

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 481

SENATOR TRUMP, *original sponsor*

[Passed March 9, 2019; in effect 90 days from

passage]

1 AN ACT to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended, relating
2 to the Judicial Vacancy Advisory Commission; altering the residency requirements for
3 members of the commission; providing that no more than two of the commission's
4 appointed members may be residents of the same state senatorial district; providing that
5 if the number of congressional districts in the state is reduced to two, no more than four
6 of the commission's appointed members may be residents of the same congressional
7 district; providing that members appointed to, and serving on, the commission prior to the
8 effective date of the new residency requirements will not be disqualified from serving for
9 the remainder of their terms; and deleting obsolete language.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. FILLING VACANCIES.

§3-10-3a. Judicial Vacancy Advisory Commission.

1 (a) The Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial
2 vacancies. The commission shall meet and submit a list of no more than five nor less than two of
3 the most qualified persons to the Governor within 90 days of the occurrence of a vacancy, or the
4 formal announcement of the justice or judge by letter to the Governor of an upcoming resignation
5 or retirement that will result in the occurrence of a vacancy, in the office of Justice of the Supreme
6 Court of Appeals, judge of a circuit court, or judge of a family court. The Governor shall make the
7 appointment to fill the vacancy, as required by this article, within 30 days following the receipt of
8 the list of qualified candidates or within 30 days following the vacancy, whichever occurs later.

9 (b) The commission shall consist of eight appointed members appointed by the Governor
10 for six-year terms, including four public members and four attorney members. The Governor shall
11 appoint attorney members from a list of nominees provided by the Board of Governors of the West
12 Virginia State Bar. The Board of Governors of the West Virginia State Bar shall nominate no more
13 than 20 nor less than 10 of the most qualified attorneys for appointment to the commission
14 whenever there is a vacancy in the membership of the commission reserved for attorney

15 members. The commission shall choose one of its appointed members to serve as chair for a
16 three-year term. No more than four appointed members of the commission shall belong to the
17 same political party. All members of the commission shall be citizens of this state. Public members
18 of the commission may not be licensed to practice law in West Virginia or any other jurisdiction.

19 (c) (1) No more than two appointed members of the commission may be residents of the
20 same state senatorial district, as provided in §1-2-1 of this code, at the time of appointment:
21 *Provided*, That the members appointed to, and serving on, the commission prior to the enactment
22 of this subdivision are not disqualified from service for the remainder of the member's term based
23 on the residency requirements of this subdivision.

24 (2) No more than three appointed members of the commission may be residents of the
25 same congressional district: *Provided*, That, if the number of congressional districts in the state
26 is reduced to two, then no more than four appointed members of the commission may be residents
27 of the same congressional district: *Provided, however*, That the members appointed to, and
28 serving on, the commission prior to the date on which the number of congressional districts in the
29 state is reduced to two are not disqualified from service for the remainder of the member's term
30 based on the residency requirements of this subdivision.

31 (d) The Governor, or his or her designee, the President of the West Virginia State Bar,
32 and the Dean of the West Virginia University College of Law shall serve as ex officio members of
33 the commission.

34 (e) Members of the commission shall serve without compensation, except that commission
35 members are entitled to reimbursement of travel and other necessary expenses actually incurred
36 while engaged in official commission activities in accordance with the guidelines of the Travel
37 Management Office of the Department of Administration, or its successor entity. The Governor's
38 Office shall cooperate with the commission to ensure that all resources necessary to carrying out
39 the official duties of the commission are provided, including staff assistance, equipment, and
40 materials.

41 (f) The commission shall adopt written policies that formalize and standardize all operating
42 procedures and ethical practices of its members including, but not limited to, procedures for
43 training commission members, publishing notice of judicial vacancies, recruiting qualified
44 individuals for consideration by the commission, receiving applications from qualified individuals,
45 notifying the public of judicial vacancies, notifying state or local groups and organizations of
46 judicial vacancies, and soliciting public comment on judicial vacancies. The written policies of the
47 commission are not subject to the provisions of chapter 29A of this code but shall be filed with the
48 Secretary of State.

49 (g) A majority of the commission plus one shall constitute a quorum to do business.

50 (h) All organizational meetings of the commission shall be open to the public and subject
51 to the requirements of §6-9A-1 *et seq.* of this code. An “organizational meeting” means an initial
52 meeting to discuss the commission’s procedures and requirements for a judicial vacancy. The
53 commission shall hold at least one organizational meeting upon the occurrence of a judicial
54 vacancy. All other meetings of the commission are exempt from §6-9A-1 *et seq.* of this code.

55 (i) The commission shall make available to the public copies of any applications and any
56 letters of recommendation written on behalf of any applicants. All other documents or materials
57 created or received by the commission shall be confidential and exempt from the provisions of
58 chapter 29B of this code, except for the list of the most qualified persons or accompanying
59 memoranda submitted to the Governor in accordance with the provisions of subsection (j) of this
60 section, which shall be available for public inspection, and the written policies required to be filed
61 with the Secretary of State in accordance with subsection (f) of this section.

62 (j) The commission shall submit its list of the most qualified persons to the Governor in
63 alphabetical order. A memorandum may accompany the list of the most qualified persons and
64 state facts concerning each of the persons listed. The commission shall make copies of any list
65 of the most qualified persons and accompanying memoranda it submits to the Governor available
66 for public inspection.

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, 2019.

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Governor