

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 3203**

By Delegates Dillon and Ridenour

[Introduced March 06, 2025; referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §3-10-5 and §3-10-7 of the Code of West Virginia, 1931, as  
2 amended, relating to changing the manner of filling vacancies in the state legislature and  
3 county commissions; and vacancies in the state legislature when a person is prevented  
4 from taking office for any reason, or is expelled by the respective legislative body.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 10. FILLING VACANCIES.**

### **§3-10-5. Vacancies in state Legislature.**

1 (a) Any vacancy in the office of state senator or member of the House of Delegates shall be  
2 filled by appointment by the Governor, from a list of three legally qualified persons submitted by the  
3 party executive committee of the same political party with which the person holding the office  
4 immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of  
5 qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the  
6 vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from  
7 the list of legally qualified persons within five days after the list is received. If the list is not  
8 submitted to the Governor within the 15-day period, the Governor shall appoint within five days  
9 thereafter a legally qualified person of the same political party with which the person holding the  
10 office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

11 (b) In the case of a member of the House of Delegates, if the member was elected to a  
12 multi-county delegate district the list shall be submitted by the party executive committee of the  
13 delegate district in which the vacating member resided at the time of his or her election or  
14 appointment. If the member was elected to a delegate district situated entirely within a single  
15 county, the list shall be submitted by the county executive committee in which the vacating  
16 member resided at the time of his or her election or appointment. The appointment to fill a vacancy  
17 in the House of Delegates is for the unexpired term.

18 (c) In the case of a state senator, if the member was elected to a multi-county senatorial  
19 district the list shall be submitted by the party executive committee of the state senatorial district in

20 which the vacating senator resided at the time of his or her election or appointment. If the member  
21 was elected to a senatorial district situated entirely within a single county, the list shall be  
22 submitted by the county executive committee in which the vacating member resided at the time of  
23 his or her election or appointment. The appointment to fill a vacancy in the state Senate is for the  
24 unexpired term, unless §3-10-1 of this code requires a subsequent election to fill the remainder of  
25 the term, which shall follow the procedure set forth in said section.

26 (d) If a member of the House of Delegates or the Senate is prevented from taking office for  
27 any reason, or is expelled by the respective legislative body, the vacancy shall be filled by special  
28 election to be organized as follows:

29 (1) The special election shall consist of 30 days for filing;

30 (2) After the 30 days for filing has elapsed, there shall be 60 days for campaigning;

31 (3) The special election shall be conducted at the county courthouses in the counties in  
32 which the vacancy occurs and voters from precincts within the legislative district shall be eligible to  
33 vote in special elections;

34 (4) Voting shall be permitted for five consecutive, regular business days and shall be  
35 conducted during normal business hours; and

36 (5) No special election may be held if the notice of vacancy is received within 90 days of a  
37 primary or general election.

38 (2) The person who is elected as a result of this special election shall complete the  
39 remainder of the term of the vacant position.

40 (e) Eligibility shall be predicated on the following:

41 (1) The person shall be a member of the same political party as the vacated seat during the  
42 last election cycle; and

43 (2) The person shall legally reside in the legislative district.

**§3-10-7. Vacancies in offices of county commissioner and clerk of county commission.**

1 ~~(a) Any vacancy in the office of county commissioner or clerk of county commission shall~~

2 ~~be filled by appointment by the county commission. The appointee must be a person of the same~~  
3 ~~political party with which the person holding the office immediately preceding the vacancy was~~  
4 ~~affiliated at the time the vacancy occurred: Provided, That at the time of appointment, the~~  
5 ~~appointee must have been a member of that political party for at least 60 days prior to the~~  
6 ~~occurrence of the vacancy.~~

7 (b) ~~If a quorum of the county commission fails to make an appointment within 30 days, the~~  
8 ~~county executive committee of the same political party with which the person holding the office~~  
9 ~~preceding the vacancy was affiliated at the time the vacancy occurred, shall submit a list of three~~  
10 ~~legally qualified persons to fill the vacancy. Within 15 days from the date on which the list is~~  
11 ~~received, the county commission shall appoint a candidate from the list to fill the vacancy. If the~~  
12 ~~county commission fails to make the appointment within the specified time, then the county~~  
13 ~~commissioner with the longest tenure shall eliminate one name from the submitted list, followed by~~  
14 ~~the county commissioner with the second-longest tenure then eliminating one name from the~~  
15 ~~submitted list. The name remaining after those two names have been eliminated shall be deemed~~  
16 ~~to be appointed by the county commission to fill the vacancy.~~

17 (c) ~~If the number of vacancies in a county commission deprives that body of a quorum, the~~  
18 ~~Governor shall make an appointment to fill any vacancy in the county commission necessary to~~  
19 ~~create a quorum, from a list of three legally qualified persons submitted by the party executive~~  
20 ~~committee of the same political party with which the person holding the office immediately~~  
21 ~~preceding the vacancy was affiliated at the time the vacancy occurred. The Governor shall make~~  
22 ~~any appointments necessary, beginning with the vacancy first created, to create a quorum in~~  
23 ~~accordance with the same procedures applicable to county commissions under §3-10-7(a) of this~~  
24 ~~code. Once a quorum of the county commission is reestablished by gubernatorial appointment,~~  
25 ~~the authority to fill the remaining vacancies shall be filled in the manner prescribed in §3-10-7(a) of~~  
26 ~~this code~~

27 (a) Any vacancy in the office of county commissioner or clerk of county commission shall

28 be filled by special election organized under the following conditions:

29 (1) The special election shall consist of 30 days for filing;

30 (2) After the 30 days for filing has elapsed, there shall be 60 days for campaigning;

31 (3) The special election shall be conducted at the county courthouse in the county in which  
32 the vacancy occurs;

33 (4) Voting shall be permitted for five consecutive, regular business days and shall be  
34 conducted during normal business hours; and

35 (5) No special election may be held if the notice of vacancy is received within 90 days of a  
36 primary or general election.

37 (6) The person who is elected as a result of this special election shall complete the  
38 remainder of the term of the vacant position.

39 (b) Eligibility shall be predicated on the following:

40 (1) The person shall be a member of the same political party as the vacated seat during the  
41 last election cycle; and

42 (2) The person shall legally reside in the magisterial district.

43 (c) In cases where there is no quorum, the county executive committee may appoint a  
44 temporary member to fill the seat until the special election.

45 (d) An appointment made pursuant to this section is for the period of time provided in  
46 §3-10-1 of this code.

47 (e) Notwithstanding any code provision to the contrary, a county commission may appoint  
48 a temporary successor to the office of clerk of the county commission until the requirements of this  
49 section have been met. The temporary successor may serve no more than 30 days from the date  
50 of the vacancy.

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

54 (g) §3-10-1 of this code shall be followed with respect to any election needed to fill a  
55 vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the  
56 general cutoff date, candidates to fill the vacancy shall be nominated by the county executive  
57 committee in the manner provided in §3-5-19 of this code, as in the case of filling vacancies in  
58 nominations, and the names of the persons, so nominated and certified to the clerk of the county  
59 commission of the county, shall be placed upon the ballot to be voted at the next general election.

60 (h) If the election for an unexpired term is held at the same time as the election for a full  
61 term for county commissioner, the full term shall be counted first and the unexpired term shall be  
62 counted second. If the candidate with the highest number of votes for the unexpired term resides  
63 in the same magisterial district as the candidate with the highest number of votes for the full term,  
64 the candidate for the full term shall be seated. The candidate with the next highest number of votes  
65 for the unexpired term residing in a different magisterial district shall be seated for the unexpired  
66 term.

NOTE: The purpose of this bill is to change the manner of filling vacancies in county commissions; and vacancies in the state legislature when a person is prevented from taking office for any reason, or is expelled by the respective legislative body.

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