

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 204

SENATORS BOSO, BLAIR AND FACEMIRE,

original sponsors

[Passed April 8, 2017; in effect 90 days from passage]

1 AN ACT to amend and reenact §5-1-22 of the Code of West Virginia, 1931, as amended, relating
2 to filling vacancies in offices by appointment of the Governor; requiring certain
3 appointments be made within ninety days; authorizing temporary appointments; and
4 providing requirements for persons appointed temporarily to fill vacancies.

Be it enacted by the Legislature of West Virginia:

1 That §5-1-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

ARTICLE 1. THE GOVERNOR.

**§5-1-22. Vacancies in offices filled by appointment of Governor; Senate action;
bond requirements; filling vacancies in other appointive offices.**

1 (a) In case of a vacancy, during the recess of the Senate, in any office, which vacancy the
2 Governor is authorized to fill by and with the advice and consent of the Senate, the Governor
3 shall, by appointment within ninety days, fill such vacancy until the next meeting of the Senate,
4 when the Governor shall submit to the Senate a nomination to fill such vacancy and, upon
5 confirmation of such nomination by the Senate, by a vote of a majority of all the members elected
6 to the Senate, taken by yeas and nays, the person so nominated and confirmed shall hold said
7 office during the remainder of the term for which his or her predecessor in office was appointed,
8 and until his or her successor shall be appointed and qualified. No person whose nomination for
9 office has been rejected by the Senate shall again be nominated for the same office during the
10 session in which his or her nomination was so rejected, unless at the request of the Senate, nor
11 shall the person be appointed to the same office during the recess of the Senate. No appointee
12 who resigns from any such office prior to confirmation, or whose name has not been submitted
13 for confirmation while the Senate is in session, shall be eligible, during the recess of the Senate,
14 to hold any office the nomination for which must be confirmed by the Senate.

15 (b) Any person appointed to temporarily fill a vacancy shall possess the qualifications
16 required by law for that vacant position, and may only remain in the vacated position for a
17 maximum of ninety days.

18 (c) If an employee of a state agency is temporarily appointed to fill a vacancy, the
19 employee may fill such vacancy without resigning from the position he or she ordinarily holds:
20 *Provided*, that the employee's compensation shall be the greater of:

21 (1) The employee's regular salary in his or her usual position; or

22 (2) The salary for the office the employee temporarily fills.

23 (d) If a vacancy is temporarily filled by a person not otherwise employed by any agency of
24 the State of West Virginia, then that person shall be compensated at a rate no greater than that
25 of the salary for the office that person temporarily fills.

26 (e) The bond, if any, required by law to be given by any officer so temporarily appointed
27 by the Governor, shall be in such penalty as is required by law of the incumbent of such office.

28 (f) Any vacancy in any other office filled by appointment, or in any office hereafter created
29 to be filled by appointment, shall be filled by the same person, court or body authorized to make
30 appointment to such office for the full term thereof.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2017.

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Governor