

WEST VIRGINIA LEGISLATURE

**FISCAL
NOTE**

2025 REGULAR SESSION

Introduced

House Bill 2896

By Delegates Pritt and T. Clark

[Introduced February 24, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-16, §3-5-13a, §3-10-3 and §21-4-3 the Code of West Virginia,
2 1931, as amended, relating to requiring Public Service Commission's commissioners be
3 elected to positions; providing for election of commissioners beginning in 2026; requiring
4 commissioners to be included on the ballot; establishing procedure for vacancy in office of
5 commissioner; and establishing requirements for commissioners.

Be it enacted by the Legislature of West Virginia:

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 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. At the
6 general election in 2026, and every fourth year thereafter, there shall be elected three
7 commissioners to the Public Service Commission.

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

15 (c) At the time of the primary election to be held in the year 2024, and every tenth year
16 thereafter, there shall be elected one judge to a seat of the Intermediate Court of Appeals; at the

time of the primary election to be held in 2026, and every 10th year thereafter, one judge to a seat of the Intermediate Court of Appeals; and at the time of the primary election to be held in 2028, and every 10th year thereafter, one judge to a seat of the Intermediate Court of Appeals. Effective with the primary election held in the year 2024, the election of Judges of the Intermediate Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully in §3-5-1 *et seq.* of this code.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

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

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

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

STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, Attorney General, State Senator, member of the House of Delegates, Commissioner of Public Service Commission, any other multicounty office, state executive committee.

NONPARTISAN JUDICIAL BALLOT: Justice of the Supreme Court of Appeals, judge of the circuit court, family judge, magistrate.

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

NONPARTISAN BALLOT: Nonpartisan elections for board of education, conservation district supervisor, any question to be voted upon.

DISTRICT TICKET: County executive committee.

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

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

24 (1) On the fourth Tuesday following the close of the candidate filing, beginning at 9:00 a.m.,
25 a drawing by lot shall be conducted in the office of the clerk of the county commission in each
26 county. Notice of the drawing shall be given on the form for the certificate of announcement and no
27 further notice shall be required. The clerk of the county commission shall superintend and conduct
28 the drawing and the method of conducting the drawing shall be prescribed by the Secretary of
29 State.

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

34 (3) Candidates for delegate to national convention who have filed a commitment to a
35 candidate for president shall be listed alphabetically within the group of candidates committed to
36 the same candidate for president and uncommitted candidates shall be listed alphabetically in an
37 uncommitted category. The position of each group of committed candidates and uncommitted
38 candidates shall be determined by lot by drawing the names of the presidential candidates and for
39 an uncommitted category.

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

ARTICLE 10. FILLING VACANCIES.

§3-10-3. Vacancies in offices of state officials, justices, judges, and magistrates.

1 (a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney
2 General, Commissioner of Agriculture, or Commissioner of the Public Service Commission, in any

3 office created or made elective to be filled by the voters of the entire state, is filled by the Governor
4 of the state by appointment and subsequent election to fill the remainder of the term, if required by
5 §3-10-1 of this code. The Governor shall make the appointment from a list of three legally qualified
6 persons submitted by the party executive committee of the same political party with which the
7 person holding the office immediately preceding the vacancy was affiliated at the time the vacancy
8 occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within
9 15 days after the vacancy occurs, and the Governor shall duly make his or her appointment to fill
10 the vacancy from the list of legally qualified persons within five days after the list is received. If the
11 list is not submitted to the Governor within the 15-day period, the Governor shall appoint, within
12 five days thereafter, a legally qualified person of the same political party with which the person
13 holding the office immediately preceding the vacancy was affiliated at the time the vacancy
14 occurred: *Provided*, That the provisions of this subsection do not apply to §3-10-3(b), §3-10-3(c),
15 §3-10-3(d), and §3-10-3(e) of this code.

16 (b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge
17 of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by
18 the Governor of the state by appointment and, if the unexpired term be for a period of more than
19 three years, by a subsequent election to fill the remainder of the term, as required by §3-10-3(d) of
20 this code. If an election is required under §3-10-3(d) of this code, the Governor, circuit court, or the
21 chief judge thereof in vacation, is responsible for the proper proclamation by order and notice
22 required by §3-10-1 of this code. The amendments to this subsection enacted during the regular
23 session of the Legislature in the year 2022 shall be applicable to any vacancy existing at the date
24 of passage of such amendments.

25 (c) Any vacancy in the office of magistrate is appointed according to the provisions of §50-
26 1-6 of this code, and, if the unexpired term be for a period of more than two years, by a subsequent
27 election to fill the remainder of the term, as required by §3-10-3(d) of this code.

28 (d) (1) When the vacancy in the office of Justice of the Supreme Court of Appeals, judge of

the Intermediate Court of Appeals, judge of the circuit court, judge of a family court, or magistrate occurs after the 84th day before a general election, and the affected term of office ends on December 31 following the succeeding general election two years later, the person appointed to fill the vacancy shall continue in office until the completion of the term.

(2) When the vacancy occurs before the close of the candidate filing period for the primary election, and if the unexpired term be for a period of greater than three years, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently with the primary election and the appointment shall continue until a successor is elected and certified.

(3) When the vacancy occurs after the close of candidate filing for the primary election and not later than 84 days before the general election, and if the unexpired term be for a period of greater than three years, the vacancy shall be filled by election in a nonpartisan judicial election held concurrently with the general election, and the appointment shall continue until a successor is elected and certified.

(e) When an election to fill a vacancy is required to be held at the general election, according to the provisions of §3-10-3(d) of this code, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, judge of the family court, or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the first Monday in August and no later than 77 days before the general election.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

§24-1-3. Commission continued; membership; chairman; compensation; quorum.

(a) The Public Service Commission of West Virginia is continued and directed as provided by this chapter, chapter 24A, chapter 24B₁, and chapter 24D of this code. The Public Service Commission may sue and be sued by that name.

4 (b) Beginning in 2026, the Public Service Commission shall consist of three members who
5 ~~shall be appointed by the Governor, with the advice and consent of the Senate~~ are elected
6 pursuant to §3-1-16 to a term of four years. The commissioners shall be citizens and residents of
7 this state. ~~and at least one of them shall be duly licensed to practice law in West Virginia, with not~~
8 ~~less than ten years' actual work experience in the legal profession as a member of a State Bar.~~

9 ~~(c) No more than two of the commissioners shall be members of the same political party~~

10 (d) (c) Each commissioner shall, before entering upon the duties of his or her office, take
11 and subscribe to the oath provided by section five, article IV of the Constitution of West Virginia.
12 The oath shall be filed in the office of the Secretary of State.

13 ~~(e) (d)~~ The Governor commissioners shall designate one of the commissioners to serve as
14 chairman ~~at the Governor's will and pleasure~~ for a two-year term. The chairman shall be the chief
15 administrative officer of the commission. The Governor may remove any commissioner only for
16 incompetency, neglect of duty, gross immorality, malfeasance in office or violation of subsections
17 (g) and (h) of this section.

18 ~~(f) (e) Upon expiration of the terms, appointments are for terms of six years, except that an~~
19 Upon a vacancy, the Governor shall make an appointment to fill a vacancy ~~is for the unexpired~~
20 term only.

21 ~~(g) (f)~~ No person while in the employ of, or holding any official relation to, any public utility
22 subject to the provisions of this chapter or holding any stocks or bonds of a public utility subject to
23 the provisions of this chapter or who is pecuniarily interested in a public utility subject to the
24 provisions of this chapter may serve as a member of the commission or as an employee of the
25 commission.

26 ~~(h) (g)~~ Nor may any commissioner ~~be a candidate for or hold public office or~~ be a member
27 of any political committee while acting as a commissioner; nor may any commissioner or
28 employee of the commission receive any pass, free transportation or other thing of value, either
29 directly or indirectly, from any public utility or motor carrier subject to the provisions of this chapter.

30 In case any of the commissioners becomes a ~~candidate for any public office or a~~ member of any
31 political committee, the Governor shall remove him or her from office and shall appoint a new
32 commissioner to fill the vacancy created.

33 ~~(i)~~ (h) The annual salary of each commissioner provided in §6-7-2A of this code shall be
34 paid at least twice per month from the special funds in the percentages that follow:

35 (1) From the Public Service Commission Fund collected under the provisions of §24-3-6 of
36 this code, 80 percent;

37 (2) From the Public Service Commission Motor Carrier Fund collected under the provisions
38 of §24A-6-6 of this code, 17 percent; and

39 (3) From the Public Service Commission Gas Pipeline Safety Fund collected under the
40 provisions of §24B-5-3 of this code, three percent.

41 ~~(j)~~ (i) In addition to the salary provided for all commissioners in §6-7-2a of this code, the
42 chairman of the commission shall receive \$5,000 per annum to be paid at least twice per month
43 from the Public Service Commission Fund collected under the provisions of §24-3-6 of this code.

NOTE: The purpose of this bill is to provide that Commissioners to the Public Service Commission be an elected position; to establish that during the general election in 2026 three commissioners be elected to the Public Service Commission to a term of four years; to modify ballot to include commissioners; to provide that the Governor fill a vacancy in the office of commissioner for the unexpired term; and to establish requirements for the commissioners.

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