

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Introduced**

## **Senate Bill 675**

BY SENATORS MAYNARD AND KARNES

[Introduced March 19, 2021; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-10-5 of the Code of West Virginia, 1931, as amended, relating  
2 to clarifying the responsibility of the Governor to fill a vacancy in the state Legislature;  
3 providing a process for the selection of three legally qualified persons to fill a vacancy in  
4 the office of state Senator or member of the House of Delegates; allowing for virtual  
5 candidate interviews where more than three candidates apply; clarifying the interview  
6 process; and providing that a party county chairman appoint a subcommittee to act as  
7 vacancy committee where a senate or delegate district is wholly within one county.

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

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

### **§3-10-5. Vacancies in state Legislature.**

1 (a) Any vacancy in the office of state senator or member of the House of Delegates shall  
2 be filled by appointment by the Governor, from a list of three legally qualified persons submitted  
3 by the party executive committee of the same political party with which the person holding the  
4 office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

5 (b) For the selection of three legally qualified persons, the delegate district committee or  
6 senate district committee shall convene, appoint a chairman from the body, conduct interviews,  
7 and nominate a list of three candidates to send to the Governor within 15 days of the vacancy  
8 occurring. The state party chairman may assist the delegate district committee to facilitate the  
9 process of conducting interviews and filling such office, which shall include but is not limited to,  
10 facilitating and conducting the interviews, calling special meetings of the district vacancy  
11 committee, and certifying the results of such committee meetings to the Governor. The state  
12 chairman shall confirm that each candidate nominated by his or her political party is  
13 constitutionally eligible.

14 (c) The state chairman and state party staff may, in consultation with the elected chair of  
15 the district vacancy committee, prepare a list of questions that will be asked of candidates during  
16 their interview process. The state chairman and state party staff shall ensure that there is

17 adequate public notice of such vacancy and that there are at least 72 hours between the time that  
18 such notice is posted publicly and the time that the application period closes.

19 (d) The nomination of such candidates for a vacancy under this section shall occur in the  
20 following manner:

21 (1) If there are three candidates who have applied, the vacancy committee need not  
22 convene unless called to do so by the state chairman, the district vacancy chairman, or upon the  
23 application of 33 percent of the members of the district vacancy committee. If there are only three  
24 candidates, and the committee is not called, the state chairman of the party for which the vacancy  
25 occurred, shall certify those three names to the Governor and shall provide a copy to the Secretary  
26 of State.

27 (2) If there are less than three candidates, the district vacancy committee shall convene  
28 and fill the remaining slots from a list of registered candidates who are constitutionally eligible to  
29 hold such office and are registered to vote in and reside in the district from which the vacancy  
30 occurred.

31 (3) If there are more than three candidates who apply for such office, interviews of all  
32 eligible candidates shall be conducted in person at a location in the district or by virtual means.  
33 The interviews shall also be conducted with the state party chairman, state party secretary, and  
34 the district executive committee members present, unless the district is entirely within a county,  
35 wherein the county party executive committee chairman and county party executive committee  
36 secretary will be present at the interview process. All interviews will be uniform, and no candidate  
37 shall be questioned by individual committee members or be given more or less time than another  
38 candidate. At the conclusion of the interviews, the district vacancy committee shall deliberate in  
39 private and choose three candidates to submit to the Governor.

40 (A) The district vacancy committee shall vote by blank ballot and no name shall be placed  
41 on the list submitted to the Governor unless they receive a majority of votes cast. The members  
42 of the district vacancy committee shall vote for up to three candidates on the first round of

43 balloting. If any candidate receives a majority of votes cast, that candidate shall be nominated  
44 and his or her name shall be removed from the next round of voting.

45 (B) In succeeding rounds of balloting, the committee members shall only be allowed to  
46 vote for the number of slots left to nominate. In each succeeding round of balloting, the candidate  
47 receiving the fewest votes shall be eliminated for the next round of balloting, unless there are  
48 multiple candidates who receive the fewest amounts of votes. This process shall continue  
49 indefinitely until three candidates are nominated.

50 (e) At the conclusion of the committee interviews and action, the state chairman, district  
51 vacancy committee chairman, or vice chairman in the absence of the chairman, and district  
52 vacancy committee secretary shall certify, by letter on state party committee letterhead, the list of  
53 three names for such vacancy. This letter shall be filed by the state party staff within 24 hours of  
54 the letter being signed by all three officers. All letters and certification papers shall be filed with  
55 the Governor and the Secretary of State.

56 (f) In any case where there is no senate vacancy committee or delegate vacancy  
57 committee due to the district being wholly within one county, the delegate district committee will  
58 be comprised of county executive committee members that live within that delegate or senate  
59 district.

60 (g) The list of qualified persons to fill the vacancy shall be submitted to the Governor within  
61 15 days after the vacancy occurs and the Governor shall duly make his or her appointment to fill  
62 the vacancy from the list of legally qualified persons within five days after the list is received. If  
63 the list is not submitted to the Governor within the 15-day period, the Governor shall appoint within  
64 five days thereafter a legally qualified person of the same political party with which the person  
65 holding the office immediately preceding the vacancy was affiliated at the time the vacancy  
66 occurred.

67 (b) (h) In the case of a member of the House of Delegates, the list shall be submitted by  
68 the party executive committee of the delegate district in which the vacating member resided at

69 the time of his or her election or appointment. The appointment to fill a vacancy in the House of  
70 Delegates is for the unexpired term.

71 ~~(e)~~ (i) In the case of a state senator, the list shall be submitted by the party executive  
72 committee of the state senatorial district in which the vacating senator resided at the time of his  
73 or her election or appointment. The appointment to fill a vacancy in the state Senate is for the  
74 unexpired term, unless §3-10-1 of this code requires a subsequent election to fill the remainder  
75 of the term, which shall follow the procedure set forth in said section.

NOTE: The purpose of this bill is to clarify the responsibility of the Governor to fill a vacancy in the state legislature. The bill provides a process for the selection of three legally qualified persons to fill a vacancy in the office of state senator or House of Delegates, allows for virtual candidate interviews where more than three candidates apply, and clarifies the interview process. It also provides that a party county chairman appoint a subcommittee to act as vacancy committee where a senate or delegate district is wholly within one county.

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