

**Senate Bill No. 489**

(By Senators D. Hall and Green)

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[Introduced February 5, 2014; referred to the Committee on  
Government Organization; and then to the Committee on the  
Judiciary.]

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A BILL to amend and reenact §3-10-7 and §3-10-8 of the Code of West Virginia, 1931, as amended, all relating to elections for vacancies in county offices; and providing that a county employee may run for a vacant county office without giving up his or her current position.

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

That §3-10-7 and §3-10-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 10. FILLING VACANCIES.**

**§3-10-7. Vacancies in offices of county commissioner and clerk of county commission.**

(a) Any vacancy in the office of county commissioner or clerk of county commission shall be filled by the county commission of

1 the county, unless the number of vacancies in a county commission  
2 deprive that body of a quorum, in which case the Governor of the  
3 state shall fill any vacancy in the county commission necessary to  
4 create a quorum thereof. Persons appointed shall be of the same  
5 political party as the officeholder vacating the office for the  
6 period stated by section one of this article. If a quorum of the  
7 county commission cannot agree upon a person to fill a vacancy in  
8 the office of county commissioner within thirty days of the date  
9 the vacancy first occurred, the county executive committee of the  
10 vacating county commissioner's political party shall select and  
11 name a person to fill the vacancy from the membership of the  
12 vacating county commissioner's political party. The clerk shall be  
13 appointed within thirty days of the vacancy.

14 (b) Notwithstanding any code provision to the contrary, a  
15 county commission may appoint a temporary successor to the office  
16 of clerk of the county commission until the requirements of this  
17 section have been met. The temporary successor may serve no more  
18 than thirty days from the date of the vacancy.

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

23 (d) Section one of this article shall be followed with respect  
24 to any election needed to fill a vacancy, except that if the

1 vacancy occurs after the primary cutoff date but not later than the  
2 general cutoff date, candidates to fill the vacancy shall be  
3 nominated by the county executive committee in the manner provided  
4 in section nineteen, article five of this chapter, as in the case  
5 of filling vacancies in nominations, and the names of the persons,  
6 so nominated and certified to the clerk of the county commission of  
7 the county, shall be placed upon the ballot to be voted at the next  
8 general election.

9 (e) If the election for an unexpired term is held at the same  
10 time as the election for a full term for county commissioner, the  
11 full term shall be counted first and the unexpired term shall be  
12 counted second. If the candidate with the highest number of votes  
13 for the unexpired term resides in the same magisterial district as  
14 the candidate with the highest number of votes for the full term,  
15 the candidate for the full term shall be seated. The candidate  
16 with the next highest number of votes for the unexpired term  
17 residing in a different magisterial district shall be seated for  
18 the unexpired term.

19 (f) An employee of the county may run for election to a vacant  
20 office of county commissioner or clerk of county commission without  
21 giving up that employee's current position.

22 **§3-10-8. Vacancies in offices of prosecuting attorney, sheriff,**  
23 **assessor and surveyor.**

24 (a) Any vacancy occurring in the office of prosecuting

1 attorney, sheriff, assessor or county surveyor shall be filled by  
2 the county commission within thirty days of the vacancy by  
3 appointment of a person of the same political party as the  
4 officeholder vacating the office. The appointed person shall hold  
5 the office for the period stated by section one of this article.

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

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

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

1 general election.

2       (e) An employee of the county may run for election to a vacant  
3 office of prosecuting attorney, sheriff or assessor without giving  
4 up that employee's current position.

NOTE: The purpose of this bill is to provide that a county employee may run for a vacant county office without giving up the employee's current position.

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