

# **E N R O L L E D**

COMMITTEE SUBSTITUTE

for

## **H. B. 2010**

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ANDERSON, SOBONYA AND FAIRCLOTH)

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[Passed February 23, 2015; in effect ninety days from passage.]

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AN ACT to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-4 of said code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §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 amend and reenact §3-10-3 of said code; to amend and reenact §3-12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12 and §3-12-14 of said code; to amend and reenact §6-5-1 of said code; to amend and reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of said code; and to

amend and reenact §51-2A-5 of said code, all relating to electoral reforms of the West Virginia judiciary generally; requiring the election of justices of the Supreme Court of Appeals, circuit court judges, family court judges and magistrates be on a nonpartisan basis; requiring that elections to certain offices be on a division basis when more than one justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate is to be elected; providing for the timing and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that elections for justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate are to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing occasions for special elections to be held to fill vacancies; providing that unsuccessful nonpartisan candidates can be selected to fill ballot vacancies in a general election; providing the timing of commencement of the terms of offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; and providing for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

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

That §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §3-4A-11a of said code be amended and reenacted; that §3-5-4 of said code be amended and reenacted; that said code be amended by adding thereto four new sections, designated §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 and reenacted; that §3-10-3 of said code be amended and reenacted; that §3-12-3, §3-12-6,

§3-12-10, §3-12-11, §3-12-12 and §3-12-14 of said code be amended and reenacted; that §6-5-1 of said code be amended and reenacted; that §50-1-1 and §50-1-6 of said code be amended and reenacted; that §51-1-1 of said code be amended and reenacted; and that §51-2A-5 of said code be amended and reenacted, all to read as follows:

### **CHAPTER 3. ELECTIONS.**

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

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

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

9 (b) At the time of the primary election to be held in the year  
10 2016, and every twelfth year thereafter, there shall be elected  
11 one justice of the Supreme Court of Appeals, and at the time of  
12 the primary election to be held in 2020, and every twelfth year  
13 thereafter, two justices of the Supreme Court of Appeals and at  
14 the time of the primary election to be held in 2024, and every  
15 twelfth year thereafter, two justices of the Supreme Court of  
16 Appeals. Effective with the primary election held in the year  
17 2016, the election of justices of the Supreme Court of Appeals  
18 shall be on a nonpartisan basis and by division as set forth more  
19 fully in article five of this chapter.

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

1 (a) There shall be elected, at the time of the primary election  
2 to be held in 2016, and every eighth year thereafter, one judge of

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

13 (b) At the general election to be held in 1992, and every  
14 fourth year thereafter, a sheriff, prosecuting attorney, surveyor  
15 of lands, and the number of assessors prescribed by law for the  
16 county; and at the general election to be held in 1990, and every  
17 second year thereafter, a commissioner of the county  
18 commission for each county; and at the general election to be  
19 held in 1992, and every sixth year thereafter, a clerk of the  
20 county commission and a clerk of the circuit court for each  
21 county.

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

#### ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

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

1 (a) The board of ballot commissioners in counties using  
2 ballots upon which votes may be recorded by means of marking  
3 with electronically sensible ink or pencil and which marks are  
4 tabulated electronically shall cause the ballots to be printed or

5 displayed upon the screens of the electronic voting system for  
6 use in elections.

7 (b) (1) For the primary election, the heading of the ballot, the  
8 type faces, the names and arrangement of offices and the printing  
9 of names and arrangement of candidates within each office are  
10 to conform as nearly as possible to sections thirteen and thirteen-  
11 a, article five of this chapter.

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

18 (3) (A) Effective with the primary election held in 2016, and  
19 thereafter, for the nonpartisan judicial offices, by division, of:

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

21 (ii) Judge of the circuit court;

22 (iii) Family court judge; and

23 (iv) Magistrate;

24 (B) Nonpartisan elections for Board of Education: and

25 (C) Any question to be voted upon; are to be separated from  
26 the partisan ballot and separately headed in display type with a  
27 title clearly identifying the purpose of the election and  
28 constituting a separate ballot wherever a separate ballot is  
29 required under this chapter.

30 (4) Both the face and the reverse side of the ballot may  
31 contain the names of candidates only if means to ensure the

32 secrecy of the ballot are provided and lines for the signatures of  
33 the poll clerks on the ballot are printed on a portion of the ballot  
34 which is deposited in the ballot box and upon which marks do  
35 not interfere with the proper tabulation of the votes.

36 (5) The arrangement of candidates within each office is to be  
37 determined in the same manner as for other electronic voting  
38 systems, as prescribed in this chapter. On the general election  
39 ballot for all offices, and on the primary election ballot only for  
40 those offices to be filled by election, except delegate to national  
41 convention, lines for entering write-in votes are to be provided  
42 below the names of candidates for each office, and the number  
43 of lines provided for any office shall equal the number of  
44 persons to be elected, or three, whichever is fewer. The words  
45 "WRITE-IN, IF ANY" are to be printed, where applicable,  
46 directly under each line for write-ins. The lines are to be  
47 opposite a position to mark the vote.

48 (c) Except for electronic voting systems that utilize screens  
49 upon which votes may be recorded by means of a stylus or by  
50 means of touch, the primary election ballots are to be printed in  
51 the color of ink specified by the Secretary of State for the  
52 various political parties, and the general election ballot is to be  
53 printed in black ink. For electronic voting systems that utilize  
54 screens upon which votes may be recorded by means of a stylus  
55 or by means of touch, the primary ballots and the general  
56 election ballot are to be printed in black ink. All ballots are to be  
57 printed, where applicable, on white paper suitable for automatic  
58 tabulation and are to contain a perforated stub at the top or  
59 bottom of the ballot, which is to be numbered sequentially in the  
60 same manner as provided in section thirteen, article five of this  
61 chapter, or are to be displayed on the screens of the electronic  
62 voting system upon which votes are recorded by means of a  
63 stylus or touch. The number of ballots printed and the packaging  
64 of ballots for the precincts are to conform to the requirements for  
65 paper ballots provided in this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§3-5-6d. Election of magistrates.**

1 (a) An election for the purpose of electing a magistrate or  
2 magistrates by division shall be held on the same date as the

3 primary election in their respective circuits, as provided by law,  
4 upon a nonpartisan ballot by division printed for this purpose.

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

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

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

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

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

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

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

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

19 (c) The certificate of announcement shall be filed with the  
20 proper officer not earlier than the second Monday in January  
21 before the primary election day and not later than the last  
22 Saturday in January before the primary election day and must be  
23 received before midnight, eastern standard time, of that day or,  
24 if mailed, shall be postmarked by the United States Postal  
25 Service before that hour. This includes the offices of justice of  
26 the Supreme Court of Appeals, circuit court judge, family court  
27 judge and magistrate, which are to be filled on a nonpartisan and  
28 division basis at the primary election.

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

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

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

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

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

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

48 (6) For partisan elections, the name of the candidate's  
49 political party and a statement that the candidate: (A) Is a

50 member of and affiliated with that political party as evidenced  
51 by the candidate's current registration as a voter affiliated with  
52 that party; and (B) has not been registered as a voter affiliated  
53 with any other political party for a period of sixty days before  
54 the date of filing the announcement;

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

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

61 (9) The words "subscribed and sworn to before me this  
62 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_" and a space for the  
63 signature of the officer giving the oath.

64 (e) The Secretary of State or the board of ballot  
65 commissioners, as the case may be, may refuse to certify the  
66 candidacy or may remove the certification of the candidacy upon  
67 receipt of a certified copy of the voter's registration record of the  
68 candidate showing that the candidate was registered as a voter in  
69 a party other than the one named in the certificate of  
70 announcement during the sixty days immediately preceding the  
71 filing of the certificate: *Provided*, That unless a signed formal  
72 complaint of violation of this section and the certified copy of  
73 the voter's registration record of the candidate are filed with the  
74 officer receiving that candidate's certificate of announcement no  
75 later than ten days following the close of the filing period, the  
76 candidate may not be refused certification for this reason.

77 (f) The certificate of announcement shall be subscribed and  
78 sworn to by the candidate before some officer qualified to  
79 administer oaths, who shall certify the same. Any person who  
80 knowingly provides false information on the certificate is guilty

81 of false swearing and shall be punished in accordance with  
82 section three, article nine of this chapter.

83 (g) Any candidate for delegate to a national convention may  
84 change his or her statement of presidential preference by  
85 notifying the Secretary of State by letter received by the  
86 Secretary of State no later than the third Tuesday following the  
87 close of candidate filing. When the rules of the political party  
88 allow each presidential candidate to approve or reject candidates  
89 for delegate to convention who may appear on the ballot as  
90 committed to that presidential candidate, the presidential  
91 candidate or the candidate's committee on his or her behalf may  
92 file a list of approved or rejected candidates for delegate and the  
93 Secretary of State shall list as "uncommitted" any candidate for  
94 delegate who is disapproved by the presidential candidate.

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

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

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

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

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

5           (2) The heading of every ballot is to be printed in display  
6 type. The heading is to contain a ballot title, the name of the  
7 county, the state, the words “Primary Election” and the month,  
8 day and year of the election. The ballot title of the political party  
9 ballots is to contain the words “Official Ballot of the (Name)  
10 Party” and the official symbol of the political party may be  
11 included in the heading.

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

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

24          (ii) The ballot title of any separate paper ballot or portion of  
25 any electronic or voting machine ballot for all circuit court  
26 judges in the respective circuits shall contain the words  
27 “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The  
28 names of the candidates for the respective circuit court judge  
29 office shall be printed by division without references to political  
30 party affiliation or registration.

31          (iii) The ballot title of any separate paper ballot or portion of  
32 any electronic or voting machine ballot for all family court  
33 judges in the respective circuits shall contain the words

34 “Nonpartisan Ballot of Election of Family Court Judge(s)”. The  
35 names of the candidates for the respective family court judge  
36 office shall be printed by division without references to political  
37 party affiliation or registration.

38 (iv) The ballot title of any separate paper ballot or portion of  
39 any electronic or voting machine ballot for all magistrates in the  
40 respective circuits shall contain the words “Nonpartisan Ballot  
41 of Election of Magistrate(s)”. The names of the candidates for  
42 the respective magistrate office shall be printed by division  
43 without references to political party affiliation or registration.

44 (B) The ballot title of any separate paper ballot or portion of  
45 any electronic or voting machine ballot for the Board of  
46 Education is to contain the words “Nonpartisan Ballot of  
47 Election of Members of the \_\_\_\_\_ County Board of  
48 Education”. The districts for which less than two candidates may  
49 be elected and the number of available seats are to be specified  
50 and the names of the candidates are to be printed without  
51 reference to political party affiliation and without designation as  
52 to a particular term of office.

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

56 (3) (A) For paper ballots, the heading of the ballot is to be  
57 separated from the rest of the ballot by heavy lines and the  
58 offices shall be arranged in columns with the following  
59 headings, from left to right across the ballot: “National Ticket”,  
60 “State Ticket”, “County Ticket” and, in a presidential election  
61 year, “National Convention” or, in a nonpresidential election  
62 year, “District Ticket”. The columns are to be separated by  
63 heavy lines. Within the columns, the offices are to be arranged  
64 in the order prescribed in section thirteen-a of this article.

65 (B) For voting machines, electronic voting devices and any  
66 ballot tabulated by electronic means, the offices are to appear in  
67 the same sequence as prescribed in section thirteen-a of this  
68 article and under the same headings as prescribed in paragraph  
69 (A) of this subdivision. The number of pages, columns or rows,  
70 where applicable, may be modified to meet the limitations of  
71 ballot size and composition requirements subject to approval by  
72 the Secretary of State.

73 (C) The title of each office is to be separated from preceding  
74 offices or candidates by a line and is to be printed in bold type  
75 no smaller than eight point. Below the office is to be printed the  
76 number of the district, if any, the number of the division, if any,  
77 and the words "Vote for \_\_\_\_\_" with the number to be  
78 nominated or elected or "Vote For Not More Than \_\_\_\_\_" in  
79 multicandidate elections. For offices in which there are  
80 limitations relating to the number of candidates which may be  
81 nominated, elected or appointed to or hold office at one time  
82 from a political subdivision within the district or county in which  
83 they are elected, there is to be a clear explanation of the  
84 limitation, as prescribed by the Secretary of State, printed in bold  
85 type immediately preceding the names of the candidates for  
86 those offices on the ballot in every voting system. For counties  
87 in which the number of county commissioners exceeds three and  
88 the total number of members of the county commission is equal  
89 to the number of magisterial districts within the county, the  
90 office of county commission is to be listed separately for each  
91 district to be filled with the name of the magisterial district and  
92 the words "Vote for One" printed below the name of the office:  
93 *Provided*, That the office title and applicable instructions may  
94 span the width of the ballot so as it is centered among the  
95 respective columns.

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

99 a square formed in dark lines at the left of each name on the  
100 ballot, arranged in a perpendicular column of squares before  
101 each column of names.

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

113 (B) The city of residence of every candidate, the state of  
114 residence of every candidate residing outside the state, the  
115 county of residence of every candidate for an office on the ballot  
116 in more than one county and the magisterial district of residence  
117 of every candidate for an office subject to magisterial district  
118 limitations are to be printed in lower case letters beneath the  
119 names of the candidates.

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

122 (D) If the number of candidates for an office exceeds the  
123 space available on a column or ballot page and requires that  
124 candidates for a single office be separated, to the extent possible,  
125 the number of candidates for the office on separate columns or  
126 pages are to be nearly equal and clear instructions given the  
127 voter that the candidates for the office are continued on the  
128 following column or page.

129 (5) When an insufficient number of candidates has filed for  
130 a party to make the number of nominations allowed for the office

131 or for the voters to elect sufficient members to the board of  
132 Education or to executive committees, the vacant positions on  
133 the ballot shall be filled with the words “No Candidate Filed”:  
134 *Provided*, That in paper ballot systems which allow for write-ins  
135 to be made directly on the ballot, a blank line shall be placed in  
136 any vacant position in the office of board of education or for  
137 election to any party executive committee. A line shall separate  
138 each candidate from every other candidate for the same office.  
139 Notwithstanding any other provision of this code, if there are  
140 multiple vacant positions on a ballot for one office, the multiple  
141 vacant positions which would otherwise be filled with the words  
142 “No Candidate Filed” may be replaced with a brief detailed  
143 description, approved by the Secretary of State, indicating that  
144 there are no candidates listed for the vacant positions.

145 (6) In presidential election years, the words “For election in  
146 accordance with the plan adopted by the party and filed with the  
147 Secretary of State” is to be printed following the names of all  
148 candidates for delegate to national convention.

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

159 (8) Ballots are to contain perforated tabs at the top of the  
160 ballots and are to be printed with unique sequential numbers  
161 from one to the highest number representing the total number of  
162 ballots printed. On paper ballots, the ballot is to be bordered by

163 a solid line at least one sixteenth of an inch wide and the ballot  
164 is to be trimmed to within one-half inch of that border.

165 (9) On the back of every official ballot or ballot card the  
166 words “Official Ballot” with the name of the county and the date  
167 of the election are to be printed. Beneath the date of the election  
168 there are to be two blank lines followed by the words “Poll  
169 Clerks”.

170 (10) The face of sample paper ballots and sample ballot  
171 labels are to be like other official ballots or ballot labels except  
172 that the word “sample” is to be prominently printed across the  
173 front of the ballot in a manner that ensures the names of  
174 candidates are not obscured and the word “sample” may be  
175 printed in red ink. No printing may be placed on the back of the  
176 sample.

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

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

7 NATIONAL TICKET: President (and Vice President in the  
8 general election), United States Senator, member of the United  
9 States House of Representatives.

10 STATE TICKET: Governor, Secretary of State, Auditor,  
11 Treasurer, Commissioner of Agriculture, Attorney General,,  
12 State Senator, member of the House of Delegates,, any other  
13 multicounty office, state executive committee.

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

20 NATIONAL CONVENTION: Delegate to the national  
21 convention — at-large, delegate to the national convention —  
22 congressional district.

23 DISTRICT TICKET: County executive committee.

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

28 (1) On the fourth Tuesday following the close of the  
29 candidate filing, beginning at nine o'clock a. m., a drawing by  
30 lot shall be conducted in the office of the clerk of the county  
31 commission in each county. Notice of the drawing shall be given  
32 on the form for the certificate of announcement and no further  
33 notice shall be required. The clerk of the county commission  
34 shall superintend and conduct the drawing and the method of  
35 conducting the drawing shall be prescribed by the Secretary of  
36 State.

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

43 (3) Candidates for delegate to national convention who have  
44 filed a commitment to a candidate for president shall be listed

45 alphabetically within the group of candidates committed to the  
46 same candidate for president and uncommitted candidates shall  
47 be listed alphabetically in an uncommitted category. The  
48 position of each group of committed candidates and  
49 uncommitted candidates shall be determined by lot by drawing  
50 the names of the presidential candidates and for an uncommitted  
51 category.

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

**ARTICLE 10. FILLING VACANCIES.**

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

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

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

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

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

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

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

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

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

**§3-12-3. Definitions.**

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

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

12 (2) "Certified candidate" means an individual seeking  
13 election to the West Virginia Supreme Court of Appeals who has  
14 been certified in accordance with section ten of this article as  
15 having met all of the requirements for receiving public campaign  
16 financing from the fund.

17 (3) "Contribution" means a gift subscription, assessment,  
18 payment for services, dues, advance, donation, pledge, contract,  
19 agreement, forbearance or promise of money or other tangible  
20 thing of value, whether conditional or legally enforceable, or a  
21 transfer of money or other tangible thing of value to a person,  
22 made for the purpose of influencing the nomination, election or  
23 defeat of a candidate. An offer or tender of a contribution is not  
24 a contribution if expressly and unconditionally rejected or  
25 returned. A contribution does not include volunteer personal  
26 services provided without compensation: *Provided*, That a  
27 nonmonetary contribution is to be considered at fair market  
28 value for reporting requirements and contribution limitations.

29 (4) "Exploratory contribution" means a contribution of no  
30 more than \$1,000 made by an individual adult, including a  
31 participating candidate and members of his or her immediate  
32 family, during the exploratory period but prior to filing the  
33 declaration of intent. Exploratory contributions may not exceed  
34 \$20,000 in the aggregate.

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

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

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

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

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

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

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

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

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

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

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

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

71 (13) “Qualifying contribution” means a contribution  
72 received from a West Virginia registered voter of not less than  
73 \$1 nor more than \$100 in the form of cash, check or money  
74 order, made payable to a participating candidate or the  
75 candidate’s committee, or in the form of an electronic payment  
76 or debit or credit card payment, received during the qualifying  
77 period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (11) Money appropriated to the fund.

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

1 (a) To be certified, a participating candidate shall apply to  
2 the State Election Commission for public campaign financing  
3 from the fund and file a sworn statement that he or she has

4 complied and will comply with all requirements of this article  
5 throughout the applicable campaign.

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

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

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

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

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

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

21 (c) The State Election Commission shall process  
22 applications in the order they are received and shall verify a  
23 participating candidate's compliance with the requirements of  
24 subsection (b) of this section by using the verification and  
25 sampling techniques approved by the State Election  
26 Commission.

27 (d) The State Election Commission shall determine whether  
28 to certify a participating candidate as eligible to receive public  
29 campaign financing no later than three business days after the  
30 candidate or the candidate's committee makes his or her final  
31 report of qualifying contributions or, if a challenge is filed under  
32 subsection (g) of this section, no later than six business days

33 after the candidate or the candidate's committee makes his or her  
34 final report of qualifying contributions. A certified candidate  
35 shall comply with this article through the nonpartisan judicial  
36 election campaign period.

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

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

52 (g) Any person may challenge the validity of any  
53 contribution listed by a participating candidate by filing a written  
54 challenge with the State Election Commission setting forth any  
55 reason why the contribution should not be accepted as a  
56 qualifying contribution. If a contribution is challenged under this  
57 subsection, the State Election Commission shall decide the  
58 validity of the challenge no later than the end of the next  
59 business day after the day that the challenge is filed, unless the  
60 State Election Commission determines that the candidate whose  
61 contribution is challenged has both a sufficient qualifying  
62 number and amount of qualifying contributions to be certified as  
63 a candidate under this section without considering the challenge.  
64 Within five business days of a challenge, the candidate or  
65 candidate's committee who listed any contribution that is the

66 subject of a challenge may file a report with the State Election  
67 Commission of an additional contribution collected pursuant to  
68 section nine of this article for consideration as a qualifying  
69 contribution.

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

75 (i) The determination of any issue before the State Election  
76 Commission is the final administrative determination. Any  
77 meetings conducted by the State Elections Commission to certify  
78 a candidate's eligibility to receive funds under this article shall  
79 not be subject the public notice and open meeting requirements  
80 of article nine-a, chapter six of this code, but the commission  
81 shall concurrently provide public notice of any decision and  
82 determination it makes which impacts the candidate's eligibility  
83 to receive funds pursuant to this article. Any person adversely  
84 affected by a decision of the State Election Commission under  
85 this article may appeal that decision to the circuit court of  
86 Kanawha County.

87 (j) A candidate may withdraw from being a certified  
88 candidate and become a nonparticipating candidate at any time  
89 with the approval of the State Election Commission. Any  
90 candidate seeking to withdraw shall file a written request with  
91 the State Election Commission, which shall consider requests on  
92 a case-by-case basis. No certified candidate may withdraw until  
93 he or she has repaid all moneys received from the fund:  
94 *Provided,* That the State Election Commission may, in  
95 exceptional circumstances, waive the repayment requirement.  
96 The State Election Commission may assess a penalty not to  
97 exceed \$10,000 against any candidate who withdraws without  
98 approval.

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

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

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

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

14 (c) The State Election Commission may not authorize or  
15 direct the distribution of moneys to certified candidates in excess  
16 of the total amount of money deposited in the fund pursuant to  
17 section six of this article. If the commission determines that the  
18 money in the fund is insufficient to totally fund all certified  
19 candidates, the commission shall authorize the distribution of the  
20 remaining money proportionally, according to each candidate's  
21 eligibility for funding. Each candidate may raise additional  
22 money in the same manner as a nonparticipating candidate for  
23 the same office up to the unfunded amount of the candidate's  
24 eligible funding.

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

1 (a) A certified candidate or his or her committee may not  
2 accept loans or contributions from any private source, including  
3 the personal funds of the candidate and the candidate's

4 immediate family, during the nonpartisan judicial election  
5 campaign period except as permitted by this article.

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

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

21 (1) In violation of the law;

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

24 (3) To help any other candidate.

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

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

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

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

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

46 (i) A participating or certified candidate or his or her  
47 financial agent shall provide the Secretary of State with all  
48 requested campaign records, including all records of exploratory  
49 and qualifying contributions received and campaign  
50 expenditures and obligations, and shall fully cooperate with any  
51 audit of campaign finances requested or authorized by the State  
52 Election Commission.

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

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

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

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

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

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

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

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

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

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

38 (9) Transfer a portion of moneys maintained in the fund to  
39 the West Virginia Investment Management Board for their

40 supervised investment, after consultation with the State  
41 Treasurer, the State Auditor and the West Virginia Investment  
42 Management Board.

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

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

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

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

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

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

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

66 (7) Ensure public access to the campaign finance reports  
67 required pursuant to this article, and whenever possible, use

68 electronic means for the reporting, storing and display of the  
69 information; and

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

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

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

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

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

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

1 The terms of officers, except when elected or appointed to  
2 fill vacancies, shall begin respectively as follows: That of

3 Governor, Secretary of State, state superintendent of free  
4 schools, treasurer, Auditor, Attorney General and commissioner  
5 of agriculture, on the first Monday after the second Wednesday  
6 of January next after their election; that of a member of the  
7 Legislature, on December 1, next after his or her election; and  
8 that of the judges of the Supreme Court of Appeals, the judges  
9 of the several circuit courts, the judges of the family and other  
10 inferior courts, the county commissioners, prosecuting attorneys,  
11 surveyors of land, assessors, sheriffs, clerks of the circuit,, or  
12 other inferior courts, clerks of the county commissions,  
13 magistrates, on January 1, next after their election.

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

## **CHAPTER 50. MAGISTRATE COURTS.**

### **ARTICLE 1. COURTS AND OFFICERS.**

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

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

10 Effective with the primary election of 2016, all elections for  
11 magistrates will be on a nonpartisan basis by division. Beginning  
12 in 2016, there will no longer be primary elections held for  
13 magistrates and all elections for magistrates are to be held in the  
14 nonpartisan judicial election as set forth in article five, chapter

15 three of this code. All indications of party identification on  
16 election ballots for magistrate shall be omitted.

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

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

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

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

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

**§51-1-1. Justices.**

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

**ARTICLE 2A. FAMILY COURTS.**

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

1           (a) Beginning with the election to be conducted in the year  
2 2016, family court judges shall be elected. In family court  
3 circuits having two or more family court judges there shall be,  
4 for election purposes, numbered divisions corresponding to the  
5 number of family court judges in each area. Each family court  
6 judge shall be elected at large by the entire family court circuit.  
7 In each numbered division of a family court circuit, the  
8 candidates for nomination or election shall be voted upon and  
9 the votes cast for the candidates in each division shall be tallied  
10 separately from the votes cast for candidates in other numbered  
11 divisions within the family court circuit. The candidate or  
12 candidates receiving the highest number of the votes cast within  
13 a numbered division shall be nominated or elected, as the case  
14 may be. Effective with the primary election of 2016, all elections  
15 for family court judges in the respective circuits will be on a  
16 nonpartisan basis by division. Beginning in 2016, there will no  
17 longer be primary elections held for family court judges and all  
18 elections for family court judges are to be held in the nonpartisan  
19 judicial election as set forth in article five, chapter three of this  
20 code. All indications of party identification on election ballots  
21 for family court judge shall be omitted.

22           (b) The term of office for all family court judges elected in  
23 2002 shall be for six years, commencing on January 1, 2003, and  
24 ending on December 31, 2008. Subsequent terms of office for  
25 family court judges elected thereafter shall be for eight years.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2015.

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*Governor*

