

1 **SECOND ENROLLMENT**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 2010**

5 (Delegates Kessinger, McCuskey, Border, Shott, Rowan, Frich, Westfall, Lane, Anderson,
6 Sobonya and Faircloth)

7
8 [Amended and again passed March 10, 2015; as a result of the objections of the Governor; in
9 effect ninety days from passage.]

10
11 AN ACT to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as
12 amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-4 of said
13 code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b,
14 §3-5-6c and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to
15 amend and reenact §3-10-3 of said code; to amend and reenact §3-12-3, §3-12-6, §3-12-10,
16 §3-12-11, §3-12-12 and §3-12-14 of said code; to amend and reenact §6-5-1 of said code;
17 to amend and reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of
18 said code; and to amend and reenact §51-2A-5 of said code, all relating to electoral reforms
19 of the West Virginia judiciary generally; requiring the election of justices of the Supreme
20 Court of Appeals, circuit court judges, family court judges and magistrates be on a
21 nonpartisan basis; requiring that elections to certain offices be on a division basis when more
22 than one justice of the Supreme Court of Appeals, circuit judge, family court judge or

1 magistrate is to be elected; providing for the timing and frequency of election; providing for
2 the commencement of terms of office; establishing ballot design and printing; providing that
3 elections for justice of the Supreme Court of Appeals, circuit judge, family court judge or
4 magistrate are to be held on the same date as the primary election; requiring nonpartisan
5 ballots be used; establishing filing announcement of candidacies, including the timing,
6 location and information necessary thereto; providing for the order of appearance of offices
7 on the ballot; establishing ballot content; providing the procedures for the filling of vacancies
8 in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge
9 or magistrate; providing occasions for special elections to be held to fill vacancies; providing
10 that unsuccessful nonpartisan candidates can be selected to fill ballot vacancies in a general
11 election; providing for the continuing applicability of the West Virginia Supreme Court of
12 Appeals Public Campaign Financing Program; modifying the amount of public campaign
13 financing available to qualifying candidates in a contested election; and removing public
14 campaign financing from qualifying candidates in an uncontested election.

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

16 That §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended, be amended and
17 reenacted; that §3-4A-11a of said code be amended and reenacted; that §3-5-4 of said code be
18 amended and reenacted; that said code be amended by adding thereto four new sections, designated
19 §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; that §3-5-7, §3-5-13 and §3-5-13a of said code be amended
20 and reenacted; that §3-10-3 of said code be amended and reenacted; that §3-12-3, §3-12-6, §3-12-10,
21 §3-12-11, §3-12-12 and §3-12-14 of said code be amended and reenacted; that §6-5-1 of said code
22 be amended and reenacted; that §50-1-1 and §50-1-6 of said code be amended and reenacted; that

1 §51-1-1 of said code be amended and reenacted; and that §51-2A-5 of said code be amended and
2 reenacted, all to read as follows:

3 **CHAPTER 3. ELECTIONS.**

4 **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

5 **§3-1-16. Election of state officers.**

6 (a) At the general election to be held in 1968, and every fourth year thereafter, there shall be
7 elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of
8 Agriculture. At the general election in 1968, and every second year thereafter, there shall be elected
9 a member of the State Senate for each senatorial district, and a member or members of the House
10 of Delegates of the state from each county or each delegate district.

11 (b) At the time of the primary election to be held in the year 2016, and every twelfth year
12 thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of the
13 primary election to be held in 2020, and every twelfth year thereafter, two justices of the Supreme
14 Court of Appeals and at the time of the primary election to be held in 2024, and every twelfth year
15 thereafter, two justices of the Supreme Court of Appeals. Effective with the primary election held
16 in the year 2016, the election of justices of the Supreme Court of Appeals shall be on a nonpartisan
17 basis and by division as set forth more fully in article five of this chapter.

18 **§3-1-17. Election of circuit judges; county and district officers; magistrates.**

19 (a) There shall be elected, at the time of the primary election to be held in 2016, and every
20 eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to one judge,
21 and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to
22 two or more circuit judges; and at the time of the primary election to be held in 2016, and in every

1 fourth year thereafter, the number of magistrates prescribed by law for the county. Beginning with
2 the election held in the year 2016, an election for the purpose of electing judges of the circuit court,
3 or an election for the purpose of electing magistrates, shall be upon a nonpartisan ballot printed for
4 the purpose.

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

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

14 **ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

15 **§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub**
16 **numbers.**

17 (a) The board of ballot commissioners in counties using ballots upon which votes may be
18 recorded by means of marking with electronically sensible ink or pencil and which marks are
19 tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the
20 electronic voting system for use in elections.

21 (b) (1) For the primary election, the heading of the ballot, the type faces, the names and
22 arrangement of offices and the printing of names and arrangement of candidates within each office

1 are to conform as nearly as possible to sections thirteen and thirteen-a, article five of this chapter.

2 (2) For the general election, the heading of the ballot, the straight ticket positions, the
3 instructions to straight ticket voters, the type faces, the names and arrangement of offices and the
4 printing of names and the arrangement of candidates within each office are to conform as nearly as
5 possible to section two, article six of this chapter, except as otherwise provided in this article.

6 (3) Effective with the primary election held in 2016, and thereafter, the following nonpartisan
7 elections are to be separated from the partisan ballot and separately headed in display type with a title
8 clearly identifying the purpose of the election and constituting a separate ballot wherever a separate
9 ballot is required under this chapter:

10 (A) Nonpartisan elections for judicial offices, by division, of:

11 (i) Justice of the Supreme Court of Appeals;

12 (ii) Judge of the circuit court;

13 (iii) Family court judge; and

14 (iv) Magistrate;

15 (B) Nonpartisan elections for Board of Education; and

16 (C) Any question to be voted upon;

17 (4) Both the face and the reverse side of the ballot may contain the names of candidates only
18 if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks
19 on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon
20 which marks do not interfere with the proper tabulation of the votes.

21 (5) The arrangement of candidates within each office is to be determined in the same manner
22 as for other electronic voting systems, as prescribed in this chapter. On the general election ballot

1 for all offices, and on the primary election ballot only for those offices to be filled by election, except
2 delegate to national convention, lines for entering write-in votes are to be provided below the names
3 of candidates for each office, and the number of lines provided for any office shall equal the number
4 of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF ANY" are to be
5 printed, where applicable, directly under each line for write-ins. The lines are to be opposite a
6 position to mark the vote.

7 (c) Except for electronic voting systems that utilize screens upon which votes may be
8 recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in
9 the color of ink specified by the Secretary of State for the various political parties, and the general
10 election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon
11 which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the
12 general election ballot are to be printed in black ink. All ballots are to be printed, where applicable,
13 on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or
14 bottom of the ballot, which is to be numbered sequentially in the same manner as provided in section
15 thirteen, article five of this chapter, or are to be displayed on the screens of the electronic voting
16 system upon which votes are recorded by means of a stylus or touch. The number of ballots printed
17 and the packaging of ballots for the precincts are to conform to the requirements for paper ballots
18 provided in this chapter.

19 (d) In addition to the official ballots, the ballot commissioners shall provide all other
20 materials and equipment necessary to the proper conduct of the election.

21 **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

22 **§3-5-4. Nomination of candidates in primary elections.**

1 (a) At each primary election, the candidate or candidates of each political party for all offices
2 to be filled at the ensuing general election by the voters of the entire state, of each congressional
3 district, of each state senatorial district, of each delegate district, and of each county in the state shall
4 be nominated by the voters of the different political parties, except that no presidential elector shall
5 be nominated at a primary election.

6 (b) In primary elections a plurality of the votes cast shall be sufficient for the nomination of
7 candidates for office. Where only one candidate of a political party for any office in a political
8 division, including party committeemen and delegates to national conventions, is to be chosen the
9 candidate receiving the highest number of votes therefor in the primary election shall be declared the
10 party nominee for such office. Where two or more such candidates are to be chosen in the primary
11 election, the candidates constituting the proper number to be so chosen who shall receive the highest
12 number of votes cast in the political division in which they are candidates shall be declared the party
13 nominees and choices for such offices, except that:

14 (1) Candidates for the office of commissioner of the county commission shall be nominated
15 and elected in accordance with the provisions of section ten, article nine of the Constitution of the
16 State of West Virginia and the requirements of section one-b, article one, chapter seven of this code;

17 (2) Members of county boards of education shall be elected at primary elections in
18 accordance with the provisions of sections five and six of this article;

19 (3) Candidates for the House of Delegates shall be nominated and elected in accordance with
20 the residence restrictions provided in section two, article two, chapter one of this code.

1 (c) In case of tie votes between candidates for party nominations or elections in primary
2 elections, the choice of the political party shall be determined by the executive committee of the
3 party for the political division in which such persons are candidates.

4 **§3-5-6a. Election of justices of the Supreme Court of Appeals.**

5 (a) An election for the purpose of electing a justice or justices of the Supreme Court of
6 Appeals shall be held on the same date as the primary election, as provided by law, upon a
7 nonpartisan ballot by division printed for this purpose. For election purposes, in each election at
8 which shall be elected more than one justice of the Supreme Court of Appeals, the election shall be
9 by numbered division corresponding to the number of justices being elected. Each justice shall be
10 elected at large from the entire state. (b) In each nonpartisan election by division for a justice of the
11 Supreme Court of Appeals, the candidates for election in each numbered division shall be tallied
12 separately, and the board of canvassers shall declare and certify the election of the eligible candidate
13 receiving the highest numbers of votes cast within a numbered division to fill any full terms.

14 (c) In case of a tie vote under this section, section twelve, article six of this chapter controls
15 in breaking the tie vote.

16 **§3-5-6b. Election of circuit judges.**

17 (a) An election for the purpose of electing a circuit court judge or judges shall be held on the
18 same date as the primary election in their respective circuits, as provided by law, upon a nonpartisan
19 ballot by division printed for this purpose.

20 (b) In each nonpartisan election by division for a circuit court judge, the candidates for
21 election in each numbered division shall be tallied separately, and the board of canvassers shall

1 declare and certify the election of the eligible candidate receiving the highest numbers of votes cast
2 within a numbered division to fill any full terms.

3 (c) In case of a tie vote under this section, section twelve, article six of this chapter controls
4 in breaking the tie vote.

5 **§3-5-6c. Election of family court judges.**

6 (a) An election for the purpose of electing a family court judge or judges shall be held on the
7 same date as the primary election in their respective circuits, as provided by law, upon a nonpartisan
8 ballot by division printed for this purpose.

9 (b) In each nonpartisan election by division for a family court judge, the candidates for
10 election in each numbered division shall be tallied separately, and the board of canvassers shall
11 declare and certify the election of the eligible candidate receiving the highest numbers of votes cast
12 within a numbered division to fill any full terms.

13 (c) In case of a tie vote under this section, section twelve, article six of this chapter controls
14 in breaking the tie vote.

15 **§3-5-6d. Election of magistrates.**

16 (a) An election for the purpose of electing a magistrate or magistrates by division shall be
17 held on the same date as the primary election in their respective circuits, as provided by law, upon
18 a nonpartisan ballot by division printed for this purpose.

19 (b) In each nonpartisan election by division for a magistrate, the candidates for election in
20 each numbered division shall be tallied separately, and the board of canvassers shall declare and
21 certify the election of the eligible candidate receiving the highest numbers of votes cast within a
22 numbered division to fill any full terms.

1 (c) In case of a tie vote under this section, section twelve, article six of this chapter controls
2 in breaking the tie vote.

3 **§3-5-7. Filing announcements of candidacies; requirements; withdrawal of candidates when**
4 **section applicable.**

5 (a) Any person who is eligible and seeks to hold an office or political party position to be
6 filled by election in any primary or general election held under the provisions of this chapter shall
7 file a certificate of announcement declaring his or her candidacy for the nomination or election to
8 the office.

9 (b) The certificate of announcement shall be filed as follows:

10 (1) Candidates for the House of Delegates, the State Senate, circuit judge, family court judge,
11 and any other office or political position to be filled by the voters of more than one county shall file
12 a certificate of announcement with the Secretary of State.

13 (2) Candidates for an office or political position to be filled by the voters of a single county
14 or a subdivision of a county, except for candidates for the House of Delegates, State Senate, circuit
15 judge or family court judge, shall file a certificate of announcement with the clerk of the county
16 commission.

17 (3) Candidates for an office to be filled by the voters of a municipality shall file a certificate
18 of announcement with the recorder or city clerk.

19 (c) The certificate of announcement shall be filed with the proper officer not earlier than the
20 second Monday in January before the primary election day and not later than the last Saturday in
21 January before the primary election day and must be received before midnight, eastern standard time,
22 of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour.

1 This includes the offices of justice of the Supreme Court of Appeals, circuit court judge, family court
2 judge and magistrate, which are to be filled on a nonpartisan and division basis at the primary
3 election.

4 (d) The certificate of announcement shall be on a form prescribed by the Secretary of State
5 on which the candidate shall make a sworn statement before a notary public or other officer
6 authorized to administer oaths, containing the following information:

7 (1) The date of the election in which the candidate seeks to appear on the ballot;

8 (2) The name of the office sought; the district, if any; and the division, if any;

9 (3) The legal name of the candidate and the exact name the candidate desires to appear on
10 the ballot, subject to limitations prescribed in section thirteen, article five of this chapter;

11 (4) The county of residence and a statement that the candidate is a legally qualified voter of
12 that county; and the magisterial district of residence for candidates elected from magisterial districts
13 or under magisterial district limitations;

14 (5) The specific address designating the location at which the candidate resides at the time
15 of filing, including number and street or rural route and box number and city, state and zip code;

16 (6) For partisan elections, the name of the candidate's political party and a statement that the
17 candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's
18 current registration as a voter affiliated with that party; and (B) has not been registered as a voter
19 affiliated with any other political party for a period of sixty days before the date of filing the
20 announcement;

1 (7) For candidates for delegate to national convention, the name of the presidential candidate
2 to be listed on the ballot as the preference of the candidate on the first convention ballot; or a
3 statement that the candidate prefers to remain "uncommitted";

4 (8) A statement that the person filing the certificate of announcement is a candidate for the
5 office in good faith;

6 (9) The words "subscribed and sworn to before me this _____ day of _____,
7 20____" and a space for the signature of the officer giving the oath.

8 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may
9 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a
10 certified copy of the voter's registration record of the candidate showing that the candidate was
11 registered as a voter in a party other than the one named in the certificate of announcement during
12 the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed
13 formal complaint of violation of this section and the certified copy of the voter's registration record
14 of the candidate are filed with the officer receiving that candidate's certificate of announcement no
15 later than ten days following the close of the filing period, the candidate may not be refused
16 certification for this reason.

17 (f) The certificate of announcement shall be subscribed and sworn to by the candidate before
18 some officer qualified to administer oaths, who shall certify the same. Any person who knowingly
19 provides false information on the certificate is guilty of false swearing and shall be punished in
20 accordance with section three, article nine of this chapter.

21 (g) Any candidate for delegate to a national convention may change his or her statement of
22 presidential preference by notifying the Secretary of State by letter received by the Secretary of State

1 no later than the third Tuesday following the close of candidate filing. When the rules of the
2 political party allow each presidential candidate to approve or reject candidates for delegate to
3 convention who may appear on the ballot as committed to that presidential candidate, the presidential
4 candidate or the candidate's committee on his or her behalf may file a list of approved or rejected
5 candidates for delegate and the Secretary of State shall list as "uncommitted" any candidate for
6 delegate who is disapproved by the presidential candidate.

7 (h) A person may not be a candidate for more than one office or office division at any
8 election: *Provided*, That a candidate for an office may also be a candidate for President of the United
9 States, for membership on political party executive committees or for delegate to a political party
10 national convention: *Provided, however*, That an unsuccessful candidate for a nonpartisan office in
11 an election held concurrently with the primary election may be appointed under the provisions of
12 section nineteen of this article to fill a vacancy on the general ballot.

13 (i) A candidate who files a certificate of announcement for more than one office or division
14 and does not withdraw, as provided by section eleven, article five of this chapter, from all but one
15 office prior to the close of the filing period may not be certified by the Secretary of State or placed
16 on the ballot for any office by the board of ballot commissioners.

17 **§3-5-13. Form and contents of ballots.**

18 The following provisions apply to the form and contents of election ballots:

19 (1) The face of every primary election ballot shall conform as nearly as practicable to that
20 used at the general election.

21 (2) The heading of every ballot is to be printed in display type. The heading is to contain a
22 ballot title, the name of the county, the state, the words "Primary Election" and the month, day and

1 year of the election. The ballot title of the political party ballots is to contain the words "Official
2 Ballot of the (Name) Party" and the official symbol of the political party may be included in the
3 heading.

4 (A) The ballot title of any separate paper ballot or portion of any electronic or voting machine
5 ballot for all judicial officer shall commence with the words "Nonpartisan Ballot of Election of
6 Judicial Officers" and each such office shall be listed in the following order:

7 (i) The ballot title of any separate paper ballot or portion of any electronic or voting machine
8 ballot for all justices of the Supreme Court of Appeals shall contain the words "Nonpartisan Ballot
9 of Election of Justice(s) of the Supreme Court of Appeals of West Virginia". The names of the
10 candidates for the Supreme Court of Appeals shall be printed by division without references to
11 political party affiliation or registration.

12 (ii) The ballot title of any separate paper ballot or portion of any electronic or voting machine
13 ballot for all circuit court judges in the respective circuits shall contain the words "Nonpartisan
14 Ballot of Election of Circuit Court Judge(s)". The names of the candidates for the respective circuit
15 court judge office shall be printed by division without references to political party affiliation or
16 registration.

17 (iii) The ballot title of any separate paper ballot or portion of any electronic or voting
18 machine ballot for all family court judges in the respective circuits shall contain the words
19 "Nonpartisan Ballot of Election of Family Court Judge(s)". The names of the candidates for the
20 respective family court judge office shall be printed by division without references to political party
21 affiliation or registration.

1 (iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine
2 ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan Ballot of
3 Election of Magistrate(s)". The names of the candidates for the respective magistrate office shall be
4 printed by division without references to political party affiliation or registration.

5 (B) The ballot title of any separate paper ballot or portion of any electronic or voting machine
6 ballot for the Board of Education is to contain the words "Nonpartisan Ballot of Election of Members
7 of the _____ County Board of Education". The districts for which less than two
8 candidates may be elected and the number of available seats are to be specified and the names of the
9 candidates are to be printed without reference to political party affiliation and without designation
10 as to a particular term of office.

11 (C) Any other ballot or portion of a ballot on a question is to have a heading which clearly
12 states the purpose of the election according to the statutory requirements for that question.

13 (3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the
14 ballot by heavy lines and the offices shall be arranged in columns with the following headings, from
15 left to right across the ballot: "National Ticket", "State Ticket", "County Ticket" and, in a
16 presidential election year, "National Convention" or, in a nonpresidential election year, "District
17 Ticket". The columns are to be separated by heavy lines. Within the columns, the offices are to be
18 arranged in the order prescribed in section thirteen-a of this article.

19 (B) For voting machines, electronic voting devices and any ballot tabulated by electronic
20 means, the offices are to appear in the same sequence as prescribed in section thirteen-a of this article
21 and under the same headings as prescribed in paragraph (A) of this subdivision. The number of

1 pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and
2 composition requirements subject to approval by the Secretary of State.

3 (C) The title of each office is to be separated from preceding offices or candidates by a line
4 and is to be printed in bold type no smaller than eight point. Below the office is to be printed the
5 number of the district, if any, the number of the division, if any, and the words "Vote for _____"
6 with the number to be nominated or elected or "Vote For Not More Than _____" in
7 multicandidate elections. For offices in which there are limitations relating to the number of
8 candidates which may be nominated, elected or appointed to or hold office at one time from a
9 political subdivision within the district or county in which they are elected, there is to be a clear
10 explanation of the limitation, as prescribed by the Secretary of State, printed in bold type
11 immediately preceding the names of the candidates for those offices on the ballot in every voting
12 system. For counties in which the number of county commissioners exceeds three and the total
13 number of members of the county commission is equal to the number of magisterial districts within
14 the county, the office of county commission is to be listed separately for each district to be filled with
15 the name of the magisterial district and the words "Vote for One" printed below the name of the
16 office: *Provided*, That the office title and applicable instructions may span the width of the ballot
17 so as it is centered among the respective columns.

18 (D) The location for indicating the voter's choices on the ballot is to be clearly shown. For
19 paper ballots, other than those tabulated electronically, the official primary ballot is to contain a
20 square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column
21 of squares before each column of names.

1 (4) (A) The name of every candidate certified by the Secretary of State or the board of ballot
2 commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for
3 the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of
4 each candidate is to appear in the form set out by the candidate on the certificate of announcement,
5 but in no case may the name misrepresent the identity of the candidate nor may the name include any
6 title, position, rank, degree or nickname implying or inferring any status as a member of a class or
7 group or affiliation with any system of belief.

8 (B) The city of residence of every candidate, the state of residence of every candidate residing
9 outside the state, the county of residence of every candidate for an office on the ballot in more than
10 one county and the magisterial district of residence of every candidate for an office subject to
11 magisterial district limitations are to be printed in lower case letters beneath the names of the
12 candidates.

13 (C) The arrangement of names within each office must be determined as prescribed in section
14 thirteen-a of this article.

15 (D) If the number of candidates for an office exceeds the space available on a column or
16 ballot page and requires that candidates for a single office be separated, to the extent possible, the
17 number of candidates for the office on separate columns or pages are to be nearly equal and clear
18 instructions given the voter that the candidates for the office are continued on the following column
19 or page.

20 (5) When an insufficient number of candidates has filed for a party to make the number of
21 nominations allowed for the office or for the voters to elect sufficient members to the Board of
22 Education or to executive committees, the vacant positions on the ballot shall be filled with the

1 words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to
2 be made directly on the ballot, a blank line shall be placed in any vacant position in the office of
3 Board of Education or for election to any party executive committee. A line shall separate each
4 candidate from every other candidate for the same office. Notwithstanding any other provision of
5 this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant
6 positions which would otherwise be filled with the words "No Candidate Filed" may be replaced
7 with a brief detailed description, approved by the Secretary of State, indicating that there are no
8 candidates listed for the vacant positions.

9 (6) In presidential election years, the words "For election in accordance with the plan adopted
10 by the party and filed with the Secretary of State" is to be printed following the names of all
11 candidates for delegate to national convention.

12 (7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the
13 printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted
14 pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens
15 Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type,
16 envelope type, or notarization requirement. Ballot cards and paper for printing ballots using
17 electronically sensible ink are to meet minimum requirements of the tabulating systems and are to
18 conform in size and weight to ensure ease in tabulation.

19 (8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with
20 unique sequential numbers from one to the highest number representing the total number of ballots
21 printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch
22 wide and the ballot is to be trimmed to within one-half inch of that border.

1 (9) On the back of every official ballot or ballot card the words "Official Ballot" with the
2 name of the county and the date of the election are to be printed. Beneath the date of the election
3 there are to be two blank lines followed by the words "Poll Clerks".

4 (10) The face of sample paper ballots and sample ballot labels are to be like other official
5 ballots or ballot labels except that the word "sample" is to be prominently printed across the front
6 of the ballot in a manner that ensures the names of candidates are not obscured and the word
7 "sample" may be printed in red ink. No printing may be placed on the back of the sample.

8 **§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.**

9 (a) The order of offices for state and county elections on all ballots within the state shall be
10 as prescribed herein. When the office does not appear on the ballot in an election, then it shall be
11 omitted from the sequence. When an unexpired term for an office appears on the ballot along with
12 a full term, the unexpired term shall appear immediately below the full term.

13 NATIONAL TICKET: President (and Vice President in the general election), United States
14 Senator, member of the United States House of Representatives

15 STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of
16 Agriculture, Attorney General, State Senator, member of the House of Delegates, any other
17 multicounty office, state executive committee.

18 COUNTY TICKET: Clerk of the circuit court, county commissioner, clerk of the county
19 commission, prosecuting attorney, sheriff, assessor, surveyor, congressional district executive
20 committee, senatorial district executive committee in multicounty districts, delegate district
21 executive committee in multicounty districts.

1 NATIONAL CONVENTION: Delegate to the national convention -- at-large, delegate to
2 the national convention -- congressional district

3 DISTRICT TICKET: County executive committee.

4 (b) Except for office divisions in which no more than one person has filed a certificate of
5 announcement, the arrangement of names for all offices shall be determined by lot according to the
6 following provisions:

7 (1) On the fourth Tuesday following the close of the candidate filing, beginning at nine
8 o'clock a. m., a drawing by lot shall be conducted in the office of the clerk of the county commission
9 in each county. Notice of the drawing shall be given on the form for the certificate of announcement
10 and no further notice shall be required. The clerk of the county commission shall superintend and
11 conduct the drawing and the method of conducting the drawing shall be prescribed by the Secretary
12 of State.

13 (2) Except as provided herein, the position of each candidate within each office division shall
14 be determined by the position drawn for that candidate individually: *Provided*, That if fewer
15 candidates file for an office division than the total number to be nominated or elected, the vacant
16 positions shall appear following the names of all candidates for the office.

17 (3) Candidates for delegate to national convention who have filed a commitment to a
18 candidate for president shall be listed alphabetically within the group of candidates committed to the
19 same candidate for president and uncommitted candidates shall be listed alphabetically in an
20 uncommitted category. The position of each group of committed candidates and uncommitted
21 candidates shall be determined by lot by drawing the names of the presidential candidates and for
22 an uncommitted category.

1 (4) A candidate or the candidate's representative may attend the drawings.

2 **ARTICLE 10. FILLING VACANCIES.**

3 **§3-10-3. Vacancies in offices of state officials, United States Senators and judges.**

4 (a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney
5 General, Commissioner of Agriculture, or in any office created or made elective to be filled by the
6 voters of the entire state, is filled by the Governor of the state by appointment and subsequent
7 election to fill the remainder of the term, if required by section one of this article.

8 (b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge
9 of a circuit court or judge of a family court is filled by the Governor of the state by appointment and
10 subsequent election to fill the remainder of the term, as required by subsection (d) of this section.
11 If an election is required under subsection (d) of this section, the Governor, circuit court or the chief
12 judge thereof in vacation, is responsible for the proper proclamation by order and notice required by
13 section one of this article.

14 (c) Any vacancy in the office of magistrate is appointed according to the provisions of section
15 six, article one, chapter fifty of this code, and subsequent election to fill the remainder of the term,
16 as required by subsection (d) of this section.

17 (d) (1) When the vacancy in Justice of the Supreme Court of Appeals, judge of the circuit
18 court, judge of a family court or magistrate occurs after the eighty-fourth day before a general
19 election, and the affected term of office ends on the thirty-first day of December following the next
20 election, the person appointed to fill the vacancy shall continue in office until the completion of the
21 term.

1 (2) When the vacancy occurs before the close of the candidate filing period for the primary
2 election, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently
3 with the primary election, and the appointment shall continue until a successor is elected and
4 certified.

5 (3) When the vacancy occurs after the close of candidate filing for the primary election and
6 not later than eighty-four days before the general election, the vacancy shall be filled by election in
7 a nonpartisan judicial election held concurrently with the general election, and the appointment shall
8 continue until a successor is elected and certified.

9 (e) When an election to fill a vacancy is required to be held at the general election according
10 to the provisions of subsection (d) of this section, a special candidate filing period shall be
11 established. Candidates seeking election to any unexpired term for Justice of the Supreme Court of
12 Appeals, judge of a circuit court, judge of the family court or magistrate shall file a certificate of
13 announcement and pay the filing fee no earlier than the first Monday in August and no later than
14 seventy-seven days before the general election.

15 **ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC CAMPAIGN**
16 **FINANCING PILOT PROGRAM.**

17 **§3-12-3. Definitions.**

18 As used in this article, the following terms and phrases have the following meanings:

19 (1) “Candidate’s committee” means a political committee established with the approval of
20 or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking
21 a particular office or to support or aid his or her nomination or election to an office in an election
22 cycle. If a candidate directs or influences the activities of more than one active committee in a

1 current campaign, those committees shall be considered one committee for the purpose of
2 contribution limits.

3 (2) “Certified candidate” means an individual seeking election to the West Virginia Supreme
4 Court of Appeals who has been certified in accordance with section ten of this article as having met
5 all of the requirements for receiving public campaign financing from the fund.

6 (3) “Contribution” means a gift subscription, assessment, payment for services, dues,
7 advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible
8 thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible
9 thing of value to a person, made for the purpose of influencing the nomination, election or defeat of
10 a candidate. An offer or tender of a contribution is not a contribution if expressly and
11 unconditionally rejected or returned. A contribution does not include volunteer personal services
12 provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at
13 fair market value for reporting requirements and contribution limitations.

14 (4) “Exploratory contribution” means a contribution of no more than \$1,000 made by an
15 individual adult, including a participating candidate and members of his or her immediate family,
16 during the exploratory period but prior to filing the declaration of intent. Exploratory contributions
17 may not exceed \$20,000 in the aggregate.

18 (5) “Exploratory period” means the period during which a participating candidate may raise
19 and spend exploratory contributions to examine his or her chances of election and to qualify for
20 public campaign financing under this article. The exploratory period begins on January 1 the year
21 before the election in which the candidate may run for Justice of the Supreme Court of Appeals and
22 ends on the last Saturday in January of the election year.

1 (6) “Financial agent” means any individual acting for and by himself or herself, or any two
2 or more individuals acting together or cooperating in a financial way to aid or take part in the
3 nomination or election of any candidate for public office, or to aid or promote the success or defeat
4 of any political party at any election.

5 (7) “Fund” means the Supreme Court of Appeals Public Campaign Financing Fund created
6 by section five of this article.

7 (8) “Immediate family” or “immediate family members” means the spouse, parents, step-
8 parents, siblings and children of the participating candidate.

9 (9) “Nonparticipating candidate” means a candidate who is:

10 (A) Seeking election to the Supreme Court of Appeals;

11 (B) Is neither certified nor attempting to be certified to receive public campaign financing
12 from the fund; and

13 (C) Has an opponent who is a participating or certified candidate.

14 (10) “Nonpartisan judicial election campaign period” means the period beginning on the first
15 day of the primary election filing period, as determined under section seven, article five of this
16 chapter, and ending on the day of the nonpartisan judicial election.

17 (11) “Participating candidate” means a candidate who is seeking election to the Supreme
18 Court of Appeals and is attempting to be certified in accordance with section ten of this article to
19 receive public campaign financing from the fund.

20 (12) “Person” means an individual, partnership, committee, association and any other
21 organization or group of individuals.

1 (13) “Qualifying contribution” means a contribution received from a West Virginia registered
2 voter of not less than \$1 nor more than \$100 in the form of cash, check or money order, made
3 payable to a participating candidate or the candidate’s committee, or in the form of an electronic
4 payment or debit or credit card payment, received during the qualifying period.

5 (14) “Qualifying period” means the period during which participating candidates may raise
6 and spend qualifying contributions in order to qualify to receive public campaign financing.

7 For candidates seeking to be placed on the nonpartisan judicial election ballot, the qualifying
8 period begins on September 1 preceding the election year and ends on the last Saturday in January
9 of the election year.

10 **§3-12-6. Sources of revenue for the fund.**

11 Revenue from the following sources shall be deposited in the fund:

12 (1) All exploratory and qualifying contributions in excess of the established maximums;

13 (2) Money returned by participating or certified candidates who fail to comply with this
14 article;

15 (3) Unspent or unobligated moneys allotted to certified candidates and remaining unspent
16 or unobligated on the date of the nonpartisan judicial election for which the money was distributed;

17 (4) If a certified candidate loses, all remaining unspent or unobligated moneys;

18 (5) Civil penalties levied by the State Election Commission against candidates for violations
19 of this article;

20 (6) Civil penalties levied by the Secretary of State pursuant to section seven, article eight of
21 this chapter;

22 (7) Voluntary donations made directly to the fund;

1 (8) Any interest income or other return earned on the money's investment;

2 (9) On or before July 1, 2010, and for two successive years thereafter, the State Auditor shall
3 authorize the transfer of the amount of \$1 million from the Purchasing Card Administration Fund
4 established in section ten-d, article three, chapter twelve of this code to the fund created by this
5 article;

6 (10) On or before July 1, 2015, the state Auditor shall authorize the transfer of the amount
7 of \$400,000 from the Purchasing Card Administration Fund established in section ten-d, article
8 three, chapter twelve of this code to the fund created by this article; and

9 (11) Money appropriated to the fund.

10 **§3-12-10. Certification of candidates.**

11 (a) To be certified, a participating candidate shall apply to the State Election Commission for
12 public campaign financing from the fund and file a sworn statement that he or she has complied and
13 will comply with all requirements of this article throughout the applicable campaign.

14 (b) Upon receipt of a notice from the Secretary of State that a participating candidate has
15 received the required number and amount of qualifying contributions, the State Election Commission
16 shall determine whether the candidate or candidate's committee:

17 (1) Has signed and filed a declaration of intent as required by section seven of this article;

18 (2) Has obtained the required number and amount of qualifying contributions as required by
19 section nine of this article;

20 (3) Has complied with the contribution restrictions of this article;

21 (4) Is eligible, as provided in section nine, article five of this chapter, to appear on the
22 nonpartisan judicial election ballot; and

1 (5) Has met all other requirements of this article.

2 (c) The State Election Commission shall process applications in the order they are received
3 and shall verify a participating candidate's compliance with the requirements of subsection (b) of
4 this section by using the verification and sampling techniques approved by the State Election
5 Commission.

6 (d) The State Election Commission shall determine whether to certify a participating
7 candidate as eligible to receive public campaign financing no later than three business days after the
8 candidate or the candidate's committee makes his or her final report of qualifying contributions or,
9 if a challenge is filed under subsection (g) of this section, no later than six business days after the
10 candidate or the candidate's committee makes his or her final report of qualifying contributions. A
11 certified candidate shall comply with this article through the nonpartisan judicial election campaign
12 period.

13 (e) No later than two business days after the State Election Commission certifies that a
14 participating candidate is eligible to receive public campaign financing under this section, the State
15 Election Commission, acting in concert with the State Auditor's office and the State Treasurer's
16 office, shall cause a check to be issued to the candidate's campaign depository account an amount
17 equal to the public campaign financing benefit for which the candidate qualifies under section eleven
18 of this article, minus the candidate's qualifying contributions, and shall notify all other candidates
19 for the same office of its determination.

20 (f) If the candidate desires to receive public financing benefits by electronic transfer, the
21 candidate shall include in his or her application sufficient information and authorization for the State
22 Treasurer to transfer payments to his or her campaign depository account.

1 (g) Any person may challenge the validity of any contribution listed by a participating
2 candidate by filing a written challenge with the State Election Commission setting forth any reason
3 why the contribution should not be accepted as a qualifying contribution. If a contribution is
4 challenged under this subsection, the State Election Commission shall decide the validity of the
5 challenge no later than the end of the next business day after the day that the challenge is filed, unless
6 the State Election Commission determines that the candidate whose contribution is challenged has
7 both a sufficient qualifying number and amount of qualifying contributions to be certified as a
8 candidate under this section without considering the challenge. Within five business days of a
9 challenge, the candidate or candidate's committee who listed any contribution that is the subject of
10 a challenge may file a report with the State Election Commission of an additional contribution
11 collected pursuant to section nine of this article for consideration as a qualifying contribution.

12 (h) A candidate's certification and receipt of public campaign financing may be revoked by
13 the State Election Commission, if the candidate violates this article. A certified candidate who
14 violates this article shall repay all moneys received from the fund to the State Election Commission.

15 (i) The determination of any issue before the State Election Commission is the final
16 administrative determination. Any meetings conducted by the State Elections Commission to certify
17 a candidate's eligibility to receive funds under this article shall not be subject the public notice and
18 open meeting requirements of article nine-a, chapter six of this code, but the commission shall
19 concurrently provide public notice of any decision and determination it makes which impacts the
20 candidate's eligibility to receive funds pursuant to this article. Any person adversely affected by a
21 decision of the State Election Commission under this article may appeal that decision to the circuit
22 court of Kanawha County.

1 (j) A candidate may withdraw from being a certified candidate and become a nonparticipating
2 candidate at any time with the approval of the State Election Commission. Any candidate seeking
3 to withdraw shall file a written request with the State Election Commission, which shall consider
4 requests on a case-by-case basis. No certified candidate may withdraw until he or she has repaid all
5 moneys received from the fund: *Provided*, That the State Election Commission may, in exceptional
6 circumstances, waive the repayment requirement. The State Election Commission may assess a
7 penalty not to exceed \$10,000 against any candidate who withdraws without approval.

8 **§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing**
9 **Fund payments.**

10 (a) The State Election Commission, acting in concert with the State Auditor's office and the
11 State Treasurer's office, shall have a check issued within two business days after the date on which
12 the candidate is certified, to make payments from the fund for the nonpartisan judicial election
13 campaign period available to a certified candidate.

14 In a contested nonpartisan judicial election, a certified candidate shall receive \$525,000 in
15 campaign financing from the fund, minus the certified candidate's qualifying contributions.

16 (b) The State Election Commission shall authorize the distribution of campaign financing
17 moneys to certified candidates in equal amounts. The commission shall propose a legislative rule
18 on distribution of funds.

19 (c) The State Election Commission may not authorize or direct the distribution of moneys
20 to certified candidates in excess of the total amount of money deposited in the fund pursuant to
21 section six of this article. If the commission determines that the money in the fund is insufficient
22 to totally fund all certified candidates, the commission shall authorize the distribution of the

1 remaining money proportionally, according to each candidate's eligibility for funding. Each
2 candidate may raise additional money in the same manner as a nonparticipating candidate for the
3 same office up to the unfunded amount of the candidate's eligible funding.

4 **§3-12-12. Restrictions on contributions and expenditures.**

5 (a) A certified candidate or his or her committee may not accept loans or contributions from
6 any private source, including the personal funds of the candidate and the candidate's immediate
7 family, during the nonpartisan judicial election campaign period except as permitted by this article.

8 (b) After filing the declaration of intent and during the qualifying period, a participating
9 candidate may not spend or obligate more than he or she has collected in exploratory and qualifying
10 contributions. After the qualifying period and through the nonpartisan judicial election campaign
11 period, a certified candidate may spend or obligate any unspent exploratory or qualifying
12 contributions and the moneys he or she receives from the fund under the provisions of section eleven
13 of this article.

14 (c) A participating or certified candidate may expend exploratory and qualifying
15 contributions and funds received from the fund only for lawful election expenses as provided in
16 section nine, article eight of this chapter. Moneys distributed to a certified candidate from the fund
17 may be expended only during the nonpartisan judicial election campaign period for which funds were
18 dispersed. Money from the fund may not be used:

- 19 (1) In violation of the law;
20 (2) To repay any personal, family or business loans, expenditures or debts; or
21 (3) To help any other candidate.

1 (d) A certified candidate or his or her committee shall return to the fund any unspent and
2 unobligated exploratory contributions, qualifying contributions or moneys received from the fund
3 within forty-eight hours after the date on which the candidate ceases to be certified.

4 (e) A certified candidate or his or her committee shall return to the fund any unspent or
5 unobligated public campaign financing funds no later than five business days after the nonpartisan
6 judicial election.

7 (f) A contribution from one person may not be made in the name of another person.

8 (g) A participating or certified candidate or his or her committee receiving qualifying
9 contributions or exploratory contributions from a person not listed on the receipt required by sections
10 eight and nine of this article is liable to the State Election Commission for the entire amount of that
11 contribution and any applicable penalties.

12 (h) A certified candidate accepting any benefits under the provisions of this article shall
13 continue to comply with all of its provisions throughout the nonpartisan judicial election campaign
14 period.

15 (i) A participating or certified candidate or his or her financial agent shall provide the
16 Secretary of State with all requested campaign records, including all records of exploratory and
17 qualifying contributions received and campaign expenditures and obligations, and shall fully
18 cooperate with any audit of campaign finances requested or authorized by the State Election
19 Commission.

20 **§3-12-14. Duties of the State Election Commission; Secretary of State.**

21 (a) In addition to its other duties, the State Election Commission shall carry out the duties
22 of this article and complete the following as applicable:

1 (1) Prescribe forms for reports, statements, notices and other documents required by this
2 article;

3 (2) Make an annual report to the Legislature accounting for moneys in the fund, describing
4 the State Election Commission's activities and listing any recommendations for changes of law,
5 administration or funding amounts;

6 (3) Propose emergency and legislative rules for legislative approval, in accordance with
7 article three, chapter twenty-nine-a of this code, as may be necessary for the proper administration
8 of this article;

9 (4) Enforce this article to ensure that moneys from the fund are placed in candidate campaign
10 accounts and spent as specified in this article;

11 (5) Monitor reports filed pursuant to this article and the financial records of candidates to
12 ensure that qualified candidates receive funds promptly and to ensure that moneys required by this
13 article to be paid to the fund are deposited in the fund;

14 (6) Cause an audit of the fund to be conducted by independent certified public accountants
15 ninety days after a nonpartisan judicial election. The State Election Commission shall cooperate with
16 the audit, provide all necessary documentation and financial records to those persons conducting the
17 audit and shall maintain a record of all information supplied by the audit;

18 (7) In consultation with the State Treasurer and the State Auditor, develop a rapid, reliable
19 method of conveying funds to certified candidates. In all cases, the commission shall distribute
20 funds to certified candidates in a manner that is expeditious, ensures accountability and safeguards
21 the integrity of the fund;

1 (8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to
2 determine whether the fund will have sufficient moneys to meet its obligations and sufficient moneys
3 available for disbursement during the nonpartisan judicial election campaign period; and

4 (9) Transfer a portion of moneys maintained in the fund to the West Virginia Investment
5 Management Board for their supervised investment, after consultation with the State Treasurer, the
6 State Auditor and the West Virginia Investment Management Board.

7 (b) In addition to his or her other duties, the Secretary of State shall carry out the duties of
8 this article and complete the following as applicable:

9 (1) Prescribe forms for reports, statements, notices and other documents required by this
10 article;

11 (2) Prepare and publish information about this article and provide it to potential candidates
12 and citizens of this state;

13 (3) Prepare and publish instructions setting forth methods of bookkeeping and preservation
14 of records to facilitate compliance with this article and to explain the duties of candidates and others
15 participating in elections under this article;

16 (4) Propose emergency and legislative rules for legislative approval in accordance with article
17 three, chapter twenty-nine-a of this code as may be necessary for the proper administration of this
18 article;

19 (5) Enforce this article to ensure that moneys from the fund are placed in candidate campaign
20 accounts and spent as specified in this article;

1 (6) Monitor reports filed pursuant to this article and the financial records of candidates to
2 ensure that qualified candidates receive funds promptly and to ensure that moneys required by this
3 article to be paid to the fund are deposited in the fund;

4 (7) Ensure public access to the campaign finance reports required pursuant to this article, and
5 whenever possible, use electronic means for the reporting, storing and display of the information;
6 and

7 (8) Prepare a voters' guide for the general public listing the names of each candidate seeking
8 election to the Supreme Court of Appeals. Both certified and nonparticipating candidates shall be
9 invited by the State Election Commission to submit a statement, not to exceed five hundred words
10 in length, for inclusion in the guide. The guide shall identify the candidates that are certified
11 candidates and the candidates that are nonparticipating candidates. Copies of the guide shall be
12 posted on the website of the Secretary of State, as soon as may be practical.

13 (c) To fulfill their responsibilities under this article, the State Election Commission and the
14 Secretary of State may subpoena witnesses, compel their attendance and testimony, administer oaths
15 and affirmations, take evidence and require, by subpoena, the production of any books, papers,
16 records or other items material to the performance of their duties or the exercise of their powers.

17 (d) The State Election Commission may also propose and adopt procedural rules to carry out
18 the purposes and provisions of this article and to govern procedures of the State Election
19 Commission as it relates to the requirements of this article.

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

21 **ARTICLE 5. TERMS OF OFFICE; MATTERS AFFECTING THE RIGHT TO HOLD**
22 **OFFICE.**

1 **§6-5-1. When terms of office to begin.**

2 The terms of officers, except when elected or appointed to fill vacancies, shall begin
3 respectively as follows: That of Governor, Secretary of State, State Superintendent of Free Schools,
4 Treasurer, Auditor, Attorney General and Commissioner of Agriculture, on the first Monday after
5 the second Wednesday of January next after their election; that of a member of the Legislature, on
6 December 1, next after his or her election; and that of the justices of the Supreme Court of Appeals,
7 the judges of the several circuit courts, the judges of the family and other inferior courts, the county
8 commissioners, prosecuting attorneys, surveyors of land, assessors, sheriffs, clerks of the circuit, or
9 other inferior courts, clerks of the county commissions, magistrates, on January 1, next after their
10 election.

11 Whenever a person is elected or appointed to fill a vacancy, his or her term shall be as
12 prescribed by chapter three of this code.

13 **CHAPTER 50. MAGISTRATE COURTS.**

14 **ARTICLE 1. COURTS AND OFFICERS.**

15 **§50-1-1. Magistrate court created.**

16 There is hereby created in each county of this state a magistrate court with such numbers of
17 magistrates for each court as are hereafter provided. There shall be elected by the voters of each
18 county, at the general election to be held in 1976, and in every fourth year thereafter, such number
19 of magistrates as is provided in section two of this article. The filing fee for the office of magistrate
20 shall be one percent of the annual salary. The term of magistrates shall be for four years and shall
21 begin on January 1, of the year following the year of election.

1 Effective with the primary election of 2016, all elections for magistrates will be on a
2 nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for
3 magistrates and all elections for magistrates are to be held in the nonpartisan judicial election as set
4 forth in article five, chapter three of this code. All indications of party identification on election
5 ballots for magistrate shall be omitted.

6 **§50-1-6. Vacancy in office of magistrate.**

7 Subject to the provisions of section one, article ten, chapter three of this code, when a
8 vacancy occurs in the office of magistrate, the judge of the circuit court, or the chief judge thereof
9 if there is more than one judge of the circuit court, shall fill the same by appointment.

10 At a nonpartisan judicial election in which a magistrate is elected for an unexpired term, the
11 circuit judge, or the chief judge thereof if there is more than one judge of the circuit court, shall cause
12 a notice of such election to be published prior to such election as a Class II-0 legal advertisement in
13 compliance with the provisions of article three, chapter fifty-nine of this code, and the publication
14 area for such publication shall be the county involved.

15 **CHAPTER 51. COURTS AND THEIR OFFICERS.**

16 **ARTICLE 1. SUPREME COURT OF APPEALS.**

17 **§51-1-1. Justices.**

18 The Supreme Court of Appeals shall consist of five justices, elected and qualified according
19 to the Constitution and the laws of this state, any three of whom shall constitute a quorum. Effective
20 with the primary election of 2016, all elections for justices will be on a nonpartisan basis by division.
21 Beginning in 2016, there will no longer be primary elections held for the office of justice and all
22 elections for justice are to be held in the nonpartisan judicial election as set forth in article five,

1 chapter three of this code. All indications of party identification on election ballots for that office
2 shall be omitted.

3 **ARTICLE 2A. FAMILY COURTS.**

4 **§51-2A-5. Term of office of family court judge; initial appointment; elections.**

5 (a) Beginning with the election to be conducted in the year 2016, family court judges shall
6 be elected. In family court circuits having two or more family court judges there shall be, for
7 election purposes, numbered divisions corresponding to the number of family court judges in each
8 area. Each family court judge shall be elected at large by the entire family court circuit. In each
9 numbered division of a family court circuit, the candidates for nomination or election shall be voted
10 upon and the votes cast for the candidates in each division shall be tallied separately from the votes
11 cast for candidates in other numbered divisions within the family court circuit. The candidate or
12 candidates receiving the highest number of the votes cast within a numbered division shall be
13 nominated or elected, as the case may be. Effective with the primary election of 2016, all elections
14 for family court judges in the respective circuits will be on a nonpartisan basis by division.
15 Beginning in 2016, there will no longer be primary elections held for family court judges and all
16 elections for family court judges are to be held in the nonpartisan judicial election as set forth in
17 article five, chapter three of this code. All indications of party identification on election ballots for
18 family court judge shall be omitted.

19 (b) The term of office for all family court judges elected in 2002 shall be for six years,
20 commencing on January 1, 2003, and ending on December 31, 2008. Subsequent terms of office for
21 family court judges elected thereafter shall be for eight years.