

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 459

BY SENATOR THORNE

[Reported February 25, 2025, from the Committee on
Government Organization]

1 A BILL to amend and reenact §8A-2-3, §8A-2-4, and §8A-2-5 of the Code of West Virginia, 1931,
2 as amended, relating to requiring that members of municipal, county, and other planning
3 commissions meet certain residency requirements; mandating that members of municipal,
4 county, and certain other planning commissions be West Virginia residents for the three
5 years immediately preceding the appointment; requiring that such members be residents
6 of the county or municipality in which the development authority or planning commission
7 to which they are appointed is situated for certain time period prior to appointment; and
8 prohibiting members of planning commissions who do not meet residency requirements
9 from remaining on the planning commission.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. PLANNING COMMISSIONS.

§8A-2-3. Municipal planning commission.

1 (a) A municipal planning commission in a Class I, II, or III city shall have not less than five
2 nor more than 15 members, the exact number to be specified in the ordinance creating the
3 planning commission. A municipal planning commission in a Class IV town or village shall have
4 not less than three nor more than nine members, the exact number to be specified in the
5 ordinance creating the planning commission.

6 (b) ~~The members~~ Each member of a municipal planning commission must be:

7 (1) A West Virginia resident who has maintained continuous West Virginia residency for
8 the three years immediately preceding his or her appointment;

9 ~~(1) Residents of the municipality~~ (2) A resident of the municipality for one year immediately
10 preceding his or her appointment; and

11 ~~(2)~~ (3) Qualified by knowledge and experience in matters pertaining to the development
12 of the municipality.

13 (c) Any member who does not meet the requirements stated in subsection (b) of this
14 section may not be grandfathered in, and may not be or remain a member of the planning
15 commission.

16 ~~(e)~~ (d) At least three fifths of all of the members must have been residents of the
17 municipality for at least three years prior to nomination or appointment and confirmation.

18 ~~(d)~~ (e) The members of a municipal planning commission must fairly represent different
19 areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor,
20 government, and other relevant disciplines. One member must be a member of the municipal
21 governing body or a designee and one member must be a member of the administrative
22 department of the municipality or a designee. The term of membership for these two members is
23 the same as their term of office.

24 ~~(e)~~ (f) The Legislature finds that there are persons willing to serve on planning
25 commissions who may also own interests in businesses that regularly conduct business in front
26 of or with planning commission staff. Such persons may have experience and expertise which
27 would be valuable assets to a planning commission. For those reasons, notwithstanding any other
28 provisions in this code to the contrary, any person employed by, owning an interest in, or
29 otherwise associated with a business that regularly conducts business in front of or with planning
30 commission staff may also serve as a member of a planning commission and shall not be
31 disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of
32 this code and shall not be subject to prosecution under provisions of that chapter when the
33 violation is created solely as a result of his or her relationship with the business. This member
34 must recuse himself or herself from any vote, discussion, participation, or other activity regarding
35 the conflicting issue.

36 ~~(f)~~ (g) The Legislature finds that there are persons willing to serve on planning
37 commissions who may also own interests in businesses who regularly conduct business in front
38 of or with planning commission staff. Such persons may have experience and expertise which

would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided*, That such members do not constitute a majority of the members of the planning commission at the same time.

~~(g)~~ (h) The remaining members of the municipal planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

~~(h)~~ (i) The members of a municipal planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

~~(i)~~ (j) Nominations for municipal planning commission membership shall be made by the administrative authority and confirmed by the governing body when the administrative authority and the governing body are separate, or appointed and confirmed by the governing body where the administrative authority and governing body are the same.

~~(j)~~ (k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

~~(k)~~ (l) The governing body of the municipality may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The

procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

§8A-2-4. County planning commission.

(a) A county planning commission shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission.

(b) ~~The members~~ Each member of a county planning commission must be:

(1) A West Virginia resident who has maintained continuous West Virginia residency for the three years immediately preceding his or her appointment;

~~(1) Residents of the county~~ (2) A resident of the county for one year immediately preceding his or her appointment; and

~~(2)~~ (3) Qualified by knowledge and experience in matters pertaining to the development of the county.

(c) Any member who does not meet the requirements stated in subsection (b) of this section may not be grandfathered in, and may not be or remain a member of the planning commission.

~~(c)~~ (d) At least three fifths of all of the members must have been residents of the county for at least three years prior to appointment and confirmation by the county commission.

~~(d)~~ (e) The members of a county planning commission must fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, farming, government, and other relevant disciplines. One member must be a member of the county commission or a designee. The term of membership for this member is the same as the term of office.

~~(e)~~ (f) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses that regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other

provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of this code and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the business. This member must recuse himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue.

~~(f)~~ (g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided*, That such members do not constitute a majority of the members of the planning commission at the same time.

~~(g)~~ (h) The remaining members of the county planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

~~(h)~~ (i) The members of a county planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

~~(i)~~ (j) Appointments for county planning commission membership shall be made and confirmed by the county commission.

~~(j)~~ (k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

~~(k)~~ (l) The county commission may establish procedures for the removal of members of the planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain provisions requiring that the person to be removed be provided with a written statement of the reasons for removal and an opportunity to be heard on the matter.

§8A-2-5. Multicounty planning commission, regional planning commission, or joint planning commission.

(a) A multicounty planning commission, a regional planning commission, or a joint planning commission shall have not less than five nor more than 15 members, the exact number to be specified in the ordinance creating the planning commission.

(b) ~~The members~~ Each member of a multicounty planning commission, a regional planning commission, or a joint planning commission must be:

(1) ~~Residents~~ A resident of the jurisdiction of the multicounty planning commission, regional planning commission, or joint planning commission for at least three years immediately preceding his or her appointment; and

(2) Qualified by knowledge and experience in matters pertaining to the development of the jurisdiction.

11 (c) Any member who does not meet the requirements stated in subsection (b) of this
12 section may not be grandfathered in, and may not be or remain a member of the planning
13 commission.

14 ~~(e)~~ (d) The members of a multicounty planning commission, a regional planning
15 commission, or a joint planning commission must equally represent the jurisdictions in the
16 planning commission ~~and must have been residents of the jurisdiction he or she represents for at~~
17 ~~least three years prior to appointment and confirmation.~~

18 ~~(d)~~ (e) The members of a multicounty planning commission, a regional planning
19 commission, or a joint planning commission must fairly represent different areas of interest,
20 knowledge, and expertise, including, but not limited to, business, industry, labor, farming,
21 government, and other relevant disciplines. Each governing body participating in the planning
22 commission must have one member from its governing body on the planning commission. The
23 term of membership for this member is the same as the term of office.

24 ~~(e)~~ (f) The Legislature finds that there are persons willing to serve on planning
25 commissions who may also own interests in businesses that regularly conduct business in front
26 of or with planning commission staff. Such persons may have experience and expertise which
27 would be valuable assets to a planning commission. For those reasons, notwithstanding any other
28 provisions in this code to the contrary, any person employed by, owning an interest in, or
29 otherwise associated with a business that regularly conducts business in front of or with planning
30 commission staff may also serve as a member of a planning commission and shall not be
31 disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of
32 this code and shall not be subject to prosecution under provisions of that chapter when the
33 violation is created solely as a result of his or her relationship with the business. This member
34 must recuse himself or herself from any vote, discussion, participation, or other activity regarding
35 the conflicting issue.

~~(f)~~ (g) The Legislature finds that there are persons willing to serve on planning commissions who may also own interests in businesses who regularly conduct business in front of or with planning commission staff. Such persons may have experience and expertise which would be valuable assets to a planning commission. For those reasons, notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in, or otherwise associated with a business that regularly conducts business in front of or with planning commission staff may also serve as a member of a planning commission and shall not be in violation of §6B-2-5(g) of this code if the member recuses himself or herself from any vote, discussion, participation, or other activity regarding the conflicting issue: *Provided*, That such members do not constitute a majority of the members of the planning commission at the same time.

~~(g)~~ (h) The remaining members of the multicounty planning commission, regional planning commission or joint planning commission first selected shall serve respectively for terms of one year, two years, and three years, divided equally or as nearly equally as possible between these terms. Thereafter, members shall serve three-year terms. Vacancies shall be filled for the unexpired term and made in the same manner as original selections were made.

~~(h)~~ (i) The members of a multicounty planning commission, a regional planning commission, or a joint planning commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

~~(i)~~ (j) Appointments for a multicounty planning commission, a regional planning commission, or a joint planning commission membership shall be made and confirmed by each governing body participating in the planning commission.

~~(j)~~ (k) An individual may serve as a member of a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission, or a joint planning commission, at the same time.

62 ~~(k)~~ (l) The governing bodies may establish procedures for the removal of members of the
63 planning commission for inactivity, neglect of duty, or malfeasance. The procedures must contain
64 provisions requiring that the person to be removed be provided with a written statement of the
65 reasons for removal and an opportunity to be heard on the matter.