

**WEST VIRGINIA LEGISLATURE**  
**2018 SECOND EXTRAORDINARY SESSION**

**Introduced**

**Senate Bill 2001**

**FISCAL  
NOTE**

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STOLLINGS, FACEMIRE, WOELFEL, PLYMALE, PALUMBO,  
BEACH AND OJEDA

[Introduced August 20, 2018; Referred  
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §3-10-10, relating to requiring a special election following removal of one or  
3 more justices of the Supreme Court of Appeals of West Virginia under certain  
4 circumstances; stating circumstances under which a special election is required; requiring  
5 the Governor to appoint a temporary replacement from a list provided by the Judicial  
6 Vacancy Advisory Commission; setting process for special election, including special filing  
7 periods and special election date; clarifying that each vacancy is filled separately; requiring  
8 the Governor to issue a proclamation setting the election and including a filing period;  
9 detailing certain aspects of declaring, publicizing, and conducting the election; and  
10 defining terms.

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

## **ARTICLE 10. FILLING VACANCIES.**

### **§3-10-10. Supreme Court Impeachment of 2018.**

1 (a) Notwithstanding the provisions of §3-10-1 and §3-10-3 of this code, if any justice of the  
2 Supreme Court of Appeals of West Virginia is removed from office following impeachment by the  
3 House of Delegates with eighty-four days or less remaining before the general election in the year  
4 2018 or after the general election in the year 2018 prior to commencement of the 2019 Regular  
5 Legislative Session, the provisions of this section shall apply.

6 (b) If any justice of the Supreme Court of Appeals of West Virginia is removed from office  
7 during the time period stated in subsection (a) of this section, the vacancy or vacancies shall be  
8 filled by the Governor by appointment from recommendations submitted by the Judicial Vacancy  
9 Advisory Commission pursuant to §3-10-3a of this code, until a person is elected in a nonpartisan  
10 judicial election held as a special election on June 20, 2019. If more than one justice of the  
11 Supreme Court of Appeals of West Virginia is removed from office during the time period stated  
12 in subsection (a) of this section, the special elections required by this section shall all be held  
13 concurrently on June 20, 2019. The person or persons elected on that date, having first duly

14 qualified, shall enter upon the duties of their office. The elected replacement shall hold the office  
15 until the end of the original term of office.

16 (c) The candidates shall file a notarized declaration of candidacy, which shall designate  
17 the vacancy the candidate seeks to fill, and filing fee provided by §3-5-7 of this code either in  
18 person, by United States mail, electronic means or any other means authorized by the Secretary  
19 of State and received by the appropriate office before the close of the filing period set forth in  
20 subsection (d) of this section. For petition in lieu of payment of filing fees, a candidate seeking  
21 nomination for the vacancy may utilize the process set forth in §3-5-8a of this code: *Provided,*  
22 That the minimum number of signatures required is equivalent to one qualified signature per one  
23 whole dollar of the filing fee for that office.

24 (d) If any justice of the Supreme Court of Appeals of West Virginia is removed from office  
25 during the time period stated in subsection (a) of this section, the Governor shall issue a  
26 proclamation no later than January 15, 2019, fixing June 20, 2019, as the date for the special  
27 election to fill all vacancies on the Supreme Court of Appeals created during the time period stated  
28 in subsection (a) of this section, and providing for a special candidate filing period beginning  
29 January 28, 2019, and concluding on February 15, 2019. The date of the election and offices to  
30 be elected, as well as any other information required in the proclamation, shall be published prior  
31 to the election as a Class I-O legal advertisement in compliance with the provisions of §59-3-1, *et*  
32 *seq.*, of this code, and the publication area for such publication shall be each county of the state.

33 (e) If a special election is required by this section, the election shall be held at the same  
34 places, and superintended, conducted and returned, and the result ascertained, certified and  
35 declared, in the same manner, and by the same officers, as in a typical statewide election. The  
36 compensation of election officers shall be reimbursed pursuant to §3-10-9 of this code.

37 (f) For the purposes of this section, “removed from office” includes removal from office by  
38 the Senate following an impeachment trial and any resignation from office that creates a vacancy  
39 in the office.

NOTE: The purpose of this bill is to ensure the people of West Virginia are able to elect replacements for any vacancies created in the Supreme Court of Appeals due to the impeachment proceedings occurring during the Second Extraordinary Session of 2018.

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