

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 521

**FISCAL
NOTE**

By Senator Willis

[Introduced February 18, 2025; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-16, §3-1-17, §3-4A-11a, §3-5-6a, §3-5-6b, §3-5-6c, §3-5-6d,
2 §3-5-7, §3-5-13, §3-5-13a, §3-10-3, §3-12-3, §3-12-11, §3-12-12, §3-12-14, §50-1-1, §50-
3 1-6, §51-1-1, and §51-2A-5 of the Code of West Virginia, 1931, as amended, relating to
4 electoral reforms of the West Virginia judiciary and boards of education generally; requiring
5 the election of justices of the Supreme Court of Appeals, circuit court judges, family court
6 judges, magistrates, and members of boards of education be on a partisan basis;
7 establishing ballot design and printing; requiring partisan ballots be used; and providing for
8 the continuing applicability of the West Virginia Supreme Court of Appeals Public
9 Campaign Financing Program.

Be it enacted by the Legislature of West Virginia:

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.

6 (b) At the time of the primary election to be held in the year 2016, and every 12th year
7 thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of
8 the primary election to be held in 2020, and every 12th year thereafter, two justices of the Supreme
9 Court of Appeals and at the time of the primary election to be held in 2024, and every 12th year
10 thereafter, two justices of the Supreme Court of Appeals. Effective with the primary election held in
11 the year 2016 2026, the election of justices of the Supreme Court of Appeals shall be on a
12 ~~nonpartisan basis~~ and by division as set forth more fully in article five of this chapter.

13 (c) At the time of the primary election to be held in the year 2024, and every 10th year
14 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~~ 2026, 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.

§3-1-17. Election of circuit judges; county and district officers; magistrates.

(a) There shall be elected, at the time of the primary election to be held in 2016, and every eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to one judge, and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to two or more circuit judges; and at the time of the primary election to be held in 2016, and in every fourth year thereafter, the number of magistrates prescribed by law for the county. Beginning with the election held in the year ~~2016~~ 2026, an election for the purpose of electing judges of the circuit court, or an election for the purpose of electing magistrates, shall be upon a ~~nonpartisan~~ ballot printed for the purpose.

(b) There shall be elected, at the general election to be held in 1992, and every fourth year thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors prescribed by law for the county; and at the general election to be held in 1990, and every second year thereafter, a commissioner of the county commission for each county; and at the general election to be held in 1992, and every sixth year thereafter, a clerk of the county commission and a clerk of the circuit court for each county.

(c) Effective with the primary election of ~~2016~~ 2026, all elections for judge of the circuit courts in the respective circuits and magistrates in each county will be elected ~~on a nonpartisan basis and~~ by division as set forth more fully in article five of this chapter.

(d) Beginning with the judicial election in 2024, and in every judicial election thereafter, if no candidate in a division for judge of a circuit court receives more than 30 percent of the votes cast in

the election, there shall be a runoff election at the subsequent general election between the two candidates who received the highest and next-highest number of votes cast in that division.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

(a) The board of ballot commissioners in counties using ballots upon which votes may be recorded by means of marking with electronically sensible ink or pencil and which marks are tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the electronic voting system for use in elections.

(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to §3-5-13 and §3-5-13a of this code.

(2) For the general election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to §3-6-2 of this code.

~~(3) Effective with the primary election held in 2016 and thereafter, the following nonpartisan elections are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under this chapter:~~

~~(A) Nonpartisan elections for judicial offices, by division, of:~~

~~(i) Justice of the Supreme Court of Appeals;~~

~~(ii) Judge of the Intermediate Court of Appeals;~~

~~(iii) Judge of the circuit court;~~

~~(iv) Family court judge; and~~

~~(v) Magistrate;~~

~~(B) Nonpartisan elections for Board of Education; and~~

22 ~~(C) Any question to be voted upon.~~

23 (4) Beginning in the primary election to be held in the year ~~2020~~ 2026 and in each election
24 thereafter, ~~the nonpartisan judicial elections described in subparagraphs (i) through (iv),~~
25 ~~paragraph (A), subdivision (3), of this subsection~~ shall appear immediately after the state ticket
26 and shall immediately precede the county ticket, in the same manner prescribed in §3-5-13a of this
27 code.

28 ~~(5)~~ (4) Both the face and the reverse side of the ballot may contain the names of
29 candidates only if means to ensure the secrecy of the ballot are provided and lines for the
30 signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in
31 the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

32 ~~(6)~~ (5) The arrangement of candidates within each office is to be determined in the same
33 manner as for other electronic voting systems, as prescribed in this chapter. On the general
34 election ballot for all offices, and on the primary election ballot only for those offices to be filled by
35 election, except delegate to national convention, lines for entering write-in votes are to be provided
36 below the names of candidates for each office, and the number of lines provided for any office shall
37 equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF
38 ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be
39 opposite a position to mark the vote.

40 (c) Except for electronic voting systems that utilize screens upon which votes may be
41 recorded by means of a stylus or by means of touch, the primary election ballots are to be printed
42 in the color of ink specified by the Secretary of State for the various political parties, and the
43 general election ballot is to be printed in black ink. For electronic voting systems that utilize
44 screens upon which votes may be recorded by means of a stylus or by means of touch, the primary
45 ballots and the general election ballot are to be printed in black ink. All ballots are to be printed,
46 where applicable, on white paper suitable for automatic tabulation and are to contain a perforated
47 stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as

provided in §3-5-13 of this code, or are to be displayed on the screens of the electronic voting system upon which votes are recorded by means of a stylus or touch. The number of ballots printed and the packaging of ballots for the precincts are to conform to the requirements for paper ballots provided in this chapter.

(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-6a. Election of justices of the Supreme Court of Appeals.

(a) An election for the purpose of electing a justice or justices of the Supreme Court of Appeals shall be held on the same date as the primary election, as provided by law, upon a ~~nonpartisan~~ ballot by division printed for this purpose. For election purposes, in each election at which shall be elected more than one justice of the Supreme Court of Appeals, the election shall be by numbered division corresponding to the number of justices being elected. Each justice shall be elected at large from the entire state.

(b) In each ~~nonpartisan~~ election by division for a justice of the Supreme Court of Appeals, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie vote.

§3-5-6b. Election of circuit judges.

(a) An election for the purpose of electing a circuit court judge or judges shall be held on the same date as the primary election in their respective circuits, as provided by law, upon a ~~nonpartisan~~ ballot by division printed for this purpose.

(b) In each ~~nonpartisan~~ election by division for a circuit court judge, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall

6 declare and certify the election of the eligible candidate receiving the highest numbers of votes
7 cast within a numbered division to fill any full terms.

8 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
9 vote.

§3-5-6c. Election of family court judges.

1 (a) An election for the purpose of electing a family court judge or judges shall be held on the
2 same date as the primary election in their respective circuits, as provided by law, upon a
3 ~~nonpartisan~~ ballot by division printed for this purpose.

4 (b) In each ~~nonpartisan~~ election by division for a family court judge, the candidates for
5 election in each numbered division shall be tallied separately, and the board of canvassers shall
6 declare and certify the election of the eligible candidate receiving the highest numbers of votes
7 cast within a numbered division to fill any full terms.

8 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
9 vote.

§3-5-6d. Election of magistrates.

1 (a) An election for the purpose of electing a magistrate or magistrates by division shall be
2 held on the same date as the primary election in their respective circuits, as provided by law, upon
3 a ~~nonpartisan~~ ballot by division printed for this purpose.

4 (b) In each ~~nonpartisan~~ election by division for a magistrate, the candidates for election in
5 each numbered division shall be tallied separately, and the board of canvassers shall declare and
6 certify the election of the eligible candidate receiving the highest numbers of votes cast within a
7 numbered division to fill any full terms.

8 (c) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie
9 vote.

**§3-5-7. Filing certificates of announcements of candidacies; requirements; withdrawal of
candidates when section applicable.**

1 (a) Any person who is eligible and seeks to hold an office or political party position to be
2 filled by election in any primary or general election held under the provisions of this chapter shall
3 file a certificate of announcement declaring his or her candidacy for the nomination or election to
4 the office.

5 (b) The certificate of announcement shall be filed as follows:

6 (1) Candidates for the House of Delegates, the State Senate, circuit judge, family court
7 judge, and any other office or political position to be filled by the voters of more than one county
8 shall file a certificate of announcement with the Secretary of State.

9 (2) Candidates for an office or political position to be filled by the voters of a single county
10 or a subdivision of a county, except for candidates for the House of Delegates, State Senate,
11 circuit judge or family court judge, shall file a certificate of announcement with the clerk of the
12 county commission.

13 (3) Candidates for an office to be filled by the voters of a municipality shall file a certificate
14 of announcement with the recorder or city clerk.

15 (c) The certificate of announcement shall be filed with the proper officer not earlier than the
16 second Monday in January before the primary election day and not later than the last Saturday in
17 January before the primary election day and must be received before midnight, eastern standard
18 time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that
19 hour. This includes the offices of Justice of the Supreme Court of Appeals, Judge of the
20 Intermediate Court of Appeals, circuit court judge, family court judge and magistrate, which are to
21 be filled on a ~~nonpartisan~~ and division basis at the primary election: *Provided*, That on the final day
22 of a political filing period, the office of the Secretary of State shall be open from 9:00 a.m. until
23 11:59 p.m. The offices of the County Clerk in all counties of the state shall be open on that final day
24 of a political filing period from 9:00 a.m. until 12:00 p.m.

25 (d) The certificate of announcement shall be on a form prescribed by the Secretary of State
26 on which the candidate shall make a sworn statement before a notary public or other officer

authorized to administer oaths, containing the following information:

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought; the district, if any; and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in §3-5-13 of this code;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

(5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state, and zip code;

(6) For ~~partisan~~ all elections, the name of the candidate's political party on the date the certificate of announcement is submitted and a statement that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of 60 days before the date of filing the announcement;

(7) For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot; or a statement that the candidate prefers to remain "uncommitted";

(8) A statement that the person filing the certificate of announcement is a candidate for the office in good faith;

(9) The words "subscribed and sworn to before me this _____ day of _____, 20____" and a space for the signature of the officer giving the oath.

(e) The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter's registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during

the 60 days immediately preceding the filing of the certificate: *Provided*, That unless a signed formal complaint of violation of this section and the certified copy of the voter's registration record of the candidate are filed with the officer receiving that candidate's certificate of announcement no later than 10 days following the close of the filing period, the candidate may not be refused certification for this reason: *Provided, however*, That prior to accepting a Certificate of Announcement for filing for an office which is elected in a partisan election, the Secretary of State's Office, clerk of the county commission, recorder or city clerk shall electronically verify a candidate's current party affiliation as subscribed and sworn to by the candidate. If a candidate's current party affiliation is not as stated on the Certificate of Announcement, the filing shall be refused.

(f) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty of false swearing and shall be punished in accordance with §3-9-3 of this code.

(g) Any candidate for delegate to a national convention may change his or her statement of presidential preference by notifying the Secretary of State by letter received by the Secretary of State no later than the third Tuesday following the close of candidate filing. When the rules of the political party allow each presidential candidate to approve or reject candidates for delegate to convention who may appear on the ballot as committed to that presidential candidate, the presidential candidate or the candidate's committee on his or her behalf may file a list of approved or rejected candidates for delegate and the Secretary of State shall list as "uncommitted" any candidate for delegate who is disapproved by the presidential candidate.

(h) A person may not be a candidate for more than one office or office division at any election: *Provided*, That a candidate for an office may also be a candidate for President of the United States, for membership on political party executive committees or for delegate to a political party national convention: *Provided, however*, That an unsuccessful candidate for a ~~nonpartisan~~

an office in an election held concurrently with the primary election may be appointed under the provisions of §3-5-19 of this code to fill a vacancy on the general ballot.

(i) A candidate who files a certificate of announcement for more than one office or division and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior to the close of the filing period may not be certified by the Secretary of State or placed on the ballot for any office by the board of ballot commissioners.

(j) The amendments to this section enacted by the Legislature in the 2024 Regular Session are effective January 1, 2025.

§3-5-13. Form and contents of ballots.

The following provisions apply to the form and contents of election ballots:

(1) The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

(2) The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words "Primary Election" and the month, day and year of the election. The ballot title of the political party ballots is to contain the words "Official Ballot of the (Name) Party" and the official symbol of the political party may be included in the heading.

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officers shall commence with the words "~~Nonpartisan~~ Ballot of Election of Judicial Officers" and each such office shall be listed in the following order:

(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all justices of the Supreme Court of Appeals shall contain the words "~~Nonpartisan~~ Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia". The names of the candidates for the Supreme Court of Appeals shall be printed by division ~~without references to political party affiliation or registration~~.

(ii) The ballot title of any separate paper ballot or portion of any electronic or voting

machine ballot for all judges of the Intermediate Court of Appeals shall contain the words "Nonpartisan-Ballot of Election of Judge(s) of the Intermediate Court of Appeals". The names of the candidates for the Intermediate Court of Appeals shall be printed by division ~~without references to political party affiliation or registration.~~

(iii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words "Nonpartisan-Ballot of Election of Circuit Court Judge(s)". The names of the candidates for the respective circuit court judge office shall be printed by division ~~without references to political party affiliation or registration.~~

(iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words "Nonpartisan-Ballot of Election of Family Court Judge(s)". The names of the candidates for the respective family court judge office shall be printed by division ~~without references to political party affiliation or registration.~~

(v) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Magistrate(s)". The names of the candidates for the respective magistrate office shall be printed by division ~~without references to political party affiliation or registration.~~

(B) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Board of Education is to contain the words "Nonpartisan-Ballot of Election of Members of the _____ County Board of Education". The districts for which fewer than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed ~~without reference to political party affiliation and without designation as to a particular term of office.~~

(C) Any other ballot or portion of a ballot on a question is to have a heading which clearly states the purpose of the election according to the statutory requirements for that question.

44 (3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the
45 ballot by heavy lines and the offices shall be arranged in columns with the following headings, from
46 left to right across the ballot: "National Ticket", "State Ticket", "~~Nonpartisan~~ Judicial Ballot",
47 "County Ticket", "~~Nonpartisan~~ Ballot" in a nonpresidential election year, "District Ticket" or, in a
48 presidential election year, "National Convention". The columns are to be separated by heavy lines.
49 Within the columns, the offices are to be arranged in the order prescribed in §3-5-13a of this code.

50 (B) For voting machines, electronic voting devices and any ballot tabulated by electronic
51 means, the offices are to appear in the same sequence as prescribed in §3-5-13a of this code and
52 under the same headings as prescribed in paragraph (A) of this subdivision. The number of pages,
53 columns or rows, where applicable, may be modified to meet the limitations of ballot size and
54 composition requirements subject to approval by the Secretary of State.

55 (C) The title of each office is to be separated from preceding offices or candidates by a line
56 and is to be printed in bold type no smaller than eight point. Below the office is to be printed the
57 number of the district, if any, the number of the division, if any, and the words "Vote for _____"
58 with the number to be nominated or elected or "Vote For Not More Than _____" in
59 multicandidate elections. For offices in which there are limitations relating to the number of
60 candidates which may be nominated, elected or appointed to or hold office at one time from a
61 political subdivision within the district or county in which they are elected, there is to be a clear
62 explanation of the limitation, as prescribed by the Secretary of State, printed in bold type
63 immediately preceding the names of the candidates for those offices on the ballot in every voting
64 system. For counties in which the number of county commissioners exceeds three and the total
65 number of members of the county commission is equal to the number of magisterial districts within
66 the county, the office of county commission is to be listed separately for each district to be filled
67 with the name of the magisterial district and the words "Vote for One" printed below the name of
68 the office: *Provided*, That the office title and applicable instructions may span the width of the ballot
69 so as it is centered among the respective columns.

(D) The location for indicating the voter's choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot is to contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree, or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are to be printed in lower case letters beneath the names of the candidates.

(C) The arrangement of names within each office must be determined as prescribed in §3-5-13a of this code.

(D) If the number of candidates for an office exceeds the space available on a column or ballot page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages are to be nearly equal and clear instructions given the voter that the candidates for the office are continued on the following column or page.

(5) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office or for the voters to elect sufficient members to the Board of Education or to executive committees, the vacant positions on the ballot shall be filled with the

words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to be made directly on the ballot, a blank line shall be placed in any vacant position in the office of Board of Education or for election to any party executive committee. A line shall separate each candidate from every other candidate for the same office. Notwithstanding any other provision of this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed description, approved by the Secretary of State, indicating that there are no candidates listed for the vacant positions.

(6) In presidential election years, the words "For election in accordance with the plan adopted by the party and filed with the Secretary of State" is to be printed following the names of all candidates for delegate to national convention.

(7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.

(8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with unique sequential numbers from one to the highest number representing the total number of ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

(9) On the back of every official ballot or ballot card the words "Official Ballot" with the name of the county and the date of the election are to be printed. Beneath the date of the election there are to be two blank lines followed by the words "Poll Clerks".

(10) The face of sample paper ballots and sample ballot labels are to be like other official

122 ballots or ballot labels except that the word "sample" is to be prominently printed across the front of
123 the ballot in a manner that ensures the names of candidates are not obscured and the word
124 "sample" may be printed in red ink. No printing may be placed on the back of the sample.

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

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

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

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

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

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

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

18 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

the following provisions:

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

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

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

(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.

(a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, or in any office created or made elective to be filled by the voters of the entire state, is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by §3-10-1 of this code. The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office

7 immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of
8 qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the
9 vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from
10 the list of legally qualified persons within five days after the list is received. If the list is not
11 submitted to the Governor within the 15-day period, the Governor shall appoint, within five days
12 thereafter, a legally qualified person of the same political party with which the person holding the
13 office immediately preceding the vacancy was affiliated at the time the vacancy occurred:
14 *Provided*, That the provisions of this subsection do not apply to §3-10-3(b), §3-10-3(c), §3-10-3(d),
15 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
29 the Intermediate Court of Appeals, judge of the circuit court, judge of a family court, or magistrate
30 occurs after the 84th day before a general election, and the affected term of office ends on
31 December 31 following the succeeding general election two years later, the person appointed to fill
32 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.

ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC CAMPAIGN

FINANCING

PILOT

PROGRAM.

§3-12-3. Definitions.

As used in this article, the following terms and phrases have the following meanings:

(1) "Candidate's committee" means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(2) "Certified candidate" means an individual seeking election to the West Virginia Supreme Court of Appeals who has been certified in accordance with section ten of this article as having met all of the requirements for receiving public campaign financing from the fund.

(3) "Contribution" means a gift subscription, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(4) "Exploratory contribution" means a contribution of no more than \$1,000 made by an individual adult, including a participating candidate and members of his or her immediate family, during the exploratory period but prior to filing the declaration of intent. Exploratory contributions may not exceed \$20,000 in the aggregate.

(5) "Exploratory period" means the period during which a participating candidate may raise and spend exploratory contributions to examine his or her chances of election and to qualify for public campaign financing under this article. The exploratory period begins on January 1 the year before the election in which the candidate may run for Justice of the Supreme Court of Appeals and ends on the last Saturday in January of the election year.

(6) "Financial agent" means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(7) "Fund" means the Supreme Court of Appeals Public Campaign Financing Fund created by section five of this article.

(8) "Immediate family" or "immediate family members" means the spouse, parents, step-parents, siblings and children of the participating candidate.

(9) "Judicial election campaign period" means the period beginning on the first day of the primary election filing period, as determined under section seven, article five of this chapter, and ending on the day of the nonpartisan judicial election.

(10) "Nonparticipating candidate" means a candidate who is:

(A) Seeking election to the Supreme Court of Appeals;

(B) Is neither certified nor attempting to be certified to receive public campaign financing from the fund; and

(C) Has an opponent who is a participating or certified candidate.

~~(10) "Nonpartisan judicial election campaign period" means the period beginning on the first day of the primary election filing period, as determined under section seven, article five of this chapter, and ending on the day of the nonpartisan judicial election.~~

(11) "Participating candidate" means a candidate who is seeking election to the Supreme Court of Appeals and is attempting to be certified in accordance with section ~~ten~~ 10 of this article to receive public campaign financing from the fund.

(12) "Person" means an individual, partnership, committee, association and any other organization or group of individuals.

(13) "Qualifying contribution" means a contribution received from a West Virginia registered voter of not less than \$1 nor more than \$100 in the form of cash, check or money order, made payable to a participating candidate or the candidate's committee, or in the form of an electronic payment or debit or credit card payment, received during the qualifying period.

(14) "Qualifying period" means the period during which participating candidates may raise and spend qualifying contributions in order to qualify to receive public campaign financing.

For candidates seeking to be placed on the nonpartisan judicial election ballot, the qualifying period begins on September 1 preceding the election year and ends on the last

60 Saturday in January of the election year.

§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing Fund payments.

1 (a) The State Election Commission, acting in concert with the State Auditor's office and the
2 State Treasurer's office, shall have a check issued within two business days after the date on
3 which the candidate is certified, to make payments from the fund for the ~~nonpartisan~~ judicial
4 election campaign period available to a certified candidate.

5 In a contested ~~nonpartisan~~ judicial election, a certified candidate shall receive \$525,000 in
6 campaign financing from the fund, minus the certified candidate's qualifying contributions.

7 (b) The State Election Commission shall authorize the distribution of campaign financing
8 moneys to certified candidates in equal amounts. The commission shall propose a legislative rule
9 on distribution of funds.

10 (c) The State Election Commission may not authorize or direct the distribution of moneys to
11 certified candidates in excess of the total amount of money deposited in the fund pursuant to
12 section six of this article. If the commission determines that the money in the fund is insufficient to
13 totally fund all certified candidates, the commission shall authorize the distribution of the remaining
14 money proportionally, according to each candidate's eligibility for funding. Each candidate may
15 raise additional money in the same manner as a nonparticipating candidate for the same office up
16 to the unfunded amount of the candidate's eligible funding.

§3-12-12. Restrictions on contributions and expenditures.

1 (a) A certified candidate or his or her committee may not accept loans or contributions from
2 any private source, including the personal funds of the candidate and the candidate's immediate
3 family, during the ~~nonpartisan~~ judicial election campaign period except as permitted by this article.

4 (b) After filing the declaration of intent and during the qualifying period, a participating
5 candidate may not spend or obligate more than he or she has collected in exploratory and
6 qualifying contributions. After the qualifying period and through the ~~nonpartisan~~ judicial election

7 campaign period, a certified candidate may spend or obligate any unspent exploratory or
8 qualifying contributions and the moneys he or she receives from the fund under the provisions of
9 section eleven of this article.

10 (c) A participating or certified candidate may expend exploratory and qualifying
11 contributions and funds received from the fund only for lawful election expenses as provided in
12 section nine, article eight of this chapter. Moneys distributed to a certified candidate from the fund
13 may be expended only during the ~~nonpartisan~~ judicial election campaign period for which funds
14 were dispersed. Money from the fund may not be used:

15 (1) In violation of the law;

16 (2) To repay any personal, family or business loans, expenditures or debts; or

17 (3) To help any other candidate.

18 (d) A certified candidate or his or her committee shall return to the fund any unspent and
19 unobligated exploratory contributions, qualifying contributions or moneys received from the fund
20 within 48 hours after the date on which the candidate ceases to be certified.

21 (e) A certified candidate or his or her committee shall return to the fund any unspent or
22 unobligated public campaign financing funds no later than five business days after the ~~nonpartisan~~
23 judicial election.

24 (f) A contribution from one person may not be made in the name of another person.

25 (g) A participating or certified candidate or his or her committee receiving qualifying
26 contributions or exploratory contributions from a person not listed on the receipt required by
27 sections eight and nine of this article is liable to the State Election Commission for the entire
28 amount of that contribution and any applicable penalties.

29 (h) A certified candidate accepting any benefits under the provisions of this article shall
30 continue to comply with all of its provisions throughout the ~~nonpartisan~~ judicial election campaign
31 period.

32 (i) A participating or certified candidate or his or her financial agent shall provide the

33 Secretary of State with all requested campaign records, including all records of exploratory and
34 qualifying contributions received and campaign expenditures and obligations, and shall fully
35 cooperate with any audit of campaign finances requested or authorized by the State Election
36 Commission.

§3-12-14. Duties of the State Election Commission; Secretary of State.

1 (a) In addition to its other duties, the State Election Commission shall carry out the duties of
2 this article and complete the following as applicable:

3 (1) Prescribe forms for reports, statements, notices and other documents required by this
4 article;

5 (2) Make an annual report to the Legislature accounting for moneys in the fund, describing
6 the State Election Commission's activities and listing any recommendations for changes of law,
7 administration or funding amounts;

8 (3) Propose emergency and legislative rules for legislative approval, in accordance with
9 §29A-3-1 *et seq.* of this code as may be necessary for the proper administration of this article;

10 (4) Enforce this article to ensure that moneys from the fund are placed in candidate
11 campaign accounts and spent as specified in this article;

12 (5) Monitor reports filed pursuant to this article and the financial records of candidates to
13 ensure that qualified candidates receive funds promptly and to ensure that moneys required by
14 this article to be paid to the fund are deposited in the fund;

15 (6) Cause an audit of the fund to be conducted by independent certified public accountants
16 90 days after a ~~nonpartisan~~ judicial election. The State Election Commission shall cooperate with
17 the audit, provide all necessary documentation and financial records to those persons conducting
18 the audit and shall maintain a record of all information supplied by the audit;

19 (7) In consultation with the State Treasurer and the State Auditor, develop a rapid, reliable
20 method of conveying funds to certified candidates. In all cases, the commission shall distribute
21 funds to certified candidates in a manner that is expeditious, ensures accountability and

22 safeguards the integrity of the fund;

23 (8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to
24 determine whether the fund will have sufficient moneys to meet its obligations and sufficient
25 moneys available for disbursement during the nonpartisan judicial election campaign period; and

26 (9) Transfer a portion of moneys maintained in the fund to the West Virginia Investment
27 Management Board for their supervised investment, after consultation with the State Treasurer,
28 the State Auditor and the West Virginia Investment Management Board.

29 (b) In addition to his or her other duties, the Secretary of State shall carry out the duties of
30 this article and complete the following as applicable:

31 (1) Prescribe forms for reports, statements, notices and other documents required by this
32 article;

33 (2) Prepare and publish information about this article and provide it to potential candidates
34 and citizens of this state;

35 (3) Prepare and publish instructions setting forth methods of bookkeeping and
36 preservation of records to facilitate compliance with this article and to explain the duties of
37 candidates and others participating in elections under this article;

38 (4) Propose emergency and legislative rules for legislative approval in accordance with
39 §29A-3-1 *et seq.* of this code as may be necessary for the proper administration of this article;

40 (5) Enforce this article to ensure that moneys from the fund are placed in candidate
41 campaign accounts and spent as specified in this article;

42 (6) Monitor reports filed pursuant to this article and the financial records of candidates to
43 ensure that qualified candidates receive funds promptly and to ensure that moneys required by
44 this article to be paid to the fund are deposited in the fund;

45 (7) Ensure public access to the campaign finance reports required pursuant to this article,
46 and whenever possible, use electronic means for the reporting, storing and display of the
47 information; and

(8) Prepare a voters' guide for the general public listing the names of each candidate seeking election to the Supreme Court of Appeals. Both certified and nonparticipating candidates shall be invited by the State Election Commission to submit a statement, not to exceed five hundred words in length, for inclusion in the guide. The guide shall identify the candidates that are certified candidates and the candidates that are nonparticipating candidates. Copies of the guide shall be posted on the website of the Secretary of State, as soon as may be practical.

(c) To fulfill their responsibilities under this article, the State Election Commission and the Secretary of State may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require, by subpoena, the production of any books, papers, records or other items material to the performance of their duties or the exercise of their powers.

(d) The State Election Commission may also propose and adopt procedural rules to carry out the purposes and provisions of this article and to govern procedures of the State Election Commission as it relates to the requirements of this article.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-1. Magistrate court created.

There is hereby created in each county of this state a magistrate court with such numbers of magistrates for each court as are hereafter provided. There shall be elected by the voters of each county, at the general election to be held in 1976, and in every fourth year thereafter, such number of magistrates as is provided in section two of this article. The filing fee for the office of magistrate shall be one percent of the annual salary. The term of magistrates shall be for four years and shall begin on January 1, of the year following the year of election.

~~Effective with the primary election of 2016, all elections for magistrates will be on a nonpartisan basis by division. Beginning in 2016, there~~ There will no longer be primary elections

9 held for magistrates and all elections for magistrates are to be held in the nonpartisan judicial
10 election as set forth in article five, chapter three of this code. ~~All indications of party identification~~
11 ~~on election ballots for magistrate shall be omitted.~~

§50-1-6. Vacancy in office of magistrate.

1 Subject to the provisions of section one, article 10, chapter three of this code, when a
2 vacancy occurs in the office of magistrate, the judge of the circuit court, or the chief judge thereof if
3 there is more than one judge of the circuit court, shall fill the same by appointment.

4 At a nonpartisan judicial election in which a magistrate is elected for an unexpired term, the
5 circuit judge, or the chief judge thereof if there is more than one judge of the circuit court, shall
6 cause a notice of such election to be published prior to such election as a Class II-0 legal
7 advertisement in compliance with the provisions of article three, chapter 59 of this code, and the
8 publication area for such publication shall be the county involved.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-1. Justices.

1 The Supreme Court of Appeals shall consist of five justices, elected and qualified
2 according to the Constitution and the laws of this state, any three of whom shall constitute a
3 quorum. Effective with the primary election of 2016, all elections for justices will be on a
4 nonpartisan basis by division. ~~Beginning in 2016, there will no longer be primary elections held for~~
5 ~~the office of justice and all~~ All elections for justice are to be held in the nonpartisan judicial election
6 as set forth in article five, chapter three of this code. ~~All indications of party identification on~~
7 ~~election ballots for that office shall be omitted.~~

ARTICLE 2A. FAMILY COURTS.

§51-2A-5. Term of office of family court judge; initial appointment; elections.

1 (a) Beginning with the election to be conducted in the year 2016, family court judges shall

2 be elected. In family court circuits having two or more family court judges there shall be, for
3 election purposes, numbered divisions corresponding to the number of family court judges in each
4 area. Each family court judge shall be elected at large by the entire family court circuit. In each
5 numbered division of a family court circuit, the candidates for nomination or election shall be voted
6 upon and the votes cast for the candidates in each division shall be tallied separately from the
7 votes cast for candidates in other numbered divisions within the family court circuit. The candidate
8 or candidates receiving the highest number of the votes cast within a numbered division shall be
9 nominated or elected, as the case may be. ~~Effective with the primary election of 2016, all~~ All
10 elections for family court judges in the respective circuits will be ~~on a nonpartisan basis~~ by division.
11 ~~Beginning in 2016, there~~ There will no longer be primary elections held for family court judges and
12 all elections for family court judges are to be held in the ~~nonpartisan~~ judicial election as set forth in
13 article five, chapter three of this code. ~~All indications of party identification on election ballots for~~
14 ~~family court judge shall be omitted.~~

15 (b) The term of office for all family court judges elected in 2002 shall be for six years,
16 commencing on January 1, 2003, and ending on December 31, 2008. Subsequent terms of office
17 for family court judges elected thereafter shall be for eight years.

NOTE: The purpose of this bill relates to electoral reforms of the West Virginia judiciary and Boards of Education generally. The bill requires the election of justices of the Supreme Court of Appeals, circuit court judges, family court judges, magistrates and members of Boards of Education be on a partisan basis, establishes ballot design and printing, requires partisan ballots be used, and provides for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

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