term  
10 shall expire, unless he is sooner removed, as aforesaid.  
11 During his continuance in office a judge of a circuit court  
12 shall reside in the circuit of which he is a judge.

13 “The Legislature may increase or decrease the number  
14 of circuit judges in any circuit. The judicial circuits  
15 existing at the time of the adoption of this amendment  
16 shall remain as they are until changed by law. A judge  
17 of a circuit court in office at the time of any such change  
18 shall continue as a judge of the circuit in which he shall

19 continue to reside after such change, unless his term  
20 shall expire, or unless he is sooner removed, as aforesaid.

21 “A vacancy in the office of a judge of the circuit court  
22 shall be filled in the same manner as is provided for in  
23 the case of a vacancy in the office of a judge of the  
24 supreme court of appeals.

25 “There shall be at least one judge for each circuit and  
26 as many more as may be necessary to transact the busi-  
27 ness of such circuit. If there be two or more judges of a  
28 circuit, the business shall be apportioned among them by  
29 the chief judge of the circuit in the manner provided by  
30 law. The judge longest in continuous service as a circuit  
31 court judge shall be chief judge of the circuit. If two  
32 or more have so served for the same period, the senior  
33 in years of these shall be chief judge: *Provided*, That if  
34 such judge declines to serve as chief judge, then another  
35 judge of the circuit shall be designated chief judge in  
36 accordance with the rules of that circuit. If the chief  
37 judge is temporarily disqualified or unable to serve, one  
38 of the judges of the circuit designated in accordance  
39 with the rules of that circuit shall serve temporarily in  
40 his stead.

41     “The Legislature may, by appropriate legislation at the  
42 session thereof next after the time of the ratification of  
43 this amendment, provide for the continuance of the legis-  
44 lative courts of record of limited jurisdiction in existence  
45 at the time of such ratification, or make one or more of  
46 the judges thereof judges of the judicial circuits in which  
47 they shall then reside: *Provided, however,* That the term  
48 of any circuit judge, whether originally elected to office  
49 as judge of a judicial circuit or originally elected to office  
50 as judge of a legislative court of record of limited juris-  
51 diction, shall not extend beyond the thirty-first day of  
52 December, one thousand nine hundred seventy-six.”

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

**Sec. 3. Form of Ballot; Election.**—For the purpose of  
2 enabling the voters of the state to vote on the question  
3 of this proposed amendment to the constitution and any

4 other amendments that may be submitted to the consti-  
5 tution at the said general election to be held in the year  
6 one thousand nine hundred sixty-six, the board of ballot  
7 commissioners of each county is hereby required to place  
8 upon, and at the foot of, the official ballot to be voted at  
9 that election under the heading reading "Ballot on Consti-  
10 tutional Amendment(s)," in the third position under  
11 said heading, the following:

12 No. 3. Judicial Circuit Amendment

13 ☐ For Ratification.

14 ☐ Against Ratification.

15 The said election on the proposed amendment at each  
16 place of voting shall be superintended, conducted and  
17 returned, and the result thereof ascertained by the same  
18 officers and in the same manner as the election of officers  
19 to be voted for at said election, and all the provisions of  
20 the law relating to general elections, including all duties  
21 to be performed by any officer or board, as far as prac-  
22 ticable, and not inconsistent with anything herein con-  
23 tained, shall apply to the election held under the pro-  
24 visions of this act, except when it is herein otherwise

25 provided. The ballots cast on the question of said proposed  
26 amendment shall be counted as other ballots cast at said  
27 election.

**Sec. 4. Certificates of Election Commissioners; Can-**  
2 **vass of Vote; Certifying Result.**—As soon as the result is  
3 ascertained, the commissioners, or a majority of them, and  
4 the canvassers (if there be any), or a majority of them,  
5 at each place of voting, shall make out and sign two cer-  
6 tificates thereof in the following form or to the following  
7 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 \_\_\_\_\_,  
11 in the county of \_\_\_\_\_, on the \_\_\_\_\_ day of  
12 \_\_\_\_\_, one thousand nine hundred sixty-  
13 six, upon the question of the ratification or rejection of  
14 the proposed constitutional amendment, do hereby certify  
15 that the result of said election is as follows:

16 “Amendment No. 3. Judicial Circuit Amendment

17 “For ratification \_\_\_\_\_ votes.

18 “Against ratification \_\_\_\_\_ votes.

19 "Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_,  
20 one thousand nine hundred sixty-six."

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

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

200



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

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

50 "Amendment No. 3. Judicial Circuit Amendment

51 "For ratification \_\_\_\_\_ votes.

52 "Against ratification \_\_\_\_\_ votes.

53 "Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_,  
54 one thousand nine hundred sixty-six."

55 One of the certificates shall be filed in the office of the  
56 clerk of the county court, and the other forwarded by  
57 mail to the secretary of state, who shall file and preserve  
58 the same until the day on which the result of said election  
59 in the state is to be ascertained, as hereinafter stated.

**Sec. 5. Proclamation of Result of Election by Gov-**

2 **ernor.**—On the twenty-fifth day after the election is held,  
3 or as soon thereafter as practicable, the said certificates  
4 shall be laid before the governor, whose duty it shall be  
5 to ascertain therefrom the result of said election in the  
6 state, and declare the same by proclamation published  
7 in 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 part  
12 of the constitution of the state.

**Sec. 6. Publication of Proposed Amendment by Gov-**

2 **ernor.**—The governor shall cause the said proposed  
3 amendment, with the proper designation for the same  
4 as hereinbefore adopted, to be published one time at least  
5 three months before such election in some newspaper  
6 in every county in which a newspaper is printed, at a  
7 price to be agreed upon in advance, in writing, and the  
8 cost of such advertising shall in the first instance, if  
9 found necessary by him, be paid out of the governor's

10 contingent fund and be afterwards repaid to such fund

11 by appropriation of the Legislature.

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

*O. Ray Parker*

Chairman Senate Committee

*James W. Loop*

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Howard Meyer*

Clerk of the Senate

*C. Blankenship*

Clerk of the House of Delegates

*Howard E. Barron*

President of the Senate

*H. Rabon White*

Speaker House of Delegates

The within Approved this the 15<sup>th</sup>  
day of February, 1966.

*Huey C. Smith*

Governor



FEB 15 1 49 PM '66  
OFFICE OF THE GOVERNOR

PRESENTED TO THE  
GOVERNOR

Date 2/14/66

Time 1:30 PM

FILED

FEB 15 7 55 PM '66

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA