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H. B. 2698

(By Delegate Kump)

[Introduced January 21, 2011; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §1-3-3 of the Code of West Virginia, 1931, as amended, relating to the state and its subdivisions; creation of new county; change in line; requiring a nonbinding referendum in the counties of Morgan, Berkeley and Jefferson to determine their desire to secede from West Virginia and become a part of Virginia; and providing procedures for the election.

Be it enacted by the Legislature of West Virginia:

That §1-3-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CREATION OF NEW COUNTY; CHANGE IN COUNTY LINE.

§1-3-3. Submission of question of creation of new county to voters; copies of surveys, census and declaration of result of election; nonbinding referendum for counties

1 **of Morgan, Berkeley and Jefferson to secede from West**
2 **Virginia.**

3 (a) If it appear, by such surveys and census, that there are
4 within the limits of the proposed new county at least four hundred
5 square miles of territory and at least six thousand population, and
6 that no county is thereby reduced below four hundred square miles
7 of territory or below six thousand population, and that no part of
8 any county having a population of not more than six thousand, or a
9 territory of not more than four hundred square miles, is included
10 within ~~such~~ the proposed new county, the county ~~court~~ commission
11 or county council of each of the counties from which ~~such~~ the new
12 county is proposed to be taken shall order a vote of the qualified
13 voters of ~~such~~ the county within the lines of ~~such~~ the proposed new
14 county to be taken on a day named for the purpose, which shall be
15 on the same day in each county and on the fourth Tuesday after the
16 day of the return of ~~such~~ the reports and census to the county
17 ~~court~~ commission or county council of the county where ~~such~~ the
18 reports and census are returned last, at each place of voting
19 within the lines of ~~such~~ the proposed new county, or, if there be
20 no place of voting therein, at such place or places therein as the
21 ~~court~~ commission or county council may direct, of which time and
22 place a notice shall be posted by the sheriff of each of ~~such~~ the
23 counties at each place of voting therein as provided by such order,
24 at least fifteen days before ~~such~~ the election. The ~~court~~
25 commission or county council shall, at the same time, appoint

1 commissioners of election for each of ~~such~~ the places of voting,
2 and all the laws relating to a general election shall, as far as
3 applicable, govern and control the holding of ~~such~~ the election at
4 the several places of voting, the ascertaining of the result
5 thereof at each of ~~such~~ the places and the returns thereof, and the
6 declaring of the general result of ~~such~~ the election at all the
7 places of voting in each of ~~such~~ the counties. The ballots used at
8 ~~such~~ the election shall have printed on them the words "For new
9 county," and "Against new county." And ~~it shall be the duty of the~~
10 clerk of the county ~~court~~ commission or county council of each of
11 ~~such~~ the counties ~~to~~ shall deliver to any person who may demand the
12 same, and pay or tender his or her legal fees therefor, copies of
13 ~~such~~ the surveys, census and declaration of the result of ~~such~~ the
14 election in his or her county, duly certified by him or her to be
15 true copies. The fees for ~~such~~ the copies shall be the same as are
16 allowed by law for other copying done by ~~such~~ the clerk.

17 (b) Notwithstanding any other provision of law to the
18 contrary, the converse of the provisions of subsection (a) of this
19 section shall apply to the counties of Morgan, Berkeley and
20 Jefferson, with regard to the question of seceding from West
21 Virginia. The county commission or county council of each of the
22 three counties shall order a nonbinding referendum vote of the
23 qualified voters of those counties to be taken on a day named for
24 the purpose, which shall be on the same day in each county at such
25 place or places therein as the commission or county council of each

1 of the three counties may direct. The time and place a notice shall
2 be published prior to the election as a Class II-0 legal
3 advertisement in compliance with the provisions of article three,
4 chapter fifty-nine of this code and the publication area for the
5 publication is each of the three counties. The commission or
6 county council of each of these three counties shall, at the same
7 time, appoint commissioners of election for each of the three
8 counties of voting, and all the laws relating to a general election
9 shall, as far as applicable, govern and control the holding of the
10 election at the several places of voting, the ascertaining of the
11 result thereof at each of the three counties and the returns
12 thereof, and the declaring of the general result of the election at
13 all the places of voting in each of the three counties. The
14 ballots used at the nonbinding referendum election shall have
15 printed on them the words "For secession from West Virginia to
16 become a part of Virginia," and "Against new secession from West
17 Virginia to become a part of provision." The clerk of the county
18 commission or county council of each of the counties shall deliver
19 to any person who may demand copies of the result of the election
20 in his or her county, duly certified by him or her to be true
21 copies, and pay or tender his or her legal fees this information.
22 The fees for the copies shall be the same as are allowed by law for
23 other copying done by the clerk.

NOTE: The purpose of this bill is to requiring a nonbinding referendum in the counties of Morgan, Berkeley and Jefferson to determine their desire to secede from West Virginia and become a part of Virginia.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.