WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 725

By Senator Tarr

[Introduced February 20, 2023; referred

to the Committee on the Judiciary]

1   A BILL to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as

2   amended; and to amend and reenact §3-5-6a, §3-5-6b, §3-5-6c, §3-5-6d, and §3-5-6e of

3   said code, all relating to requiring runoff elections in the general election for judicial

4   candidates when a candidate with the most votes receives less than a majority of total

5   votes cast for the same division or office during the primary election; and requiring the

6   nonpartisan ballot to list each judiciary candidate's political party affiliation, if any.

Be it enacted by the Legislature of West Virginia:

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 fourth year thereafter, there shall

2   be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and

3   Commissioner of Agriculture. At the general election in 1968, and every second year thereafter,

4   there shall be elected a member of the State Senate for each senatorial district, and a member or

5   members of the House of Delegates of the state from each county or each delegate district.

6   (b) At the time of the primary election to be held in the year 2016, and every twelfth year

7   thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of

8   the primary election to be held in 2020, and every twelfth year thereafter, two justices of the

9   Supreme Court of Appeals and at the time of the primary election to be held in 2024, and every

10   twelfth year thereafter, two justices of the Supreme Court of Appeals. Effective with the primary

11   election held in the year 2016, the election of justices of the Supreme Court of Appeals shall be on

12   a nonpartisan basis and by division as set forth more fully in article five of this chapter.

13   (c) Beginning with the nonpartisan judicial election in 2024, and in every judicial election

14   thereafter, if no candidate in a division for justice of the Supreme Court of Appeals receives more

15   than a majority of the votes cast in the election, there shall be a runoff election at the subsequent

16   general election between the two candidates who received the highest and next-highest number

17   of votes cast in that division.

§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 court,

7   or an election for the purpose of electing magistrates, shall be upon a nonpartisan ballot printed for

8   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 a

14   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 article five of this chapter.

18   (d) Beginning with the nonpartisan judicial election in 2024, and in every judicial election

19   thereafter, if no candidate in a division for judge of a circuit court or magistrate court receives more

20   than a majority of the votes cast in the election, there shall be a runoff election at the subsequent

21   general election between the two candidates who received the highest and next-highest number

22   of votes cast in that division.

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

1   (a) An election for the purpose of electing a justice or justices of the Supreme Court of

2   Appeals shall be held on the same date as the primary election, as provided by law, upon a

3   nonpartisan ballot by division printed for this purpose, <u>which ballot shall include thereon the name</u>

4   <u>of each justice candidate's political party affiliation, if any.</u> For election purposes, in each election

5   at which shall be elected more than one justice of the Supreme Court of Appeals, the election shall

6   be by numbered division corresponding to the number of justices being elected. Each justice shall

7   be elected at large from the entire state.

8   (b) In each nonpartisan election by division for a justice of the Supreme Court of Appeals,

9   the candidates for election in each numbered division shall be tallied separately, and the board of

10   canvassers shall declare and certify the election of the eligible candidate receiving the highest

11   numbers of votes cast within a numbered division to fill any full terms: _Provided_, That if no

12   <u>candidate receives a majority of the votes cast, a runoff election shall be held in accordance with</u>

13   <u>§3-1-16 of this code.</u>

14   (c) In case of a tie vote under this section, section twelve, article six of this chapter controls

15   in breaking the tie vote.

§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 the

2   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, <u>which ballot shall include thereon the name</u>

4   <u>of each circuit court judge candidate's political party affiliation, if any.</u>

5   (b) In each nonpartisan election by division for a circuit court judge, the candidates for

6   election in each numbered division shall be tallied separately, and the board of canvassers shall

7   declare and certify the election of the eligible candidate receiving the highest numbers of votes

8   cast within a numbered division to fill any full terms: _Provided_, That if no candidate receives a

9   <u>majority of the votes cast, a runoff election shall be held in accordance with §3-1-17 of this code.</u>

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

1   (a) An election for the purpose of electing a family court judge or judges shall be held on the

2   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, <u>which ballot shall include thereon the name</u>

4   <u>of each circuit court judge candidate's political party affiliation, if any.</u>

5   (b) In each nonpartisan election by division for a family court judge, the candidates for

6   election in each numbered division shall be tallied separately, and the board of canvassers shall

7   declare and certify the election of the eligible candidate receiving the highest numbers of votes

8   cast within a numbered division to fill any full terms: *Provided*, <u>That if no candidate receives a</u>

9   <u>majority of the votes cast, a runoff election shall be held in the subsequent general election</u>

10   <u>between the two candidates with the highest and next-highest number of votes cast in the primary</u>

11   <u>election.</u>

12   (c) In case of a tie vote under this section, section twelve, article six of this chapter controls

13   in breaking the tie vote.

14

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

1   (a) An election for the purpose of electing a magistrate or magistrates by division shall be

2   held on the same date as the primary election in their respective circuits, as provided by law, upon

3   a nonpartisan ballot by division printed for this purpose, <u>which ballot shall include thereon the</u>

4   <u>name of each circuit court judge candidate's political party affiliation, if any.</u>

5   (b) In each nonpartisan election by division for a magistrate, the candidates for election in

6   each numbered division shall be tallied separately, and the board of canvassers shall declare and

7   certify the election of the eligible candidate receiving the highest numbers of votes cast within a

8   numbered division to fill any full terms: *Provided*, <u>That if no candidate receives a majority of the</u>

9   <u>votes cast, a runoff election shall be held in accordance with § 3-1-17 of this code.</u>

10   (c) In case of a tie vote under this section, section twelve, article six of this chapter controls

11   in breaking the tie vote.

§3-5-6e.   Election   of   judges   of   the   Intermediate   Court   of   Appeals.

1   (a) An election for the purpose of electing a Judge or Judges of the Intermediate Court of

2   Appeals shall be held on the same date as the primary election, as provided by law, upon a

3   nonpartisan ballot by division printed for this purpose, <u>which ballot shall include thereon the name</u>

4   <u>of each judge candidate's political party affiliation, if any.</u>

5   (b) <u>If no candidate receives a majority of the votes cast, a runoff election shall be held in</u>

6   <u>the subsequent general election between the two candidates with the highest and next-highest</u>

7   <u>number of votes cast in the primary election.</u>

8   ~~(b)~~ <u>(c)</u> In case of a tie vote under this section, §3-6-12 of this code controls in breaking the

9   tie vote.

NOTE: The purpose of this bill is to require judicial runoff elections if the candidate with the highest number of votes in the primary election does not receive a majority of the total votes cast, and to indicate on each nonpartisan judicial ballot each candidate's political party affiliation for information purposes.

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