WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 1971

ENROLLED

SENATE BILL NO. 3

(By Mr. Heiner and Mr. Dillon)

PASSED November 4, 1971

In Effect from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 11-22-71
ENROLLED

Senate Bill No. 3

(By Mr. Gainer and Mr. Dillon)

[Passed November 4, 1971; in effect from passage.]

AN ACT to amend and reenact section one, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the division of the state into seventeen senatorial districts; providing that regardless of the changes made in district boundaries, the senators elected at the general elections held in the years one thousand nine hundred sixty-eight and one thousand nine hundred seventy shall continue to hold their offices as members of the Senate for the term, and as representatives of the senatorial district, for which each thereof, respectively, was elected; providing for the election of senators in the seventeenth senatorial districts established in said section; establishing certain county resi-
dency requirements when a county is contained with one or more other counties within more than one senatorial district, there being eleven such senatorial districts established in said section, all as related to senatorial representation ratio and an incumbent senator or incumbent senators; defining the term "senatorial representation ratio"; setting forth certain legislative findings; establishing provisions to avoid the possibility of more than the permissible number of persons from the same county being nominated for or elected or appointed to the Senate for any of said eleven senatorial districts; defining the terms "incumbent senator" and "incumbent senators"; relating to certificates of candidacy for nomination to the Senate in said eleven senatorial districts; relating to the selection of nominees in said eleven senatorial districts; relating to the selection under the supervision of the secretary of state of the specific district and the term for which nominated in said eleven senatorial districts; providing that in making such selection of the specific district and term, priority in choice shall be given to each nominee of both political parties in one direct sequence from the highest to the
lowest number of lawful votes cast for each nominee at the primary election; establishing provisions as to the nominees of opposite political parties who are to oppose one another in said eleven senatorial districts; providing special provisions applicable only to the primary and general elections to be held in the year one thousand nine hundred seventy-two with respect to certain of said eleven senatorial districts; providing special provisions with respect to the election of senators in said eleven senatorial districts; relating to the filling of a vacancy in a nomination or in the office of state senator in said eleven senatorial districts; authorizing the secretary of state to promulgate rules and regulations; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.

§1-2-1. Senatorial districts.

(a) The state shall consist of seventeen senatorial districts as follows:
(1) The counties of Brooke, Doddridge, Hancock, Marshall, Ohio, Tyler and Wetzel shall constitute the first senatorial district.

(2) The counties of Brooke, Doddridge, Hancock, Marshall, Ohio, Tyler and Wetzel shall constitute the second senatorial district.

(3) The counties of Pleasants, Wirt and Wood shall constitute the third senatorial district.

(4) The counties of Cabell, Jackson, Mason, Roane and Wayne shall constitute the fourth senatorial district.

(5) The counties of Cabell, Jackson, Mason, Roane and Wayne shall constitute the fifth senatorial district.

(6) The counties of Logan, McDowell, Mercer, Mingo and Summers shall constitute the sixth senatorial district.

(7) The counties of Boone, Kanawha, Lincoln and Putnam shall constitute the seventh senatorial district.

(8) The counties of Boone, Kanawha, Lincoln and Putnam shall constitute the eighth senatorial district.

(9) The counties of Raleigh and Wyoming shall constitute the ninth senatorial district.

(10) The counties of Logan, McDowell, Mercer, Mingo
and Summers shall constitute the tenth senatorial district.

(11) The counties of Clay, Fayette, Greenbrier and Monroe shall constitute the eleventh senatorial district.

(12) The counties of Braxton, Calhoun, Gilmer, Nicholas, Pocahontas, Randolph, Ritchie and Webster shall constitute the twelfth senatorial district.

(13) The counties of Harrison, Lewis, Marion and Monongalia shall constitute the thirteenth senatorial district.

(14) The counties of Harrison, Lewis, Marion and Monongalia shall constitute the fourteenth senatorial district.

(15) The counties of Barbour, Grant, Hardy, Pendleton, Preston, Taylor, Tucker and Upshur shall constitute the fifteenth senatorial district.

(16) The counties of Berkeley, Hampshire, Jefferson, Mineral and Morgan shall constitute the sixteenth senatorial district.

(17) The counties of Boone, Kanawha, Lincoln and Putnam shall constitute the seventeenth senatorial district.
(b) Regardless of the changes in district boundaries made by the provisions of subsection (a) of this section, the senators elected at the general elections held in the years one thousand nine hundred sixty-eight and one thousand nine hundred seventy shall continue to hold their offices as members of the Senate for the term, and as representatives of the senatorial district, for which each thereof, respectively, was elected.

(c) One senator shall be elected at the general election to be held in the year one thousand nine hundred seventy-two from each of the senatorial districts described in subsection (a) of this section for a term of four years, and one senator shall be elected from each of the said senatorial districts biennially thereafter for a term of four years, but with the effect by virtue of the provisions of subsection (b) and this subsection (c) of this section that the Senate shall never at any time consist of more than thirty-four members.

(d) Section four, article six of the Constitution of West Virginia provides that where a senatorial district is composed of more than one county, both senators for such
district shall not be chosen from the same county. Consistent with and in furtherance of that rationale, when a county is contained with one or more other counties within more than one senatorial district, no more than one person shall be chosen from such county as a senator unless such county has more than one senatorial representation ratio. For the purposes of this subsection (d), the term "senatorial representation ratio" shall be obtained by dividing the population of the state by the total number of senatorial districts as constituted by the provisions of subsection (a) of this section. The Legislature recognizes (i) that the second and third sentences of this subsection (d) would be applicable only to the first and second, fourth and fifth, sixth and tenth, seventh, eighth and seventeenth, and thirteenth and fourteenth senatorial districts as said eleven senatorial districts are constituted by the provisions of subsection (a) of this section; (ii) that each of the counties contained within the said first and second, sixth and tenth and thirteenth and fourteenth senatorial districts has less than one senatorial representation ratio, and, hence, under said
forgoing provisions of this subsection (d), more than one person could not be chosen as a senator from any one county contained within the said first and second, sixth and tenth and thirteenth and fourteenth senatorial districts; (iii) that of the counties contained within the said fourth and fifth senatorial districts, only Cabell county has more than one senatorial representation ratio, and, hence, under said foregoing provisions of this subsection (d), no more than two persons could be chosen as senators from Cabell county; and (iv) that of the counties contained within the seventh, eighth and seventeenth senatorial districts, only Kanawha county has more than two senatorial representation ratios, and, hence, under said foregoing provisions of this subsection (d), more than one person could be chosen as a senator only from Kanawha county. Consequently, subdivisions (1), (2), (3), (4) and (5) of this subsection (d) are set forth to avoid the possibility of more than the permissible number of persons from the same county being nominated for or elected or appointed to the Senate for any of the said eleven senatorial districts listed at the beginning of this
subsection (d), only to be declared ineligible to sit as a member of the Senate. As used in this subsection (d), the terms “incumbent senator” or “incumbent senators” shall mean any senator or senators elected at the general election held in the year one thousand nine hundred seventy or at any general election thereafter, with an unexpired term of at least two years in duration.

(1) Notwithstanding any other provisions of this code to the contrary, a certificate of candidacy for nomination to the Senate filed by or for any person residing in any county contained within the first or second senatorial district as said senatorial districts are constituted by the provisions of subsection (a) of this section shall be designated as a certificate of candidacy for the first-second senatorial district. The two nominees of a political party for the two four-year terms in these two senatorial districts shall be the two candidates of that political party who receive the highest number of lawful votes cast at the primary election and who neither reside in the same county as the other nor reside in the same county wherein resides an incumbent senator: Provided, That if in addi-
tion to the two four-year terms, there is one or more unexpired terms to be filled, the nominees of a political party for the four-year terms and all unexpired terms in these two senatorial districts shall be the candidates of that political party equal to the total number of terms to be filled who receive the highest number of lawful votes cast at the primary election and who neither reside in the same county as the other nor reside in the same county wherein resides an incumbent senator. Within fifteen days after certification of the results of any such primary election to the secretary of state, the nominees of the political parties for election to the Senate in these said two senatorial districts shall appear in the secretary of state's office and under his supervision designate in writing the specific senatorial district, and term (either a four-year term or an unexpired term, if there be any unexpired term to be filled), for which each chooses to be declared the nominee, priority in choice being given to each nominee of both political parties in one direct sequence from the highest to the lowest number of lawful votes cast for each nominee at the primary election,
thereby determining the nominees of opposite political parties who will be the candidates for election to the Senate for the first senatorial district and the nominees of opposite political parties who will be the candidates for election to the Senate for the second senatorial district: Provided, however, That any nominees of opposite political parties from the same county shall be designated as candidates to oppose each other for election to the Senate for the same senatorial district. The exact same procedure as outlined in the foregoing provisions of this subsection (d) shall be followed with respect to the nomination, designation and election of candidates for the Senate in the sixth and tenth and the thirteenth and fourteenth senatorial districts, as said senatorial districts are constituted by the provisions of subsection (a) of this section.

(2) Notwithstanding any other provisions of this code to the contrary, a certificate of candidacy for nomination to the Senate filed by or for any person residing in any county contained within the fourth or fifth senatorial district as said senatorial districts are constituted by the
provisions of subsection (a) of this section shall be designated as a certificate of candidacy for the fourth-fifth senatorial district. No nominee of a political party may reside in a county having more than one senatorial representation ratio if there are at the time residing in such county two incumbent senators; no more than one nominee of a political party may reside in a county having more than one senatorial representation ratio if there is at the time residing in such county an incumbent senator; but otherwise both nominees of a political party may reside in a county having more than one senatorial representation ratio. Consequently, the two nominees of a political party for the two four-year terms in these two senatorial districts shall be the two candidates of that political party who receive the highest number of lawful votes cast at the primary election and who reside in a county having more than one senatorial representation ratio and who are eligible for election under the rationale of the preceding sentence of this subdivision (2) or who reside in a county having less than one senatorial representation ratio and who neither reside in the same county
as the other nor reside in the same county wherein resides
an incumbent senator: Provided further, That if in addi-
tion to the two four-year terms, there is one or more
unexpired terms to be filled, the nominees of a political
party for the four-year terms and all unexpired terms in
these two senatorial districts shall be the candidates of
that political party equal to the total number of terms
to be filled who receive the highest number of lawful
votes cast at the primary election and who reside in a
county having more than one senatorial representation
ratio and who are eligible for election under the rationale
of the second sentence of this subdivision (2) or who
reside in a county having less than one senatorial repre-
sentation ratio and who neither reside in the same county
as the other nor reside in the same county wherein resides
an incumbent senator. Within fifteen days after certifica-
tion of the results of any such primary election to the
secretary of state, the nominees of the political parties
for election to the Senate in these said two senatorial
districts shall appear in the secretary of state’s office and
under his supervision designate in writing the specific
senatorial district, and term (either a four-year term or
an unexpired term, if there be any unexpired term to be
filled), for which each chooses to be declared the nominee,
priority in choice being given to each nominee of both
political parties in one direct sequence from the highest
to the lowest number of lawful votes cast for each
nominee at the primary election, thereby determining the
nominees of opposite political parties who will be the
candidates for election to the Senate for the fourth sena-
torial district and the nominees of opposite political
parties who will be the candidates for election to the
Senate for the fifth senatorial district: And provided fur-
ther, That any nominees of opposite political parties from
the same county shall be designated as candidates to
oppose each other for election to the Senate for the same
senatorial district, except that the foregoing provisions
of this proviso shall be applied only to the extent neces-
sary to make certain that no more than a total of two
persons from a county having more than one senatorial
representation ratio could serve in the Senate at the same
time.
(3) Notwithstanding any other provisions of this code to the contrary, a certificate of candidacy for nomination to the Senate filed by or for any person residing in any county contained within the seventh, eighth or seventeenth senatorial district as said senatorial districts are constituted by the provisions of subsection (a) of this section shall be designated as a certificate of candidacy for the seventh-eighth-seventeenth senatorial district. No nominee of a political party may reside in a county having more than two senatorial representation ratios if there is at the time residing in such county three incumbent senators; no more than one nominee of a political party may reside in a county having more than two senatorial representation ratios if there is at the time residing in such county two incumbent senators; no more than two nominees of a political party may reside in a county having more than two senatorial representation ratios if there is at the time residing in such county one incumbent senator; but otherwise all three nominees may reside in a county having more than two senatorial representation ratios. Consequently, the three nominees of a political
party for the three four-year terms in these three senatorial districts shall be the three candidates of that political party who receive the highest number of lawful votes cast at the primary election and who reside in a county having more than two senatorial representation ratios and who are eligible for election under the rationale of the preceding sentence of this subdivision (3) or who reside in a county having less than one senatorial representation ratio and who neither reside in the same county with one or the other nor reside in the same county wherein resides an incumbent senator (except any incumbent senator residing in a county having less than one senatorial representation ratio, but this exception shall be applicable only for the primary and general elections to be held in the year one thousand nine hundred seventy-two): Provided, That if in addition to the three four-year terms, there is one or more unexpired terms to be filled, the nominees of a political party for the four-year terms and all unexpired terms in these said three senatorial districts shall be the candidates of that political party equal to the total number of terms to be filled
who receive the highest number of lawful votes cast at the primary election and who reside in a county having more than two senatorial representation ratios and who are eligible for election under the rationale of the second sentence of this subdivision (3) or who reside in a county having less than one senatorial representation ratio and who neither reside in the same county with one or the other nor reside in the same county wherein resides an incumbent senator (except any incumbent senator residing in a county having less than one senatorial representation ratio, but this exception shall be applicable only for the primary and general elections to be held in the year one thousand nine hundred seventy-two): Provided, however, That in view of the fact that said three senatorial districts contain only four counties and in view of the provisions of said section four, article six of the Constitution of West Virginia, there must always be on and after December one, one thousand nine hundred seventy-four at least and not more than a total of three persons from any county having more than two senatorial representation ratios serving in the Senate for the
said seventh, eighth and seventeenth senatorial districts
as said districts are constituted by the provisions of sub-
section (a) of this section. Within fifteen days after
certification of the results of any such primary election
to the secretary of state, the nominees of the political
parties for election to the Senate in these said three
senatorial districts shall appear in the secretary of state's
office and under his supervision designate in writing the
specific senatorial district, and term (either a four-year
term or an unexpired term, if there be any unexpired
term to be filled), for which each chooses to be declared
the nominee, priority in choice being given to each
nominee of both political parties in one direct sequence
from the highest to the lowest number of lawful votes
cast for each nominee at the primary election, thereby
determining the nominees of opposite political parties
who will be the candidates for election to the Senate for
the seventh senatorial district, the nominees of opposite
political parties who will be the candidates for election
to the Senate for the eighth senatorial district and the
nominees of opposite political parties who will be the
candidates for election to the Senate for the seventeenth senatorial district: *And provided further,* That any nominees of opposite political parties from the same county shall be designated as candidates to oppose each other for election to the Senate for the same senatorial district except that the foregoing provisions of this proviso shall be applied only to the extent necessary to make certain that no less and no more than a total of three persons from any county having more than two senatorial representation ratios could serve in the Senate at the same time.

(4) Any vacancy in a nomination shall be filled, and any appointment to fill a vacancy in the office of state senator shall be made, with respect to any of the said eleven senatorial districts listed at the beginning of this subsection (d) so as to be consistent with the provisions of this subsection (d).

(5) The secretary of state may promulgate rules and regulations to implement the provisions of this section.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid,
such invalidity shall not affect other provisions or applications of the section, and to this end the provisions of this section are declared to be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within disappeared this the 22nd day of November, 1971.

Governor
PRESENTED TO THE GOVERNOR

Date 11/9/71
Time 1:10 p.m.