

COMMITTEE SUBSTITUTE

for

H. B. 2397

(BY DELEGATES MANCHIN AND LAWRENCE)

(Originating in the Committee on the Judiciary)

[March 8, 2013]

A BILL to amend and reenact §3-10-7 and §3-10-8 of the Code of West Virginia, 1931, as amended, all relating to authorizing a county commission to temporarily fill vacancies in the offices of the clerk of the county commission, prosecuting attorney, sheriff, assessor and county surveyor; restricting persons appointed as temporary successors to serving no more than sixty days as a temporary successor; and permitting a temporary successor to be appointed to fill the unexpired term.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. FILLING VACANCIES.

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

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

16 name a person to fill the vacancy from the membership of the
17 vacating county commissioner's political party.

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

21 (c) Nomination of candidates to fill the office for an unex-
22 pired term in the office of county commissioner or clerk of the
23 county commission shall be made in the manner prescribed for
24 making nominations to fill a vacancy in the office of the clerk of
25 the circuit court.

26 (d) ~~In the event that~~ If the election for an unexpired term is
27 held at the same time as the election for a full term for county
28 commissioner, the full term shall be counted first and the
29 unexpired term shall be counted second. If the candidate with the
30 highest number of votes for the unexpired term resides in the
31 same magisterial district as the candidate with the highest
32 number of votes for the full term, the candidate for the full term
33 shall be seated. The candidate with the next highest number of
34 votes for the unexpired term residing in a different magisterial
35 district shall be seated for the unexpired term.

36 (e) A county commission may appoint a temporary successor
37 to the office of clerk of the county commission until the require-
38 ments of this section have been met. The temporary successor
39 shall be of the same political party as the officeholder vacating
40 the office and may serve no more than sixty days from the date
41 of the vacancy: *Provided*, That nothing in this subsection shall
42 preclude the county commission from appointing a temporary
43 successor to fill a vacancy in the office of clerk of the county
44 commission pursuant to subsection (a).

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

1 (a) Any vacancy occurring in the office of prosecuting
2 attorney, sheriff, assessor or county surveyor shall be filled by
3 the county commission by appointment of a person of the same
4 political party as the officeholder vacating the office. The
5 appointed person shall hold the office until the next general
6 election is certified, or until the completion of the term if the
7 term ends on December 31, following the next general election.
8 Notice of an election to fill a vacancy in any of the offices
9 named in this section shall be given by the county commission,
10 or by the president thereof in vacation, and published or posted

11 in the manner prescribed in section six of this article. Nomina-
12 tion of candidates to fill any vacancy shall be made in the
13 manner prescribed in section six of this article for nominating
14 candidates to fill a vacancy in the office of the clerk of the
15 circuit court.

16 (b) A county commission may appoint a temporary succes-
17 sor in the office of prosecuting attorney, sheriff, assessor or
18 county surveyor until the requirements of this section have been
19 met. The temporary successor shall be of the same political party
20 as the officeholder vacating the office and may serve no more
21 than sixty days from the date of the vacancy: *Provided, That*
22 nothing in this subsection shall preclude the county commission
23 from appointing a temporary successor to fill a vacancy in the
24 offices of prosecuting attorney, sheriff, assessor or county
25 surveyor pursuant to subsection (a).

