

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 310

BY SENATORS WELD, IHLENFELD, WOELFEL, UNGER, AND

PLYMALE

[Introduced February 17, 2021; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §3-10-8 of said code, all relating to providing for the nonpartisan
3 elections of county prosecuting attorneys; requiring that nonpartisan elections of
4 prosecuting attorneys commence in 2024; requiring a run-off election be held concurrently
5 with the general election between the two highest vote getters in the nonpartisan election
6 if no candidate receives a majority of votes cast; and providing that subsequent
7 appointments to fill vacancies in office shall be nonpartisan.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

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

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

15 (c) Effective with the primary election of 2016, all elections for judge of the circuit courts in
16 the respective circuits and magistrates in each county will be elected on a nonpartisan basis and

17 by division as set forth more fully in §3-5-1 of this code.

18 (d) Beginning in 2024 and every fourth year thereafter, there shall be elected a prosecuting
19 attorney for each county by nonpartisan election to be held on the same date as the primary
20 election for other elective offices in the county.

21 (e) In the event no candidate for prosecuting attorney receives a majority of the votes cast
22 in the election held concurrently with the primary election, a runoff election shall be held
23 concurrently with the general election between the two candidates receiving the most votes in the
24 election held concurrently with the primary election.

ARTICLE 10. FILLING VACANCIES.

§3-10-8. Vacancies in offices of prosecuting attorney, sheriff, assessor, and surveyor.

1 (a) Any vacancy occurring in the office of prosecuting attorney, sheriff, assessor, or county
2 surveyor shall be filled by the county commission within 30 days of the vacancy by appointment
3 of a person of the same political party as the officeholder vacating the office: Provided, That
4 following the nonpartisan election of the prosecuting attorney in 2024, the county commission is
5 no longer required to appoint a successor prosecuting attorney on the basis of political party. The
6 appointed person shall hold the office for the period stated by §3-10-1 of this code.

7 (b) Notwithstanding any code provision to the contrary, a county commission may appoint
8 a temporary successor to the office of prosecuting attorney, sheriff, assessor, or county surveyor
9 until the requirements of this section have been met. The temporary successor may serve no
10 more than 30 days from the date of the vacancy.

11 (c) If an election is necessary under §3-10-1 of this code, the county commission, or the
12 president thereof in vacation, shall be responsible for the proper proclamation, by order, and
13 notice required by §3-10-1 of this code.

14 (d) ~~Section one of this article~~ The provisions of §3-10-1 of this code shall be followed with
15 respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary
16 cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be

17 nominated by the county executive committee in the manner provided in §3-5-19 of this code, as
18 in the case of filling vacancies in nominations, and the names of the persons, so nominated and
19 certified to the clerk of the county commission of the county, shall be placed upon the ballot to be
20 voted at the next general election.

NOTE: The purpose of this bill is to provide for the nonpartisan elections of county prosecuting attorneys, to require nonpartisan elections of prosecuting attorneys commence in the year 2024, to require a runoff election to be held concurrently with the general election between the two highest vote getters in the nonpartisan election if no candidate receives a majority of votes cast, and to provide that after that, appointments to fill vacancies in office shall be nonpartisan.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.