

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **House Bill 2557**

By Delegate Gearheart

[Introduced January 16, 2023; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §3-10-4 of the Code of West Virginia, 1931, as amended, relating to  
2 filling a vacancy occurring in the House of Representatives in the Congress of the United  
3 States.

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

**ARTICLE 10. FILLING VACANCIES.**

**§3-10-4. Vacancies in representation in United States Congress.**

1 (a) (1) If there is a vacancy in the representation from this state in the House of  
2 Representatives in the Congress of the United States, the vacancy shall be filled by special  
3 election. The Governor shall, within ~~five~~ three days after the fact comes to his or her knowledge,  
4 issue a proclamation setting dates for a special general election that is not less than 84 nor more  
5 than ~~120~~ 100 days from the date of the vacancy occurring, and requiring nomination of candidates  
6 as provided in §3-10-4(a)(2) of this code: *Provided*, That no such proclamation may be made nor  
7 may a special election be held if the vacancy occurs after the 84th day prior to the regularly  
8 scheduled general election for a new full term of the office. The election shall follow the  
9 requirements of §3-10-1 of this code that are not in conflict with this section.

10 (2) The respective party executive committees for the congressional district for which there  
11 is a vacancy shall each, within ~~30~~ 14 days of the Governor’s proclamation, nominate a candidate  
12 to stand at the general election required by §3-10-4(a)(1) of this code.

13 (b) If there is a vacancy in the representation from this state in the Senate of the United  
14 States Congress, the vacancy shall be filled by the Governor of the state by appointment. The  
15 Governor shall make the appointment from a list of three legally qualified persons submitted by the  
16 party executive committee of the same political party with which the person holding the office  
17 immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of  
18 qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the  
19 vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from  
20 the list of legally qualified persons within five days after the list is received. If the list is not

21 submitted to the Governor within the 15-day period, the Governor shall appoint, within five days  
22 thereafter, a legally qualified person of the same political party with which the person holding the  
23 office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

24 Furthermore,

25 (1) If the vacancy occurs on or before the primary cutoff date, then an election shall be held  
26 pursuant to §3-10-1 of this code; or

27 (2) If the vacancy occurs after the primary cutoff date, but on or before the general cutoff  
28 date, then the Governor shall issue a proclamation providing for: (A) A special filing period; (B) a  
29 special primary election to be held in conjunction with the upcoming general election; and (C) a  
30 special general election to be held not less than 84 nor more than 120 days following the date of  
31 the special primary election. Each election shall follow the requirements of §3-10-1 of this code  
32 that are not in conflict with this section.

NOTE: The purpose of this bill is to make the filling of a vacancy occurring in the House of Representatives in the Congress of the United States in the same manner as a vacancy in the Senate of the United States Congress.

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