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OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1976**

**ENROLLED**

**SENATE BILL NO. 222**

*Originating in the Committee*

*(~~on~~ on the Judiciary)*

PASSED *March 13,* 1976

In Effect *January 1, 1977* ~~Page~~

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 nonsuperimposed senatorial district; extending the terms of mem-

and "census tract"  
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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 provisions 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.**

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

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  
6 of January, one thousand nine hundred seventy, not-  
7 withstanding any boundary changes thereof made sub-  
8 sequent thereto;

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

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

22 (4) "Magisterial district" means the territory com-  
23 prising a magisterial district as such magisterial district  
24 existed on the first day of January, one thousand nine  
25 hundred seventy (except that for the county of Ohio,

26 "magisterial district" means the territory comprising a  
27 magisterial district of Ohio county as such magisterial  
28 district existed on the first day of July, one thousand  
29 nine hundred sixty-nine), as shown and described on  
30 census maps prepared by the bureau of the census,  
31 copies of which maps are on file in the office of the sec-  
32 retary of state; and

33 (5) "Census tract" means that geographic area so  
34 designated and defined by the bureau of the census  
35 of the United States department of commerce for the  
36 taking of the one thousand nine hundred seventy census  
37 of population and described on census maps prepared  
38 by the bureau of the census, copies of which **maps**  
39 are on file in the office of the secretary of state.

40 (c) The Legislature recognizes that in dividing the  
41 state into senatorial districts, the Legislature is bound  
42 not only by the United States constitution but also by  
43 the West Virginia constitution; that in any instance  
44 where the West Virginia constitution conflicts with the  
45 United States constitution, the United States consti-  
46 tution must govern and control, as recognized in section  
47 one, article one of the West Virginia constitution; that  
48 the United States constitution, as interpreted by the  
49 United States supreme court and other federal courts,  
50 requires state legislatures to be apportioned so as to  
51 achieve equality of population as near as is practicable,  
52 population disparities being permissible where justified by  
53 rational state policies; and that the West Virginia con-  
54 stitution requires two senators to be elected from each  
55 senatorial district for terms of four years each, one  
56 such senator being elected every two years, with one  
57 half of the senators being elected biennially, and re-  
58 quires senatorial districts to be compact, formed of  
59 contiguous territory and bounded by county lines. The  
60 Legislature finds and declares that it is not possible to  
61 divide the state into senatorial districts so as to achieve  
62 equality of population as near as is practicable as re-  
63 quired by the United States supreme court and other  
64 federal courts and at the same time adhere to all of  
65 these provisions of the West Virginia constitution; but  
66 that, in an effort to adhere as closely as possible to all

67 of these provisions of the West Virginia constitution,  
68 the Legislature, in dividing the state into senatorial  
69 districts, as described and constituted in subsection (d)  
70 hereof, has:

71 (1) Adhered to the equality of population concept,  
72 while at the same time recognizing that from the for-  
73 mation of this state in the year one thousand eight  
74 hundred sixty-three, each constitution of West Virginia  
75 and the statutes enacted by the Legislature have rec-  
76 ognized political subdivision lines and many functions,  
77 policies and programs of government have been imple-  
78 mented along political subdivision lines;

79 (2) Made the senatorial districts as compact as pos-  
80 sible, consistent with the equality of population con-  
81 cept;

82 (3) Formed the senatorial districts of "contiguous  
83 territory" as that term has been construed and ap-  
84 plied by the West Virginia supreme court of appeals;

85 (4) Deviated from the long-established state policy,  
86 recognized in (1) above, by crossing county lines only  
87 when necessary to insure that all senatorial dis-  
88 tricts were formed of contiguous territory or when  
89 adherence to county lines produced unacceptable pop-  
90 ulation inequalities and only to the extent necessary  
91 in order to maintain contiguity of territory and to achieve  
92 acceptable equality of population;

93 (5) When crossing county lines; adhered, whenever  
94 possible, in furtherance of the long-established state  
95 policy, recognized in (1) above, to the boundary  
96 lines of magisterial districts, tax districts or municipal  
97 corporations; and

98 (6) Also taken into account in crossing county lines,  
99 to the extent feasible, the community of interests of the  
100 people involved.

101 (d) In view of the fact that persons have already  
102 filed their certificates of candidacy for nomination and  
103 election to the Senate at the primary and general elec-  
104 tions to be held in the year one thousand nine hun-  
105 dred seventy-six, from the senatorial districts de-  
106 scribed and constituted by chapter one, acts of the

107 Legislature, first extraordinary session, one thousand  
108 nine hundred sixty-four, and in view of the fact that  
109 it was not possible to declare the new senatorial dis-  
110 tricts prior to the closing date for the filing of certificates  
111 of candidacy with respect to such elections or in time  
112 for the holding of such elections without interruption  
113 of the orderly procedures established therefor, the  
114 senatorial districts hereinafter in this subsection de-  
115 scribed and constituted are hereby declared as of the  
116 first day of January, one thousand nine hundred seventy-  
117 seven. On and after that date, the Senate shall be com-  
118 posed of thirty-four senators, one senator to be elected  
119 at the general election to be held in the year one  
120 thousand nine hundred seventy-eight and biennially  
121 thereafter for a four-year term from each of the sen-  
122 atorial districts hereinafter in this subsection described  
123 and constituted as follows:

124 (1) The counties of Brooke and Hancock and the  
125 magisterial districts of Liberty, Richland and Triadel-  
126 phia of the county of Ohio and census tract nineteen  
127 of the magisterial district of Ritchie of the county  
128 of Ohio shall constitute the first senatorial district;

129 (2) The counties of Doddridge, Marshall, Ritchie,  
130 Tyler and Wetzel and that portion of the county  
131 of Ohio not included in the first senatorial district shall  
132 constitute the second senatorial district;

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

135 (4) The counties of Jackson, Mason, Putnam and  
136 Roane and the magisterial district of Grant of the county  
137 of Cabell shall constitute the fourth senatorial dis-  
138 trict;

139 (5) That portion of the county of Cabell not in-  
140 cluded in the fourth senatorial district, enumeration  
141 districts one, two, three, four and five of the magis-  
142 terial district of Westmoreland of the county of Wayne,  
143 and enumeration districts fifteen, sixteen, seventeen,  
144 eighteen, nineteen, twenty and twenty-one of the mag-  
145 isterial district of Ceredo of the county of Wayne shall  
146 constitute the fifth senatorial district;

147 (6) The county of Mingo, that portion of the  
148 county of Wayne not included in the fifth or seventh  
149 senatorial districts, and that portion of the county of  
150 McDowell not included in the tenth senatorial district  
151 shall constitute the sixth senatorial district;

152 (7) The counties of Boone, Lincoln and Logan and  
153 the magisterial districts of Stonewall and Union of  
154 the county of Wayne shall constitute the seventh sen-  
155 atorial district;

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

158 (9) The counties of Raleigh and Wyoming shall con-  
159 stitute the ninth senatorial district;

160 (10) The counties of Mercer, Monroe and Summers,  
161 and the magisterial districts of Elkhorn and North-  
162 fork of the county of McDowell shall constitute the tenth  
163 senatorial district;

164 (11) The counties of Clay, Fayette and Greenbrier  
165 and the magisterial district of Jefferson of the county  
166 of Nicholas shall constitute the eleventh senatorial  
167 district;

168 (12) The counties of Braxton, Gilmer, Pendleton,  
169 Pocahontas, Randolph and Webster and that portion  
170 of the county of Nicholas not included in the eleventh  
171 senatorial district shall constitute the twelfth senatorial  
172 district;

173 (13) The counties of Harrison and Lewis and the  
174 magisterial district of Mannington of the county of  
175 Marion shall constitute the thirteenth senatorial dis-  
176 trict;

177 (14) That portion of the county of Marion not in-  
178 cluded in the thirteenth senatorial district and that  
179 portion of the county of Monongalia not included in  
180 the fifteenth senatorial district shall constitute the four-  
181 teenth senatorial district;

182 (15) The counties of Barbour, Grant, Preston, Tay-  
183 lor, Tucker and Upshur, and the magisterial district  
184 of Clinton of the county of Monongalia and enumera-  
185 tion districts thirty-three, thirty-four, thirty-five-a,

186 thirty-five-b, thirty-six and thirty-seven of the magis-  
187 terial district of Morgan of the county of Monongalia  
188 shall constitute the fifteenth senatorial district;

189 (16) The counties of Berkeley, Hampshire, Hardy,  
190 Jefferson, Mineral and Morgan shall constitute the six-  
191 teenth senatorial district; and

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

194 (e) The West Virginia constitution further provides,  
195 in section four, article six thereof, that where a  
196 senatorial district is composed of more than one  
197 county, both senators for such district shall not be  
198 chosen from the same county, a residency dispersal  
199 provision which is clear with respect to senatorial dis-  
200 tricts which follow county lines, as required by such  
201 constitution, but which is not clear in application with  
202 respect to senatorial districts which cross county  
203 lines. However, in an effort to adhere as closely  
204 as possible to the West Virginia constitution in this  
205 regard, the following additional provisions, in further-  
206 ance of the rationale of such residency dispersal pro-  
207 vision and to give meaning and effect thereto, are hereby  
208 established:

209 (1) With respect to a senatorial district which is  
210 composed of one or more whole counties and one or  
211 more parts of another county or counties, no more than  
212 one senator shall be chosen from the same county or  
213 part of a county to represent such senatorial dis-  
214 trict;

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

220 (3) With respect to superimposed senatorial dis-  
221 tricts which contain only one whole county, all senators  
222 shall be chosen from such county to represent such sen-  
223 atorial districts.

224 (f) Candidates for the Senate shall be nominated as  
225 provided in section four, article five, chapter three of



226 this code, except that such candidates shall be nom-  
227 inated in accordance with the residency dispersal pro-  
228 visions specified in section four, article six of the West  
229 Virginia constitution and the additional residency dis-  
230 persal provisions specified in subsection (e) hereof.  
231 Candidates for the Senate shall also be elected in ac-  
232 cordance with the residency dispersal provisions speci-  
233 fied in said section four, article six of the West Vir-  
234 ginia constitution and the additional residency dispersal  
235 provisions specified in subsection (e) hereof. In further-  
236 ance of the foregoing provisions of this subsection (f),  
237 no person may file a certificate of candidacy for elec-  
238 tion from a senatorial district described and constituted  
239 in subsection (d) hereof if he resides in the same county  
240 and the same such senatorial district wherein also  
241 resides an incumbent senator, whether the senatorial  
242 district wherein such incumbent senator resides was  
243 described and constituted by chapter one, acts of the  
244 Legislature, first extraordinary session, one thousand  
245 nine hundred sixty-four or was described and consti-  
246 tuted in subsection (d) hereof. Any vacancy in a nom-  
247 ination shall be filled, any appointment to fill a vacancy  
248 in the Senate shall be made, and any candidates in an  
249 election to fill a vacancy in the Senate shall be chosen,  
250 so as to be consistent with the residency dispersal  
251 provisions specified in section four, article six of the  
252 West Virginia constitution and the additional resi-  
253 dency dispersal provisions specified in subsection (e)  
254 hereof.

255 (g) Regardless of the changes in senatorial district  
256 boundaries made by the provisions of subsection (d)  
257 hereof, all senators elected at the general election held  
258 in the year one thousand nine hundred seventy-four  
259 and at the general election held in the year one thou-  
260 sand nine hundred seventy-six shall continue to hold  
261 their seats as members of the Senate for the term,  
262 and as representatives of the senatorial district, for  
263 which each thereof, respectively, was elected. Any  
264 appointment made or election held to fill a vacancy  
265 in the Senate shall be for the remainder of the term,  
266 and as a representative of the senatorial district, for

267 which the vacating senator was elected or appointed,  
268 and any such election shall be held in the district as  
269 the same was described and constituted at the time the  
270 vacating senator was elected or appointed.

271 (h) Notwithstanding the provisions of sections five  
272 and seven, article one, chapter three of this code, if  
273 an election precinct of this state contains territory in-  
274 cluded within more than one senatorial district (other  
275 than a superimposed senatorial district), as such sen-  
276 atorial districts are described and constituted by  
277 subsection (d) hereof, it shall be the duty of the county  
278 commission of the county in which such precinct is  
279 located to alter the boundary lines of the county's elec-  
280 tion precincts prior to the first day of January, one  
281 thousand nine hundred seventy-eight, so that no elec-  
282 tion precinct contains territory which is included within  
283 more than one such senatorial district.

284 (i) Notwithstanding the provisions of section nine,  
285 article one, chapter three of this code, persons elected  
286 to senatorial district political party executive commit-  
287 tees at the primary election held in the year one thou-  
288 sand nine hundred seventy-four, as well as persons  
289 appointed to fill vacancies in such committees, shall  
290 continue to hold such positions until the first day of  
291 December, one thousand nine hundred seventy-eight,  
292 for the purpose of filling vacancies in nomination for  
293 senator and for the purpose of submitting names to  
294 the governor to fill vacancies in the Senate, when such  
295 vacancies exist with respect to senatorial districts de-  
296 scribed and constituted by chapter one, acts of the  
297 Legislature, first extraordinary session, one thousand  
298 nine hundred sixty-four. For the purpose of filling  
299 vacancies in nomination and vacancies in office when  
300 such vacancies exist with respect to senatorial districts  
301 described and constituted by subsection (d) hereof, new  
302 and additional senatorial district political party execu-  
303 tive committees are constituted as follows: At the  
304 primary election to be held in the year one thousand  
305 nine hundred seventy-eight and in every fourth year  
306 subsequent to that primary election, the voters of each  
307 political party in each senatorial district, as such dis-

308 tricts are described and constituted by subsection  
309 (d) hereof, shall elect two male and two female  
310 persons to membership in the senatorial district execu-  
311 tive committee created pursuant to this subsection. All  
312 members of such executive committees so elected shall  
313 reside within the senatorial district from which they  
314 are chosen, and the terms of such members shall begin  
315 on the first day of June, following the primary election  
316 at which they are chosen, and shall continue for four  
317 years and until their successors are elected or appointed  
318 and qualified. Vacancies in senatorial district executive  
319 committees shall be filled by the state chairman of  
320 the political party executive committee concerned, but  
321 the person filling the vacancy must be a resident of  
322 the senatorial district involved. As soon as possible  
323 after the first day of June, following the election of  
324 the new executive committees, as herein provided, such  
325 committees shall convene within their respective sen-  
326 atorial districts on the call of any member of the  
327 new executive committee and proceed to select a  
328 chairman, a secretary, and such other officers as they  
329 may desire, each of which officers shall, for their re-  
330 spective committees, perform the duties which usually  
331 appertain to such positions. The provisions of this sub-  
332 section (i) shall govern and control notwithstanding  
333 the provisions of section nine, article one, chapter three  
334 of this code.

335 (j) The secretary of state may promulgate rules  
336 and regulations to implement the provisions of this sec-  
337 tion, including emergency rules and regulations pro-  
338 mulgated pursuant to the provisions of section five,  
339 article three, chapter twenty-nine-a of this code.

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

*James L. Davis*

Chairman Senate Committee

*Clarence C. Chestnut Jr.*

Chairman House Committee

Originated in the Senate.

To take effect January 1, 1977.

*J. C. Dillon, Jr.*

Clerk of the Senate

*W. Blankenship*

Clerk of the House of Delegates

*W. B. Johnston*

President of the Senate

*Lewis J. McManus*

Speaker House of Delegates

The within *approved* this the *29th* day of *March*, 1976

*Arch A. Moore Jr.*

Governor



PRESENTED TO THE  
GOVERNOR

Date 3/24/76

Time 3:45 p.m.