

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2723

**FISCAL
NOTE**

BY DELEGATES HOWELL, BLAIR, MAYNARD, PAYNTER,

HILL, QUEEN, CRISS AND WARD

[Introduced February 27, 2017; 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 article,
 2 designated §3-5A-1, §3-5A-2, §3-5A-3, §3-5A-4, §3-5A-5, §3-5A-6, §3-5A-7 and §3-5A-8
 3 all relating to elections generally; primary elections for nonpartisan offices including
 4 Justices of the Supreme Court, circuit court judges, family court judges, and magistrates ;
 5 legislative findings; primary date; political parties presidential preference vote may be
 6 changed; election at primary under stated circumstances; municipal elections moved to
 7 general election dates and limitations of article.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §3-5A-1, §3-5A-2, §3-5A-3, §3-5A-4, §3-5A-5, §3-5A-6, §3-5A-7 and §3-5A-8,
 3 all to read as follows:

ARTICLE 5A. PRIMARY ELECTIONS FOR NONPARTISAN OFFICES;
MISCELLANEOUS PROVISIONS.

§3-5A-1. Legislative findings.

1 The Legislature finds and declares that encouraging participation in public elections and
 2 requiring all candidates to adhere to the same rules of participation is a public good. The
 3 Legislature specifically finds that:

4 (a) Running in a primary ensures that the person ultimately elected must receive a majority
 5 of the votes cast which makes clear the voters' intent;

6 (b) Requiring all parties to file run for an office during the same time period allows the
 7 voters to have maximum information on all the candidates before they vote;

8 (c) Having municipal elections on the same date as statewide elections will greatly
 9 increase voter turnout for such elections to the benefit of the residents of the various
 10 municipalities; and

11 (d) Having presidential preference voting to coincide with "Super Tuesday" will make the

12 state more relevant in nominating presidential candidates.

§3-5A-2. Date of nonpartisan primary.

1 Beginning in 2020 and every four years thereafter, the nonpartisan primary elections
2 required under the provisions of this article shall be held on the first Tuesday of March, commonly
3 known as “Super Tuesday.” If the Secretary of State determines that the date of “Super Tuesday
4 has been changed by the participating states, he or she shall adjust the date of the nonpartisan
5 primary to the new date that has been so chosen.

§3-5A-3. Primary elections for enumerated nonpartisan offices.

1 (a) Notwithstanding any other provision of this code to the contrary, the provisions of this
2 section apply to the following offices: Justice of the Supreme Court of Appeals, judge of a circuit
3 court, judge of a family court, and magistrate. The designated offices shall be voted upon at the
4 nonpartisan primary on the date specified in section two of this article. All these offices shall be
5 voted upon by division where more than one office is available in a particular category as is
6 already required for the judicial offices.

7 (b) In these nonpartisan primaries, if one candidate receives more than fifty percent of the
8 vote for a particular office, that candidate is elected to that office and no voting for that office will
9 be held during the regular primary election. If no candidate receives more than fifty percent of
10 the vote for a particular office, then the two candidates receiving the highest number of votes for
11 that office shall be voted upon at the regular primary election to determine a winner.

§3-5A-4. Presidential preference.

1 Notwithstanding the provisions of section three, article five of this chapter, any political
2 party may choose to conduct its presidential preference vote on the date of the nonpartisan
3 primary election. The party shall notify the Secretary of State no later than September 1 of the
4 year preceding the election of its choice to move the presidential preference vote to the earlier
5 date.

§3-5A-5. Filing announcements of candidates.

1 The provisions of section seven, article five of this chapter apply to filing of announcements
2 of candidacy for nonpartisan primary elections except for the provisions of subsection (c) of that
3 section relating to time of filing. The certificate of announcement shall be filed with the proper
4 officer not earlier than the second Monday in November of the year before the nonpartisan primary
5 vote and not later than the last Saturday of such month of November and must be received before
6 midnight, eastern standard time of that day, or, if mailed, shall be postmarked by the United States
7 Postal Service before that hour.

§3-5A-6. Filing announcements applicable to all candidates.

1 Notwithstanding any provision of this code to the contrary, any person seeking to be
2 elected to any office regardless of their party affiliation or no party affiliation must comply with the
3 requirements of section five of this article or the provisions of section seven, article three of this
4 chapter. No person who fails to meet this requirement may have his or her name placed upon
5 any ballot for election to any office.

§3-5A-7. Time of municipal elections.

1 Notwithstanding any charter provision or any ordinance adopted to the contrary, all
2 municipalities shall by ordinance schedule their elections to occur on the same date as any of the
3 state wide election dates as follows: Nonpartisan primary, partisan primary or general election.

§3-5A-8. Limitation of article.

1 Nothing in this article affects or abrogates the other provisions in this code for special
2 elections such as to fill a vacancy in office. These shall be conducted as provided elsewhere in
3 this code.

NOTE: The purpose of this bill is to relate to elections generally; primary elections for nonpartisan offices including Justices of the Supreme Court, circuit court judges, family court judges and magistrates; legislative findings; primary date; political parties presidential preference vote may be changed; election at primary under stated circumstances; municipal elections moved to general election dates and limitation of article.

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