

1 **Senate Bill No. 213**

2 (By Senators Palumbo and McCabe)

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4 [Introduced February 19, 2013; referred to the Committee on
5 Government Organization; and then to the Committee on the
6 Judiciary.]
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11 A BILL to amend and reenact §3-10-7 and §3-10-8 of the Code of West
12 Virginia, 1931, as amended, all relating to authorizing a
13 county commission to temporarily fill vacancies in the offices
14 of the clerk of the county commission, prosecuting attorney,
15 sheriff, assessor and county surveyor; and permitting the
16 temporary successors to serve a maximum of thirty days.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §3-10-7 and §3-10-8 of the Code of West Virginia, 1931,
19 as amended, be amended and reenacted, all to read as follows:

20 **ARTICLE 10. FILLING VACANCIES.**

21 **§3-10-7. Vacancies in offices of county commissioner and clerk of**
22 **county commission.**

1 (a) Any vacancy in the office of county commissioner or clerk
2 of county commission shall be filled by the county commission of
3 the county, unless the number of vacancies in a county commission
4 deprive that body of a quorum, in which case the Governor of the
5 state shall fill any vacancy in the county commission necessary to
6 create a quorum thereof. Persons appointed shall be of the same
7 political party as the officeholder vacating the office and shall
8 continue in office until the next general election is certified, or
9 until the completion of the term if the term ends on December 31,
10 following the next general election: *Provided, That ~~in the event~~*
11 if a quorum of the county commission cannot agree upon a person to
12 fill a vacancy in the office of county commissioner within thirty
13 days of the date the vacancy first occurred, the county executive
14 committee of the vacating county commissioner's political party
15 shall select and name a person to fill the vacancy from the
16 membership of the vacating county commissioner's political party.

17 (b) Notice of the election shall be given by order of the
18 county commission and published as prescribed in section six of
19 this article.

20 (c) Nomination of candidates to fill the office for an
21 unexpired term in the office of county commissioner or clerk of the
22 county commission shall be made in the manner prescribed for making
23 nominations to fill a vacancy in the office of the clerk of the

1 circuit court.

2 ~~(d) In the event that~~ If the election for an unexpired term is
3 held at the same time as the election for a full term for county
4 commissioner, the full term shall be counted first and the
5 unexpired term shall be counted second. If the candidate with the
6 highest number of votes for the unexpired term resides in the same
7 magisterial district as the candidate with the highest number of
8 votes for the full term, the candidate for the full term shall be
9 seated. The candidate with the next highest number of votes for
10 the unexpired term residing in a different magisterial district
11 shall be seated for the unexpired term.

12 (e) A county commission may appoint a temporary successor to
13 the office of clerk of the county commission until the requirements
14 of this section have been met. The temporary successor may serve no
15 more than thirty days from the date of the vacancy.

16 **§3-10-8. Vacancies in offices of prosecuting attorney, sheriff,**
17 **assessor and surveyor.**

18 (a) Any vacancy occurring in the office of prosecuting
19 attorney, sheriff, assessor or county surveyor shall be filled by
20 the county commission by appointment of a person of the same
21 political party as the officeholder vacating the office. The
22 appointed person shall hold the office until the next general
23 election is certified, or until the completion of the term if the

1 term ends on December 31, following the next general election.
2 Notice of an election to fill a vacancy in any of the offices named
3 in this section shall be given by the county commission, or by the
4 president thereof in vacation, and published or posted in the
5 manner prescribed in section six of this article. Nomination of
6 candidates to fill any vacancy shall be made in the manner
7 prescribed in section six of this article for nominating candidates
8 to fill a vacancy in the office of the clerk of the circuit court.

9 (b) A county commission may appoint a temporary successor in
10 the office of prosecuting attorney, sheriff, assessor or county
11 surveyor until the requirements of this section have been met. The
12 temporary successor may serve no more than thirty days from the
13 date of the vacancy.

NOTE: The purpose of this bill is to authorize a county commission to temporarily fill vacancies in the offices of the clerk of the county commission, prosecuting attorney, sheriff, assessor and county surveyor. The bill permits the temporary successors to serve a maximum of thirty days.

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