

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 139

BY SENATORS HAMILTON, WOELFEL, MORRIS, GARCIA,

AND BARTLETT

[Reported February 18, 2025, from 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
2 to the filling of vacancies in the Legislature; requiring that county and district political
3 parties submitting a list of legally qualified persons to the Governor to fill a vacancy in the
4 Legislature follow the process established by the state executive committee of that political
5 party; and providing that an individual must reside within the district he or she would
6 represent for one year prior to appointment in order to be eligible to fill a vacancy in the
7 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
2 be filled by appointment by the Governor, from a list of three legally qualified persons submitted
3 by the party executive committee of the same political party with which the person holding the
4 office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list
5 of 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 Notwithstanding any provision of this code to the contrary, the process to compose and submit
12 the list submitted by the political party of the person holding the office immediately preceding the
13 vacancy shall be governed by the rules of the state executive committee of that political party.

14 (b) In the case of a member of the House of Delegates, if the member was elected to a
15 multi-county delegate district the list shall be submitted by the party executive committee of the
16 delegate district in which the vacating member resided at the time of his or her election or

17 appointment. If the member was elected to a delegate district situated entirely within a single
18 county, the list shall be submitted by the county executive committee in which the vacating
19 member resided at the time of his or her election or appointment. The appointment to fill a vacancy
20 in the House of Delegates is for the unexpired term.

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

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