

S E C O N D
E N R O L L M E N T

COMMITTEE SUBSTITUTE

for

H. B. 2010

(BY DELEGATE(S) KESSINGER, MCCUSKEY,
BORDER, SHOTT, ROWAN, FRICH, WESTFALL, LANE,
ANDERSON, SOBONYA AND FAIRCLOTH)

[Amended and again passed March 10, 2015;
as a result of the objections of the Governor;
in effect ninety days from passage.]

AN ACT 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 and reenact §3-5-4 of said code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend and reenact §3-10-3 of said code; to amend and reenact §3-12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12 and §3-12-14 of said code; to amend and reenact §6-5-1 of said code; to amend and reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of said code; and to amend and reenact §51-2A-5 of said code, all relating to electoral

reforms of the West Virginia judiciary generally; requiring the election of justices of the Supreme Court of Appeals, circuit court judges, family court judges and magistrates be on a nonpartisan basis; requiring that elections to certain offices be on a division basis when more than one justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate is to be elected; providing for the timing and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that elections for justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate are to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing occasions for special elections to be held to fill vacancies; providing that unsuccessful nonpartisan candidates can be selected to fill ballot vacancies in a general election; providing for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program; modifying the amount of public campaign financing available to qualifying candidates in a contested election; and removing public campaign financing from qualifying candidates in an uncontested election.

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 be amended and reenacted; that §3-5-4 of said code be amended and reenacted; that said code be amended by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; that §3-5-7, §3-5-13 and §3-5-13a of said code be amended and reenacted; that §3-10-3 of said code be amended and reenacted; that §3-12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12 and §3-12-14 of said code be amended

and reenacted; that §6-5-1 of said code be amended and reenacted; that §50-1-1 and §50-1-6 of said code be amended and reenacted; that §51-1-1 of said code be amended and reenacted; and that §51-2A-5 of said code be amended and reenacted, all to read as follows:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-16. Election of state officers.

1 (a) At the general election to be held in 1968, and every
2 fourth year thereafter, there shall be elected a Governor,
3 Secretary of State, Treasurer, Auditor, Attorney General and
4 Commissioner of Agriculture. At the general election in 1968,
5 and every second year thereafter, there shall be elected a member
6 of the State Senate for each senatorial district, and a member or
7 members of the House of Delegates of the state from each
8 county or each delegate district.

9 (b) At the time of the primary election to be held in the year
10 2016, and every twelfth year thereafter, there shall be elected
11 one justice of the Supreme Court of Appeals, and at the time of
12 the primary election to be held in 2020, and every twelfth year
13 thereafter, two justices of the Supreme Court of Appeals and at
14 the time of the primary election to be held in 2024, and every
15 twelfth year thereafter, two justices of the Supreme Court of
16 Appeals. Effective with the primary election held in the year
17 2016, the election of justices of the Supreme Court of Appeals
18 shall be on a nonpartisan basis and by division as set forth more
19 fully in article five of this chapter.

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

1 (a) There shall be elected, at the time of the primary election
2 to be held in 2016, and every eighth year thereafter, one judge of

3 the circuit court of every judicial circuit entitled to one judge,
4 and one judge for each numbered division of the judicial circuit
5 in those judicial circuits entitled to two or more circuit judges;
6 and at the time of the primary election to be held in 2016, and in
7 every fourth year thereafter, the number of magistrates
8 prescribed by law for the county. Beginning with the election
9 held in the year 2016, an election for the purpose of electing
10 judges of the circuit court, or an election for the purpose of
11 electing magistrates, shall be upon a nonpartisan ballot printed
12 for the purpose.

13 (b) There shall be elected, at the general election to be held
14 in 1992, and every fourth year thereafter, a sheriff, prosecuting
15 attorney, surveyor of lands, and the number of assessors
16 prescribed by law for the county; and at the general election to
17 be held in 1990, and every second year thereafter, a
18 commissioner of the county commission for each county; and at
19 the general election to be held in 1992, and every sixth year
20 thereafter, a clerk of the county commission and a clerk of the
21 circuit court for each county.

22 (c) Effective with the primary election of 2016, all elections
23 for judge of the circuit courts in the respective circuits and
24 magistrates in each county will be elected on a nonpartisan basis
25 and by division as set forth more fully in article five of this
26 chapter.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

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

1 (a) The board of ballot commissioners in counties using
2 ballots upon which votes may be recorded by means of marking
3 with electronically sensible ink or pencil and which marks are
4 tabulated electronically shall cause the ballots to be printed or

5 displayed upon the screens of the electronic voting system for
6 use in elections.

7 (b) (1) For the primary election, the heading of the ballot, the
8 type faces, the names and arrangement of offices and the printing
9 of names and arrangement of candidates within each office are
10 to conform as nearly as possible to sections thirteen and thirteen-
11 a, article five of this chapter.

12 (2) For the general election, the heading of the ballot, the
13 straight ticket positions, the instructions to straight ticket voters,
14 the type faces, the names and arrangement of offices and the
15 printing of names and the arrangement of candidates within each
16 office are to conform as nearly as possible to section two, article
17 six of this chapter, except as otherwise provided in this article.

18 (3) Effective with the primary election held in 2016, and
19 thereafter, the following nonpartisan elections are to be separated
20 from the partisan ballot and separately headed in display type
21 with a title clearly identifying the purpose of the election and
22 constituting a separate ballot wherever a separate ballot is
23 required under this chapter:

24 (A) Nonpartisan elections for judicial offices, by division,
25 of:

26 (i) Justice of the Supreme Court of Appeals;

27 (ii) Judge of the circuit court;

28 (iii) Family court judge; and

29 (iv) Magistrate;

30 (B) Nonpartisan elections for Board of Education; and

31 (C) Any question to be voted upon;

32 (4) Both the face and the reverse side of the ballot may
33 contain the names of candidates only if means to ensure the
34 secrecy of the ballot are provided and lines for the signatures of
35 the poll clerks on the ballot are printed on a portion of the ballot
36 which is deposited in the ballot box and upon which marks do
37 not interfere with the proper tabulation of the votes.

38 (5) The arrangement of candidates within each office is to be
39 determined in the same manner as for other electronic voting
40 systems, as prescribed in this chapter. On the general election
41 ballot for all offices, and on the primary election ballot only for
42 those offices to be filled by election, except delegate to national
43 convention, lines for entering write-in votes are to be provided
44 below the names of candidates for each office, and the number
45 of lines provided for any office shall equal the number of
46 persons to be elected, or three, whichever is fewer. The words
47 "WRITE-IN, IF ANY" are to be printed, where applicable,
48 directly under each line for write-ins. The lines are to be
49 opposite a position to mark the vote.

50 (c) Except for electronic voting systems that utilize screens
51 upon which votes may be recorded by means of a stylus or by
52 means of touch, the primary election ballots are to be printed in
53 the color of ink specified by the Secretary of State for the
54 various political parties, and the general election ballot is to be
55 printed in black ink. For electronic voting systems that utilize
56 screens upon which votes may be recorded by means of a stylus
57 or by means of touch, the primary ballots and the general
58 election ballot are to be printed in black ink. All ballots are to be
59 printed, where applicable, on white paper suitable for automatic
60 tabulation and are to contain a perforated stub at the top or
61 bottom of the ballot, which is to be numbered sequentially in the
62 same manner as provided in section thirteen, article five of this
63 chapter, or are to be displayed on the screens of the electronic
64 voting system upon which votes are recorded by means of a
65 stylus or touch. The number of ballots printed and the packaging

66 of ballots for the precincts are to conform to the requirements for
67 paper ballots provided in this chapter.

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

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-4. Nomination of candidates in primary elections.

1 (a) At each primary election, the candidate or candidates of
2 each political party for all offices to be filled at the ensuing
3 general election by the voters of the entire state, of each
4 congressional district, of each state senatorial district, of each
5 delegate district, and of each county in the state shall be
6 nominated by the voters of the different political parties, except
7 that no presidential elector shall be nominated at a primary
8 election.

9 (b) In primary elections a plurality of the votes cast shall be
10 sufficient for the nomination of candidates for office. Where
11 only one candidate of a political party for any office in a political
12 division, including party committeemen and delegates to
13 national conventions, is to be chosen the candidate receiving the
14 highest number of votes therefor in the primary election shall be
15 declared the party nominee for such office. Where two or more
16 such candidates are to be chosen in the primary election, the
17 candidates constituting the proper number to be so chosen who
18 shall receive the highest number of votes cast in the political
19 division in which they are candidates shall be declared the party
20 nominees and choices for such offices, except that:

21 (1) Candidates for the office of commissioner of the county
22 commission shall be nominated and elected in accordance with
23 the provisions of section ten, article nine of the Constitution of
24 the State of West Virginia and the requirements of section one-b,
25 article one, chapter seven of this code;

26 (2) Members of county boards of education shall be elected
27 at primary elections in accordance with the provisions of
28 sections five and six of this article;

29 (3) Candidates for the House of Delegates shall be
30 nominated and elected in accordance with the residence
31 restrictions provided in section two, article two, chapter one of
32 this code.

33 (c) In case of tie votes between candidates for party
34 nominations or elections in primary elections, the choice of the
35 political party shall be determined by the executive committee
36 of the party for the political division in which such persons are
37 candidates.

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

1 (a) An election for the purpose of electing a justice or
2 justices of the Supreme Court of Appeals shall be held on the
3 same date as the primary election, as provided by law, upon a
4 nonpartisan ballot by division printed for this purpose. For
5 election purposes, in each election at which shall be elected more
6 than one justice of the Supreme Court of Appeals, the election
7 shall be by numbered division corresponding to the number of
8 justices being elected. Each justice shall be elected at large from
9 the entire state.

10 (b) In each nonpartisan election by division for a justice of
11 the Supreme Court of Appeals, the candidates for election in
12 each numbered division shall be tallied separately, and the board
13 of canvassers shall declare and certify the election of the eligible
14 candidate receiving the highest numbers of votes cast within a
15 numbered division to fill any full terms.

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

§3-5-6b. Election of circuit judges.

1 (a) An election for the purpose of electing a circuit court
2 judge or judges shall be held on the same date as the primary
3 election in their respective circuits, as provided by law, upon a
4 nonpartisan ballot by division printed for this purpose.

5 (b) In each nonpartisan election by division for a circuit
6 court judge, the candidates for election in each numbered
7 division shall be tallied separately, and the board of canvassers
8 shall declare and certify the election of the eligible candidate
9 receiving the highest numbers of votes cast within a numbered
10 division to fill any full terms.

11 (c) In case of a tie vote under this section, section twelve,
12 article six of this chapter controls in breaking the tie vote.

§3-5-6c. Election of family court judges.

1 (a) An election for the purpose of electing a family court
2 judge or judges shall be held on the same date as the primary
3 election in their respective circuits, as provided by law, upon a
4 nonpartisan ballot by division printed for this purpose.

5 (b) In each nonpartisan election by division for a family
6 court judge, the candidates for election in each numbered
7 division shall be tallied separately, and the board of canvassers
8 shall declare and certify the election of the eligible candidate
9 receiving the highest numbers of votes cast within a numbered
10 division to fill any full terms.

11 (c) In case of a tie vote under this section, section twelve,
12 article six of this chapter controls in breaking the tie vote.

§3-5-6d. Election of magistrates.

1 (a) An election for the purpose of electing a magistrate or
2 magistrates by division shall be held on the same date as the

3 primary election in their respective circuits, as provided by law,
4 upon a nonpartisan ballot by division printed for this purpose.

5 (b) In each nonpartisan election by division for a magistrate,
6 the candidates for election in each numbered division shall be
7 tallied separately, and the board of canvassers shall declare and
8 certify the election of the eligible candidate receiving the highest
9 numbers of votes cast within a numbered division to fill any full
10 terms.

11 (c) In case of a tie vote under this section, section twelve,
12 article six of this chapter controls in breaking the tie vote.

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

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

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

7 (1) Candidates for the House of Delegates, the State Senate,
8 circuit judge, family court judge, and any other office or political
9 position to be filled by the voters of more than one county shall
10 file a certificate of announcement with the Secretary of State.

11 (2) Candidates for an office or political position to be filled
12 by the voters of a single county or a subdivision of a county,
13 except for candidates for the House of Delegates, State Senate,
14 circuit judge or family court judge, shall file a certificate of
15 announcement with the clerk of the county commission.

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

19 (c) The certificate of announcement shall be filed with the
20 proper officer not earlier than the second Monday in January
21 before the primary election day and not later than the last
22 Saturday in January before the primary election day and must be
23 received before midnight, eastern standard time, of that day or,
24 if mailed, shall be postmarked by the United States Postal
25 Service before that hour. This includes the offices of justice of
26 the Supreme Court of Appeals, circuit court judge, family court
27 judge and magistrate, which are to be filled on a nonpartisan and
28 division basis at the primary election.

29 (d) The certificate of announcement shall be on a form
30 prescribed by the Secretary of State on which the candidate shall
31 make a sworn statement before a notary public or other officer
32 authorized to administer oaths, containing the following
33 information:

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

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

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

41 (4) The county of residence and a statement that the
42 candidate is a legally qualified voter of that county; and the
43 magisterial district of residence for candidates elected from
44 magisterial districts or under magisterial district limitations;

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

48 (6) For partisan elections, the name of the candidate's
49 political party and a statement that the candidate: (A) Is a

50 member of and affiliated with that political party as evidenced
51 by the candidate's current registration as a voter affiliated with
52 that party; and (B) has not been registered as a voter affiliated
53 with any other political party for a period of sixty days before
54 the date of filing the announcement;

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

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

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

64 (e) The Secretary of State or the board of ballot
65 commissioners, as the case may be, may refuse to certify the
66 candidacy or may remove the certification of the candidacy upon
67 receipt of a certified copy of the voter's registration record of the
68 candidate showing that the candidate was registered as a voter in
69 a party other than the one named in the certificate of
70 announcement during the sixty days immediately preceding the
71 filing of the certificate: *Provided*, That unless a signed formal
72 complaint of violation of this section and the certified copy of
73 the voter's registration record of the candidate are filed with the
74 officer receiving that candidate's certificate of announcement no
75 later than ten days following the close of the filing period, the
76 candidate may not be refused certification for this reason.

77 (f) The certificate of announcement shall be subscribed and
78 sworn to by the candidate before some officer qualified to
79 administer oaths, who shall certify the same. Any person who
80 knowingly provides false information on the certificate is guilty

81 of false swearing and shall be punished in accordance with
82 section three, article nine of this chapter.

83 (g) Any candidate for delegate to a national convention may
84 change his or her statement of presidential preference by
85 notifying the Secretary of State by letter received by the
86 Secretary of State no later than the third Tuesday following the
87 close of candidate filing. When the rules of the political party
88 allow each presidential candidate to approve or reject candidates
89 for delegate to convention who may appear on the ballot as
90 committed to that presidential candidate, the presidential
91 candidate or the candidate's committee on his or her behalf may
92 file a list of approved or rejected candidates for delegate and the
93 Secretary of State shall list as "uncommitted" any candidate for
94 delegate who is disapproved by the presidential candidate.

95 (h) A person may not be a candidate for more than one office
96 or office division at any election: *Provided*, That a candidate for
97 an office may also be a candidate for President of the United
98 States, for membership on political party executive committees
99 or for delegate to a political party national convention: *Provided*,
100 *however*, That an unsuccessful candidate for a nonpartisan office
101 in an election held concurrently with the primary election may
102 be appointed under the provisions of section nineteen of this
103 article to fill a vacancy on the general ballot.

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

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

1 The following provisions apply to the form and contents of
2 election ballots:

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

5 (2) The heading of every ballot is to be printed in display
6 type. The heading is to contain a ballot title, the name of the
7 county, the state, the words "Primary Election" and the month,
8 day and year of the election. The ballot title of the political party
9 ballots is to contain the words "Official Ballot of the (Name)
10 Party" and the official symbol of the political party may be
11 included in the heading.

12 (A) The ballot title of any separate paper ballot or portion of
13 any electronic or voting machine ballot for all judicial officer
14 shall commence with the words "Nonpartisan Ballot of Election
15 of Judicial Officers" and each such office shall be listed in the
16 following order:

17 (i) The ballot title of any separate paper ballot or portion of
18 any electronic or voting machine ballot for all justices of the
19 Supreme Court of Appeals shall contain the words "Nonpartisan
20 Ballot of Election of Justice(s) of the Supreme Court of Appeals
21 of West Virginia". The names of the candidates for the Supreme
22 Court of Appeals shall be printed by division without references
23 to political party affiliation or registration.

24 (ii) The ballot title of any separate paper ballot or portion of
25 any electronic or voting machine ballot for all circuit court
26 judges in the respective circuits shall contain the words
27 "Nonpartisan Ballot of Election of Circuit Court Judge(s)". The
28 names of the candidates for the respective circuit court judge
29 office shall be printed by division without references to political
30 party affiliation or registration.

31 (iii) The ballot title of any separate paper ballot or portion of
32 any electronic or voting machine ballot for all family court
33 judges in the respective circuits shall contain the words

34 “Nonpartisan Ballot of Election of Family Court Judge(s)”. The
35 names of the candidates for the respective family court judge
36 office shall be printed by division without references to political
37 party affiliation or registration.

38 (iv) The ballot title of any separate paper ballot or portion of
39 any electronic or voting machine ballot for all magistrates in the
40 respective circuits shall contain the words “Nonpartisan Ballot
41 of Election of Magistrate(s)”. The names of the candidates for
42 the respective magistrate office shall be printed by division
43 without references to political party affiliation or registration.

44 (B) The ballot title of any separate paper ballot or portion of
45 any electronic or voting machine ballot for the Board of
46 Education is to contain the words “Nonpartisan Ballot of
47 Election of Members of the _____ County Board of
48 Education”. The districts for which less than two candidates may
49 be elected and the number of available seats are to be specified
50 and the names of the candidates are to be printed without
51 reference to political party affiliation and without designation as
52 to a particular term of office.

53 (C) Any other ballot or portion of a ballot on a question is to
54 have a heading which clearly states the purpose of the election
55 according to the statutory requirements for that question.

56 (3) (A) For paper ballots, the heading of the ballot is to be
57 separated from the rest of the ballot by heavy lines and the
58 offices shall be arranged in columns with the following
59 headings, from left to right across the ballot: “National Ticket”,
60 “State Ticket”, “County Ticket” and, in a presidential election
61 year, “National Convention” or, in a nonpresidential election
62 year, “District Ticket”. The columns are to be separated by
63 heavy lines. Within the columns, the offices are to be arranged
64 in the order prescribed in section thirteen-a of this article.

65 (B) For voting machines, electronic voting devices and any
66 ballot tabulated by electronic means, the offices are to appear in
67 the same sequence as prescribed in section thirteen-a of this
68 article and under the same headings as prescribed in paragraph
69 (A) of this subdivision. The number of pages, columns or rows,
70 where applicable, may be modified to meet the limitations of
71 ballot size and composition requirements subject to approval by
72 the Secretary of State.

73 (C) The title of each office is to be separated from preceding
74 offices or candidates by a line and is to be printed in bold type
75 no smaller than eight point. Below the office is to be printed the
76 number of the district, if any, the number of the division, if any,
77 and the words "Vote for _____" with the number to be
78 nominated or elected or "Vote For Not More Than _____" in
79 multicandidate elections. For offices in which there are
80 limitations relating to the number of candidates which may be
81 nominated, elected or appointed to or hold office at one time
82 from a political subdivision within the district or county in which
83 they are elected, there is to be a clear explanation of the
84 limitation, as prescribed by the Secretary of State, printed in bold
85 type immediately preceding the names of the candidates for
86 those offices on the ballot in every voting system. For counties
87 in which the number of county commissioners exceeds three and
88 the total number of members of the county commission is equal
89 to the number of magisterial districts within the county, the
90 office of county commission is to be listed separately for each
91 district to be filled with the name of the magisterial district and
92 the words "Vote for One" printed below the name of the office:
93 *Provided*, That the office title and applicable instructions may
94 span the width of the ballot so as it is centered among the
95 respective columns.

96 (D) The location for indicating the voter's choices on the
97 ballot is to be clearly shown. For paper ballots, other than those
98 tabulated electronically, the official primary ballot is to contain

99 a square formed in dark lines at the left of each name on the
100 ballot, arranged in a perpendicular column of squares before
101 each column of names.

102 (4) (A) The name of every candidate certified by the
103 Secretary of State or the board of ballot commissioners is to be
104 printed in capital letters in no smaller than eight point type on
105 the ballot for the appropriate precincts. Subject to the rules
106 promulgated by the Secretary of State, the name of each
107 candidate is to appear in the form set out by the candidate on the
108 certificate of announcement, but in no case may the name
109 misrepresent the identity of the candidate nor may the name
110 include any title, position, rank, degree or nickname implying or
111 inferring any status as a member of a class or group or affiliation
112 with any system of belief.

113 (B) The city of residence of every candidate, the state of
114 residence of every candidate residing outside the state, the
115 county of residence of every candidate for an office on the ballot
116 in more than one county and the magisterial district of residence
117 of every candidate for an office subject to magisterial district
118 limitations are to be printed in lower case letters beneath the
119 names of the candidates.

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

122 (D) If the number of candidates for an office exceeds the
123 space available on a column or ballot page and requires that
124 candidates for a single office be separated, to the extent possible,
125 the number of candidates for the office on separate columns or
126 pages are to be nearly equal and clear instructions given the
127 voter that the candidates for the office are continued on the
128 following column or page.

129 (5) When an insufficient number of candidates has filed for
130 a party to make the number of nominations allowed for the office

131 or for the voters to elect sufficient members to the Board of
132 Education or to executive committees, the vacant positions on
133 the ballot shall be filled with the words “No Candidate Filed”:
134 *Provided*, That in paper ballot systems which allow for write-ins
135 to be made directly on the ballot, a blank line shall be placed in
136 any vacant position in the office of Board of Education or for
137 election to any party executive committee. A line shall separate
138 each candidate from every other candidate for the same office.
139 Notwithstanding any other provision of this code, if there are
140 multiple vacant positions on a ballot for one office, the multiple
141 vacant positions which would otherwise be filled with the words
142 “No Candidate Filed” may be replaced with a brief detailed
143 description, approved by the Secretary of State, indicating that
144 there are no candidates listed for the vacant positions.

145 (6) In presidential election years, the words “For election in
146 accordance with the plan adopted by the party and filed with the
147 Secretary of State” is to be printed following the names of all
148 candidates for delegate to national convention.

149 (7) All paper ballots are to be printed in black ink on paper
150 sufficiently thick so that the printing or marking cannot be
151 discernible from the back: *Provided*, That no paper ballot voted
152 pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the
153 Uniformed and Overseas Citizens Absentee Voting Act of 1986,
154 or federal write-in absentee ballot may be rejected due to paper
155 type, envelope type, or notarization requirement. Ballot cards
156 and paper for printing ballots using electronically sensible ink
157 are to meet minimum requirements of the tabulating systems and
158 are to conform in size and weight to ensure ease in tabulation.

159 (8) Ballots are to contain perforated tabs at the top of the
160 ballots and are to be printed with unique sequential numbers
161 from one to the highest number representing the total number of
162 ballots printed. On paper ballots, the ballot is to be bordered by

163 a solid line at least one sixteenth of an inch wide and the ballot
164 is to be trimmed to within one-half inch of that border.

165 (9) On the back of every official ballot or ballot card the
166 words "Official Ballot" with the name of the county and the date
167 of the election are to be printed. Beneath the date of the election
168 there are to be two blank lines followed by the words "Poll
169 Clerks".

170 (10) The face of sample paper ballots and sample ballot
171 labels are to be like other official ballots or ballot labels except
172 that the word "sample" is to be prominently printed across the
173 front of the ballot in a manner that ensures the names of
174 candidates are not obscured and the word "sample" may be
175 printed in red ink. No printing may be placed on the back of the
176 sample.

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

1 (a) The order of offices for state and county elections on all
2 ballots within the state shall be as prescribed herein. When the
3 office does not appear on the ballot in an election, then it shall be
4 omitted from the sequence. When an unexpired term for an
5 office appears on the ballot along with a full term, the unexpired
6 term shall appear immediately below the full term.

7 NATIONAL TICKET: President (and Vice President in the
8 general election), United States Senator, member of the United
9 States House of Representatives.

10 STATE TICKET: Governor, Secretary of State, Auditor,
11 Treasurer, Commissioner of Agriculture, Attorney General, State
12 Senator, member of the House of Delegates, any other
13 multicounty office, state executive committee.

14 COUNTY TICKET: Clerk of the circuit court, county
15 commissioner, clerk of the county commission, prosecuting

16 attorney, sheriff, assessor, surveyor, congressional district
17 executive committee, senatorial district executive committee in
18 multicounty districts, delegate district executive committee in
19 multicounty districts.

20 NATIONAL CONVENTION: Delegate to the national
21 convention — at-large, delegate to the national convention —
22 congressional district.

23 DISTRICT TICKET: County executive committee.

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

28 (1) On the fourth Tuesday following the close of the
29 candidate filing, beginning at nine o'clock a. m., a drawing by
30 lot shall be conducted in the office of the clerk of the county
31 commission in each county. Notice of the drawing shall be given
32 on the form for the certificate of announcement and no further
33 notice shall be required. The clerk of the county commission
34 shall superintend and conduct the drawing and the method of
35 conducting the drawing shall be prescribed by the Secretary of
36 State.

37 (2) Except as provided herein, the position of each candidate
38 within each office division shall be determined by the position
39 drawn for that candidate individually: *Provided*, That if fewer
40 candidates file for an office division than the total number to be
41 nominated or elected, the vacant positions shall appear following
42 the names of all candidates for the office.

43 (3) Candidates for delegate to national convention who have
44 filed a commitment to a candidate for president shall be listed
45 alphabetically within the group of candidates committed to the

46 same candidate for president and uncommitted candidates shall
47 be listed alphabetically in an uncommitted category. The
48 position of each group of committed candidates and
49 uncommitted candidates shall be determined by lot by drawing
50 the names of the presidential candidates and for an uncommitted
51 category.

52 (4) A candidate or the candidate's representative may attend
53 the drawings.

ARTICLE 10. FILLING VACANCIES.

**§3-10-3. Vacancies in offices of state officials, United States
Senators and judges.**

1 (a) Any vacancy occurring in the offices of Secretary of
2 State, Auditor, Treasurer, Attorney General, Commissioner of
3 Agriculture, or in any office created or made elective to be filled
4 by the voters of the entire state, is filled by the Governor of the
5 state by appointment and subsequent election to fill the
6 remainder of the term, if required by section one of this article.

7 (b) Any vacancy occurring in the offices of Justice of the
8 Supreme Court of Appeals, judge of a circuit court or judge of a
9 family court is filled by the Governor of the state by appointment
10 and subsequent election to fill the remainder of the term, as
11 required by subsection (d) of this section. If an election is
12 required under subsection (d) of this section, the Governor,
13 circuit court or the chief judge thereof in vacation, is responsible
14 for the proper proclamation by order and notice required by
15 section one of this article.

16 (c) Any vacancy in the office of magistrate is appointed
17 according to the provisions of section six, article one, chapter
18 fifty of this code, and subsequent election to fill the remainder
19 of the term, as required by subsection (d) of this section.

20 (d) (1) When the vacancy in Justice of the Supreme Court of
21 Appeals, judge of the circuit court, judge of a family court or
22 magistrate occurs after the eighty-fourth day before a general
23 election, and the affected term of office ends on the thirty-first
24 day of December following the next election, the person
25 appointed to fill the vacancy shall continue in office until the
26 completion of the term.

27 (2) When the vacancy occurs before the close of the
28 candidate filing period for the primary election, the vacancy
29 shall be filled by election in the nonpartisan judicial election
30 held concurrently with the primary election, and the appointment
31 shall continue until a successor is elected and certified.

32 (3) When the vacancy occurs after the close of candidate
33 filing for the primary election and not later than eighty-four days
34 before the general election, the vacancy shall be filled by
35 election in a nonpartisan judicial election held concurrently with
36 the general election, and the appointment shall continue until a
37 successor is elected and certified.

38 (e) When an election to fill a vacancy is required to be held
39 at the general election according to the provisions of subsection
40 (d) of this section, a special candidate filing period shall be
41 established. Candidates seeking election to any unexpired term
42 for Justice of the Supreme Court of Appeals, judge of a circuit
43 court, judge of the family court or magistrate shall file a
44 certificate of announcement and pay the filing fee no earlier than
45 the first Monday in August and no later than seventy-seven days
46 before the general election.

**ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC
CAMPAIGN FINANCING PILOT PROGRAM.**

§3-12-3. Definitions.

1 As used in this article, the following terms and phrases have
2 the following meanings:

3 (1) “Candidate’s committee” means a political committee
4 established with the approval of or in cooperation with a
5 candidate or a prospective candidate to explore the possibilities
6 of seeking a particular office or to support or aid his or her
7 nomination or election to an office in an election cycle. If a
8 candidate directs or influences the activities of more than one
9 active committee in a current campaign, those committees shall
10 be considered one committee for the purpose of contribution
11 limits.

12 (2) “Certified candidate” means an individual seeking
13 election to the West Virginia Supreme Court of Appeals who has
14 been certified in accordance with section ten of this article as
15 having met all of the requirements for receiving public campaign
16 financing from the fund.

17 (3) “Contribution” means a gift subscription, assessment,
18 payment for services, dues, advance, donation, pledge, contract,
19 agreement, forbearance or promise of money or other tangible
20 thing of value, whether conditional or legally enforceable, or a
21 transfer of money or other tangible thing of value to a person,
22 made for the purpose of influencing the nomination, election or
23 defeat of a candidate. An offer or tender of a contribution is not
24 a contribution if expressly and unconditionally rejected or
25 returned. A contribution does not include volunteer personal
26 services provided without compensation: *Provided*, That a
27 nonmonetary contribution is to be considered at fair market
28 value for reporting requirements and contribution limitations.

29 (4) “Exploratory contribution” means a contribution of no
30 more than \$1,000 made by an individual adult, including a
31 participating candidate and members of his or her immediate
32 family, during the exploratory period but prior to filing the
33 declaration of intent. Exploratory contributions may not exceed
34 \$20,000 in the aggregate.

35 (5) “Exploratory period” means the period during which a
36 participating candidate may raise and spend exploratory
37 contributions to examine his or her chances of election and to
38 qualify for public campaign financing under this article. The
39 exploratory period begins on January 1 the year before the
40 election in which the candidate may run for Justice of the
41 Supreme Court of Appeals and ends on the last Saturday in
42 January of the election year.

43 (6) “Financial agent” means any individual acting for and by
44 himself or herself, or any two or more individuals acting together
45 or cooperating in a financial way to aid or take part in the
46 nomination or election of any candidate for public office, or to
47 aid or promote the success or defeat of any political party at any
48 election.

49 (7) “Fund” means the Supreme Court of Appeals Public
50 Campaign Financing Fund created by section five of this article.

51 (8) “Immediate family” or “immediate family members”
52 means the spouse, parents, step-parents, siblings and children of
53 the participating candidate.

54 (9) “Nonparticipating candidate” means a candidate who is:

55 (A) Seeking election to the Supreme Court of Appeals;

56 (B) Is neither certified nor attempting to be certified to
57 receive public campaign financing from the fund; and

58 (C) Has an opponent who is a participating or certified
59 candidate.

60 (10) “Nonpartisan judicial election campaign period” means
61 the period beginning on the first day of the primary election
62 filing period, as determined under section seven, article five of

63 this chapter, and ending on the day of the nonpartisan judicial
64 election.

65 (11) “Participating candidate” means a candidate who is
66 seeking election to the Supreme Court of Appeals and is
67 attempting to be certified in accordance with section ten of this
68 article to receive public campaign financing from the fund.

69 (12) “Person” means an individual, partnership, committee,
70 association and any other organization or group of individuals.

71 (13) “Qualifying contribution” means a contribution
72 received from a West Virginia registered voter of not less than
73 \$1 nor more than \$100 in the form of cash, check or money
74 order, made payable to a participating candidate or the
75 candidate’s committee, or in the form of an electronic payment
76 or debit or credit card payment, received during the qualifying
77 period.

78 (14) “Qualifying period” means the period during which
79 participating candidates may raise and spend qualifying
80 contributions in order to qualify to receive public campaign
81 financing.

82 For candidates seeking to be placed on the nonpartisan
83 judicial election ballot, the qualifying period begins on
84 September 1 preceding the election year and ends on the last
85 Saturday in January of the election year.

§3-12-6. Sources of revenue for the fund.

1 Revenue from the following sources shall be deposited in the
2 fund:

3 (1) All exploratory and qualifying contributions in excess of
4 the established maximums;

5 (2) Money returned by participating or certified candidates
6 who fail to comply with this article;

7 (3) Unspent or unobligated moneys allotted to certified
8 candidates and remaining unspent or unobligated on the date of
9 the nonpartisan judicial election for which the money was
10 distributed;

11 (4) If a certified candidate loses, all remaining unspent or
12 unobligated moneys;

13 (5) Civil penalties levied by the State Election Commission
14 against candidates for violations of this article;

15 (6) Civil penalties levied by the Secretary of State pursuant
16 to section seven, article eight of this chapter;

17 (7) Voluntary donations made directly to the fund;

18 (8) Any interest income or other return earned on the
19 money's investment;

20 (9) On or before July 1, 2010, and for two successive years
21 thereafter, the State Auditor shall authorize the transfer of the
22 amount of \$1 million from the Purchasing Card Administration
23 Fund established in section ten-d, article three, chapter twelve of
24 this code to the fund created by this article;

25 (10) On or before July 1, 2015, the state Auditor shall
26 authorize the transfer of the amount of \$400,000 from the
27 Purchasing Card Administration Fund established in section ten-
28 d, article three, chapter twelve of this code to the fund created by
29 this article; and

30 (11) Money appropriated to the fund.

§3-12-10. Certification of candidates.

1 (a) To be certified, a participating candidate shall apply to
2 the State Election Commission for public campaign financing
3 from the fund and file a sworn statement that he or she has
4 complied and will comply with all requirements of this article
5 throughout the applicable campaign.

6 (b) Upon receipt of a notice from the Secretary of State that
7 a participating candidate has received the required number and
8 amount of qualifying contributions, the State Election
9 Commission shall determine whether the candidate or
10 candidate's committee:

11 (1) Has signed and filed a declaration of intent as required by
12 section seven of this article;

13 (2) Has obtained the required number and amount of
14 qualifying contributions as required by section nine of this
15 article;

16 (3) Has complied with the contribution restrictions of this
17 article;

18 (4) Is eligible, as provided in section nine, article five of this
19 chapter, to appear on the nonpartisan judicial election ballot; and

20 (5) Has met all other requirements of this article.

21 (c) The State Election Commission shall process
22 applications in the order they are received and shall verify a
23 participating candidate's compliance with the requirements of
24 subsection (b) of this section by using the verification and
25 sampling techniques approved by the State Election
26 Commission.

27 (d) The State Election Commission shall determine whether
28 to certify a participating candidate as eligible to receive public

29 campaign financing no later than three business days after the
30 candidate or the candidate's committee makes his or her final
31 report of qualifying contributions or, if a challenge is filed under
32 subsection (g) of this section, no later than six business days
33 after the candidate or the candidate's committee makes his or her
34 final report of qualifying contributions. A certified candidate
35 shall comply with this article through the nonpartisan judicial
36 election campaign period.

37 (e) No later than two business days after the State Election
38 Commission certifies that a participating candidate is eligible to
39 receive public campaign financing under this section, the State
40 Election Commission, acting in concert with the State Auditor's
41 office and the State Treasurer's office, shall cause a check to be
42 issued to the candidate's campaign depository account an
43 amount equal to the public campaign financing benefit for which
44 the candidate qualifies under section eleven of this article, minus
45 the candidate's qualifying contributions, and shall notify all
46 other candidates for the same office of its determination.

47 (f) If the candidate desires to receive public financing
48 benefits by electronic transfer, the candidate shall include in his
49 or her application sufficient information and authorization for
50 the State Treasurer to transfer payments to his or her campaign
51 depository account.

52 (g) Any person may challenge the validity of any
53 contribution listed by a participating candidate by filing a written
54 challenge with the State Election Commission setting forth any
55 reason why the contribution should not be accepted as a
56 qualifying contribution. If a contribution is challenged under this
57 subsection, the State Election Commission shall decide the
58 validity of the challenge no later than the end of the next
59 business day after the day that the challenge is filed, unless the
60 State Election Commission determines that the candidate whose
61 contribution is challenged has both a sufficient qualifying

62 number and amount of qualifying contributions to be certified as
63 a candidate under this section without considering the challenge.
64 Within five business days of a challenge, the candidate or
65 candidate's committee who listed any contribution that is the
66 subject of a challenge may file a report with the State Election
67 Commission of an additional contribution collected pursuant to
68 section nine of this article for consideration as a qualifying
69 contribution.

70 (h) A candidate's certification and receipt of public
71 campaign financing may be revoked by the State Election
72 Commission, if the candidate violates this article. A certified
73 candidate who violates this article shall repay all moneys
74 received from the fund to the State Election Commission.

75 (i) The determination of any issue before the State Election
76 Commission is the final administrative determination. Any
77 meetings conducted by the State Elections Commission to certify
78 a candidate's eligibility to receive funds under this article shall
79 not be subject the public notice and open meeting requirements
80 of article nine-a, chapter six of this code, but the commission
81 shall concurrently provide public notice of any decision and
82 determination it makes which impacts the candidate's eligibility
83 to receive funds pursuant to this article. Any person adversely
84 affected by a decision of the State Election Commission under
85 this article may appeal that decision to the circuit court of
86 Kanawha County.

87 (j) A candidate may withdraw from being a certified
88 candidate and become a nonparticipating candidate at any time
89 with the approval of the State Election Commission. Any
90 candidate seeking to withdraw shall file a written request with
91 the State Election Commission, which shall consider requests on
92 a case-by-case basis. No certified candidate may withdraw until
93 he or she has repaid all moneys received from the fund:
94 *Provided*, That the State Election Commission may, in

95 exceptional circumstances, waive the repayment requirement.
96 The State Election Commission may assess a penalty not to
97 exceed \$10,000 against any candidate who withdraws without
98 approval.

**§3-12-11. Schedule and amount of Supreme Court of Appeals
Public Campaign Financing Fund payments.**

1 (a) The State Election Commission, acting in concert with
2 the State Auditor's office and the State Treasurer's office, shall
3 have a check issued within two business days after the date on
4 which the candidate is certified, to make payments from the fund
5 for the nonpartisan judicial election campaign period available
6 to a certified candidate.

7 In a contested nonpartisan judicial election, a certified
8 candidate shall receive \$525,000 in campaign financing from the
9 fund, minus the certified candidate's qualifying contributions.

10 (b) The State Election Commission shall authorize the
11 distribution of campaign financing moneys to certified
12 candidates in equal amounts. The commission shall propose a
13 legislative rule on distribution of funds.

14 (c) The State Election Commission may not authorize or
15 direct the distribution of moneys to certified candidates in excess
16 of the total amount of money deposited in the fund pursuant to
17 section six of this article. If the commission determines that the
18 money in the fund is insufficient to totally fund all certified
19 candidates, the commission shall authorize the distribution of the
20 remaining money proportionally, according to each candidate's
21 eligibility for funding. Each candidate may raise additional
22 money in the same manner as a nonparticipating candidate for
23 the same office up to the unfunded amount of the candidate's
24 eligible funding.

§3-12-12. Restrictions on contributions and expenditures.

1 (a) A certified candidate or his or her committee may not
2 accept loans or contributions from any private source, including
3 the personal funds of the candidate and the candidate's
4 immediate family, during the nonpartisan judicial election
5 campaign period except as permitted by this article.

6 (b) After filing the declaration of intent and during the
7 qualifying period, a participating candidate may not spend or
8 obligate more than he or she has collected in exploratory and
9 qualifying contributions. After the qualifying period and through
10 the nonpartisan judicial election campaign period, a certified
11 candidate may spend or obligate any unspent exploratory or
12 qualifying contributions and the moneys he or she receives from
13 the fund under the provisions of section eleven of this article.

14 (c) A participating or certified candidate may expend
15 exploratory and qualifying contributions and funds received
16 from the fund only for lawful election expenses as provided in
17 section nine, article eight of this chapter. Moneys distributed to
18 a certified candidate from the fund may be expended only during
19 the nonpartisan judicial election campaign period for which
20 funds were dispersed. Money from the fund may not be used:

21 (1) In violation of the law;

22 (2) To repay any personal, family or business loans,
23 expenditures or debts; or

24 (3) To help any other candidate.

25 (d) A certified candidate or his or her committee shall return
26 to the fund any unspent and unobligated exploratory
27 contributions, qualifying contributions or moneys received from
28 the fund within forty-eight hours after the date on which the
29 candidate ceases to be certified.

30 (e) A certified candidate or his or her committee shall return
31 to the fund any unspent or unobligated public campaign
32 financing funds no later than five business days after the
33 nonpartisan judicial election.

34 (f) A contribution from one person may not be made in the
35 name of another person.

36 (g) A participating or certified candidate or his or her
37 committee receiving qualifying contributions or exploratory
38 contributions from a person not listed on the receipt required by
39 sections eight and nine of this article is liable to the State
40 Election Commission for the entire amount of that contribution
41 and any applicable penalties.

42 (h) A certified candidate accepting any benefits under the
43 provisions of this article shall continue to comply with all of its
44 provisions throughout the nonpartisan judicial election campaign
45 period.

46 (i) A participating or certified candidate or his or her
47 financial agent shall provide the Secretary of State with all
48 requested campaign records, including all records of exploratory
49 and qualifying contributions received and campaign
50 expenditures and obligations, and shall fully cooperate with any
51 audit of campaign finances requested or authorized by the State
52 Election Commission.

§3-12-14. Duties of the State Election Commission; Secretary of State.

1 (a) In addition to its other duties, the State Election
2 Commission shall carry out the duties of this article and
3 complete the following as applicable:

4 (1) Prescribe forms for reports, statements, notices and other
5 documents required by this article;

6 (2) Make an annual report to the Legislature accounting for
7 moneys in the fund, describing the State Election Commission's
8 activities and listing any recommendations for changes of law,
9 administration or funding amounts;

10 (3) Propose emergency and legislative rules for legislative
11 approval, in accordance with article three, chapter twenty-nine-a
12 of this code, as may be necessary for the proper administration
13 of this article;

14 (4) Enforce this article to ensure that moneys from the fund
15 are placed in candidate campaign accounts and spent as specified
16 in this article;

17 (5) Monitor reports filed pursuant to this article and the
18 financial records of candidates to ensure that qualified
19 candidates receive funds promptly and to ensure that moneys
20 required by this article to be paid to the fund are deposited in the
21 fund;

22 (6) Cause an audit of the fund to be conducted by
23 independent certified public accountants ninety days after a
24 nonpartisan judicial election. The State Election Commission
25 shall cooperate with the audit, provide all necessary
26 documentation and financial records to those persons conducting
27 the audit and shall maintain a record of all information supplied
28 by the audit;

29 (7) In consultation with the State Treasurer and the State
30 Auditor, develop a rapid, reliable method of conveying funds to
31 certified candidates. In all cases, the commission shall distribute
32 funds to certified candidates in a manner that is expeditious,
33 ensures accountability and safeguards the integrity of the fund;

34 (8) Regularly monitor the receipts, disbursements,
35 obligations and balance in the fund to determine whether the
36 fund will have sufficient moneys to meet its obligations and

37 sufficient moneys available for disbursement during the
38 nonpartisan judicial election campaign period; and

39 (9) Transfer a portion of moneys maintained in the fund to
40 the West Virginia Investment Management Board for their
41 supervised investment, after consultation with the State
42 Treasurer, the State Auditor and the West Virginia Investment
43 Management Board.

44 (b) In addition to his or her other duties, the Secretary of
45 State shall carry out the duties of this article and complete the
46 following as applicable:

47 (1) Prescribe forms for reports, statements, notices and other
48 documents required by this article;

49 (2) Prepare and publish information about this article and
50 provide it to potential candidates and citizens of this state;

51 (3) Prepare and publish instructions setting forth methods of
52 bookkeeping and preservation of records to facilitate compliance
53 with this article and to explain the duties of candidates and
54 others participating in elections under this article;

55 (4) Propose emergency and legislative rules for legislative
56 approval in accordance with article three, chapter twenty-nine-a
57 of this code as may be necessary for the proper administration of
58 this article;

59 (5) Enforce this article to ensure that moneys from the fund
60 are placed in candidate campaign accounts and spent as specified
61 in this article;

62 (6) Monitor reports filed pursuant to this article and the
63 financial records of candidates to ensure that qualified
64 candidates receive funds promptly and to ensure that moneys
65 required by this article to be paid to the fund are deposited in the
66 fund;

67 (7) Ensure public access to the campaign finance reports
68 required pursuant to this article, and whenever possible, use
69 electronic means for the reporting, storing and display of the
70 information; and

71 (8) Prepare a voters' guide for the general public listing the
72 names of each candidate seeking election to the Supreme Court
73 of Appeals. Both certified and nonparticipating candidates shall
74 be invited by the State Election Commission to submit a
75 statement, not to exceed five hundred words in length, for
76 inclusion in the guide. The guide shall identify the candidates
77 that are certified candidates and the candidates that are
78 nonparticipating candidates. Copies of the guide shall be posted
79 on the website of the Secretary of State, as soon as may be
80 practical.

81 (c) To fulfill their responsibilities under this article, the State
82 Election Commission and the Secretary of State may subpoena
83 witnesses, compel their attendance and testimony, administer
84 oaths and affirmations, take evidence and require, by subpoena,
85 the production of any books, papers, records or other items
86 material to the performance of their duties or the exercise of
87 their powers.

88 (d) The State Election Commission may also propose and
89 adopt procedural rules to carry out the purposes and provisions
90 of this article and to govern procedures of the State Election
91 Commission as it relates to the requirements of this article.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 5. TERMS OF OFFICE; MATTERS AFFECTING THE RIGHT TO HOLD OFFICE.

§6-5-1. When terms of office to begin.

1 The terms of officers, except when elected or appointed to
2 fill vacancies, shall begin respectively as follows: That of

3 Governor, Secretary of State, State Superintendent of Free
4 Schools, Treasurer, Auditor, Attorney General and
5 Commissioner of Agriculture, on the first Monday after the
6 second Wednesday of January next after their election; that of a
7 member of the Legislature, on December 1, next after his or her
8 election; and that of the justices of the Supreme Court of
9 Appeals, the judges of the several circuit courts, the judges of the
10 family and other inferior courts, the county commissioners,
11 prosecuting attorneys, surveyors of land, assessors, sheriffs,
12 clerks of the circuit, or other inferior courts, clerks of the county
13 commissions, magistrates, on January 1, next after their election.

14 Whenever a person is elected or appointed to fill a vacancy,
15 his or her term shall be as prescribed by chapter three of this
16 code.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-1. Magistrate court created.

1 There is hereby created in each county of this state a
2 magistrate court with such numbers of magistrates for each court
3 as are hereafter provided. There shall be elected by the voters of
4 each county, at the general election to be held in 1976, and in
5 every fourth year thereafter, such number of magistrates as is
6 provided in section two of this article. The filing fee for the
7 office of magistrate shall be one percent of the annual salary.
8 The term of magistrates shall be for four years and shall begin on
9 January 1, of the year following the year of election.

10 Effective with the primary election of 2016, all elections for
11 magistrates will be on a nonpartisan basis by division. Beginning
12 in 2016, there will no longer be primary elections held for
13 magistrates and all elections for magistrates are to be held in the
14 nonpartisan judicial election as set forth in article five, chapter

15 three of this code. All indications of party identification on
16 election ballots for magistrate shall be omitted.

§50-1-6. Vacancy in office of magistrate.

1 Subject to the provisions of section one, article ten, chapter
2 three of this code, when a vacancy occurs in the office of
3 magistrate, the judge of the circuit court, or the chief judge
4 thereof if there is more than one judge of the circuit court, shall
5 fill the same by appointment.

6 At a nonpartisan judicial election in which a magistrate is
7 elected for an unexpired term, the circuit judge, or the chief
8 judge thereof if there is more than one judge of the circuit court,
9 shall cause a notice of such election to be published prior to such
10 election as a Class II-0 legal advertisement in compliance with
11 the provisions of article three, chapter fifty-nine of this code, and
12 the publication area for such publication shall be the county
13 involved.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-1. Justices.

1 The Supreme Court of Appeals shall consist of five justices,
2 elected and qualified according to the Constitution and the laws
3 of this state, any three of whom shall constitute a quorum.
4 Effective with the primary election of 2016, all elections for
5 justices will be on a nonpartisan basis by division. Beginning in
6 2016, there will no longer be primary elections held for the
7 office of justice and all elections for justice are to be held in the
8 nonpartisan judicial election as set forth in article five, chapter
9 three of this code. All indications of party identification on
10 election ballots for that office shall be omitted.

ARTICLE 2A. FAMILY COURTS.

§51-2A-5. Term of office of family court judge; initial appointment; elections.

1 (a) Beginning with the election to be conducted in the year
2 2016, family court judges shall be elected. In family court
3 circuits having two or more family court judges there shall be,
4 for election purposes, numbered divisions corresponding to the
5 number of family court judges in each area. Each family court
6 judge shall be elected at large by the entire family court circuit.
7 In each numbered division of a family court circuit, the
8 candidates for nomination or election shall be voted upon and
9 the votes cast for the candidates in each division shall be tallied
10 separately from the votes cast for candidates in other numbered
11 divisions within the family court circuit. The candidate or
12 candidates receiving the highest number of the votes cast within
13 a numbered division shall be nominated or elected, as the case
14 may be. Effective with the primary election of 2016, all elections
15 for family court judges in the respective circuits will be on a
16 nonpartisan basis by division. Beginning in 2016, there will no
17 longer be primary elections held for family court judges and all
18 elections for family court judges are to be held in the nonpartisan
19 judicial election as set forth in article five, chapter three of this
20 code. All indications of party identification on election ballots
21 for family court judge shall be omitted.

22 (b) The term of office for all family court judges elected in
23 2002 shall be for six years, commencing on January 1, 2003, and
24 ending on December 31, 2008. Subsequent terms of office for
25 family court judges elected thereafter shall be for eight years.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

