

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

## **House Bill 2032**

By Delegate Kump

[Introduced February 12, 2025; referred  
to the Committee on Government Organization]

1 A BILL to amend §3-1-17, §3-10-1, §3-10-8 and §6-2-10 of the Code of West Virginia, 1931, and  
2 to repeal §7-2-8 of said Code; relating to removing the office of County Surveyor from  
3 elections and ending the office in West Virginia.

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

## CHAPTER 3. ELECTIONS

### ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

#### **§3-1-17. Election of circuit judges; county and district officers; magistrates.**

1 (a) There shall be elected, at the time of the primary election to be held in 2016, and every  
2 eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to one judge,  
3 and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to  
4 two or more circuit judges; and at the time of the primary election to be held in 2016, and in every  
5 fourth year thereafter, the number of magistrates prescribed by law for the county. Beginning with  
6 the election held in the year 2016, an election for the purpose of electing judges of the circuit court,  
7 or an election for the purpose of electing magistrates, shall be upon a nonpartisan ballot printed for  
8 the purpose.

9 (b) There shall be elected, at the general election to be held in 1992, and every fourth year  
10 thereafter, a sheriff, prosecuting attorney, ~~surveyor of lands~~ and the number of assessors  
11 prescribed by law for the county; and at the general election to be held in 1990, and every second  
12 year thereafter, a commissioner of the county commission for each county; and at the general  
13 election to be held in 1992, and every sixth year thereafter, a clerk of the county commission and a  
14 clerk of the circuit court for each county.

15 (c) Effective with the primary election of 2016, all elections for judge of the circuit courts in  
16 the respective circuits and magistrates in each county will be elected on a nonpartisan basis and  
17 by division as set forth more fully in article five of this chapter.

18 (d) Beginning with the judicial election in 2024, and in every judicial election thereafter, if no

candidate in a division for judge of a circuit court receives more than 30 percent of the votes cast in the election, there shall be a runoff election at the subsequent general election between the two candidates who received the highest and next-highest number of votes cast in that division.

(e) Inasmuch as West Virginia counties no longer use the services of an elected county surveyor, the office of County Surveyor shall be removed from ballots following the 2024 elections.

**ARTICLE 10. FILLING VACANCIES.**

**§3-10-1. Elections to fill vacancies.**

(a) When a vacancy occurs in an elected office of the state or county, it shall be filled according to the processes set forth in this article. As used in this article, unless otherwise indicated by the context:

(1) "General cutoff date" means the eighty-fourth day before the general election that immediately precedes the general election where the office would be on the ballot for election if there were not a vacancy; and

(2) "Primary cutoff date" means the eighty-fourth day before the primary election that immediately precedes the general cutoff date.

(b) When this article requires an appointment to fill a vacancy in an elected office, the appointment shall be made within thirty days of the vacancy, unless this code specifically states a different time period for the specific office. The term that the appointee holds the office shall depend on when the vacancy occurs, as follows:

(1) If the vacancy occurs after the primary cutoff date, then that appointee shall hold the office until the end of the term of office: *Provided*, That if the vacancy for any county office or United States Senate occurs during the window after the primary cutoff date, but before the general cutoff date, the process contained in sections four, six, seven and eight of this article, depending on the specific office vacated, shall be followed; or

(2) If the vacancy occurs on or before the primary cutoff date, then the office shall be filled at the following regular primary and subsequent general election pursuant to this article and the

20 appointee shall hold the office until a qualified replacement is elected and certified at that general  
21 election. The elected replacement shall hold the office until the end of the original term of office.

22 (c) If an election is required to fill the vacancy by subsection (b) of this section and the other  
23 provisions of this article, the election shall proceed depending on when the vacancy occurs and in  
24 which office it occurs. Elections to fill vacancies shall be held at the same places, and  
25 superintended, conducted and returned, and the result ascertained, certified and declared, in the  
26 same manner, and by the same officers, as in general elections, unless otherwise stated in this  
27 article.

28 (1) For a vacancy in the Office of Governor, the times for the special elections contained in  
29 section two of this article shall control. The proclamation entered pursuant to section two of this  
30 article by the person acting as Governor shall include the dates for the special candidate filing  
31 period, if necessary, and shall follow the requirements set forth in this section. All aspects of this  
32 section, where not in conflict with section two of this article, shall also be followed. If a regularly  
33 scheduled primary or general election fits within the times for the special elections contained in  
34 section two of this article, the special elections shall be conducted in conjunction with the regularly  
35 scheduled election or elections. If a special election is required by section two of this article and it  
36 cannot be held in conjunction with the regular election dates, then the compensation of election  
37 officers shall be reimbursed pursuant to section nine of this article.

38 (2) For a vacancy in the offices of United States House of Representatives or United States  
39 Senate, the times for the special election, if necessary, contained in section four of this article shall  
40 control. All aspects of this section, where not in conflict with section four of this article, shall also be  
41 followed.

42 (A) With regard to United States House of Representatives, the proclamation entered  
43 pursuant to section four of this article by the Governor shall include the dates for the special  
44 candidate filing period, if necessary, and shall follow the requirements set forth in this section. If a  
45 regularly scheduled primary or general election fits within the times for the special elections

46 contained in section four of this article, the special elections shall be conducted in conjunction with  
47 the regularly scheduled election or elections. If a special election is required by section two of this  
48 article and it cannot be held in conjunction with the regular election dates, then the compensation  
49 of election officers shall be reimbursed pursuant to section nine of this article.

50 (B) With regard to United States Senate, if a special general election following the regular  
51 general election is required by section four of this article, and it cannot be held in conjunction with  
52 the regular election dates, then the compensation of election officers shall be reimbursed pursuant  
53 to section nine of this article.

54 (3) For all other offices, the Governor, or other person granted authority by this article, shall  
55 issue a proclamation stating that the office will appear on the next regular primary election and  
56 subsequent general election, in order to fill the vacancy: *Provided*, That if the vacancy for any  
57 county office occurs during the window after the primary cutoff date, but before the general cutoff  
58 date, the process contained in sections six, seven and eight of this article shall be followed. If the  
59 candidate filing period for the next regular primary election has closed or has less than one week  
60 remaining, the proclamation shall provide for a special primary candidate filing period. If there are  
61 less than eighty-four days between the vacancy and the next regular primary election, then the  
62 proclamation shall state that the office will appear on the subsequent regular primary election and  
63 corresponding general election following the next regular primary election.

64 (d) (1) If a special candidate filing period is necessary, it shall begin no sooner than the day  
65 after the proclamation and shall close no earlier than close of business on the fourteenth day  
66 following the proclamation. A notarized declaration of candidacy and filing fee provided by section  
67 seven, article five of this chapter shall be filed either in person, by United States mail, electronic  
68 means or any other means authorized by the Secretary of State and received by the appropriate  
69 office before the close of the filing period. For petition in lieu of payment of filing fees, a candidate  
70 seeking nomination for the vacancy may utilize the process set forth in section eight-a, article five  
71 of this chapter: *Provided*, That the minimum number of signatures required is equivalent to one

72 qualified signature per one whole dollar of the filing fee for that office.

73 (2) If a primary election is required by the provisions of this article:

74 (A) For all statewide, multicounty and legislative elections, drawing for the primary election  
75 ballot position will take place at the Secretary of State's office twenty-four hours after the end of the  
76 filing period. For each major political party on the ballot, a single drawing by lot shall determine the  
77 candidate ballot position for ballots statewide. This drawing shall be witnessed by four clerks of the  
78 county commission chosen by the West Virginia Association of County Clerks, with no more than  
79 two clerks representing a single political party.

80 (B) For county elections, drawing for the primary election ballot position will take place at  
81 the county clerk's office twenty-four hours after the end of the filing period. For each major political  
82 party on the ballot, a single drawing by lot shall determine the candidate ballot position for ballots  
83 statewide. This drawing shall be witnessed by the chairperson of the county democratic and  
84 republican executive committees or their designee, and the president of the county commission or  
85 his or her designee.

86 (3) Ballot position for a general election required by this article shall be determined  
87 pursuant to subdivision (3), subsection (c), section two, article six of this chapter. If a general  
88 election required by this article occurs in conjunction with a regularly scheduled primary election,  
89 the general election shall be listed along with the nonpartisan portion of each ballot in the order of  
90 offices provided for regular ballots in this chapter.

91 (e) When an election is required to fill a vacancy, the date of the election and offices to be  
92 elected, as well as any other information required in the proclamation, shall be published prior to  
93 such election as a Class I-O legal advertisement in compliance with the provisions of article three,  
94 chapter fifty-nine of this code, and the publication area for such publication shall be each county of  
95 the state that is eligible to vote in the election for those offices.

96 (f) If an election is required by this article, citizens having no party organization or affiliation  
97 may nominate candidates as provided by sections twenty-three and twenty-four, article five of this

chapter: *Provided*, That when an election is required by the provisions of this article to be held at some time other than with a regularly scheduled election, all certificates nominating candidates shall be filed with the appropriate official no later than ninety days before the election.

(g) The persons elected, having first duly qualified, shall enter upon the duties of their respective offices. The elected replacement shall hold the office until the end of the original term of office.

(h) After the 2024 elections, ballots shall no longer include the office of County Surveyor and the position shall be discontinued.

**§3-10-8. Vacancies in offices of prosecuting attorney, sheriff, and assessor. ~~and surveyor~~**

(a) Any vacancy occurring in the office of prosecuting attorney, sheriff, or assessor ~~or county surveyor~~ shall be filled by the county commission within thirty days of the vacancy by appointment of a person of the same political party as the officeholder vacating the office. The appointed person shall hold the office for the period stated by section one of this article.

(b) Notwithstanding any code provision to the contrary, a county commission may appoint a temporary successor to the office of prosecuting attorney, sheriff, or assessor ~~or county surveyor~~ until the requirements of this section have been met. The temporary successor may serve no more than thirty days from the date of the vacancy.

(c) If an election is necessary under section one of this article, the county commission, or the president thereof in vacation, shall be responsible for the proper proclamation, by order, and notice required by section one of this article.

(d) Section one of this article shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in section nineteen, article five of this chapter, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the county commission of the county, shall be placed upon the ballot to be voted at the next

18 general election.

## **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

### **ARTICLE 2. OFFICIAL AND OTHER BONDS.**

#### **§6-2-10. Bonds of county officers; required for deputy sheriffs.**

1 Every commissioner of a county commission and every clerk of a circuit court shall give  
2 bond with good security, to be approved by the circuit court, or the judge thereof in vacation; and  
3 every sheriff, deputy sheriff, ~~surveyor of lands~~ clerk of a county commission, assessor, county  
4 superintendent of schools, notary public and magistrate shall give bond with good security, to be  
5 approved, unless otherwise provided by law, by the county commission of the county in which  
6 such officer is to act. The penalty of the bond of each commissioner of a county commission shall  
7 be not less than \$20,000 and not more than \$200,000, the amount to be fixed by the circuit court of  
8 the county, or the judge thereof in vacation, by order entered of record on the proper order books of  
9 both the county and circuit courts; of the clerk of the circuit court, not less than \$10,000 nor more  
10 than \$50,000; of the sheriff, not less than \$100,000 nor more than the aggregate amount of all  
11 state, county, district, school, municipal and other moneys which will probably come into his or her  
12 hands during any one year of his or her term of office; of the deputy sheriff, not less than \$35,000  
13 nor more than \$100,000; ~~of the surveyor of lands, not less than \$1,000 nor more than \$3,000; of~~  
14 the clerk of the county commission, not less than \$10,000 nor more than \$50,000; of the assessor,  
15 not less than \$2,000 nor more than \$5,000; of the county superintendent of schools, not less than  
16 \$10,000 nor more than \$50,000; of a notary public, not less than \$250 nor more than \$1,000. Any  
17 public body required to pay the premiums on official bonds may provide a blanket bond policy for  
18 two or more such official bonds: *Provided*, That the bond herein required to be given by a notary  
19 public may be given before the clerk of the county commission, in the vacation of said commission,  
20 and approved by it at its next regular session.

21 For the purposes of this section, "deputy sheriff" shall mean a person appointed by a sheriff



22 as his or her deputy whose primary duty as such deputy is within the scope of active, general law  
23 enforcement and as such is authorized to carry deadly weapons, patrol the highways, perform  
24 police functions, make arrests or safeguard prisoners.

25 The bond described in this section is not required for deputy sheriffs if a county purchases  
26 professional liability insurance pursuant to the provisions of section three, article fourteen-a,  
27 chapter seven of this code.

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 2. COUNTY AND DISTRICT BOUNDARIES; CHANGE OF COUNTY SEAT AND NAMES OF UNINCORPORATED TOWNS AND OF DISTRICTS.**

#### **§7-2-8. License required for county surveyor.**

1 [Repealed.]

NOTE: The purpose of this bill is to remove the office of County Surveyor from elections and ending the office in West Virginia.

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