WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

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ENROLLED

SENATE BILL NO. 51

(By Senator Wooton, et al.)

PASSED March 1, 1993

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 apportionment of the Senate; and making technical corrections to senatorial districts to reflect the intent of the Legislature in its original reenactment of this section in one thousand nine hundred ninety-one.

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 1991".

3 (b) As used in this section:

4 (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 ninety, notwithstanding any boundary changes thereof made subsequent thereto;
(2) "Block", "block group", "census tract" and
"voting district" mean those geographic areas as
defined by the bureau of the census of the United
States department of commerce for the taking of the
one thousand nine hundred ninety census of popula-
tion and described on census maps prepared by the
bureau of the census. Such maps are, at the time of
this enactment, maintained by the bureau of the
census and filed in the office of legislative services;

(3) "Magisterial district" means the territory com-
prising a magisterial district of this state as reported to
and used by the bureau of the census of the United
States department of commerce for the taking of the
one thousand nine hundred ninety census of popula-
tion and described on census maps prepared by the
bureau of the census; and

(4) "Incumbent senator" means a senator elected at
the general election held in the year one thousand
nine hundred ninety or at any general election there-
after, with an unexpired term of at least two years in
duration.

(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 constitu-
tion 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 justi-
fied 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, 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 subdivision (1) above, by crossing county lines only when necessary to ensure 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; and

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

(d) 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 ninety-two, 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 all of magisterial District One of Ohio county and voting district EP 9, voting district EP 20, voting district EP 28, voting district EP 31, voting district EP 113, voting district EP 115, voting district EP 116, voting district EP 119, voting district EP 120, Block 302D and Block 320 of Block Group 3 in Census Tract 0002 contained in voting district EP 24, Block 405B, Block 422 and Block 498B of Block Group 4 in Census Tract 0002 contained in voting district EP 24, Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114 and Block 116 of Block Group 1 in Census Tract 0004 contained in voting district EP 24, Block 201 of Block Group 2 in Census Tract 0004 contained in voting district EP 24, Block 105, Block 106, Block 107, Block 109A and Block 110A of Block Group 1 in Census Tract 0014 contained in voting district EP 43, Block 209A, Block 210, Block 211 and Block 212 of Block Group 2 in Census Tract 0014 contained in voting district EP 43, and Block 327, Block 328 and Block 329 of Block Group 3 in Census Tract 0015 contained in voting district EP 43 of magisterial District Two of Ohio county, and all of magisterial District Three of Ohio county except voting district EP 87, voting district EP 95, voting district EP 100, voting district EP 103 and voting district EP 104 shall constitute the first senatorial district;

(2) The counties of Doddridge, Marshall, Ritchie, Tyler, Wetzel and that portion of the county of Ohio not included in the first senatorial district and voting district EP 56, voting district EP 70, voting district EP 72, voting district EP 74 and voting district EP 78 of the West Augusta magisterial district of the county of Marion 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 shall constitute the fourth senatorial district;

(5) The county of Cabell and voting district EP 12, voting district VTD 101, Block 103 of Block Group 1 in Census Tract 0202 contained in voting district EP 11, Block 199B of Block Group 1 in Census Tract 0202 contained in voting district EP 59, and Block 101B and Block 199E of Block Group 1 in Census Tract 0202 contained in voting district EP 21 in the Ceredo magisterial district, and that portion of voting district EP 59, voting district EP 63 and Block 101, Block 102, Block 103, Block 104 and Block 105 of Block Group 1 in Census Tract 0051 contained in voting district EP 60 in the Westmoreland magisterial district of the county of Wayne shall constitute the fifth senatorial district;

voting district EP 11, Block 210A and Block 211A of Block Group 2 in Census Tract 0201 contained in voting district EP 11, Block 102, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121 and Block 199A of Block Group 1 in Census Tract 0202 contained in voting district EP 11, Block 225 and Block 226 of Block Group 2 in Census Tract 0202 contained in voting district EP 11, and Block 218A of Block Group 2 in Census Tract 0203 contained in voting district EP 11, and Block 101A, Block 102A, Block 103, Block 104, Block 120A, Block 122A, Block 122B, Block 124A, Block 156, Block 157 and Block 199A of Block Group 1 in Census Tract 0204 contained in voting district EP 11, voting district EP 16, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113B, Block 114, Block 115, Block 116, Block 117, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124 and Block 134 of Block Group 1 in Census Tract 0203 contained in voting district EP 21, Block 401, Block 402, Block 417 and Block 418 of Block Group 4 in Census Tract 0203 contained in voting district EP 21 of the Ceredo magisterial district in the county of Wayne, and voting district EP 30, voting district EP 31, voting district EP 34, voting district EP 36, voting district EP 37, and that portion of voting district EP 3 of the Stonewall magisterial district in the county of Wayne, and voting district EP 318 of Block Group 3 in Census Tract 0206 contained in voting district EP 53, Block 144 and Block 145 of Block Group 1 in Census Tract 0207 contained in voting district EP 53, Block 255B of Block Group 2 in Census Tract 0207 contained in voting district EP 53, Block 464B of Block Group 4 in Census Tract 0206 contained in voting district EP 54, and Block 319B, Block 315B and Block 314B of Block Group 3 in Census Tract 0209 contained in voting district EP 54 of the Union magisterial district in the county of Wayne, and

(7) The counties of Boone, Lincoln and Logan and that portion of the county of Wayne not included in the fifth or sixth senatorial districts 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 Monroe and Summers and that portion of the county of Mercer not included in the sixth senatorial district, and voting district EP 68, voting district EP 72 and voting district EP 74 of the New Haven magisterial district of Fayette county, and voting district EP 3, voting district EP 4, voting district EP 5, voting district EP 9, voting district EP 10, voting district EP 11, voting district EP 12, voting district EP 14, voting district EP 19, voting district EP 23, voting district EP 24, Block 226A, Block 228A, Block 229 and Block 230 of Block Group 2 in Census Tract 0202 contained in voting district EP 8, Block 312A, Block 312B, Block 312C, Block 317A, Block 317B, Block 318, Block 319, Block 320A, Block 320B, Block 321, Block 322A, Block 322B, Block 323, Block 324, Block 325, Block 326, Block 327 and Block 328 of Block Group 3 in Census Tract 0202 contained in voting district EP 8, Block 401A, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414A, Block 415, Block 416 and Block 417 of Block Group 4 in Census Tract 0202 contained in voting district EP 8, Block 536, Block 539, Block 540, Block 541, Block 542, Block 543, Block 544, Block 545, Block 546, Block 547, Block 548, Block 552, Block 553, Block 554 and Block 555 of Block Group 5 in Census Tract 0202 contained in voting district EP 8, Block 330,
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253 Block 331, Block 334, Block 335, Block 337, Block 338, Block 339, Block 340, Block 342, Block 343, Block 344, Block 345, Block 346 and Block 347 of Block Group 3 in Census Tract 0203 contained in voting district EP 13, Block 101A, Block 101B, Block 102A, Block 102B, Block 103, Block 104, Block 105, Block 106, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 116, Block 117, Block 119, Block 120, Block 121A, Block 121B, Block 122, Block 123A, Block 123B, Block 124A, Block 124B, Block 125A, Block 126, Block 127 and Block 128 of Block Group 1 in Census Tract 0204 contained in voting district EP 13, Block 501A, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523A, Block 524, Block 525A, Block 526, Block 527A, Block 528A, Block 528B, Block 529A, Block 532, Block 534A, Block 535, Block 537, Block 538, Block 549, Block 550 and Block 551 of Block Group 5 in Census Tract 0202 contained in voting district EP 15, Block 601A of Block Group 6 in Census Tract 0202 contained in voting district EP 15, Block 307, Block 309A, Block 309B and Block 315 of Block Group 3 in Census Tract 0206 contained in voting district EP 18 of the Plateau magisterial district of Fayette county shall constitute the tenth senatorial district;

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

(12) The counties of Braxton, Gilmer, Harrison and Lewis shall constitute the twelfth senatorial district;

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district EP 73, voting district EP 74, voting district EP 75 and Block 301B, Block 302B and Block 399B of Block
Group 3 in Census Tract 0112 contained in voting
district EP 48, Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413A, Block 413B, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425 and Block 499 of Block Group
4 in Census Tract 0112 contained in voting district EP 48, Block 501B, Block 502A, Block 502B, Block 502C, Block 503A, Block 503B, Block 503C, Block 504A, Block 504B, Block 505A, Block 505B, Block 506, Block 507A, Block 507B, Block 508, Block 509A, Block 509B, Block 510, Block 511, Block 512, Block 513, Block 514A, Block 514B, Block 515A, Block 515B, Block 516A, Block 516B, Block 517, Block 518, Block 519A, Block 519B, Block 520A, Block 520B, Block 521A and Block 521B of Block
Group 5 in Census Tract 0112 contained in voting
district EP 48, Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 355A, Block 355B, Block 357A, Block 357B, Block 358, Block 360, Block 362 and Block 399 of Block Group 3 in Census Tract 0115
contained in voting district EP 48 of the Western
magisterial district of Monongalia county, and that
portion of voting district EP 22, that portion of voting
district EP 91, Block 418B, Block 419C, Block 419D and Block 421B of Block Group 4 in Census Tract 0108
contained in voting district EP 35, Block 101D, Block 102, Block 103, Block 105 and Block 110 of Block Group
336 1 in Census Tract 0109 contained in voting district EP
337 35, Block 731B, Block 732B, Block 733 and Block 734B
338 of Block Group 7 in Census Tract 0109 contained in
339 voting district EP 35, Block 801C, Block 802, Block 803,
340 Block 804, Block 805, Block 806B, Block 807, Block 811,
341 Block 812 and Block 813 of Block Group 8 in Census
342 Tract 0109 contained in voting district EP 35, Block
343 315B of Block Group 3 in Census Tract 0110 contained
344 in voting district EP 35, Block 599A of Block Group 5
345 in Census Tract 0116 contained in voting district EP 79,
346 Block 126, Block 127, Block 128, Block 132, Block 133,
347 Block 134, Block 135, Block 136, Block 137A, Block 137B,
348 Block 138, Block 139, Block 140, Block 141, Block 142,
349 Block 143, Block 144, Block 145, Block 146, Block 147,
350 Block 148, Block 149, Block 150, Block 151, Block 152,
351 Block 153, Block 154, Block 155, Block 156A, Block 156B,
352 Block 157, Block 158, Block 159, Block 160, Block 161,
353 Block 162, Block 163, Block 164, Block 165, Block 166,
354 Block 167, Block 168, Block 169, Block 170, Block 171,
355 Block 172, Block 173, Block 174, Block 175, Block 176,
356 Block 177, Block 178, Block 179, Block 180, Block 181,
357 Block 182, Block 183, Block 184, Block 185, Block 186,
358 Block 187, Block 199A, Block 199B, Block 199F, Block
359 199G, Block 199H and Block 199J of Block Group 1 in
360 Census Tract 0117 contained in voting district EP 79,
361 Block 613B of Block Group 6 in Census Tract 0110
362 contained in voting district EP 85, and Block 701, Block
363 702B and Block 703 of Block Group 7 in Census Tract
364 0110 contained in voting district EP 85 of the Eastern
365 magisterial district of Monongalia county shall consti-
366 tute the thirteenth senatorial district;
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368 (14) The counties of Barbour, Preston, Taylor and
369 Tucker and that portion of the county of Monongalia
370 not included in the thirteenth senatorial district, and
371 all of the Union magisterial district of Grant county,
372 and all of magisterial District Two of Mineral county,
373 and voting district EP 2, voting district EP 3, voting
374 district EP 4, voting district EP 6, voting district EP 8,
375 voting district EP 27, voting district EP 28, voting
377 31, voting district EP 35 and that portion of voting
district EP 5 in magisterial District One of Mineral
(15) The counties of Hampshire, Hardy, Randolph, Pendleton, Pocahontas and Upshur and that portion of the county of Grant not included in the fourteenth senatorial district, and that portion of the county of Mineral county not included in the fourteenth senatorial district shall constitute the fifteenth senatorial district;

(16) The counties of Berkeley, Jefferson 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 VI 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 senator-
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 nomi-
nated in accordance with the residency dispersal
provisions specified in section four, article VI 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 VI 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, no person may file a certificate of candi-
dacy for election from a senatorial district described
and constituted in subsection (d) hereof if he or she
resides in the same county and the same such sena-
torial district wherein also resides an incumbent senator,
whether the senatorial district wherein such incum-
bent senator resides was described and constituted by
chapter ninety-nine, acts of the Legislature, one
thousand nine hundred eighty-two, or was described
and constituted in subsection (d) of this section or its
immediately prior reenactment. Any vacancy in a
nomination shall be filled, any appointment to fill a
vacancy in the Senate shall be made, and any candi-
dates 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 VI
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 eighty-eight and at the general election held in the year one thousand nine hundred ninety 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) 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.

(i) In amending and reenacting this section, it is not the intention of the Legislature to alter or change the arrangement of the senatorial districts and the apportionment of senators as they were intended to be adopted in the prior enactment of this section subsequent to the United States census for the year one thousand nine hundred ninety, nor does this reenactment alter or change such arrangement and apportionment. Rather, it is the intent of the Legislature in amending this section to incorporate all the necessary geographic areas which should have been included in each senatorial district, such amendment being the inclusion of two voting districts which were inadvertently omitted from one senatorial district, which inclusion does not alter or change the boundaries of that district.
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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill was approved this the 9th day of March, 1993.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/4/93
Time 2:40 PM