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. BEISKELL III
SECRETARY OF STATE
THIS DATE 3/29/74
ENROLLED

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 "The Senate Redistricting Act of 1974."
2 (b) As used in this section:
3 (1) "County" means the territory comprising a county of this state as such county existed on the first day of January, one thousand nine hundred seventy, notwithstanding any boundary changes thereof made subsequent thereto;
4 (2) "Enumeration district" means that geographic area so designated and defined by the bureau of the census of the United States department of commerce for the taking of the one thousand nine hundred seventy census of population and described on census maps prepared by the bureau of the census, copies of which maps are on file in the office of the secretary of state; and
5 (3) "Magisterial district" means the territory comprising a magisterial district as such magisterial district existed on the first day of January, one thousand nine hundred seventy (except that for the county of Ohio, "magisterial district" means the territory comprising a magisterial district of Ohio county as such magisterial district existed on the first day of July, one thousand nine hundred sixty-nine), as specified as of such date in the official records of the county courts of the several counties, notwithstanding any boundary changes thereof made subsequent thereto.
(c) The Legislature recognizes that in dividing the state into senatorial districts, the Legislature is bound not only by the United States constitution but also by the West Virginia constitution; that the United States constitution, as interpreted by the United States supreme court and other federal courts, requires state legislatures to be apportioned so as to achieve equality of population as near as is practicable, population disparities being permissible where justified by rational state policies; and that the West Virginia constitution requires two senators to be elected from each senatorial district and requires senatorial districts to be compact, formed of contiguous territory, bounded by county lines and as nearly as practicable equal in population, to be ascertained by the United States census. In light of the foregoing provisions of this subsection (c), the Legislature hereby declares that in dividing the state into senatorial districts, as described and constituted in subsection (d) of this section, the Legislature has:

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

(2) Made the senatorial districts as compact as possible, consistent with the equality of population concept;

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

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

(5) When crossing county lines, adhered, whenever possible, in furtherance of the long-established state policy, recognized in (1) above, to the boundary lines
(6) Also taken into account in crossing county lines, to the extent feasible, the community of interests of the people involved.

(d) In view of the fact that persons have already filed their certificates of candidacy for nomination and election to the Senate at the primary and general elections to be held in the year one thousand nine hundred seventy-four, from the senatorial districts described and constituted by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred sixty-four, and in view of the fact that it was not possible to declare the new senatorial districts prior to the closing date for the filing of certificates of candidacy with respect to such elections or in time for the holding of such elections without interruption of the orderly procedures established therefor, the senatorial districts hereinafter in this subsection described and constituted are hereby declared as of the first day of January, one thousand nine hundred seventy-five. On and after that date, the Senate shall be composed of thirty-four senators, one senator to be elected at the general election to be held in the year one thousand nine hundred seventy-six for a four-year term and biennially thereafter from each of the senatorial districts hereinafter in this subsection described and constituted, as follows:

(1) The counties of Brooke and Hancock and the magisterial districts of Liberty, Richland and Triadelphia of the county of Ohio shall constitute the first senatorial district;

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

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

(4) The counties of Jackson, Mason, Putnam and Roane and the magisterial districts of Grant and Union of the
(5) That portion of the county of Cabell not included in the fourth senatorial district, the magisterial district of Westmoreland of the county of Wayne, and enumeration districts fifteen, sixteen, seventeen, eighteen, nineteen, twenty and twenty-one of the magisterial district of Ceredo of the county of Wayne shall constitute the fifth senatorial district;

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

(7) The counties of Boone, Lincoln and Logan and the magisterial district of Washington of the county of Kanawha shall constitute the seventh senatorial district;

(8) That portion of the county of Kanawha not included in the seventh senatorial district or in the eleventh senatorial district shall constitute the eighth senatorial district;

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

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

(11) The counties of Clay, Fayette and Greenbrier, the magisterial district of Big Sandy of the county of Kanawha, and the magisterial district of Jefferson of the county of Nicholas shall constitute the eleventh senatorial district;

(12) The counties of Braxton, Gilmer, Pendleton, Pocahontas, Randolph, Ritchie and Webster, and that portion of the county of Nicholas not included in the
The counties of Harrison and Lewis and the magisterial district of Mannington of the county of Marion shall constitute the thirteenth senatorial district;

That portion of the county of Marion not included in the thirteenth senatorial district and that portion of the county of Monongalia not included in the second senatorial district or in the fifteenth senatorial district shall constitute the fourteenth senatorial district;

The counties of Barbour, Grant, Preston, Taylor, Tucker and Upshur, and the magisterial districts of Clinton and Union of the county of Monongalia shall constitute the fifteenth senatorial district;

The counties of Berkeley, Hampshire, Hardy, Jefferson, Mineral and Morgan shall constitute the sixteenth senatorial district;

That portion of the county of Kanawha not included in the seventh senatorial district or in the eleventh senatorial district shall constitute the seventeenth senatorial district.

The West Virginia constitution further 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, a residency dispersal provision which is clear with respect to senatorial districts which follow county lines, as required by such constitution, but which is not clear in application with respect to senatorial districts which cross county lines. However, in an effort to adhere as closely as possible to the West Virginia constitution, the following provisions, in furtherance of the rationale of such residency dispersal provision and to give meaning and effect thereto, are hereby established:

(1) With respect to a senatorial district which is composed of one or more whole counties and one or more parts of another county or counties, no more than one senator shall be chosen from the same county or part of a county to represent such senatorial district; and
(2) With respect to a senatorial district which does not contain any whole county but only parts of one or more counties, more than one senator may be chosen from the same part to represent such senatorial district: Provided, That if any such senatorial district is composed solely of one part of one county and one part of another county and each part contains the majority of the population of the whole county from which such part was taken, the population to be determined in accordance with the census of the United States for the year one thousand nine hundred seventy, then no more than one senator shall be chosen from either such part to represent such senatorial district.

(f) Regardless of the changes in senatorial district boundaries made by the provisions of subsection (d) of this section, all senators elected at the general election held in the year one thousand nine hundred seventy-two and the general election to be held in the year one thousand nine hundred seventy-four shall continue to hold their seats as members of the Senate for the term, and as representatives of the senatorial district, for which each thereof, respectively, was elected. Any appointment made prior to the first day of December, one thousand nine hundred seventy-six, to fill a vacancy in the Senate shall be for the remainder of the term, and as a representative of the senatorial district, for which the vacating senator was elected or appointed. Any appointment made prior to the first day of December, one thousand nine hundred seventy-eight, to fill a vacancy in a Senate term which began on or after the first day of December, one thousand nine hundred seventy-four, as well as any election to fill a Senate vacancy for the remainder of such a term, shall be for the remainder of the term, and as a representative of the senatorial district for which the vacating senator was elected or appointed.

(g) Notwithstanding the provisions of sections five and seven, article one, chapter three of this code, if an election precinct of this state contains territory included within more than one senatorial district (other than the eighth and seventeenth senatorial districts), as such senatorial districts are described and constituted by subsection (d) of this section, it shall be the duty of the
county court of the county in which such precinct is located to alter the boundary lines of the county's election precincts prior to the first day of January, one thousand nine hundred seventy-six, so that no election precinct contains territory which is included within more than one such senatorial district.

(h) Notwithstanding the provisions of section nine, article one, chapter three of this code, persons elected to senatorial district political party executive committees at the primary election to be held in the year one thousand nine hundred seventy-four, as well as persons appointed to fill vacancies in such committees, shall continue to hold such positions until the first day of December, one thousand nine hundred seventy-eight, for the purpose of filling vacancies in nomination for senator and for the purpose of submitting names to the governor to fill vacancies in the Senate, when such vacancies exist with respect to senatorial districts described and constituted by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred sixty-four. For the purpose of filling vacancies in nomination and vacancies in office when such vacancies exist with respect to senatorial districts described and constituted by subsection (d) of this section, new and additional senatorial district political party executive committees are constituted as follows: At the primary election to be held in the year one thousand nine hundred seventy-six, and at the primary election to be held in the year one thousand nine hundred seventy-eight and in every fourth year subsequent to the primary election to be held in the year one thousand nine hundred seventy-eight, the voters of each political party in each senatorial district, as such districts are described and constituted by subsection (d) of this section, shall elect two male and two female persons to membership in the senatorial district executive committee created pursuant to this subsection. All members of such executive committees so elected shall reside within the senatorial district from which they are chosen, and the terms of such members shall begin on the first day of June, following the primary election at which 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.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor