WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED

SENATE BILL NO. 222
Originating in the Committee
(on the Judiciary)

PASSED March 13, 1976

In Effect January 1, 1977

FILE IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/31/76
ENROLLED

Senate Bill No. 222

(Originating in the Committee on the Judiciary)

[Passed March 13, 1976; in effect January 1, 1977.]

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," "incumbent senator" 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-seven; 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; relating to nomination and election procedures with respect to candidates for the Senate; providing that members of the Senate elected at the general election held in the year one thousand nine hundred seventy-four and at the general election held in the year one thousand nine hundred seventy-six, and persons elected or 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 commissions to alter the boundary lines of any election precinct which contains territory included within more than one non-superimposed senatorial district so that no election precinct contains territory included within more than one non-superimposed senatorial district; extending the terms of mem-
bers 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; relating to vacancies in and officers of
such committees; and authorizing the secretary of state
to promulgate rules and regulations implementing the pro-
visions of such section.

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) This section shall be known and may be cited as
"The Senate Redistricting Act."

(b) As used in this section:

(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, not-
withstanding any boundary changes thereof made sub-
sequent thereto;

(2) “Enumeration district” means that geographic
area so designated and defined by the bureau of
the census of the United States department of com-
merce for the taking of the one thousand nine hun-
dred 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 sec-
retary of state;

(3) “Incumbent senator” means a senator elected at
the general election held in the year one thousand
nine hundred seventy-six or at any general election
thereafter, with an unexpired term of at least two years
in duration; and

(4) “Magisterial district” means the territory com-
prising 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 shown 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) “Census tract” 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.

(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 in any instance where the West Virginia constitution conflicts with the United States constitution, the United States constitution must govern and control, as recognized in section one, article one of 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 for terms of four years each, one such senator being elected every two years, with one half of the senators being elected biennially, and requires senatorial districts to be compact, formed of contiguous territory and bounded by county lines. The Legislature finds and declares that it is not possible to divide the state into senatorial districts so as to achieve equality of population as near as is practicable as required by the United States supreme court and other federal courts and at the same time adhere to all of these provisions of the West Virginia constitution; but that, in an effort to adhere as closely as possible to all
of these provisions of the West Virginia constitution, the Legislature, in dividing the state into senatorial districts, as described and constituted in subsection (d) hereof, 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, 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 necessary to insure that all senatorial districts were formed of contiguous territory or when adherence to county lines produced unacceptable population inequalities and only to the extent necessary in order to maintain contiguity of territory and 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 of magisterial districts, tax districts or municipal corporations; and

(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-six, 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-seven. 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-eight and biennially thereafter for a four-year term 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 and census tract nineteen of the magisterial district of Ritchie of the county of Ohio shall constitute the first senatorial district;

2. The counties of Doddridge, Marshall, Ritchie, Tyler and Wetzel and that portion of the county of Ohio not included in the first senatorial district 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 district of Grant of the county of Cabell shall constitute the fourth senatorial district;

5. That portion of the county of Cabell not included in the fourth senatorial district, enumeration districts one, two, three, four and five of 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;
The county of Mingo, that portion of the county of Wayne not included in the fifth or seventh senatorial districts, 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 districts of Stonewall and Union of the county of Wayne shall constitute the seventh senatorial district;

(8) The county of Kanawha shall constitute the eighth senatorial district;

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

(10) The counties of Mercer, Monroe and Summers, and the magisterial districts of Elkhorn and Northfork of the county of McDowell shall constitute the tenth senatorial district;

(11) The counties of Clay, Fayette and Greenbrier 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 and Webster and that portion of the county of Nicholas not included in the eleventh senatorial district shall constitute the twelfth senatorial district;

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

(14) 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 fifteenth senatorial district shall constitute the fourteenth senatorial district;

(15) The counties of Barbour, Grant, Preston, Taylor, Tucker and Upshur, and the magisterial district of Clinton of the county of Monongalia and enumeration districts thirty-three, thirty-four, thirty-five-a,
thirty-five-b, thirty-six and thirty-seven of the magisterial district of Morgan of the county of Monongalia shall constitute the fifteenth senatorial district;

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

(17) The county of Kanawha shall constitute the seventeenth senatorial district.

(e) The West Virginia constitution further provides, in section four, article six thereof, 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 in this regard, the following additional 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;

(2) With respect to a senatorial district which does not contain any whole county but only parts of two or more counties, no more than one senator shall be chosen from the same part to represent such senatorial district; and

(3) With respect to superimposed senatorial districts which contain only one whole county, all senators shall be chosen from such county to represent such senatorial districts.

(f) Candidates for the Senate shall be nominated as provided in section four, article five, chapter three of
this code, except that such candidates shall be nominated in accordance with the residency dispersal provisions specified in section four, article six of the West Virginia constitution and the additional residency dispersal provisions specified in subsection (e) hereof. Candidates for the Senate shall also be elected in accordance with the residency dispersal provisions specified in said section four, article six of the West Virginia constitution and the additional residency dispersal provisions specified in subsection (e) hereof. In furtherance of the foregoing provisions of this subsection (f), no person may file a certificate of candidacy for election from a senatorial district described and constituted in subsection (d) hereof if he resides in the same county and the same such senatorial district wherein also resides an incumbent senator, whether the senatorial district wherein such incumbent senator resides was described and constituted by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred sixty-four or was described and constituted in subsection (d) hereof. Any vacancy in a nomination shall be filled, any appointment to fill a vacancy in the Senate shall be made, and any candidates in an election to fill a vacancy in the Senate shall be chosen, so as to be consistent with the residency dispersal provisions specified in section four, article six of the West Virginia constitution and the additional residency dispersal provisions specified in subsection (e) hereof.

(g) Regardless of the changes in senatorial district boundaries made by the provisions of subsection (d) hereof, all senators elected at the general election held in the year one thousand nine hundred seventy-four and at the general election held in the year one thousand nine hundred seventy-six 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 or election held 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, and any such election shall be held in the district as the same was described and constituted at the time the vacating senator was elected or appointed.

(h) 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 a superimposed senatorial district), as such senatorial districts are described and constituted by subsection (d) hereof, it shall be the duty of the county commission 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-eight, so that no election precinct contains territory which is included within more than one such senatorial district.

(i) 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 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) hereof, 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-eight and in every fourth year subsequent to that primary election, the voters of each political party in each senatorial district, as such dis-
Sections are described and constituted by subsection (d) hereof, 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 until their successors are elected or appointed and qualified. Vacancies in senatorial district executive committees shall be filled by the state chairman of the political party executive committee concerned, but the person filling the vacancy must be a resident of the senatorial district involved. As soon as possible after the first day of June, following the election of the new executive committees, as herein provided, such committees shall convene within their respective senatorial districts on the call of any member of the new executive committee and proceed to select a chairman, a secretary, and such other officers as they may desire, each of which officers shall, for their respective committees, perform the duties which usually appertain to such positions. The provisions of this subsection (i) shall govern and control notwithstanding the provisions of section nine, article one, chapter three of this code.

(j) The secretary of state may promulgate rules and regulations to implement the provisions of this section, including emergency rules and regulations promulgated pursuant to the provisions of section five, article three, chapter twenty-nine-a 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.

To take effect January 1, 1977.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 24th day of _, 1976.

Governor
PRESENTED TO THE
GOVERNOR

Date  3/24/76
Time  3:45 p.m.