

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 50

BY SENATOR HAMILTON

[Originating in the Committee on the Judiciary;

reported on February 02, 2023]

1 A BILL to amend and reenact §3-10-5 of the Code of West Virginia, 1931, as amended, relating
2 to the filling of vacancies in the Legislature; and providing that an individual must reside
3 within the district he or she would represent for one year prior to appointment in order to
4 be eligible to fill a vacancy in the Legislature.

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. The list
5 of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the
6 vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from
7 the list of legally qualified persons within five days after the list is received. If the list is not
8 submitted to the Governor within the 15-day period, the Governor shall appoint within five days
9 thereafter a legally qualified person of the same political party with which the person holding the
10 office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

11 (b) In the case of a member of the House of Delegates, if the member was elected to a
12 multi-county delegate district the list shall be submitted by the party executive committee of the
13 delegate district in which the vacating member resided at the time of his or her election or
14 appointment. If the member was elected to a delegate district situated entirely within a single
15 county, the list shall be submitted by the county executive committee in which the vacating
16 member resided at the time of his or her election or appointment. The appointment to fill a vacancy
17 in the House of Delegates is for the unexpired term.

18 (c) In the case of a state senator, if the member was elected to a multi-county senatorial
19 district the list shall be submitted by the party executive committee of the state senatorial district

20 in which the vacating senator resided at the time of his or her election or appointment. If the
21 member was elected to a senatorial district situated entirely within a single county, the list shall
22 be submitted by the county executive committee in which the vacating member resided at the
23 time of his or her election or appointment. The appointment to fill a vacancy in the state Senate
24 is for the unexpired term, unless §3-10-1 of this code requires a subsequent election to fill the
25 remainder of the term, which shall follow the procedure set forth in said section.

26 (d) No person shall be appointed to fill a vacancy in the office of state senator or as a
27 member of the House of Delegates who has not for one year preceding the appointment been a
28 resident within the district he or she will represent.