

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

ENROLLED

SENATE BILL NO. 304

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

PASSED March 7, 1974

In Effect ninety days from Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 3/29/74

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Senate Bill No. 304

(Originating in the Committee on the Judiciary)

[Passed March 7, 1974; in effect ninety days 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 senatorial redistricting; providing a short title for such section; defining the terms "county," "enumeration district" and "magisterial district" for the purposes of such section; setting forth certain legislative findings and declarations; dividing the state into seventeen senatorial districts for the purpose of electing thirty-four senators; declaring such senatorial districts as of the first day of January, one thousand nine hundred seventy-five; establishing residency dispersal requirements for the election of senators in furtherance of the rationale of the residency dispersal provisions of the West Virginia constitution relating to the election of senators; providing that members of the Senate elected at the general election held in the year one thousand nine hundred seventy-two and at the general election to be held in the year one thousand nine hundred seventy-four, and persons appointed to fill vacancies in the Senate, shall continue to serve as members of the Senate for the term, and as representatives of the senatorial district for which each thereof, respectively, was elected or appointed; requiring county courts to alter the boundary lines of any election precinct which contains territory included within more than one senatorial district so that no election precinct contains territory included within more than one senatorial district; extending the terms of members of senatorial

executive committees; relating to the duties of such committees; providing for new and additional senatorial executive committees; specifying the duties, qualifications and terms of such committees and of the members thereof; and relating to vacancies in and officers of such committees.

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.

1 (a) This section shall be known and may be cited as
2 "The Senate Redistricting Act of 1974."

3 (b) As used in this section:

4 (1) "County" means the territory comprising a county
5 of this state as such county existed on the first day of
6 January, one thousand nine hundred seventy, notwith-
7 standing any boundary changes thereof made subsequent
8 thereto;

9 (2) "Enumeration district" means that geographic area
10 so designated and defined by the bureau of the census
11 of the United States department of commerce for the
12 taking of the one thousand nine hundred seventy census
13 of population and described on census maps prepared
14 by the bureau of the census, copies of which maps are
15 on file in the office of the secretary of state; and

16 (3) "Magisterial district" means the territory com-
17 prising a magisterial district as such magisterial district
18 existed on the first day of January, one thousand nine
19 hundred seventy (except that for the county of Ohio,
20 "magisterial district" means the territory comprising a
21 magisterial district of Ohio county as such magisterial
22 district existed on the first day of July, one thousand
23 nine hundred sixty-nine), as specified as of such date in
24 the official records of the county courts of the several
25 counties, notwithstanding any boundary changes thereof
26 made subsequent thereto.

27 (c) The Legislature recognizes that in dividing the
28 state into senatorial districts, the Legislature is bound
29 not only by the United States constitution but also by the
30 West Virginia constitution; that the United States con-
31 stitution, as interpreted by the United States supreme
32 court and other federal courts, requires state legislatures
33 to be apportioned so as to achieve equality of population
34 as near as is practicable, population disparities being
35 permissible where justified by rational state policies; and
36 that the West Virginia constitution requires two senators
37 to be elected from each senatorial district and requires
38 senatorial districts to be compact, formed of contiguous
39 territory, bounded by county lines and as nearly as prac-
40 ticable equal in population, to be ascertained by the
41 United States census. In light of the foregoing provisions
42 of this subsection (c), the Legislature hereby declares
43 that in dividing the state into senatorial districts, as
44 described and constituted in subsection (d) of this section,
45 the Legislature has:

46 (1) Adhered to the equality of population concept,
47 while at the same time recognizing that from the forma-
48 tion of this state in the year one thousand eight hundred
49 sixty-three, each constitution of West Virginia and the
50 statutes enacted by the Legislature have recognized politi-
51 cal subdivision lines and many functions, policies and
52 programs of government have been implemented along
53 political subdivision lines;

54 (2) Made the senatorial districts as compact as possi-
55 ble, consistent with the equality of population concept;

56 (3) Formed the senatorial districts of "contiguous
57 territory" as that term has been construed and applied
58 by the West Virginia supreme court of appeals;

59 (4) Deviated from the long-established state policy,
60 recognized in (1) above, by crossing county lines only
61 when adherence to county lines produced unacceptable
62 population inequalities and only to the extent necessary
63 in order to achieve acceptable equality of population;

64 (5) When crossing county lines, adhered, whenever
65 possible, in furtherance of the long-established state
66 policy, recognized in (1) above, to the boundary lines

67 of magisterial districts, tax districts or municipal corpora-
68 tions; and

69 (6) Also taken into account in crossing county lines,
70 to the extent feasible, the community of interests of the
71 people involved.

72 (d) In view of the fact that persons have already filed
73 their certificates of candidacy for nomination and election
74 to the Senate at the primary and general elections to be
75 held in the year one thousand nine hundred seventy-four,
76 from the senatorial districts described and constituted by
77 chapter one, acts of the Legislature, first extraordinary
78 session, one thousand nine hundred sixty-four, and in
79 view of the fact that it was not possible to declare the
80 new senatorial districts prior to the closing date for the
81 filing of certificates of candidacy with respect to such
82 elections or in time for the holding of such elections
83 without interruption of the orderly procedures established
84 therefor, the senatorial districts hereinafter in this sub-
85 section described and constituted are hereby declared as
86 of the first day of January, one thousand nine hundred
87 seventy-five. On and after that date, the Senate shall be
88 composed of thirty-four senators, one senator to be elected
89 at the general election to be held in the year one thou-
90 sand nine hundred seventy-six for a four-year term and
91 biennially thereafter from each of the senatorial districts
92 hereinafter in this subsection described and constituted,
93 as follows:

94 (1) The counties of Brooke and Hancock and the magis-
95 terial districts of Liberty, Richland and Triadelphia of the
96 county of Ohio shall constitute the first senatorial district;

97 (2) The counties of Doddridge, Marshall, Tyler and
98 Wetzel, that portion of the county of Ohio not included in
99 the first senatorial district and the magisterial district of
100 Battelle of the county of Monongalia shall constitute the
101 second senatorial district;

102 (3) The counties of Calhoun, Pleasants, Wirt and Wood
103 shall constitute the third senatorial district;

104 (4) The counties of Jackson, Mason, Putnam and Roane
105 and the magisterial districts of Grant and Union of the

106 county of Cabell shall constitute the fourth senatorial
107 district;

108 (5) That portion of the county of Cabell not included
109 in the fourth senatorial district, the magisterial district
110 of Westmoreland of the county of Wayne, and enumera-
111 tion districts fifteen, sixteen, seventeen, eighteen, nine-
112 teen, twenty and twenty-one of the magisterial district of
113 Ceredo of the county of Wayne shall constitute the fifth
114 senatorial district;

115 (6) The county of Mingo, that portion of the county of
116 Wayne not included in the fifth senatorial district, and
117 that portion of the county of McDowell not included in
118 the tenth senatorial district shall constitute the sixth
119 senatorial district;

120 (7) The counties of Boone, Lincoln and Logan and the
121 magisterial district of Washington of the county of Kan-
122 awha shall constitute the seventh senatorial district;

123 (8) That portion of the county of Kanawha not included
124 in the seventh senatorial district or in the eleventh sena-
125 torial district shall constitute the eighth senatorial district;

126 (9) The county of Wyoming and that portion of the
127 county of Raleigh not included in the tenth senatorial
128 district shall constitute the ninth senatorial district;

129 (10) The counties of Mercer, Monroe and Summers,
130 the magisterial district of Richmond of the county of
131 Raleigh, enumeration districts seven and eight of the
132 magisterial district of Shady Spring of the county of
133 Raleigh, and the magisterial district of Elkhorn of the
134 county of McDowell shall constitute the tenth senatorial
135 district;

136 (11) The counties of Clay, Fayette and Greenbrier, the
137 magisterial district of Big Sandy of the county of Kan-
138 awha, and the magisterial district of Jefferson of the
139 county of Nicholas shall constitute the eleventh senatorial
140 district;

141 (12) The counties of Braxton, Gilmer, Pendleton,
142 Pocahontas, Randolph, Ritchie and Webster, and that
143 portion of the county of Nicholas not included in the

144 eleventh senatorial district shall constitute the twelfth
145 senatorial district;

146 (13) The counties of Harrison and Lewis and the
147 magisterial district of Mannington of the county of Marion
148 shall constitute the thirteenth senatorial district;

149 (14) That portion of the county of Marion not included
150 in the thirteenth senatorial district and that portion of
151 the county of Monongalia not included in the second
152 senatorial district or in the fifteenth senatorial district
153 shall constitute the fourteenth senatorial district;

154 (15) The counties of Barbour, Grant, Preston, Taylor,
155 Tucker and Upshur, and the magisterial districts of Clin-
156 ton and Union of the county of Monongalia shall consti-
157 tute the fifteenth senatorial district;

158 (16) The counties of Berkeley, Hampshire, Hardy,
159 Jefferson, Mineral and Morgan shall constitute the six-
160 teenth senatorial district;

161 (17) That portion of the county of Kanawha not includ-
162 ed in the seventh senatorial district or in the eleventh
163 senatorial district shall constitute the seventeenth sena-
164 torial district.

165 (e) The West Virginia constitution further provides
166 that where a senatorial district is composed of more than
167 one county, both senators for such district shall not be
168 chosen from the same county, a residency dispersal pro-
169 vision which is clear with respect to senatorial districts
170 which follow county lines, as required by such consti-
171 tution, but which is not clear in application with respect
172 to senatorial districts which cross county lines. However,
173 in an effort to adhere as closely as possible to the West
174 Virginia constitution, the following provisions, in further-
175 ance of the rationale of such residency dispersal provision
176 and to give meaning and effect thereto, are hereby es-
177 tablished:

178 (1) With respect to a senatorial district which is com-
179 posed of one or more whole counties and one or more
180 parts of another county or counties, no more than one
181 senator shall be chosen from the same county or part of
182 a county to represent such senatorial district; and

183 (2) With respect to a senatorial district which does not
184 contain any whole county but only parts of one or more
185 counties, more than one senator may be chosen from the
186 same part to represent such senatorial district: *Provided*,
187 That if any such senatorial district is composed solely of
188 one part of one county and one part of another county and
189 each part contains the majority of the population of the
190 whole county from which such part was taken, the popu-
191 lation to be determined in accordance with the census of
192 the United States for the year one thousand nine hundred
193 seventy, then no more than one senator shall be chosen
194 from either such part to represent such senatorial district.

195 (f) Regardless of the changes in senatorial district boun-
196 daries made by the provisions of subsection (d) of this
197 section, all senators elected at the general election held
198 in the year one thousand nine hundred seventy-two and
199 the general election to be held in the year one thousand
200 nine hundred seventy-four shall continue to hold their
201 seats as members of the Senate for the term, and as
202 representatives of the senatorial district, for which each
203 thereof, respectively, was elected. Any appointment made
204 prior to the first day of December, one thousand nine
205 hundred seventy-six, to fill a vacancy in the Senate shall
206 be for the remainder of the term, and as a representative
207 of the senatorial district, for which the vacating senator
208 was elected or appointed. Any appointment made prior
209 to the first day of December, one thousand nine hundred
210 seventy-eight, to fill a vacancy in a Senate term which
211 began on or after the first day of December, one thousand
212 nine hundred seventy-four, as well as any election to fill
213 a Senate vacancy for the remainder of such a term, shall
214 be for the remainder of the term, and as a representative
215 of the senatorial district for which the vacating senator
216 was elected or appointed.

217 (g) Notwithstanding the provisions of sections five
218 and seven, article one, chapter three of this code, if an
219 election precinct of this state contains territory included
220 within more than one senatorial district (other than the
221 eighth and seventeenth senatorial districts), as such
222 senatorial districts are described and constituted by sub-
223 section (d) of this section, it shall be the duty of the

224 county court of the county in which such precinct is
225 located to alter the boundary lines of the county's election
226 precincts prior to the first day of January, one thousand
227 nine hundred seventy-six, so that no election precinct
228 contains territory which is included within more than
229 one such senatorial district.

230 (h) Notwithstanding the provisions of section nine,
231 article one, chapter three of this code, persons elected to
232 senatorial district political party executive committees
233 at the primary election to be held in the year one thou-
234 sand nine hundred seventy-four, as well as persons
235 appointed to fill vacancies in such committees, shall con-
236 tinue to hold such positions until the first day of Decem-
237 ber, one thousand nine hundred seventy-eight, for the
238 purpose of filling vacancies in nomination for senator
239 and for the purpose of submitting names to the governor
240 to fill vacancies in the Senate, when such vacancies exist
241 with respect to senatorial districts described and con-
242 stituted by chapter one, acts of the Legislature, first
243 extraordinary session, one thousand nine hundred sixty-
244 four. For the purpose of filling vacancies in nomination
245 and vacancies in office when such vacancies exist with res-
246 spect to senatorial districts described and constituted by
247 subsection (d) of this section, new and additional sena-
248 torial district political party executive committees are
249 constituted as follows: At the primary election to be held
250 in the year one thousand nine hundred seventy-six, and
251 at the primary election to be held in the year one thou-
252 sand nine hundred seventy-eight and in every fourth year
253 subsequent to the primary election to be held in the year
254 one thousand nine hundred seventy-eight, the voters of
255 each political party in each senatorial district, as such
256 districts are described and constituted by subsection (d)
257 of this section, shall elect two male and two female per-
258 sons to membership in the senatorial district executive
259 committee created pursuant to this subsection. All mem-
260 bers of such executive committees so elected shall reside
261 within the senatorial district from which they are chosen,
262 and the terms of such members shall begin on the first
263 day of June, following the primary election at which
264 they are chosen, and shall continue for four years and

265 until their successors are elected and qualified: *Provided*,
266 *however*, That the terms of members elected at the pri-
267 mary election to be held in the year one thousand nine
268 hundred seventy-six shall continue for two years and until
269 their successors are elected and qualified. Vacancies in
270 senatorial district executive committees shall be filled by
271 the state chairman of the political party executive com-
272 mittee concerned, but the person filling the vacancy must
273 be a resident of the senatorial district involved. As soon
274 as possible after the first day of June, following the elec-
275 tion of the new executive committees, as herein provided,
276 such committees shall convene within their respective
277 senatorial districts on the call of any member of the new
278 executive committee and proceed to select a chairman,
279 a secretary, and such other officers as they may desire,
280 each of which officers shall for their respective committees
281 perform the duties which usually appertain to such po-
282 sitions. The provisions of this subsection (h) shall govern
283 and control notwithstanding the provisions of section nine,
284 article one, chapter three of this code.

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

H. Marshall Nesby
Chairman Senate Committee

Clarence C. Johnston
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harward W. Carson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. D. Bestherton, Jr.
President of the Senate

Lewis F. H. Harris
Speaker House of Delegates

The within *disapproved* this the *26th*
day of *March*, 1974.

Arch A. Moore, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/11/14

Time 3:50 pm.