

H. B. 2488

(By Delegates Sobonya, Sumner, C. Miller,
Rowan, Duke and Ellem)

[Introduced January 14, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend said code by adding thereto two new sections, designated §3-5-6a and §3-5-6b; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend said code by adding thereto a new section, designated §3-6-2a; and to amend and reenact §51-2-1 of said code, all relating to the nonpartisan elections of justices of the West Virginia Supreme Court of Appeals and circuit court judges; timing and frequency of election; ballot design and printing; separation from partisan ballot; filing announcement of candidacies; withdrawal of announcement of candidacies; refund of paid filing fees; and ballot content.

Be it enacted by the Legislature of West Virginia:

That §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §3-4A-11a of said code

1 be amended and reenacted; that said code be amended by adding
 2 thereto two new sections, designated §3-5-6a and §3-5-6b; that
 3 §3-5-7, §3-5-13 and §3-5-13a of said code be amended and reenacted;
 4 that said code be amended by adding thereto a new section,
 5 designated §3-6-2a; and that §51-2-1 of said code be amended and
 6 reenacted, all to read as follows:

7 **CHAPTER 3. ELECTIONS.**

8 **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

9 **§3-1-16. Election of state officers.**

10 At the general election to be held in 1968, and in every
 11 fourth year thereafter, there shall be elected a Governor,
 12 Secretary of State, Treasurer, Auditor, Attorney General, and
 13 Commissioner of Agriculture. At the general election in 1968, and
 14 in every second year thereafter, there shall be elected a member of
 15 the state Senate for each senatorial district, and a member or
 16 members of the House of Delegates of the state from each county or
 17 each delegate district. At the general election to be held in the
 18 year 1968, and in every twelfth year thereafter, there shall be
 19 elected one ~~judge~~ justice of the Supreme Court of Appeals, and at
 20 the general election to be held in 1972, and in every twelfth year
 21 thereafter, two ~~judges~~ justices of the Supreme Court of Appeals,
 22 and at the general election to be held in 1976, and in every
 23 twelfth year thereafter, two ~~judges~~ justices of the Supreme Court
 24 of Appeals. At the general election to be held in 2012, and in

1 every twelfth year thereafter, there shall be elected one justice
2 of the Supreme Court of Appeals, and at the general election to be
3 held in 2014, and in every twelfth year thereafter, there shall be
4 elected two justices of the Supreme Court of Appeals, and at the
5 general election to be held in 2016, and in every twelfth year
6 thereafter, there shall be elected two justices of the Supreme
7 Court of Appeals. Effective with the general election held in
8 2012, the election of justices of the Supreme Court of Appeals
9 shall be on a nonpartisan basis.

10 **§3-1-17. Election of circuit judges; county and district officers;**
11 **magistrates.**

12 There shall be elected, at the general election to be held in
13 1992, and in every eighth year thereafter, one judge of the circuit
14 court of every judicial circuit entitled to but one judge, and one
15 judge for each numbered division of the judicial circuit in those
16 judicial circuits entitled to two or more circuit judges; and at
17 the general election to be held in 1992, and in every fourth year
18 thereafter, a sheriff, prosecuting attorney, surveyor of lands, and
19 the number of assessors prescribed by law for the county, and the
20 number of magistrates prescribed by law for the county; and at the
21 general election to be held in 1990, and in every second year
22 thereafter, a commissioner of the county commission for each
23 county; and at the general election to be held in 1992, and in
24 every sixth year thereafter, a clerk of the county commission and

1 a clerk of the circuit court for each county. Effective with the
2 general election of 2012, all elections for circuit court judges in
3 the respective circuits will be elected on a nonpartisan basis.

4 **ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

5 **§3-4A-11a. Ballots tabulated electronically; arrangement,**
6 **quantity to be printed, ballot stub numbers.**

7 (a) The board of ballot commissioners in counties using
8 ballots upon which votes may be recorded by means of marking with
9 electronically sensible ink or pencil and which marks are tabulated
10 electronically shall cause the ballots to be printed or displayed
11 upon the screens of the electronic voting system for use in
12 elections.

13 (b) (1) For the primary election, the heading of the ballot,
14 the type faces, the names and arrangement of offices and the
15 printing of names and arrangement of candidates within each office
16 are to conform as nearly as possible to ~~the provisions of~~ sections
17 thirteen and thirteen-a, article five of this chapter.

18 (2) For the general election, the heading of the ballot, the
19 straight ticket positions, the instructions to straight ticket
20 voters, the type faces, the names and arrangement of offices and
21 the printing of names and the arrangement of candidates within each
22 office are to conform as nearly as possible to the provisions of
23 section two, article six of this chapter, except as otherwise
24 provided in this article.

1 (3) Nonpartisan elections for board of education and effective
2 with the general election held in 2012 and thereafter for the
3 nonpartisan office of justice of the Supreme Court of Appeals and
4 all elections of the nonpartisan office of circuit court judge,
5 and any question to be voted upon are to be separated from the
6 partisan ballot and separately headed in display type with a title
7 clearly identifying the purpose of the election and constituting a
8 separate ballot wherever a separate ballot is required under ~~the~~
9 ~~provisions of~~ this chapter.

10 (4) Both the face and the reverse side of the ballot may
11 contain the names of candidates only if means to ensure the secrecy
12 of the ballot are provided and lines for the signatures of the poll
13 clerks on the ballot are printed on a portion of the ballot which
14 is deposited in the ballot box and upon which marks do not
15 interfere with the proper tabulation of the votes.

16 (5) The arrangement of candidates within each office is to be
17 determined in the same manner as for other electronic voting
18 systems, as prescribed in this chapter. On the general election
19 ballot for all offices, and on the primary election ballot only for
20 those offices to be filled by election, except delegate to national
21 convention, lines for entering write-in votes are to be provided
22 below the names of candidates for each office, and the number of
23 lines provided for any office shall equal the number of persons to
24 be elected, or three, whichever is fewer. The words "WRITE-IN, IF

1 ANY" are to be printed, where applicable, directly under each line
2 for write-ins. The lines are to be opposite a position to mark the
3 vote.

4 (c) Except for electronic voting systems that utilize screens
5 upon which votes may be recorded by means of a stylus or by means
6 of touch, the primary election ballots are to be printed in the
7 color of ink specified by the Secretary of State for the various
8 political parties, and the general election ballot is to be printed
9 in black ink. For electronic voting systems that utilize screens
10 upon which votes may be recorded by means of a stylus or by means
11 of touch, the primary ballots and the general election ballot are
12 to be printed in black ink. All ballots are to be printed, where
13 applicable, on white paper suitable for automatic tabulation and
14 are to contain a perforated stub at the top or bottom of the
15 ballot, which is to be numbered sequentially in the same manner as
16 provided in section thirteen, article five of this chapter, or are
17 to be displayed on the screens of the electronic voting system upon
18 which votes are recorded by means of a stylus or touch. The number
19 of ballots printed and the packaging of ballots for the precincts
20 are to conform to the requirements for paper ballots provided in
21 this chapter.

22 (d) In addition to the official ballots, the ballot
23 commissioners shall provide all other materials and equipment
24 necessary to the proper conduct of the election.

1 **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

2 **§3-5-6a. Election of justices of the Supreme Court of Appeals.**

3 (a) An election for the purpose of electing a justice or
4 justices of the Supreme Court of Appeals shall be held on the same
5 date as the general election, as provided by law, but upon a
6 nonpartisan ballot printed for this purpose.

7 (b) In each nonpartisan election for a justice or justices of
8 the Supreme Court of Appeals, the board of canvassers shall declare
9 and certify the election of the required number of eligible
10 candidates receiving the highest numbers of votes to fill any full
11 terms.

12 (c) It is the intent of this section that any person declared
13 to be elected under this section shall take office as a duly
14 elected justice, even though the person received a plurality of all
15 votes cast at such election.

16 (d) In case of a tie vote under this section, section twelve,
17 article six of this chapter controls in breaking the tie.

18 **§3-5-6b. Election of circuit judges.**

19 (a) An election for the purpose of electing a circuit court
20 judge or circuit court judges shall be held on the same date as the
21 general election in their respective circuits, as provided by law,
22 but upon a nonpartisan ballot printed for this purpose.

23 (b) In each nonpartisan election for a circuit court judge or
24 circuit court judges, the board of canvassers shall declare and

1 certify the election of the required number of eligible candidates
2 receiving the highest numbers of votes to fill any full terms.

3 (c) It is the intent of this section that any person declared
4 to be elected under this section shall take office as a duly
5 elected circuit court judge, even though the person received a
6 plurality of all votes cast at the election.

7 (d) In case of a tie vote under this section, section twelve,
8 article six of this chapter controls in breaking the tie.

9 **§3-5-7. Filing announcements of candidacies; requirements;**
10 **withdrawal of candidates when section applicable.**

11 (a) Any person who is eligible and seeks to hold an office or
12 political party position to be filled by election in any primary or
13 general election held under the provisions of this chapter shall
14 file a certificate of announcement declaring his or her candidacy
15 for the nomination or election to the office.

16 (b) The certificate of announcement shall be filed as follows:

17 (1) Candidates for the House of Delegates or the State Senate
18 and any other office or political position to be filled by the
19 voters of more than one county shall file a certificate of
20 announcement with the Secretary of State.

21 (2) Candidates for an office or political position to be
22 filled by the voters of a single county or a subdivision of a
23 county, except for candidates for the House of Delegates or State
24 Senate, shall file a certificate of announcement with the clerk of

1 the county commission.

2 (3) Candidates for an office to be filled by the voters of a
3 municipality shall file a certificate of announcement with the
4 recorder or city clerk.

5 (c) Except for the offices of justice of the Supreme Court of
6 Appeals and circuit court judge, which are to be filled on a
7 nonpartisan basis beginning at the general election held in 2012,
8 the certificate of announcement shall be filed with the proper
9 officer not earlier than the second Monday in January next
10 preceding the primary election day, and not later than the last
11 Saturday in January next preceding the primary election day, and
12 must be received before midnight, eastern standard time, of that
13 day or, if mailed, shall be postmarked by the United States Postal
14 Service before that hour. The offices of justice of the Supreme
15 Court of Appeals and circuit court judge, beginning in 2012 shall
16 be filled on a nonpartisan basis at the general election. The
17 certificate of announcement shall be filed with the authorized
18 election official not later than the second Tuesday in May, and
19 must be received before midnight, eastern standard time, of that
20 day or, if mailed, shall be postmarked by the United States Postal
21 Service before midnight, eastern standard time, of that day. All
22 certificates of announcement for the offices of justice of the
23 Supreme Court of Appeals and circuit court judge, which are filed
24 not earlier than the second Monday in January next preceding the

1 primary election day, and not later than the last Saturday in
2 January next preceding the primary election day, and are received
3 before midnight, eastern standard time, of that day or, if mailed,
4 were postmarked by the United States Postal Service before that
5 hour, may be withdrawn on or before midnight, eastern standard
6 time, of the second Tuesday in May, in accordance with article
7 five, section eleven of this chapter, with a full refund of any
8 filing fees paid or, if not withdrawn, are effective for purposes
9 of the nonpartisan election for the offices to be held on general
10 election day.

11 (d) The certificate of announcement shall be on a form
12 prescribed by the Secretary of State on which the candidate shall
13 make a sworn statement before a notary public or other officer
14 authorized to administer oaths, containing the following
15 information:

16 (1) The date of the election in which the candidate seeks to
17 appear on the ballot;

18 (2) The name of the office sought; the district, if any; and
19 the division, if any;

20 (3) The legal name of the candidate and the exact name the
21 candidate desires to appear on the ballot, subject to limitations
22 prescribed in section thirteen, article five of this chapter;

23 (4) The county of residence and a statement that the candidate
24 is a legally qualified voter of that county; and the magisterial

1 district of residence for candidates elected from magisterial
2 districts or under magisterial district limitations;

3 (5) The specific address designating the location at which the
4 candidate resides at the time of filing, including number and
5 street or rural route and box number and city, state and zip code;

6 (6) For partisan elections, the name of the candidate's
7 political party and a statement that the candidate: (A) Is a
8 member of and affiliated with that political party as evidenced by
9 the candidate's current registration as a voter affiliated with
10 that party; and (B) has not been registered as a voter affiliated
11 with any other political party for a period of sixty days before
12 the date of filing the announcement;

13 (7) For candidates for delegate to national convention, the
14 name of the presidential candidate to be listed on the ballot as
15 the preference of the candidate on the first convention ballot; or
16 a statement that the candidate prefers to remain "uncommitted";

17 (8) A statement that the person filing the certificate of
18 announcement is a candidate for the office in good faith;

19 (9) The words "subscribed and sworn to before me this _____
20 day of _____, 20____" and a space for the signature of the
21 officer giving the oath.

22 (e) The Secretary of State or the board of ballot
23 commissioners, as the case may be, may refuse to certify the
24 candidacy or may remove the certification of the candidacy upon

1 receipt of a certified copy of the voter's registration record of
2 the candidate showing that the candidate was registered as a voter
3 in a party other than the one named in the certificate of
4 announcement during the sixty days immediately preceding the filing
5 of the certificate: *Provided*, That unless a signed formal
6 complaint of violation of this section and the certified copy of
7 the voter's registration record of the candidate are filed with the
8 officer receiving that candidate's certificate of announcement no
9 later than ten days following the close of the filing period, the
10 candidate may not be refused certification for this reason.

11 (f) The certificate of announcement shall be subscribed and
12 sworn to by the candidate before some officer qualified to
13 administer oaths, who shall certify the same. Any person who
14 knowingly provides false information on the certificate is guilty
15 of false swearing and shall be punished in accordance with section
16 three, article nine of this chapter.

17 (g) Any candidate for delegate to a national convention may
18 change his or her statement of presidential preference by notifying
19 the Secretary of State by letter received by the Secretary of State
20 no later than the third Tuesday following the close of candidate
21 filing. When the rules of the political party allow each
22 presidential candidate to approve or reject candidates for delegate
23 to convention who may appear on the ballot as committed to that
24 presidential candidate, the presidential candidate or the

1 candidate's committee on his or her behalf may file a list of
2 approved or rejected candidates for delegate and the Secretary of
3 State shall list as "uncommitted" any candidate for delegate who is
4 disapproved by the presidential candidate.

5 (h) A person may not be a candidate for more than one office
6 or office division at any election. ~~Provided, That~~ However, a
7 candidate for an office may also be a candidate for President of
8 the United States, for membership on political party executive
9 committees or for delegate to a political party national
10 convention.

11 (i) A candidate who files a certificate of announcement for
12 more than one office or division and does not withdraw, as provided
13 by section eleven, article five of this chapter, from all but one
14 office prior to the close of the filing period may not be certified
15 by the Secretary of State or placed on the ballot for any office by
16 the board of ballot commissioners.

17 (j) The provisions of this section enacted during the regular
18 session of the Legislature in the year 1991 shall apply to the
19 primary election held in the year 1992 and every primary election
20 held thereafter. The provisions of this section enacted during the
21 regular session of the Legislature in the year 2009 shall apply to
22 the primary election held in the year 2010 and every primary
23 election held thereafter.

24 **§3-5-13. Form and contents of ballots.**

1 The face of every primary election ballot shall conform as
2 nearly as practicable to that used at the general election.

3 (1) The heading of every ballot is to be printed in display
4 type. The heading is to contain a ballot title, the name of the
5 county, the state, the words "Primary Election" and the month, day
6 and year of the election. The ballot title of the political party
7 ballots is to contain the words "Official Ballot of the (Name)
8 Party" and the official symbol of the political party may be
9 included in the heading. The ballot title of any separate paper
10 ballot or portion of any electronic or voting machine ballot for
11 the board of Education is to contain the words "Nonpartisan Ballot
12 of Election of Members of the _____ County Board of
13 Education". The districts for which less than two candidates may
14 be elected and the number of available seats are to be specified
15 and the names of the candidates are to be printed without reference
16 to political party affiliation and without designation as to a
17 particular term of office. The ballot title of any separate paper
18 ballot or portion of any electronic or voting machine ballot for
19 the Supreme Court of Appeals shall contain the words "Nonpartisan
20 Ballot of Election of Justice(s) of the Supreme Court of Appeals of
21 West Virginia." The names of the candidates for the Supreme Court
22 of Appeals shall be printed without references to political party
23 affiliation or registration. The ballot title of any separate paper
24 ballot or portion of any electronic or voting machine ballot for

1 all circuit court judges in the respective circuits shall contain
2 the words "Nonpartisan Ballot of Election of circuit court
3 Judge(s)." The names of the candidates for the respective circuit
4 court judge office shall be printed without references to political
5 party affiliation or registration. Any other ballot or portion of
6 a ballot on a question is to have a heading which clearly states
7 the purpose of the election according to the statutory requirements
8 for that question.

9 (2) (A) For paper ballots, the heading of the ballot is to be
10 separated from the rest of the ballot by heavy lines and the
11 offices shall be arranged in columns with the following headings,
12 from left to right across the ballot: "National Ticket", "State
13 Ticket", "County Ticket" and, in a presidential election year,
14 "National Convention" or, in a nonpresidential election year,
15 "District Ticket". The columns are to be separated by heavy lines.
16 Within the columns, the offices are to be arranged in the order
17 prescribed in section thirteen-a of this article.

18 (B) For voting machines, electronic voting devices and any
19 ballot tabulated by electronic means, the offices are to appear in
20 the same sequence as prescribed in section thirteen-a of this
21 article and under the same headings as prescribed in subsection (a)
22 of this section. The number of pages, columns or rows, where
23 applicable, may be modified to meet the limitations of ballot size
24 and composition requirements subject to approval by the Secretary

1 of State.

2 (C) The title of each office is to be separated from preceding
3 offices or candidates by a line and is to be printed in bold type
4 no smaller than eight point. Below the office is to be printed the
5 number of the district, if any, the number of the division, if any,
6 and the words "Vote for _____" with the number to be nominated
7 or elected or "Vote For Not More Than _____" in multicandidate
8 elections. For offices in which there are limitations relating to
9 the number of candidates which may be nominated, elected or
10 appointed to or hold office at one time from a political
11 subdivision within the district or county in which they are
12 elected, there is to be a clear explanation of the limitation, as
13 prescribed by the Secretary of State, printed in bold type
14 immediately preceding the names of the candidates for those offices
15 on the ballot in every voting system. For counties in which the
16 number of county commissioners exceeds three and the total number
17 of members of the county commission is equal to the number of
18 magisterial districts within the county, the office of county
19 commission is to be listed separately for each district to be
20 filled with the name of the magisterial district and the words
21 "Vote for One" printed below the name of the office: *Provided,*
22 That the office title and applicable instructions may span the
23 width of the ballot so as it is centered among the respective
24 columns.

1 (D) The location for indicating the voter's choices on the
2 ballot is to be clearly shown. For paper ballots, other than those
3 tabulated electronically, the official primary ballot is to contain
4 a square formed in dark lines at the left of each name on the
5 ballot, arranged in a perpendicular column of squares before each
6 column of names.

7 (3) (A) The name of every candidate certified by the Secretary
8 of State or the board of ballot commissioners is to be printed in
9 capital letters in no smaller than eight point type on the ballot
10 for the appropriate precincts. Subject to the rules promulgated by
11 the Secretary of State, the name of each candidate is to appear in
12 the form set out by the candidate on the certificate of
13 announcement, but in no case may the name misrepresent the identity
14 of the candidate nor may the name include any title, position,
15 rank, degree or nickname implying or inferring any status as a
16 member of a class or group or affiliation with any system of
17 belief.

18 (B) The city of residence of every candidate, the state of
19 residence of every candidate residing outside the state, the county
20 of residence of every candidate for an office on the ballot in more
21 than one county and the magisterial district of residence of every
22 candidate for an office subject to magisterial district limitations
23 are to be printed in lower case letters beneath the names of the
24 candidates.

1 (C) The arrangement of names within each office must be
2 determined as prescribed in section thirteen-a of this article.

3 (D) If the number of candidates for an office exceeds the
4 space available on a column or ballot page and requires that
5 candidates for a single office be separated, to the extent
6 possible, the number of candidates for the office on separate
7 columns or pages are to be nearly equal and clear instructions
8 given the voter that the candidates for the office are continued on
9 the following column or page.

10 (4) When an insufficient number of candidates has filed for a
11 party to make the number of nominations allowed for the office or
12 for the voters to elect sufficient members to the board of
13 education or to executive committees, the vacant positions on the
14 ballot shall be filled with the words "No Candidate Filed".
15 ~~Provided, That~~ In paper ballot systems which allow for write-ins to
16 be made directly on the ballot, a blank line shall be placed in any
17 vacant position in the office of board of education or for election
18 to any party executive committee. A line shall separate each
19 candidate from every other candidate for the same office.
20 Notwithstanding any other provision of this code, if there are
21 multiple vacant positions on a ballot for one office, the multiple
22 vacant positions which would otherwise be filled with the words "No
23 Candidate Filed" may be replaced with a brief detailed description,
24 approved by the Secretary of State, indicating that there are no

1 candidates listed for the vacant positions.

2 (5) In presidential election years, the words "For election in
3 accordance with the plan adopted by the party and filed with the
4 Secretary of State" is to be printed following the names of all
5 candidates for delegate to national convention.

6 (6) All paper ballots are to be printed in black ink on paper
7 sufficiently thick so that the printing or marking cannot be
8 discernible from the back. ~~Provided, That~~ No paper ballot voted
9 pursuant to the provisions of 42 U.S.C. §1973, *et seq.*, the
10 Uniformed and Overseas Citizens Absentee Voting Act of 1986, or
11 federal write-in absentee ballot may be rejected due to paper type,
12 envelope type, or notarization requirement. Ballot cards and paper
13 for printing ballots using electronically sensible ink are to meet
14 minimum requirements of the tabulating systems and are to conform
15 in size and weight to ensure ease in tabulation.

16 (7) Ballots are to contain perforated tabs at the top of the
17 ballots and are to be printed with unique sequential numbers from
18 one to the highest number representing the total number of ballots
19 printed. On paper ballots, the ballot is to be bordered by a solid
20 line at least one sixteenth of an inch wide and the ballot is to be
21 trimmed to within one-half inch of that border.

22 (8) On the back of every official ballot or ballot card the
23 words "Official Ballot" with the name of the county and the date of
24 the election are to be printed. Beneath the date of the election

1 there are to be two blank lines followed by the words "Poll
2 Clerks".

3 (9) The face of sample paper ballots and sample ballot labels
4 are to be like other official ballots or ballot labels except that
5 the word "sample" is to be prominently printed across the front of
6 the ballot in a manner that ensures the names of candidates are not
7 obscured and the word "sample" may be printed in red ink. No
8 printing may be placed on the back of the sample.

9 **§3-5-13a. Order of offices and candidates on the ballot; uniform
10 drawing date.**

11 (a) The order of offices for state and county elections on
12 all ballots within the state shall be as prescribed herein. When
13 the office does not appear on the ballot in an election, then it
14 shall be omitted from the sequence. When an unexpired term for an
15 office appears on the ballot along with a full term, the unexpired
16 term shall appear immediately below the full term.

17 NATIONAL TICKET: President (and Vice President in the
18 general election), United States Senator, member of the United
19 States House of Representatives

20 STATE TICKET: Governor, Secretary of State, Auditor,
21 Treasurer, Commissioner of Agriculture, Attorney General, ~~Justice~~
22 ~~of the Supreme Court of Appeals~~, State Senator, member of the House
23 of Delegates, ~~circuit judge in multicounty districts~~, family court
24 judge in multicounty districts, any other multicounty office, state

1 executive committee.

2 COUNTY TICKET: ~~Circuit judge in single-county districts,~~
3 Family court judge in single-county districts, clerk of the circuit
4 court, county commissioner, clerk of the county commission,
5 prosecuting attorney, sheriff, assessor, magistrate, surveyor,
6 congressional district executive committee, senatorial district
7 executive committee in multicounty districts, delegate district
8 executive committee in multicounty districts.

9 NATIONAL CONVENTION: Delegate to the national convention --
10 at-large, delegate to the national convention -- congressional
11 district.

12 DISTRICT TICKET: County executive committee.

13 (b) Except for office divisions in which no more than one
14 person has filed a certificate of announcement, the arrangement of
15 names for all offices shall be determined by lot according to the
16 following provisions:

17 (1) On the forth Tuesday following the close of the candidate
18 filing, beginning at nine o'clock a. m., a drawing by lot shall be
19 conducted in the office of the clerk of the county commission in
20 each county. Notice of the drawing shall be given on the form for
21 the certificate of announcement and no further notice shall be
22 required. The clerk of the county commission shall superintend and
23 conduct the drawing and the method of conducting the drawing shall
24 be prescribed by the Secretary of State.

1 (2) Except as provided herein, the position of each candidate
2 within each office division shall be determined by the position
3 drawn for that candidate individually. ~~Provided, That~~ However, if
4 fewer candidates file for an office division than the total number
5 to be nominated or elected, the vacant positions shall appear
6 following the names of all candidates for the office.

7 (3) Candidates for delegate to national convention who have
8 filed a commitment to a candidate for president shall be listed
9 alphabetically within the group of candidates committed to the same
10 candidate for president and uncommitted candidates shall be listed
11 alphabetically in an uncommitted category. The position of each
12 group of committed candidates and uncommitted candidates shall be
13 determined by lot by drawing the names of the presidential
14 candidates and for an uncommitted category.

15 (4) A candidate or the candidate's representative may attend
16 the drawings.

17 **ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

18 **§3-6-2a. General election ballots for elections of justices of the**
19 **Supreme Court of Appeals and circuit court judges.**

20 The general election ballot shall contain separate sections,
21 one listing the names of candidates for justice of the Supreme
22 Court and one listing names of candidates for circuit court judge
23 or circuit court judges in the respective circuits, clearly

1 separate and apart from the listing of the names on the ballot for
 2 political party candidates for partisan offices, and shall include
 3 a heading of: "Nonpartisan Ballot of Election of Justice(s) of the
 4 Supreme Court of Appeals of West Virginia" and another heading of:
 5 "Nonpartisan Ballot of Election of circuit court Judge(s)" with the
 6 proper circuit of the respective circuit court election listed on
 7 the ballot, with the names of all candidates for the nonpartisan
 8 elections listed thereunder with no other offices listed in that
 9 section or that ballot as appropriate.

10 **CHAPTER 51. COURTS AND THEIR OFFICERS.**

11 **ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.**

12 **§51-2-1. Judicial circuits; terms of office; legislative findings**
 13 **and declarations; elections; terms of court.**

14 (a) The state shall be divided into the following judicial
 15 circuits with the following number of judges:

16 (1) The counties of Brooke, Hancock and Ohio shall constitute
 17 the first circuit and shall have four judges;

18 (2) The counties of Marshall, Tyler and Wetzel shall
 19 constitute the second circuit and shall have two judges;

20 (3) The counties of Doddridge, Pleasants and Ritchie shall
 21 constitute the third circuit and shall have one judge;

22 (4) The counties of Wood and Wirt shall constitute the fourth
 23 circuit and shall have three judges;

1 (5) The counties of Calhoun, Jackson, Mason and Roane shall
2 constitute the fifth circuit and shall have two judges;

3 (6) The county of Cabell shall constitute the sixth circuit
4 and shall have four judges;

5 (7) The county of Logan shall constitute the seventh circuit
6 and shall have two judges;

7 (8) The county of McDowell shall constitute the eighth circuit
8 and shall have two judges;

9 (9) The county of Mercer shall constitute the ninth circuit
10 and shall have three judges;

11 (10) The county of Raleigh shall constitute the tenth circuit
12 and shall have three judges;

13 (11) The counties of Greenbrier and Pocahontas shall
14 constitute the eleventh circuit and shall have two judges;

15 (12) The county of Fayette shall constitute the twelfth
16 circuit and shall have two judges;

17 (13) The county of Kanawha shall constitute the thirteenth
18 circuit and shall have seven judges;

19 (14) The counties of Braxton, Clay, Gilmer and Webster shall
20 constitute the fourteenth circuit and shall have two judges;

21 (15) The county of Harrison shall constitute the fifteenth
22 circuit and shall have three judges;

23 (16) The county of Marion shall constitute the sixteenth
24 circuit and shall have two judges;

1 (17) The county of Monongalia shall constitute the seventeenth
2 circuit and shall have two judges: *Provided*, That effective July
3 1, 2009, said circuit court shall have three judges.

4 (18) The county of Preston shall constitute the eighteenth
5 circuit and shall have one judge;

6 (19) The counties of Barbour and Taylor shall constitute the
7 nineteenth circuit and shall have one judge;

8 (20) The county of Randolph shall constitute the twentieth
9 circuit and shall have one judge;

10 (21) The counties of Grant, Mineral and Tucker shall
11 constitute the twenty-first circuit and shall have two judges;

12 (22) The counties of Hampshire, Hardy and Pendleton shall
13 constitute the twenty-second circuit and shall have two judges;

14 (23) The counties of Berkeley, Jefferson and Morgan shall
15 constitute the twenty-third circuit and shall have five judges;

16 (24) The county of Wayne shall constitute the twenty-fourth
17 circuit and shall have two judges;

18 (25) The counties of Lincoln and Boone shall constitute the
19 twenty-fifth circuit and shall have two judges;

20 (26) The counties of Lewis and Upshur shall constitute the
21 twenty-sixth circuit and shall have one judge;

22 (27) The county of Wyoming shall constitute the twenty-seventh
23 circuit and shall have one judge;

24 (28) The county of Nicholas shall constitute the twenty-eighth

1 circuit and shall have one judge;

2 (29) The county of Putnam shall constitute the twenty-ninth
3 circuit and shall have two judges;

4 (30) The county of Mingo shall constitute the thirtieth
5 circuit and shall have one judge; and

6 (31) The counties of Monroe and Summers shall constitute the
7 thirty-first circuit and shall have one judge.

8 (b) The Kanawha County circuit court shall be a court of
9 concurrent jurisdiction with each single judge circuit where the
10 sitting judge in the single judge circuit is unavailable by reason
11 of sickness, vacation or other reason.

12 (c) Any judge in office on the effective date of the
13 reenactment of this section shall continue as a judge of the
14 circuit as constituted under prior enactments of this section,
15 unless sooner removed or retired as provided by law, until December
16 31, 2008.

17 (d) The term of office of all circuit court judges shall be
18 for eight years. The term of office for all circuit court judges
19 elected during the general election conducted in the year 2008
20 shall commence on January 1, 2009, and end on December 31, 2016.

21 (e) For election purposes, in every judicial circuit having
22 two or more judges there shall be numbered divisions corresponding
23 to the number of circuit judges in each circuit. Each judge shall
24 be elected at large from the entire circuit. In each numbered

1 division of a judicial circuit, the candidates for nomination or
2 election shall be voted upon and the votes cast for the candidates
3 in each division shall be tallied separately from the votes cast
4 for candidates in other numbered divisions within the circuit. The
5 candidate receiving the highest number of the votes cast within a
6 numbered division shall be nominated or elected, as the case may
7 be.

8 (f) Judges serving a judicial circuit comprised of four or
9 more counties with two or more judges shall not be residents of the
10 same county.

11 (g) Beginning in 2012, all elections for circuit court judge
12 shall be nonpartisan, and all elections for circuit court judge are
13 to be held in the general election as set forth in chapter three of
14 this code. Beginning in 2012, there will no longer be primary
15 elections held for circuit court judge. All indications of party
16 identification on election ballots for circuit court judge shall be
17 omitted.

18 ~~(g)~~ (h) The Supreme Court of Appeals shall, by rule, establish
19 the terms of court of circuit judges.

NOTE: The purpose of this bill is to elect all justices to the West Virginia Supreme Court of Appeals and all circuit court judges on a nonpartisan basis.

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

would be added.