

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2010**

4 (Delegates Kessinger, McCuskey, Border, Shott, Rowan, Frich, Westfall, Lane, Anderson,

5 Sobonya and Faircloth)

6
7 [Originating in the Committee on the Judiciary.]

8 (January 28, 2015)

9
10 A BILL to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended;
11 to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-4 of said code; to
12 amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c,
13 and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend and
14 reenact §3-10-3 of said code; to amend and reenact §3-12-3, §3-12-6, §3-12-10, §3-12-11,
15 §3-12-12, and §3-12-14 of said code; to amend and reenact §6-5-1 of said code; to amend
16 and reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of said code;
17 to amend and reenact §51-2-1 of said code; and to amend and reenact §51-2A-5 of said code,
18 all relating to electoral reforms of the West Virginia judiciary generally; requiring the
19 election of justices of the Supreme Court of Appeals, circuit court judges, family court judges
20 and magistrates be on a nonpartisan basis; requiring that elections to certain offices be on a
21 division basis when more than one justice of the Supreme Court of Appeals, circuit judge,
22 family court judge, or magistrate is to be elected; providing for the timing and frequency of

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

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

15 That §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended, be amended and
16 reenacted; that §3-4A-11a of said code be amended and reenacted; that §3-5-4 of said code be
17 amended and reenacted; to amend said code by adding thereto four new sections, designated §3-5-6a,
18 §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 and
19 reenacted; that §3-10-3 of said code be amended and reenacted; that §3-12-3, §3-12-6, §3-12-10,
20 §3-12-11, §3-12-12, and §3-12-14 of said code be amended and reenacted; that §6-5-1 of said code
21 be amended and reenacted; that §50-1-1 and §50-1-6 of said code be amended and reenacted; that
22 §51-1-1 of said code be amended and reenacted; that §51-2-1 of said code be amended and

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

2

CHAPTER 3. ELECTIONS.

3 ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

4 §3-1-16. Election of state officers.

5 At the general election to be held in ~~the year~~ 1968, and in every fourth year thereafter,
6 there shall be elected a Governor, Secretary of State, treasurer, Auditor, Attorney General, and
7 commissioner of agriculture. At the general election in ~~the year~~ 1968, and in every second year
8 thereafter, there shall be elected a member of the state Senate for each senatorial district, and a
9 member or members of the House of Delegates of the state from each county or each delegate
10 district. At the general election to be held in ~~the year~~ 1968 2016, and ~~in~~ every twelfth year
11 thereafter, there shall be elected one ~~judge~~ justice of the Supreme Court of Appeals, and at the
12 general election to be held in ~~1972~~ 2020, and ~~in~~ every twelfth year thereafter, two ~~judges~~ justices
13 of the Supreme Court of Appeals and at the general election to be held in ~~1976~~ 2024, and ~~in~~
14 every twelfth year thereafter, two ~~judges~~ justices of the Supreme Court of Appeals. Effective
15 with the primary election held in the year 2016, the election of justices of the Supreme Court of
16 Appeals shall be on a nonpartisan basis and by division as set forth more fully in article five of
17 chapter three of this code.

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

19 There shall be elected, at the general election to be held in ~~the year~~ 1992, and in every
20 eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to but one
21 judge, and one judge for each numbered division of the judicial circuit in those judicial circuits
22 entitled to two or more circuit judges; and at the general election to be held in ~~the year~~ 1992, and

1 in every fourth year thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number
2 of assessors prescribed by law for the county, and the number of magistrates prescribed by law
3 for the county; and at the general election to be held in ~~the year~~ 1990, and in every second year
4 thereafter, a commissioner of the county commission for each county; and at the general election
5 to be held in ~~the year~~ 1992, and in every sixth year thereafter, a clerk of the county commission
6 and a clerk of the circuit court for each county. Effective with the primary election of 2016, all
7 elections for judge of the circuit courts in the respective circuits and magistrates in each county
8 will be elected on a nonpartisan basis and by division as set forth more fully in article five of
9 chapter three of this code.

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

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

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

17 (b) (1) For the primary election, the heading of the ballot, the type faces, the names and
18 arrangement of offices and the printing of names and arrangement of candidates within each
19 office are to conform as nearly as possible to ~~the provisions of~~ sections thirteen and thirteen-a,
20 article five of this chapter.

21 (2) For the general election, the heading of the ballot, the straight ticket positions, the
22 instructions to straight ticket voters, the type faces, the names and arrangement of offices and the

1 printing of names and the arrangement of candidates within each office are to conform as nearly
2 as possible to ~~the provisions of~~ section two, article six of this chapter, except as otherwise
3 provided in this article.

4 (3) (A) Nonpartisan elections for Board of Education and,
5 (B) effective with the primary election held in 2016, and thereafter, for the
6 nonpartisan judicial offices, by division, of:

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

8 (ii) judge of the circuit court;

9 (ii) family court judge; and

10 (iv) magistrate, and

11 (C) any question to be voted upon;

12 are to be separated from the partisan ballot and separately headed in display type with a
13 title clearly identifying the purpose of the election and constituting a separate ballot wherever a
14 separate ballot is required under ~~the provisions of~~ this chapter.

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

19 (5) The arrangement of candidates within each office is to be determined in the same
20 manner as for other electronic voting systems, as prescribed in this chapter. On the general
21 election ballot for all offices, and on the primary election ballot only for those offices to be filled
22 by election, except delegate to national convention, lines for entering write-in votes are to be

1 provided below the names of candidates for each office, and the number of lines provided for any
2 office shall equal the number of persons to be elected, or three, whichever is fewer. The words
3 "WRITE-IN, IF ANY" are to be printed, where applicable, directly under each line for write-ins.
4 The lines are to be opposite a position to mark the vote.

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

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

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

20 **§3-5-4. Nomination of candidates in primary elections.**

21 (a) At each primary election, the candidate or candidates of each political party for all
22 offices to be filled at the ensuing general election by the voters of the entire state, of each

1 congressional district, of each state senatorial district, of each delegate district, ~~of each judicial~~
2 ~~circuit of West Virginia, and~~ of each county, ~~and of each magisterial district~~ in the state shall be
3 nominated by the voters of the different political parties, except that no presidential elector shall
4 be nominated at a primary election.

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

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

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

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

1 ~~(4) In judicial circuits having numbered divisions, each numbered division shall be tallied~~
2 ~~separately and the candidate in each division receiving a plurality of the votes cast shall be~~
3 ~~declared the party nominee for the office in that numbered division.~~

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

7 **§3-5-6a. Election of justices of the Supreme Court of Appeals.**

8 (a) An election for the purpose of electing a justice or justices of the Supreme Court of
9 Appeals shall be held on the same date as the primary election, as provided by law, upon a
10 nonpartisan ballot by division printed for this purpose. For election purposes, in each election at
11 which shall be elected more than one justice of the Supreme Court of Appeals, the election shall
12 be by numbered division corresponding to the number of justices being elected. Each justice
13 shall be elected at large from the entire state.

14 (2) Beginning with the election held in the year 2016, an election of justices of the
15 Supreme Court of Appeals shall be upon a nonpartisan ballot printed for that purpose.

16 (b) In each nonpartisan election by division for a justice of the Supreme Court of Appeals,
17 the candidates for election in each numbered division shall be tallied separately and the board of
18 canvassers shall declare and certify the election of the eligible candidate receiving the highest
19 numbers of votes cast within a numbered division to fill any full terms.

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

22 **§3-5-6b. Election of circuit judges.**

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

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

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

10 **§3-5-6c. Election of family court judges.**

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

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

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

20 **§3-5-6d. Election of magistrates.**

21 (a) An election for the purpose of electing a magistrate or magistrates by division shall be
22 held on the same date as the primary election in their respective circuits, as provided by law,

1 upon a nonpartisan ballot by division printed for this purpose.

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

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

8 **§3-5-7. Filing announcements of candidacies; requirements; withdrawal of candidates**
9 **when section applicable.**

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

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

15 (1) Candidates for the House of Delegates or the state Senate and any other office or
16 political position to be filled by the voters of more than one county, including judges of the
17 circuit court and family court judges whose circuits lie within more than one county, shall file a
18 certificate of announcement with the Secretary of State.

19 (2) Candidates for an office or political position to be filled by the voters of a single
20 county or a subdivision of a county, including judges of the circuit court and family court judges
21 whose circuits lie entirely within one county, except for candidates for the House of Delegates or

1 State Senate, but, shall file a certificate of announcement with the clerk of the county
2 commission.

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

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

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

13 (2) All certificates of announcement for the offices of justice of the Supreme Court of
14 Appeals, circuit court judge, family court judge and magistrate which are filed not earlier than the
15 second Monday in January before the primary election day, and not later than the last Saturday in
16 January before the primary election day, and are received before midnight, eastern standard time,
17 of that day or, if mailed, were postmarked by the United States Postal Service before that hour,
18 may be withdrawn on or before midnight, eastern standard time, of the third Tuesday in February,
19 in accordance with article five, section eleven of this chapter, with a full refund of any filing fees
20 paid or, if not withdrawn, are effective for purposes of the nonpartisan election, by division, for
21 the judicial offices to be held on primary election day.

22 (d) The certificate of announcement shall be on a form prescribed by the Secretary of

1 State on which the candidate shall make a sworn statement before a notary public or other officer
2 authorized to administer oaths, containing the following information:

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

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

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

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

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

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

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

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

1 (9) The words "subscribed and sworn to before me this _____ day of _____,
2 20____" and a space for the signature of the officer giving the oath.

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

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

16 (g) Any candidate for delegate to a national convention may change his or her statement
17 of presidential preference by notifying the Secretary of State by letter received by the Secretary of
18 State no later than the third Tuesday following the close of candidate filing. When the rules of
19 the political party allow each presidential candidate to approve or reject candidates for delegate
20 to convention who may appear on the ballot as committed to that presidential candidate, the
21 presidential candidate or the candidate's committee on his or her behalf may file a list of

1 approved or rejected candidates for delegate and the Secretary of State shall list as
2 "uncommitted" any candidate for delegate who is disapproved by the presidential candidate.

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

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

14 (j) The provisions of this section enacted during the regular session of the Legislature in
15 the year 1991 shall apply to the primary election held in the year 1992 and every primary election
16 held thereafter. The provisions of this section enacted during the regular session of the
17 Legislature in the year 2009 shall apply to the primary election held in the year 2010 and every
18 primary election held thereafter.

19 **§3-5-13. Form and contents of ballots.**

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

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

1 (†) (2) The heading of every ballot is to be printed in display type. The heading is to
2 contain a ballot title, the name of the county, the state, the words "Primary Election" and the
3 month, day and year of the election. The ballot title of the political party ballots is to contain the
4 words "Official Ballot of the (Name) Party" and the official symbol of the political party may be
5 included in the heading.

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

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

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

20 (ii) The ballot title of any separate paper ballot or portion of any electronic
21 or voting machine ballot for all circuit court judges in the respective circuits shall contain the
22 words "Nonpartisan Ballot of Election of Circuit Court Judge(s)". The names of the candidates

1 for the respective circuit court judge office shall be printed by division without references to
2 political party affiliation or registration.

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

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

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

16 ~~(2)~~ (3)(A) For paper ballots, the heading of the ballot is to be separated from the rest of
17 the ballot by heavy lines and the offices shall be arranged in columns with the following
18 headings, from left to right across the ballot: "National Ticket", "State Ticket", "County Ticket"
19 and, in a presidential election year, "National Convention" or, in a nonpresidential election year,
20 "District Ticket". The columns are to be separated by heavy lines. Within the columns, the
21 offices are to be arranged in the order prescribed in section thirteen-a of this article.

22 (B) For voting machines, electronic voting devices and any ballot tabulated by electronic

1 means, the offices are to appear in the same sequence as prescribed in section thirteen-a of this
2 article and under the same headings as prescribed in subsection (A) of this ~~section~~ subdivision.
3 The number of pages, columns or rows, where applicable, may be modified to meet the
4 limitations of ballot size and composition requirements subject to approval by the Secretary of
5 State.

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

21 (D) The location for indicating the voter's choices on the ballot is to be clearly shown.
22 For paper ballots, other than those tabulated electronically, the official primary ballot is to

1 contain a square formed in dark lines at the left of each name on the ballot, arranged in a
2 perpendicular column of squares before each column of names.

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

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

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

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

1 ~~(4)~~ (5) When an insufficient number of candidates has filed for a party to make the
2 number of nominations allowed for the office or for the voters to elect sufficient members to the
3 board of Education or to executive committees, the vacant positions on the ballot shall be filled
4 with the words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for
5 write-ins to be made directly on the ballot, a blank line shall be placed in any vacant position in
6 the office of board of education or for election to any party executive committee. A line shall
7 separate each candidate from every other candidate for the same office. Notwithstanding any
8 other provision of this code, if there are multiple vacant positions on a ballot for one office, the
9 multiple vacant positions which would otherwise be filled with the words "No Candidate Filed"
10 may be replaced with a brief detailed description, approved by the Secretary of State, indicating
11 that there are no candidates listed for the vacant positions.

12 ~~(5)~~ (6) In presidential election years, the words "For election in accordance with the plan
13 adopted by the party and filed with the Secretary of State" is to be printed following the names of
14 all candidates for delegate to national convention.

15 ~~(6)~~ (7) All paper ballots are to be printed in black ink on paper sufficiently thick so that
16 the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot
17 voted pursuant to the provisions of 42 U.S.C. §1973, *et seq.*, the Uniformed and Overseas
18 Citizens Absentee Voting Act of 1986, or Federal write-in absentee ballot may be rejected due to
19 paper type, envelope type, or notarization requirement. Ballot cards and paper for printing
20 ballots using electronically sensible ink are to meet minimum requirements of the tabulating
21 systems and are to conform in size and weight to ensure ease in tabulation.

22 ~~(7)~~ (8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed

1 with unique sequential numbers from one to the highest number representing the total number of
2 ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth
3 of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

4 ~~(8)~~ (9) On the back of every official ballot or ballot card the words "Official Ballot" with
5 the name of the county and the date of the election are to be printed. Beneath the date of the
6 election there are to be two blank lines followed by the words "Poll Clerks".

7 ~~(9)~~ (10) The face of sample paper ballots and sample ballot labels are to be like other
8 official ballots or ballot labels except that the word "sample" is to be prominently printed across
9 the front of the ballot in a manner that ensures the names of candidates are not obscured and the
10 word "sample" may be printed in red ink. No printing may be placed on the back of the sample.

11 **§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.**

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

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

18 STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of
19 Agriculture, Attorney General, ~~Justice of the Supreme Court of Appeals~~, State Senator, member
20 of the House of Delegates, ~~circuit judge in multicounty districts, family court judge in~~
21 ~~multicounty districts~~, any other multicounty office, state executive committee.

22 COUNTY TICKET: ~~Circuit judge in single-county districts, Family court judge in single-~~

1 ~~county districts, clerk~~ Clerk of the circuit court, county commissioner, clerk of the county
2 commission, prosecuting attorney, sheriff, assessor, ~~magistrate~~, surveyor, congressional district
3 executive committee, senatorial district executive committee in multicounty districts, delegate
4 district executive committee in multicounty districts.

5 NATIONAL CONVENTION: Delegate to the national convention -- at-large, delegate to
6 the national convention -- congressional district

7 DISTRICT TICKET: County executive committee.

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

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

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

21 (3) Candidates for delegate to national convention who have filed a commitment to a
22 candidate for president shall be listed alphabetically within the group of candidates committed to

1 the same candidate for president and uncommitted candidates shall be listed alphabetically in an
2 uncommitted category. The position of each group of committed candidates and uncommitted
3 candidates shall be determined by lot by drawing the names of the presidential candidates and for
4 an uncommitted category.

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

6 **ARTICLE 10. FILLING VACANCIES.**

7 **§3-10-3. Vacancies in offices of state officials, United States Senators and judges.**

8 (a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer,
9 Attorney General, Commissioner of Agriculture, Justice of the Supreme Court of Appeals or in
10 any office created or made elective to be filled by the voters of the entire state, judge of a circuit
11 court or judge of a family court is filled by the Governor of the state by appointment and
12 subsequent election to fill the remainder of the term, if required by section one of this article.

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

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

22 (d) (1) When the vacancy in Justice of the Supreme Court of Appeals, judge of the circuit

1 court, judge of a family court, or magistrate occurs after the eighty-fourth day before a general
2 election, and the affected term of office ends on the thirty-first day of December following the
3 next election, the person appointed to fill the vacancy shall continue in office until the
4 completion of the term.

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

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

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

19 **ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC**

20 **CAMPAIGN FINANCING PILOT PROGRAM.**

21 **§3-12-3. Definitions.**

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

1 (1) “Candidate’s committee” means a political committee established with the approval
2 of or in cooperation with a candidate or a prospective candidate to explore the possibilities of
3 seeking a particular office or to support or aid his or her nomination or election to an office in an
4 election cycle. If a candidate directs or influences the activities of more than one active
5 committee in a current campaign, those committees shall be considered one committee for the
6 purpose of contribution limits.

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

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

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

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

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

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

12 ~~(8) “General election campaign period” means the period beginning the day after the~~
13 ~~primary election and ending on the day of the general election.~~

14 ~~(9) “Immediate family” or “immediate family members” means the spouse, parents, step-~~
15 ~~parents, siblings and children of the participating candidate.~~

16 ~~(10)~~ (9) “Nonparticipating candidate” means a candidate who is:

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

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

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

21 (10) “Nonpartisan judicial election campaign period” means the period beginning on the
22 first day of the primary election filing period, as determined under section seven, article five of

1 this chapter, and ending on the day of the nonpartisan judicial election.

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

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

7 ~~(13) “Primary election campaign period” means the period beginning on the first day of~~
8 ~~the primary election filing period, as determined under section seven, article five of this chapter,~~
9 ~~and ending on the day of the subsequent primary election.~~

10 ~~(14)~~“(14)“Qualifying contribution” means a contribution received from a West Virginia
11 registered voter of not less than \$1 nor more than \$100 in the form of cash, check or money
12 order, made payable to a participating candidate or the candidate’s committee, or in the form of
13 an electronic payment or debit or credit card payment, received during the qualifying period.

14 ~~(15)~~“(14)“Qualifying period” means the period during which participating candidates may
15 raise and spend qualifying contributions in order to qualify to receive public campaign financing.

16 ~~(A)~~ For candidates seeking ~~nomination on the primary election ballot~~, to be placed on the
17 ~~general~~ nonpartisan judicial election ballot, the qualifying period begins on September 1
18 preceding the election year and ends on the last Saturday in January of the election year.

19 ~~(B)~~ For candidates, ~~other than those nominated during the primary election, seeking to be~~
20 ~~placed on the general election ballot, the qualifying period begins on June 1 of the election year~~
21 ~~and ends on October 1 of the election year.~~

22 **§3-12-6. Sources of revenue for the fund.**

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

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

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

5 (3) Unspent or unobligated moneys allotted to certified candidates and remaining unspent
6 or unobligated on the date of the ~~general~~ nonpartisan judicial election for which the money was
7 distributed;

8 (4) If a certified candidate loses, all remaining unspent or unobligated moneys ~~after the~~
9 primary election;

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

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

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

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

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

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

1 (11) Money appropriated to the fund.

2 **§3-12-10. Certification of candidates.**

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

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

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

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

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

14 (4) Is eligible, as provided in section nine, article five of this chapter, to appear on the
15 ~~primary or general~~ nonpartisan judicial election ballot; and

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

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

21 (d) The State Election Commission shall determine whether to certify a participating
22 candidate as eligible to receive public campaign financing no later than three business days after

1 the candidate or the candidate's committee makes his or her final report of qualifying
2 contributions or, if a challenge is filed under subsection (g) of this section, no later than six
3 business days after the candidate or the candidate's committee makes his or her final report of
4 qualifying contributions. A certified candidate shall comply with this article through the ~~general~~
5 nonpartisan judicial election campaign period.

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

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

16 (g) Any person may challenge the validity of any contribution listed by a participating
17 candidate by filing a written challenge with the State Election Commission setting forth any
18 reason why the contribution should not be accepted as a qualifying contribution. If a contribution
19 is challenged under this subsection, the State Election Commission shall decide the validity of
20 the challenge no later than the end of the next business day after the day that the challenge is
21 filed, unless the State Election Commission determines that the candidate whose contribution is
22 challenged has both a sufficient qualifying number and amount of qualifying contributions to be

1 certified as a candidate under this section without considering the challenge. Within five business
2 days of a challenge, the candidate or candidate's committee who listed any contribution that is the
3 subject of a challenge may file a report with the State Election Commission of an additional
4 contribution collected pursuant to section nine of this article for consideration as a qualifying
5 contribution.

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

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

18 (j) A candidate may withdraw from being a certified candidate and become a
19 nonparticipating candidate at any time with the approval of the State Election Commission. Any
20 candidate seeking to withdraw shall file a written request with the State Election Commission,
21 which shall consider requests on a case-by-case basis. No certified candidate may withdraw until
22 he or she has repaid all moneys received from the fund: *Provided*, That the State Election

1 Commission may, in exceptional circumstances, waive the repayment requirement. The State
2 Election Commission may assess a penalty not to exceed \$10,000 against any candidate who
3 withdraws without approval.

4 **§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing**

5 **Fund payments.**

6 (a) The State Election Commission, acting in concert with the State Auditor's office and
7 the State Treasurer's office, shall have a check issued within two business days after the date on
8 which the candidate is certified, to make payments from the fund for the ~~2012 primary~~
9 nonpartisan judicial election campaign period available to a certified candidate.

10 ~~(1) In a contested primary nonpartisan judicial election, a certified candidate shall receive~~
11 ~~\$300,000 in campaign financing from the fund, minus the certified candidate's qualifying~~
12 ~~contributions.~~

13 ~~(2) In an uncontested primary election, a certified candidate shall receive \$50,000 from~~
14 ~~the public campaign financing fund, minus the certified candidate's qualifying contributions.~~

15 ~~(b) Within two business days after the primary election results are certified by the~~
16 ~~Secretary of State, the State Election Commission, acting in concert with the State Auditor's~~
17 ~~office and the State Treasurer's office, shall cause a check to be issued to make payments from~~
18 ~~the fund for the general election campaign period available to a certified candidate.~~

19 ~~(1) In a contested general election, a certified candidate shall receive from the fund an~~
20 ~~amount not to exceed \$525,000.~~

21 ~~(2) In an uncontested general election, a certified candidate shall receive \$35,000 from~~
22 ~~the public campaign financing fund.~~

1 ~~(c)~~(b) The State Election Commission shall authorize the distribution of campaign
2 financing moneys to certified candidates in equal amounts. The commission shall propose a
3 legislative rule on distribution of funds.

4 ~~(d)~~(c) The State Election Commission may not authorize or direct the distribution of
5 moneys to certified candidates in excess of the total amount of money deposited in the fund
6 pursuant to section six of this article. If the commission determines that the money in the fund is
7 insufficient to totally fund all certified candidates, the commission shall authorize the distribution
8 of the remaining money proportionally, according to each candidate's eligibility for funding.
9 Each candidate may raise additional money in the same manner as a nonparticipating candidate
10 for the same office up to the unfunded amount of the candidate's eligible funding.

11 **§3-12-12. Restrictions on contributions and expenditures.**

12 (a) A certified candidate or his or her committee may not accept loans or contributions
13 from any private source, including the personal funds of the candidate and the candidate's
14 immediate family, during the ~~primary or general~~ nonpartisan judicial election campaign periods
15 except as permitted by this article.

16 (b) After filing the declaration of intent and during the qualifying period, a participating
17 candidate may not spend or obligate more than he or she has collected in exploratory and
18 qualifying contributions. After the qualifying period and through the nonpartisan judicial ~~general~~
19 election campaign period, a certified candidate may spend or obligate any unspent exploratory or
20 qualifying contributions and the moneys he or she receives from the fund under the provisions of
21 section eleven of this article.

22 (c) A participating or certified candidate may expend exploratory and qualifying

1 contributions and funds received from the fund only for lawful election expenses as provided in
2 section nine, article eight of this chapter. Moneys distributed to a certified candidate from the
3 fund may be expended only during the ~~primary and general~~ nonpartisan judicial election
4 campaign period for which funds were dispersed. Money from the fund may not be used:

5 (1) In violation of the law;

6 (2) To repay any personal, family or business loans, expenditures or debts; or

7 (3) To help any other candidate.

8 (d) A certified candidate or his or her committee shall return to the fund any unspent and
9 unobligated exploratory contributions, qualifying contributions or moneys received from the fund
10 within forty-eight hours after:

11 ~~(1) The date on which the candidate ceases to be certified; or~~

12 ~~(2) The date on which the individual loses the primary election or otherwise ceases to be~~
13 ~~a candidate.~~

14 ~~(e) Funds remaining unspent or unobligated after the close of the primary election~~
15 ~~campaign period may be retained by the candidate for use during the general election campaign~~
16 ~~period but shall be deducted from the amount the candidate is eligible to receive under~~
17 ~~subsection (b), section eleven of this article.~~

18 ~~(f) A certified candidate or his or her committee shall return to the fund any unspent or~~
19 ~~unobligated public campaign financing funds no later than five business days after the general~~
20 ~~nonpartisan judicial election.~~

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

22 ~~(h) (g) A participating or certified candidate or his or her committee receiving qualifying~~

1 contributions or exploratory contributions from a person not listed on the receipt required by
2 sections eight and nine of this article is liable to the State Election Commission for the entire
3 amount of that contribution and any applicable penalties.

4 (†) (h) A certified candidate accepting any benefits under the provisions of this article
5 shall continue to comply with all of its provisions throughout the ~~primary election campaign~~
6 ~~period and general~~ nonpartisan judicial election campaign period.

7 (†) (i) A participating or certified candidate or his or her financial agent shall provide the
8 Secretary of State with all requested campaign records, including all records of exploratory and
9 qualifying contributions received and campaign expenditures and obligations, and shall fully
10 cooperate with any audit of campaign finances requested or authorized by the State Election
11 Commission.

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

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

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

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

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

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

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

6 (6) Cause an audit of the fund to be conducted by independent certified public
7 accountants ninety days after a ~~general~~ nonpartisan judicial election. The State Election
8 Commission shall cooperate with the audit, provide all necessary documentation and financial
9 records to the auditor and maintain a record of all information supplied by the audit;

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

14 (8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to
15 determine whether the fund will have sufficient moneys to meet its obligations and sufficient
16 moneys available for disbursement during the ~~primary and general~~ nonpartisan judicial election
17 campaign period; and

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

21 (b) In addition to his or her other duties, the Secretary of State shall carry out the duties of
22 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) Prepare and publish information about this article and provide it to potential
4 candidates and citizens of this state;

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

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

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

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

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

19 (8) Prepare a voters' guide for the general public listing the names of each candidate
20 seeking election to the Supreme Court of Appeals. Both certified and nonparticipating
21 candidates shall be invited by the State Election Commission to submit a statement, not to
22 exceed five hundred words in length, for inclusion in the guide. The guide shall identify the

1 candidates that are certified candidates and the candidates that are nonparticipating candidates.
2 Copies of the guide shall be posted on the website of the Secretary of State, as soon as may be
3 practical.

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

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

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

13 **ARTICLE 5. TERMS OF OFFICE; MATTERS AFFECTING THE RIGHT TO HOLD** 14 **OFFICE.**

15 **§6-5-1. When terms of office to begin.**

16 The terms of officers, except when elected or appointed to fill vacancies, shall begin
17 respectively as follows: That of Governor, Secretary of State, state superintendent of free
18 schools, treasurer, Auditor, Attorney General and commissioner of agriculture, on the first
19 Monday after the second Wednesday of January next after their election; that of a member of the
20 Legislature, on December 1, next after his or her election; and that of the judges of the Supreme
21 Court of Appeals, the judges of the several circuit courts, the judges of the ~~criminal, intermediate,~~
22 ~~common pleas~~ family and other inferior courts, the county commissioners, prosecuting attorneys,

1 surveyors of land, assessors, sheriffs, clerks of the circuit, ~~criminal, intermediate, common pleas,~~
2 or other inferior courts, clerks of the county courts commissions, ~~justices of the peace and~~
3 ~~constables~~ magistrates, on January 1, next after their election.

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

6 CHAPTER 50. MAGISTRATE COURTS.

7 ARTICLE 1. COURTS AND OFFICERS.

8 §50-1-1. Magistrate court created.

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

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

20 In counties where voting machines or electronic voting systems are used, the procedures
21 of section eleven, article four, chapter three and section twelve, article four-a of said chapter
22 three of this code shall apply respectively to the election of magistrates in the same manner as

1 they apply to the election of members of the House of Delegates.

2 ~~Notwithstanding the provisions of section seven, article five, chapter three of this code,~~
3 ~~for purposes of the primary election to be held in the year one thousand nine hundred seventy-~~
4 ~~six, the last day for filing certificates of candidacy for the office of magistrate shall be extended~~
5 ~~to the twenty-seventh day of February of that year.~~

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
9 thereof if there is more than one judge of the circuit court, shall fill the same by appointment ~~of a~~
10 ~~person of the same political party as the officeholder vacating the office.~~

11 At a ~~general~~ nonpartisan judicial election in which a magistrate is elected for an
12 unexpired term, the circuit judge, or the chief judge thereof if there is more than one judge of the
13 circuit court, shall cause a notice of such election to be published prior to such election as a Class
14 II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of
15 this code, and the publication area for such publication shall be the county involved. If the
16 vacancy occurs before the ~~primary~~ election held to nominate candidates to be voted for at the
17 general election, at which any such vacancy is to be filled, candidates to fill such vacancy shall
18 be nominated at such primary election in accordance with the time requirements and the
19 provisions and procedures prescribed in article five, chapter three of this code. Otherwise, they
20 shall be nominated by the county executive committee in the manner provided in section
21 nineteen, article five, chapter three of this code, as in the case of filling vacancies in nominations,
22 and the names of the persons so nominated and certified to the clerk of the circuit court of such

1 county shall be placed upon the ballot to be voted at such next general election.

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

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

4 **§51-1-1. Justices.**

5 The Supreme Court of Appeals shall consist of five justices, elected and qualified
6 according to the Constitution and the laws of this state, any three of whom shall constitute a
7 quorum. Effective with the primary election of 2016, all elections for Justices will be on a
8 nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held
9 for the office of justice and all elections for justice are to be held in the nonpartisan judicial
10 election as set forth in article five of chapter three of this code. All indications of party
11 identification on election ballots for that office shall be omitted.

12 **ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.**

13 **§51-2-1. Judicial circuits; terms of office; legislative findings and declarations; elections;**
14 **terms of court.**

15 (a) The state shall be divided into the following judicial circuits with the following
16 number of judges:

17 (1) The counties of Brooke, Hancock and Ohio shall constitute the first circuit and shall
18 have four judges;

19 (2) The counties of Marshall, Tyler and Wetzel shall constitute the second circuit and
20 shall have two judges;

21 (3) The counties of Doddridge, Pleasants and Ritchie shall constitute the third circuit and
22 shall have one judge;

1 (4) The counties of Wood and Wirt shall constitute the fourth circuit and shall have three
2 judges;

3 (5) The counties of Calhoun, Jackson, Mason and Roane shall constitute the fifth circuit
4 and shall have two judges;

5 (6) The county of Cabell shall constitute the sixth circuit and shall have four judges;

6 (7) The county of Logan shall constitute the seventh circuit and shall have two judges;

7 (8) The county of McDowell shall constitute the eighth circuit and shall have two judges;

8 (9) The county of Mercer shall constitute the ninth circuit and shall have three judges;

9 (10) The county of Raleigh shall constitute the tenth circuit and shall have three judges;

10 (11) The counties of Greenbrier and Pocahontas shall constitute the eleventh circuit and
11 shall have two judges;

12 (12) The county of Fayette shall constitute the twelfth circuit and shall have two judges;

13 (13) The county of Kanawha shall constitute the thirteenth circuit and shall have seven
14 judges;

15 (14) The counties of Braxton, Clay, Gilmer and Webster shall constitute the fourteenth
16 circuit and shall have two judges;

17 (15) The county of Harrison shall constitute the fifteenth circuit and shall have three
18 judges;

19 (16) The county of Marion shall constitute the sixteenth circuit and shall have two judges;

20 (17) The county of Monongalia shall constitute the seventeenth circuit and shall have two
21 judges: *Provided*, That effective July 1, 2009, said circuit court shall have three judges.

22 (18) The county of Preston shall constitute the eighteenth circuit and shall have one

1 judge;

2 (19) The counties of Barbour and Taylor shall constitute the nineteenth circuit and shall
3 have one judge;

4 (20) The county of Randolph shall constitute the twentieth circuit and shall have one
5 judge;

6 (21) The counties of Grant, Mineral and Tucker shall constitute the twenty-first circuit
7 and shall have two judges;

8 (22) The counties of Hampshire, Hardy and Pendleton shall constitute the twenty-second
9 circuit and shall have two judges;

10 (23) The counties of Berkeley, Jefferson and Morgan shall constitute the twenty-third
11 circuit and shall have five judges;

12 (24) The county of Wayne shall constitute the twenty-fourth circuit and shall have two
13 judges;

14 (25) The counties of Lincoln and Boone shall constitute the twenty-fifth circuit and shall
15 have two judges;

16 (26) The counties of Lewis and Upshur shall constitute the twenty-sixth circuit and shall
17 have one judge;

18 (27) The county of Wyoming shall constitute the twenty-seventh circuit and shall have
19 one judge;

20 (28) The county of Nicholas shall constitute the twenty-eighth circuit and shall have one
21 judge;

1 (29) The county of Putnam shall constitute the twenty-ninth circuit and shall have two
2 judges;

3 (30) The county of Mingo shall constitute the thirtieth circuit and shall have one judge;
4 and

5 (31) The counties of Monroe and Summers shall constitute the thirty-first circuit and shall
6 have one judge.

7 (b) The Kanawha County circuit court shall be a court of concurrent jurisdiction with
8 each single judge circuit where the sitting judge in the single judge circuit is unavailable by
9 reason of sickness, vacation or other reason.

10 (c) Any judge in office on the effective date of the reenactment of this section shall
11 continue as a judge of the circuit as constituted under prior enactments of this section, unless
12 sooner removed or retired as provided by law, until December 31, 2008.

13 (d) The term of office of all circuit court judges shall be for eight years. The term of
14 office for all circuit court judges elected during the general election conducted in the year 2008
15 shall commence on January 1, 2009, and end on December 31, 2016.

16 (e) Beginning in 2016, all elections for circuit court judge shall be nonpartisan by
17 division, and all elections for circuit court judge are to be held in the nonpartisan judicial election
18 as set forth in article five of chapter three of this code. Beginning in 2016, there will no longer be
19 primary elections held for circuit court judges. All indications of party identification on election
20 ballots for circuit court judge shall be omitted. For election purposes, in every judicial circuit
21 having two or more judges there shall be numbered divisions corresponding to the number of
22 circuit judges in each circuit. Each judge shall be elected at large from the entire circuit. In each

1 numbered division of a judicial circuit, the candidates for nomination or election shall be voted
2 upon and the votes cast for the candidates in each division shall be tallied separately from the
3 votes cast for candidates in other numbered divisions within the circuit. The candidate receiving
4 the highest number of the votes cast within a numbered division shall be nominated or elected, as
5 the case may be.

6 (f) Judges serving a judicial circuit comprised of four or more counties with two or more
7 judges shall not be residents of the same county.

8 (g) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit
9 judges.

10 **ARTICLE 2A. FAMILY COURTS.**

11 **§51-2A-5. Term of office of family court judge; initial appointment; elections.**

12 (a) Beginning with the primary and general elections to be conducted in the year 2002,
13 family court judges shall be elected. In family court circuits having two or more family court
14 judges there shall be, for election purposes, numbered divisions corresponding to the number of
15 family court judges in each area. Each family court judge shall be elected at large by the entire
16 family court circuit. In each numbered division of a family court circuit, the candidates for
17 nomination or election shall be voted upon and the votes cast for the candidates in each division
18 shall be tallied separately from the votes cast for candidates in other numbered divisions within
19 the family court circuit. The candidate or candidates receiving the highest number of the votes
20 cast within a numbered division shall be nominated or elected, as the case may be. Effective with
21 the primary election of 2016, all elections for family court judges in the respective circuits will
22 be on a nonpartisan basis by division. Beginning in 2016, there will no longer be primary

1 elections held for family court judges and all elections for family court judges are to be held in
2 the nonpartisan judicial election as set forth in article five of chapter three of this code. All
3 indications of party identification on election ballots for family court judge shall be omitted.

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

7 (c) The primary and general elections conducted in the year 2008 shall be conducted to fill the
8 family court judge positions in the reconfigured districts set forth by subsection (c), section three
9 of this article, for terms to commence on January 1, 2009.