

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 204**

BY SENATORS BOSO, BLAIR AND FACEMIRE

[Originating in the Committee on Government  
Organization; reported on February 22, 2017]

1 A BILL to amend and reenact §5-1-22 of the Code of West Virginia, 1931, as amended, relating  
2 to filling vacancies in offices by appointment of the Governor; providing for what shall be  
3 considered an appointment; and requiring that persons appointed to fill a vacancy have  
4 the same qualifications for the vacated office and receive same compensation and  
5 expenses for the office otherwise provided by law.

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

1 That §5-1-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
2 to read as follows:

**ARTICLE 1. THE GOVERNOR.**

**§5-1-22. Vacancies in offices filled by appointment of Governor; Senate action; bond requirements; filling vacancies in other appointive offices.**

1 (a) In case of a vacancy, during the recess of the Senate, in any office, which vacancy the  
2 Governor is authorized to fill by and with the advice and consent of the Senate, the Governor  
3 shall, by appointment within thirty days, fill such vacancy until the next meeting of the Senate,  
4 when the Governor shall submit to the Senate a nomination to fill such vacancy and, upon  
5 confirmation of such nomination by the Senate, by a vote of a majority of all the members elected  
6 to the Senate, taken by yeas and nays, the person so nominated and confirmed shall hold said  
7 office during the remainder of the term for which his or her predecessor in office was appointed,  
8 and until his or her successor shall be appointed and qualified. No person whose nomination for  
9 office has been rejected by the Senate shall again be nominated for the same office during the  
10 session in which his or her nomination was so rejected, unless at the request of the Senate, nor  
11 shall ~~he~~ the person be appointed to the same office during the recess of the Senate. No appointee  
12 who resigns from any such office prior to confirmation, or whose name has not been submitted  
13 for confirmation while the Senate is in session, shall be eligible, during the recess of the Senate,  
14 to hold any office the nomination for which must be confirmed by the Senate.

15 (b) Any person who the Governor has granted the authority to exercise the duties and

16 responsibilities of an office for which there is a vacancy or has been designated to be acting in  
17 the position of a vacated office shall be considered to be appointed to fill the vacancy and subject  
18 to the provisions of this section.

19 (c) Any person appointed to fill a vacancy shall possess the qualifications of the office and  
20 shall only receive compensation and expenses for the office, as provided in this code.

21 (d) The bond, if any, required by law to be given by any officer so temporarily appointed  
22 by the Governor, shall be in such penalty as is required by law of the incumbent of such office.

23 (e) Any vacancy in any other office filled by appointment, or in any office hereafter created  
24 to be filled by appointment, shall be filled by the same person, court or body authorized to make  
25 appointment to such office for the full term thereof.

NOTE: The purpose of this bill is to require that persons appointed to fill a vacancy by the Governor have the same qualifications for the vacated office and receive same compensation and expenses for the office otherwise provided by law.

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