

COMMITTEE SUBSTITUTE

FOR

H. B. 2010

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

[Originating in the Committee on the Judiciary.]
(January 28, 2015)

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 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; to amend and reenact §51-2-1 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 non-partisan candidates can be selected to fill ballot vacancies in a general election; providing the timing of commencement of the terms of offices of justices of the Supreme Court of Appeals, circuit judge, family court judge, or magistrate; and providing for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

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; to amend said code 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; that §51-2-1 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 At the general election to be held in ~~the year~~ 1968, and in
2 every 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 ~~the year~~
5 1968, and in every second year thereafter, there shall be elected
6 a member of the state Senate for each senatorial district, and a
7 member or members of the House of Delegates of the state from
8 each county or each delegate district. At the general election to
9 be held in ~~the year 1968~~ 2016, and ~~in~~ every twelfth year
10 thereafter, there shall be elected one ~~judge~~ justice of the Supreme
11 Court of Appeals, and at the general election to be held in ~~1972~~
12 2020, and ~~in~~ every twelfth year thereafter, two ~~judges~~ justices of
13 the Supreme Court of Appeals and at the general election to be
14 held in ~~1976~~ 2024, and ~~in~~ every twelfth year thereafter, two

15 ~~judges~~ justices of the Supreme Court of Appeals. Effective with
16 the primary election held in the year 2016, the election of
17 justices of the Supreme Court of Appeals shall be on a
18 nonpartisan basis and by division as set forth more fully in
19 article five of chapter three of this code.

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

1 There shall be elected, at the general election to be held in
2 ~~the year~~ 1992, and in every eighth year thereafter, one judge of
3 the circuit court of every judicial circuit entitled to but one
4 judge, and one judge for each numbered division of the judicial
5 circuit in those judicial circuits entitled to two or more circuit
6 judges; and at the general election to be held in ~~the year~~ 1992,
7 and in every fourth year thereafter, a sheriff, prosecuting
8 attorney, surveyor of lands, and the number of assessors
9 prescribed by law for the county, and the number of magistrates
10 prescribed by law for the county; and at the general election to
11 be held in ~~the year~~ 1990, and in every second year thereafter, a
12 commissioner of the county commission for each county; and at
13 the general election to be held in ~~the year~~ 1992, and in every

14 sixth year thereafter, a clerk of the county commission and a
15 clerk of the circuit court for each county. Effective with the
16 primary election of 2016, all elections for judge of the circuit
17 courts in the respective circuits and magistrates in each county
18 will be elected on a nonpartisan basis and by division as set forth
19 more fully in article five of chapter three of this code.

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 ~~the provisions of~~ sections
11 thirteen and thirteen-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 ~~the provisions of~~
17 section two, article six of this chapter, except as otherwise
18 provided in this article.

19 (3) (A) Nonpartisan elections for Board of Education and,
20 (B) effective with the primary election held in 2016, and
21 thereafter, for the nonpartisan judicial offices, by division, of:

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

23 (ii) judge of the circuit court;

24 (iii) family court judge; and

25 (iv) magistrate, and

26 (C) any question to be voted upon; are to be separated from
27 the partisan ballot and separately headed in display type with a
28 title clearly identifying the purpose of the election and
29 constituting a separate ballot wherever a separate ballot is
30 required under ~~the provisions of~~ this chapter.

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

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

49 (c) Except for electronic voting systems that utilize screens
50 upon which votes may be recorded by means of a stylus or by

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

67 (d) In addition to the official ballots, the ballot
68 commissioners shall provide all other materials and equipment
69 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, ~~of each judicial circuit of West Virginia, and~~ of
6 each county, ~~and of each magisterial district~~ in the state shall be
7 nominated by the voters of the different political parties, except
8 that no presidential elector shall be nominated at a primary
9 election.

10 (b) In primary elections a plurality of the votes cast shall be
11 sufficient for the nomination of candidates for office. Where
12 only one candidate of a political party for any office in a political
13 division, including party committeemen and delegates to
14 national conventions, is to be chosen, ~~or where a judicial circuit~~
15 ~~has two or more circuit judges and one circuit judge is to be~~
16 ~~chosen for each numbered division within the circuit, the~~
17 candidate receiving the highest number of votes therefor in the
18 primary election shall be declared the party nominee for such

19 office. Where two or more such candidates are to be chosen in
20 the primary election, the candidates constituting the proper
21 number to be so chosen who shall receive the highest number of
22 votes cast in the political division in which they are candidates
23 shall be declared the party nominees and choices for such
24 offices, except that:

25 (1) Candidates for the office of commissioner of the county
26 commission shall be nominated and elected in accordance with
27 the provisions of section ten, article nine of the Constitution of
28 the State of West Virginia and the requirements of section one-b,
29 article one, chapter seven;

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

33 (3) Candidates for the House of Delegates shall be
34 nominated and elected in accordance with the residence
35 restrictions provided in section two, article two, chapter one of
36 this code, and

37 ~~(4) In judicial circuits having numbered divisions, each~~
38 ~~numbered division shall be tallied separately and the candidate~~

39 ~~in each division receiving a plurality of the votes cast shall be~~
40 ~~declared the party nominee for the office in that numbered~~
41 ~~division.~~

42 (c) In case of tie votes between candidates for party
43 nominations or elections in primary elections, the choice of the
44 political party shall be determined by the executive committee
45 of the party for the political division in which such persons are
46 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 (2) Beginning with the election held in the year 2016, an
11 election of justices of the Supreme Court of Appeals shall be
12 upon a nonpartisan ballot printed for that purpose.

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

19 (c) In case of a tie vote under this section, section twelve,
20 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 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 or the state Senate
8 and any other office or political position to be filled by the voters
9 of more than one county, including judges of the circuit court
10 and family court judges whose circuits lie within more than one

11 county, shall file a certificate of announcement with the
12 Secretary of State.

13 (2) Candidates for an office or political position to be filled
14 by the voters of a single county or a subdivision of a county,
15 including judges of the circuit court and family court judges
16 whose circuits lie entirely within one county, except for
17 candidates for the House of Delegates or State Senate, but, shall
18 file a certificate of announcement with the clerk of the county
19 commission.

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

23 (c) The certificate of announcement shall be filed with the
24 proper officer not earlier than the second Monday in January
25 ~~next preceding~~ before the primary election day and not later than
26 the last Saturday in January ~~next preceding~~ before the primary
27 election day and must be received before midnight, eastern
28 standard time, of that day or, if mailed, shall be postmarked by
29 the United States Postal Service before that hour.

30 (1) This includes the offices of justice of the Supreme Court
31 of Appeals, circuit court judge, family court judge and
32 magistrate, which are to be filled on a nonpartisan and division
33 basis at the primary election.

34 (2) All certificates of announcement for the offices of justice
35 of the Supreme Court of Appeals, circuit court judge, family
36 court judge and magistrate which are filed not earlier than the
37 second Monday in January before the primary election day, and
38 not later than the last Saturday in January before the primary
39 election day, and are received before midnight, eastern standard
40 time, of that day or, if mailed, were postmarked by the United
41 States Postal Service before that hour, may be withdrawn on or
42 before midnight, eastern standard time, of the third Tuesday in
43 February, in accordance with article five, section eleven of this
44 chapter, with a full refund of any filing fees paid or, if not
45 withdrawn, are effective for purposes of the nonpartisan election,
46 by division, for the judicial offices to be held on primary election
47 day.

48 (d) The certificate of announcement shall be on a form
49 prescribed by the Secretary of State on which the candidate shall

50 make a sworn statement before a notary public or other officer
51 authorized to administer oaths, containing the following
52 information:

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

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

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

60 (4) The county of residence and a statement that the
61 candidate is a legally qualified voter of that county; and the
62 magisterial district of residence for candidates elected from
63 magisterial districts or under magisterial district limitations;

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

67 (6) For partisan elections, the name of the candidate's
68 political party and a statement that the candidate: (A) Is a
69 member of and affiliated with that political party as evidenced

70 by the candidate's current registration as a voter affiliated with
71 that party; and (B) has not been registered as a voter affiliated
72 with any other political party for a period of sixty days before
73 the date of filing the announcement;

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

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

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

83 (e) The Secretary of State or the board of ballot
84 commissioners, as the case may be, may refuse to certify the
85 candidacy or may remove the certification of the candidacy upon
86 receipt of a certified copy of the voter's registration record of the
87 candidate showing that the candidate was registered as a voter in
88 a party other than the one named in the certificate of
89 announcement during the sixty days immediately preceding the

90 filing of the certificate: *Provided*, That unless a signed formal
91 complaint of violation of this section and the certified copy of
92 the voter's registration record of the candidate are filed with the
93 officer receiving that candidate's certificate of announcement no
94 later than ten days following the close of the filing period, the
95 candidate may not be refused certification for this reason.

96 (f) The certificate of announcement shall be subscribed and
97 sworn to by the candidate before some officer qualified to
98 administer oaths, who shall certify the same. Any person who
99 knowingly provides false information on the certificate is guilty
100 of false swearing and shall be punished in accordance with
101 section three, article nine of this chapter.

102 (g) Any candidate for delegate to a national convention may
103 change his or her statement of presidential preference by
104 notifying the Secretary of State by letter received by the
105 Secretary of State no later than the third Tuesday following the
106 close of candidate filing. When the rules of the political party
107 allow each presidential candidate to approve or reject candidates
108 for delegate to convention who may appear on the ballot as
109 committed to that presidential candidate, the presidential

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

114 (h) A person may not be a candidate for more than one office
115 or office division at any election. *Provided*, That a candidate for
116 an office may also be a candidate for President of the United
117 States, for membership on political party executive committees
118 or for delegate to a political party national convention: *Provided,*
119 *however, that an unsuccessful candidate for a nonpartisan office*
120 *in an election held concurrently with the primary election may*
121 *be appointed under the provisions of section nineteen of article*
122 *five of chapter three of this code to fill a vacancy on the general*
123 *ballot.*

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

130 (j) The provisions of this section enacted during the regular
131 session of the Legislature in the year 1991 shall apply to the
132 primary election held in the year 1992 and every primary
133 election held thereafter. The provisions of this section enacted
134 during the regular session of the Legislature in the year 2009
135 shall apply to the primary election held in the year 2010 and
136 every primary election held thereafter.

§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 the Board of
14 Education is to contain the words “Nonpartisan Ballot of
15 Election of Members of the _____ County Board of
16 Education”. The districts for which less than two candidates may
17 be elected and the number of available seats are to be specified
18 and the names of the candidates are to be printed without
19 reference to political party affiliation and without designation as
20 to a particular term of office.

21 (B) The ballot title of any separate paper ballot or portion of
22 any electronic or voting machine ballot for all judicial officer
23 shall commence with the words “Nonpartisan Ballot of Election
24 of Judicial Officers.” and each such office shall be listed in the
25 following order:

26 (i) The ballot title of any separate paper ballot or portion of
27 any electronic or voting machine ballot for all justices of the
28 Supreme Court of Appeals shall contain the words “Nonpartisan
29 Ballot of Election of Justice(s) of the Supreme Court of Appeals
30 of West Virginia.” The names of the candidates for the Supreme

31 Court of Appeals shall be printed by division without references
32 to political party affiliation or registration.

33 (ii) The ballot title of any separate paper ballot or portion of
34 any electronic or voting machine ballot for all circuit court
35 judges in the respective circuits shall contain the words
36 “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The
37 names of the candidates for the respective circuit court judge
38 office shall be printed by division without references to political
39 party affiliation or registration.

40 (iii) The ballot title of any separate paper ballot or portion of
41 any electronic or voting machine ballot for all family court
42 judges in the respective circuits shall contain the words
43 “Nonpartisan Ballot of Election of Family Court Judge(s)”. The
44 names of the candidates for the respective family court judge
45 office shall be printed by division without references to political
46 party affiliation or registration.

47 (iv) The ballot title of any separate paper ballot or portion of
48 any electronic or voting machine ballot for all magistrates in the
49 respective circuits shall contain the words “Nonpartisan Ballot
50 of Election of Magistrate(s)”. The names of the candidates for

51 the respective magistrate office shall be printed by division
52 without references to political party affiliation or registration.

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 ~~(2)~~ (3) (A) For paper ballots, the heading of the ballot is to
57 be 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 subsection
69 (A) of this ~~section~~ subdivision. The number of pages, columns
70 or rows, where applicable, may be modified to meet the

71 limitations of ballot size and composition requirements subject
72 to approval by 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 ~~(3)~~ (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 ~~(4)~~ (5) When an insufficient number of candidates has filed
130 for a party to make the number of nominations allowed for the

131 office or for the voters to elect sufficient members to the board
132 of 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 ~~(5)~~ (6) In presidential election years, the words “For election
146 in accordance with the plan adopted by the party and filed with
147 the Secretary of State” is to be printed following the names of all
148 candidates for delegate to national convention.

149 ~~(6)~~ (7) All paper ballots are to be printed in black ink on
150 paper 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 ~~(7)~~ (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 ~~(8)~~ (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 ~~(9)~~ (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,

12 ~~Justice of the Supreme Court of Appeals, State Senator, member~~
13 ~~of the House of Delegates, circuit judge in multicounty districts,~~
14 ~~family court judge in multicounty districts,~~ any other
15 multicounty office, state executive committee.

16 COUNTY TICKET: ~~Circuit judge in single-county districts,~~
17 ~~Family court judge in single-county districts,~~ clerk Clerk of the
18 circuit court, county commissioner, clerk of the county
19 commission, prosecuting attorney, sheriff, assessor, ~~magistrate,~~
20 surveyor, congressional district executive committee, senatorial
21 district executive committee in multicounty districts, delegate
22 district executive committee in multicounty districts.

23 NATIONAL CONVENTION: Delegate to the national
24 convention — at-large, delegate to the national convention —
25 congressional district

26 DISTRICT TICKET: County executive committee.

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

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

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

46 (3) Candidates for delegate to national convention who have
47 filed a commitment to a candidate for president shall be listed
48 alphabetically within the group of candidates committed to the
49 same candidate for president and uncommitted candidates shall
50 be listed alphabetically in an uncommitted category. The

51 position of each group of committed candidates and
52 uncommitted candidates shall be determined by lot by drawing
53 the names of the presidential candidates and for an uncommitted
54 category.

55 (4) A candidate or the candidate's representative may attend
56 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, ~~Justice of the Supreme Court of Appeals~~ or in any
4 office created or made elective to be filled by the voters of the
5 entire state, ~~judge of a circuit court or judge of a family court~~ is
6 filled by the Governor of the state by appointment and
7 subsequent election to fill the remainder of the term, if required
8 by section one of this article.

9 (b) Any vacancy occurring in the offices of Justice of the
10 Supreme Court of Appeals, judge of a circuit court, or judge of
11 a family court is filled by the Governor of the state by
12 appointment and subsequent election to fill the remainder of the

13 term, as required by subsection (d) of this section. If an election
14 is required under subsection (d) of this section, the governor,
15 circuit court, or the chief judge thereof in vacation, is responsible
16 for the proper proclamation, by order and notice required by
17 section one of this article.

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

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

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

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

40 (e) When an election to fill a vacancy is required to be held
41 at the general election according to the provisions of subsection
42 (d) of this section, a special candidate filing period shall be
43 established. Candidates seeking election to any unexpired term
44 for Justice of the Supreme Court of Appeals, judge of a circuit
45 court, judge of the family court, or magistrate, shall file a
46 certificate of announcement and pay the filing fee no earlier than
47 the first Monday in August and no later than seventy-seven days
48 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 primary election in which the candidate may run for Justice of
41 the 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) “General election campaign period” means the period~~
52 ~~beginning the day after the primary election and ending on the~~
53 ~~day of the general election.~~

54 ~~(9)~~ “Immediate family” or “immediate family members”
55 means the spouse, parents, step-parents, siblings and children of
56 the participating candidate.

57 ~~(10)~~ (9) “Nonparticipating candidate” means a candidate
58 who is:

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

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

62 (C) Has an opponent who is a participating or certified
63 candidate.

64 (10) “Nonpartisan judicial election campaign period” means
65 the period beginning on the first day of the primary election
66 filing period, as determined under section seven, article five of
67 this chapter, and ending on the day of the nonpartisan judicial
68 election.

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

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

75 ~~(13) “Primary election campaign period” means the period~~
76 ~~beginning on the first day of the primary election filing period,~~
77 ~~as determined under section seven, article five of this chapter,~~
78 ~~and ending on the day of the subsequent primary election.~~

79 ~~(14)~~ “Qualifying contribution” means a contribution
80 received from a West Virginia registered voter of not less than
81 \$1 nor more than \$100 in the form of cash, check or money

82 order, made payable to a participating candidate or the
83 candidate's committee, or in the form of an electronic payment
84 or debit or credit card payment, received during the qualifying
85 period.

86 ~~(15)~~ (14) "Qualifying period" means the period during which
87 participating candidates may raise and spend qualifying
88 contributions in order to qualify to receive public campaign
89 financing.

90 ~~(A)~~ For candidates seeking ~~nomination on the primary~~
91 ~~election ballot~~, to be placed on the ~~general~~ nonpartisan judicial
92 election ballot, the qualifying period begins on September 1
93 preceding the election year and ends on the last Saturday in
94 January of the election year.

95 ~~(B)~~ For candidates, ~~other than those nominated during the~~
96 ~~primary election, seeking to be placed on the general election~~
97 ~~ballot, the qualifying period begins on June 1 of the election year~~
98 ~~and ends on October 1 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 ~~general~~ nonpartisan judicial election for which the money
10 was distributed;

11 (4) If a certified candidate loses, all remaining unspent or
12 unobligated moneys ~~after the primary election~~;

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 ~~primary or general~~ nonpartisan judicial
20 election ballot; and

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

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

28 (d) The State Election Commission shall determine whether
29 to certify a participating candidate as eligible to receive public
30 campaign financing no later than three business days after the

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

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

48 (f) If the candidate desires to receive public financing
49 benefits by electronic transfer, the candidate shall include in his
50 or her application sufficient information and authorization for

51 the State Treasurer to transfer payments to his or her campaign
52 depository account.

53 (g) Any person may challenge the validity of any
54 contribution listed by a participating candidate by filing a written
55 challenge with the State Election Commission setting forth any
56 reason why the contribution should not be accepted as a
57 qualifying contribution. If a contribution is challenged under this
58 subsection, the State Election Commission shall decide the
59 validity of the challenge no later than the end of the next
60 business day after the day that the challenge is filed, unless the
61 State Election Commission determines that the candidate whose
62 contribution is challenged has both a sufficient qualifying
63 number and amount of qualifying contributions to be certified as
64 a candidate under this section without considering the challenge.
65 Within five business days of a challenge, the candidate or
66 candidate's committee who listed any contribution that is the
67 subject of a challenge may file a report with the State Election
68 Commission of an additional contribution collected pursuant to
69 section nine of this article for consideration as a qualifying
70 contribution.

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

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

88 (j) A candidate may withdraw from being a certified
89 candidate and become a nonparticipating candidate at any time
90 with the approval of the State Election Commission. Any

91 candidate seeking to withdraw shall file a written request with
92 the State Election Commission, which shall consider requests on
93 a case-by-case basis. No certified candidate may withdraw until
94 he or she has repaid all moneys received from the fund:
95 *Provided*, That the State Election Commission may, in
96 exceptional circumstances, waive the repayment requirement.
97 The State Election Commission may assess a penalty not to
98 exceed \$10,000 against any candidate who withdraws without
99 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 ~~2012 primary~~ nonpartisan judicial election campaign
6 period available to a certified candidate.

7 ~~(1)~~In a contested primary nonpartisan judicial election, a
8 certified candidate shall receive \$300,000 in campaign financing
9 from the fund, minus the certified candidate's qualifying
10 contributions.

11 ~~(2) In an uncontested primary election, a certified candidate~~
12 ~~shall receive \$50,000 from the public campaign financing fund,~~
13 ~~minus the certified candidate's qualifying contributions.~~

14 ~~(b) Within two business days after the primary election~~
15 ~~results are certified by the Secretary of State, the State Election~~
16 ~~Commission, acting in concert with the State Auditor's office~~
17 ~~and the State Treasurer's office, shall cause a check to be issued~~
18 ~~to make payments from the fund for the general election~~
19 ~~campaign period available to a certified candidate.~~

20 ~~(1) In a contested general election, a certified candidate shall~~
21 ~~receive from the fund an amount not to exceed \$525,000.~~

22 ~~(2) In an uncontested general election, a certified candidate~~
23 ~~shall receive \$35,000 from the public campaign financing fund.~~

24 ~~(e)~~(b) The State Election Commission shall authorize the
25 distribution of campaign financing moneys to certified
26 candidates in equal amounts. The commission shall propose a
27 legislative rule on distribution of funds.

28 ~~(d)~~(c) The State Election Commission may not authorize or
29 direct the distribution of moneys to certified candidates in excess
30 of the total amount of money deposited in the fund pursuant to

31 section six of this article. If the commission determines that the
32 money in the fund is insufficient to totally fund all certified
33 candidates, the commission shall authorize the distribution of the
34 remaining money proportionally, according to each candidate's
35 eligibility for funding. Each candidate may raise additional
36 money in the same manner as a nonparticipating candidate for
37 the same office up to the unfunded amount of the candidate's
38 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 ~~primary or general~~ nonpartisan
5 judicial election campaign periods except as permitted by this
6 article.

7 (b) After filing the declaration of intent and during the
8 qualifying period, a participating candidate may not spend or
9 obligate more than he or she has collected in exploratory and
10 qualifying contributions. After the qualifying period and through
11 the nonpartisan judicial ~~general~~ election campaign period, a

12 certified candidate may spend or obligate any unspent
13 exploratory or qualifying contributions and the moneys he or she
14 receives from the fund under the provisions of section eleven of
15 this article.

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

24 (1) In violation of the law;

25 (2) To repay any personal, family or business loans,
26 expenditures or debts; or

27 (3) To help any other candidate.

28 (d) A certified candidate or his or her committee shall return
29 to the fund any unspent and unobligated exploratory
30 contributions, qualifying contributions or moneys received from
31 the fund within forty-eight hours after:

32 ~~(1)~~ The date on which the candidate ceases to be certified; ~~or~~

33 ~~(2)~~ The date on which the individual loses the primary
34 election or otherwise ceases to be a candidate.

35 ~~(e)~~ Funds remaining unspent or unobligated after the close
36 of the primary election campaign period may be retained by the
37 candidate for use during the general election campaign period
38 but shall be deducted from the amount the candidate is eligible
39 to receive under subsection ~~(b)~~, section eleven of this article:

40 ~~(f)~~ A certified candidate or his or her committee shall return
41 to the fund any unspent or unobligated public campaign
42 financing funds no later than five business days after the ~~general~~
43 nonpartisan judicial election.

44 ~~(g)~~ (f) A contribution from one person may not be made in
45 the name of another person.

46 ~~(h)~~ (g) A participating or certified candidate or his or her
47 committee receiving qualifying contributions or exploratory
48 contributions from a person not listed on the receipt required by
49 sections eight and nine of this article is liable to the State
50 Election Commission for the entire amount of that contribution
51 and any applicable penalties.

52 (†)(h) A certified candidate accepting any benefits under the
53 provisions of this article shall continue to comply with all of its
54 provisions throughout the ~~primary election campaign period and~~
55 ~~general nonpartisan judicial~~ election campaign period.

56 (†)(i) A participating or certified candidate or his or her
57 financial agent shall provide the Secretary of State with all
58 requested campaign records, including all records of exploratory
59 and qualifying contributions received and campaign
60 expenditures and obligations, and shall fully cooperate with any
61 audit of campaign finances requested or authorized by the State
62 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 ~~general~~ nonpartisan judicial election. The State Election
25 Commission shall cooperate with the audit, provide all necessary
26 documentation and financial records to the auditor and maintain
27 a record of all information supplied by the audit;

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

33 (8) Regularly monitor the receipts, disbursements,
34 obligations and balance in the fund to determine whether the
35 fund will have sufficient moneys to meet its obligations and
36 sufficient moneys available for disbursement during the ~~primary~~
37 ~~and general~~ nonpartisan judicial election campaign period; and

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

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

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

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

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

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

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

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

66 (7) Ensure public access to the campaign finance reports
67 required pursuant to this article, and whenever possible, use

68 electronic means for the reporting, storing and display of the
69 information; and

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

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

87 (d) The State Election Commission may also propose and
88 adopt procedural rules to carry out the purposes and provisions
89 of this article and to govern procedures of the State Election
90 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 commissioner
5 of agriculture, on the first Monday after the second Wednesday
6 of January next after their election; that of a member of the
7 Legislature, on December 1, next after his or her election; and
8 that of the judges of the Supreme Court of Appeals, the judges
9 of the several circuit courts, the judges of the ~~criminal,~~
10 ~~intermediate, common pleas~~ family and other inferior courts, the
11 county commissioners, prosecuting attorneys, surveyors of land,

12 assessors, sheriffs, clerks of the circuit, ~~criminal, intermediate,~~
13 ~~common pleas~~, or other inferior courts, clerks of the county
14 ~~courts commissions, justices of the peace and constables~~
15 magistrates, on January 1, next after their election.

16 Whenever a person is elected or appointed to fill a vacancy,
17 his or her term shall be as prescribed by chapter three of this
18 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 ~~the year~~ 1976,
5 and in every fourth year thereafter, such number of magistrates
6 as is 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 of chapter
15 three of this code. All indications of party identification on
16 election ballots for magistrate shall be omitted.

17 In counties where voting machines or electronic voting
18 systems are used, the procedures of section eleven, article four,
19 chapter three and section twelve, article four-a of said chapter
20 three of this code shall apply respectively to the election of
21 magistrates in the same manner as they apply to the election of
22 members of the House of Delegates.

23 ~~Notwithstanding the provisions of section seven, article five,~~
24 ~~chapter three of this code, for purposes of the primary election~~
25 ~~to be held in the year one thousand nine hundred seventy-six,~~
26 ~~the last day for filing certificates of candidacy for the office of~~
27 ~~magistrate shall be extended to the twenty-seventh day of~~
28 ~~February of that year.~~

§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 of a person of the same political
6 party as the officeholder vacating the office.

7 At a ~~general~~ nonpartisan judicial election in which a
8 magistrate is elected for an unexpired term, the circuit judge, or
9 the chief judge thereof if there is more than one judge of the
10 circuit court, shall cause a notice of such election to be published
11 prior to such election as a Class II-0 legal advertisement in
12 compliance with the provisions of article three, chapter fifty-nine
13 of this code, and the publication area for such publication shall
14 be the county involved. If the vacancy occurs before the ~~primary~~
15 election held to nominate candidates to be voted for at the
16 general election, at which any such vacancy is to be filled,
17 candidates to fill such vacancy shall be nominated at such
18 primary election in accordance with the time requirements and
19 the provisions and procedures prescribed in article five, chapter

20 three of this code. Otherwise, they shall be nominated by the
21 county executive committee in the manner provided in section
22 nineteen, article five, chapter three of this code, as in the case of
23 filling vacancies in nominations, and the names of the persons so
24 nominated and certified to the clerk of the circuit court of such
25 county shall be placed upon the ballot to be voted at such next
26 general election.

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 of chapter
9 three of this code. All indications of party identification on
10 election ballots for that office shall be omitted.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58 (28) The county of Nicholas shall constitute the twenty-
59 eighth circuit and shall have one judge;

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

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

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

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

70 (c) Any judge in office on the effective date of the
71 reenactment of this section shall continue as a judge of the
72 circuit as constituted under prior enactments of this section,
73 unless sooner removed or retired as provided by law, until
74 December 31, 2008.

75 (d) The term of office of all circuit court judges shall be for
76 eight years. The term of office for all circuit court judges elected

77 during the general election conducted in the year 2008 shall
78 commence on January 1, 2009, and end on December 31, 2016.

79 (e) Beginning in 2016, all elections for circuit court judge
80 shall be nonpartisan by division, and all elections for circuit
81 court judge are to be held in the nonpartisan judicial election as
82 set forth in article five of chapter three of this code. Beginning
83 in 2016, there will no longer be primary elections held for circuit
84 court judges. All indications of party identification on election
85 ballots for circuit court judge shall be omitted. For election
86 purposes, in every judicial circuit having two or more judges
87 there shall be numbered divisions corresponding to the number
88 of circuit judges in each circuit. Each judge shall be elected at
89 large from the entire circuit. In each numbered division of a
90 judicial circuit, the candidates for nomination or election shall be
91 voted upon and the votes cast for the candidates in each division
92 shall be tallied separately from the votes cast for candidates in
93 other numbered divisions within the circuit. The candidate
94 receiving the highest number of the votes cast within a numbered
95 division shall be nominated or elected, as the case may be.

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

99 (g) The Supreme Court of Appeals shall, by rule, establish
100 the terms of court of circuit judges.

ARTICLE 2A. FAMILY COURTS.

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

1 (a) Beginning with the primary and general elections to be
2 conducted in the year 2002, family court judges shall be elected.
3 In family court circuits having two or more family court judges
4 there shall be, for election purposes, numbered divisions
5 corresponding to the number of family court judges in each area.
6 Each family court judge shall be elected at large by the entire
7 family court circuit. In each numbered division of a family court
8 circuit, the candidates for nomination or election shall be voted
9 upon and the votes cast for the candidates in each division shall
10 be tallied separately from the votes cast for candidates in other
11 numbered divisions within the family court circuit. The
12 candidate or candidates receiving the highest number of the

13 votes cast within a numbered division shall be nominated or
14 elected, as the case may be. Effective with the primary election
15 of 2016, all elections for family court judges in the respective
16 circuits will be on a nonpartisan basis by division. Beginning in
17 2016, there will no longer be primary elections held for family
18 court judges and all elections for family court judges are to be
19 held in the nonpartisan judicial election as set forth in article five
20 of chapter three of this code. All indications of party
21 identification on election ballots for family court judge shall be
22 omitted.

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

27 (c) The primary and general elections conducted in the year
28 2008 shall be conducted to fill the family court judge positions
29 in the reconfigured districts set forth by subsection (c), section
30 three of this article, for terms to commence on January 1, 2009.

