

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 139

By Senator Hamilton

[Introduced February 12, 2025; referred to
the Committee on the Judiciary]

1 A BILL to amend and reenact §3-10-5 of the Code of West Virginia, 1931, as amended, relating to
2 the filling of vacancies in the Legislature; and providing that an individual must reside within
3 the district he or she would represent for one year prior to appointment in order to be
4 eligible to fill a vacancy in the Legislature.

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) No person shall be appointed to fill a vacancy in the office of state senator or as a
27 member of the House of Delegates who has not for one year preceding the appointment been a
28 resident within the district he or she will represent.

NOTE: The purpose of this bill is to the require residency of a person within the district or county he or she will represent for one year prior to any appointment to a vacancy in the office of State Senator or as a member of the House of Delegates.

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