

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2849

By Delegates Kump, Ridenour, Martin, Foster, Vance,

Phillips, Forsht, Brooks, and Maynor

[Introduced January 20, 2023; Referred to the

Committee on the Judiciary]

1 A BILL to repeal §3-5-6 of the Code of West Virginia, 1931, as amended; and to amend the Code
 2 of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-5A-1,
 3 all relating to changing local school board elections from the date of the primary elections
 4 to the date of the general elections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-6. Election of county board of education members at primary elections.

1 [Repealed.]

**ARTICLE 5A. ELECTION OF COUNTY BOARD OF EDUCATION MEMBERS AT
GENERAL ELECTIONS.**

§3-5A-1. Election of county board of education members at primary elections.

1 (a) An election for the purpose of electing members of the county board of education shall
 2 be held on the same date as the general elections, as provided by law, but upon a nonpartisan
 3 ballot printed for the purpose.

4 (b) No more than two members may be elected or serve from the same magisterial district.
 5 The eligibility of candidates to be declared elected for full terms of four years and for unexpired
 6 terms of two or more years based on this limitation shall be determined at the time of certification of
 7 the election.

8 (1) Such eligibility shall be based on the magisterial district residence of incumbent
 9 members of the board whose terms will continue beyond January 1, following the primary election.

10 (A) No person is eligible to be declared elected who resides in a district which has two such
 11 incumbent members.

12 (B) No more than one candidate is eligible to be declared elected who resides in a district
 13 which has one such incumbent member.

14 (C) A person with the highest number of votes may be declared elected to an unexpired

15 term notwithstanding the fact that the person's magisterial district has two representatives serving
16 on the board at the time of the election: *Provided*, That the number of representatives from that
17 magisterial district will be less than two as of January 1, following the general election.

18 (2) The person declared elected to an unexpired term shall assume the duties of a member
19 of the Board of Education according to the provisions of section two, article five, chapter eighteen
20 of this code.

21 (c) In each nonpartisan election for Board of Education the board of canvassers shall:

22 (1) Declare and certify the election of the required number of eligible candidates receiving
23 the highest numbers of votes to fill any full terms;

24 (2) Declare and certify the election of the required number of eligible candidates receiving
25 the next highest numbers of votes, after all full terms are filled, to fill any unexpired terms.

26 (d) It is the intent of this statute that any person declared to be elected under the preceding
27 provisions of this section shall take office as a duly elected member or members, even though the
28 person may not have received a majority or plurality of all votes cast at such election.

29 (e) In case of a tie vote for a seat on a county board of education in any general election,
30 the provisions of section twelve, article six of this chapter shall control in breaking the tie.

NOTE: The purpose of this bill is to change the date of the local school board elections from the date of the primary election to the date of the general election.

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