



State of West Virginia

Joe Manchin III

Governor

Office of the Governor
State Capitol
1900 Kanawha Boulevard, East
Charleston, WV 25305

Telephone: (304) 558-2000
Toll Free: 1-888-438-2731
FAX: (304) 342-7025
www.wv.gov

July 7, 2010

The Honorable Darrell V. McGraw, Jr.
Attorney General
State of West Virginia
State Capitol
Charleston, West Virginia 25305

Dear General McGraw:

The untimely passing of the great United States Senator Robert C. Byrd on June 28, 2010, created a vacancy in our State's representation in the United States Senate.

As Governor, I believe I am duty bound under the provisions of the United States Constitution and the West Virginia Code to temporarily appoint someone to fill the vacancy created by Senator Byrd's death until a successor is chosen by the people of this State at a special election held for that purpose.

The issue of when such an election may lawfully occur raises questions of law that, when examined by persons of sound legal training and experience, may be answered in a way that reasonably calls into question the constitutionality or legislative intent of the law.

That is why I am submitting for your timely consideration the following questions of law:

- (1) Is the Governor of West Virginia legally authorized to proclaim a special election to fill the remainder of the unexpired term in the United States Senate created by the untimely passing of the great United States Senator Robert C. Byrd?
- (2) If the answer to question number one is "yes," when may such special election, as proclaimed by the Governor, lawfully occur?

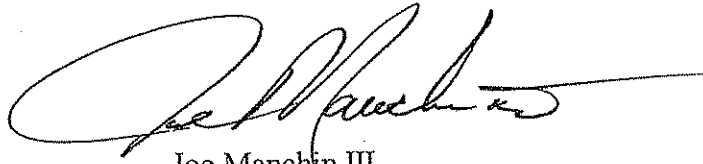
OFFICE OF THE GOVERNOR

The Honorable Darrell V. McGraw, Jr.
July 7, 2010
Page Two

- (3) If the answer to question number two is that a special election may occur prior to the election cycle set forth in law for the year 2012, what law governs the conduct of such special election, especially with regard to election procedures, nominations, filing deadlines, campaign finance, etc.?

Pursuant to the provisions of section one, article three, chapter five of the West Virginia Code, I respectfully request your written opinion and advice upon these questions of law.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Joe Manchin III", with a long horizontal flourish extending to the right.

Joe Manchin III
Governor