

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 70

By Senator Maynard

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

A BILL to amend and reenact §3-10-5 of the Code of West Virginia, 1931, as amended, relating to clarifying the responsibility of the Governor to fill a vacancy in the state Legislature; providing a process for the selection of three legally qualified persons to fill a vacancy in the office of state Senator or member of the House of Delegates; allowing for virtual candidate interviews where more than three candidates apply; clarifying the interview process; and providing that a party county chairman appoint a subcommittee to act as vacancy committee where a senate or delegate district is wholly within one county.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. FILLING VACANCIES.

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

(a) Any vacancy in the office of state senator or member of the House of Delegates shall be filled by appointment by the Governor, 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 immediately preceding the vacancy was affiliated at the time the vacancy occurred.

(b) For the selection of three legally qualified persons, the delegate district committee or senate district committee shall convene, appoint a chairman from the body, conduct interviews, and nominate a list of three candidates to send to the Governor within 15 days of the vacancy occurring. The state party chairman may assist the delegate district committee to facilitate the process of conducting interviews and filling such office, which shall include but is not limited to, facilitating and conducting the interviews, calling special meetings of the district vacancy committee, and certifying the results of such committee meetings to the Governor. The state chairman shall confirm that each candidate nominated by his or her political party is constitutionally eligible.

(c) The state chairman and state party staff may, in consultation with the elected chair of the district vacancy committee, prepare a list of questions that will be asked of candidates during their interview process. The state chairman and state party staff shall ensure that there is

adequate public notice of such vacancy and that there are at least 72 hours between the time that such notice is posted publicly and the time that the application period closes.

(d) The nomination of such candidates for a vacancy under this section shall occur in the following manner:

(1) If there are three candidates who have applied, the vacancy committee need not convene unless called to do so by the state chairman, the district vacancy chairman, or upon the application of 33 percent of the members of the district vacancy committee. If there are only three candidates, and the committee is not called, the state chairman of the party for which the vacancy occurred, shall certify those three names to the Governor and shall provide a copy to the Secretary of State.

(2) If there are less than three candidates, the district vacancy committee shall convene and fill the remaining slots from a list of registered candidates who are constitutionally eligible to hold such office and are registered to vote in and reside in the district from which the vacancy occurred.

(3) If there are more than three candidates who apply for such office, interviews of all eligible candidates shall be conducted in person at a location in the district or by virtual means. The interviews shall also be conducted with the state party chairman, state party secretary, and the district executive committee members present, unless the district is entirely within a county, wherein the county party executive committee chairman and county party executive committee secretary will be present at the interview process. All interviews will be uniform, and no candidate shall be questioned by individual committee members or be given more or less time than another candidate. At the conclusion of the interviews, the district vacancy committee shall deliberate in private and choose three candidates to submit to the Governor.

(A) The district vacancy committee shall vote by blank ballot and no name shall be placed on the list submitted to the Governor unless they receive a majority of votes cast. The members of the district vacancy committee shall vote for up to three candidates on the first round of balloting. If

any candidate receives a majority of votes cast, that candidate shall be nominated and his or her name shall be removed from the next round of voting.

(B) In succeeding rounds of balloting, the committee members shall only be allowed to vote for the number of slots left to nominate. In each succeeding round of balloting, the candidate receiving the fewest votes shall be eliminated for the next round of balloting, unless there are multiple candidates who receive the fewest amounts of votes. This process shall continue indefinitely until three candidates are nominated.

(e) At the conclusion of the committee interviews and action, the state chairman, district vacancy committee chairman, or vice chairman in the absence of the chairman, and district vacancy committee secretary shall certify, by letter on state party committee letterhead, the list of three names for such vacancy. This letter shall be filed by the state party staff within 24 hours of the letter being signed by all three officers. All letters and certification papers shall be filed with the Governor and the Secretary of State.

(f) In any case where there is no senate vacancy committee or delegate vacancy committee due to the district being wholly within one county, the delegate district committee will be comprised of county executive committee members that live within that delegate or senate district.

(g) The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

(b)(h) In the case of a member of the House of Delegates, if the member was elected to a multi-county delegate district the list shall be submitted by the party executive committee of the delegate district in which the vacating member resided at the time of his or her election or appointment. If the member was elected to a delegate district situated entirely within a single

69 county, the list shall be submitted by the county executive committee in which the vacating
70 member resided at the time of his or her election or appointment. The appointment to fill a vacancy
71 in the House of Delegates is for the unexpired term.

72 ~~(e)~~(i) In the case of a state senator, if the member was elected to a multi-county senatorial
73 district the list shall be submitted by the party executive committee of the state senatorial district in
74 which the vacating senator resided at the time of his or her election or appointment. If the member
75 was elected to a senatorial district situated entirely within a single county, the list shall be
76 submitted by the county executive committee in which the vacating member resided at the time of
77 his or her election or appointment. The appointment to fill a vacancy in the state Senate is for the
78 unexpired term, unless §3-10-1 of this code requires a subsequent election to fill the remainder of
79 the term, which shall follow the procedure set forth in said section.

NOTE: The purpose of this bill is to clarify the responsibility of the Governor to fill a vacancy in the state legislature. The bill provides a process for the selection of three legally qualified persons to fill a vacancy in the office of state senator or House of Delegates, allows for virtual candidate interviews where more than three candidates apply, and clarifies the interview process. It also provides that a party county chairman appoint a subcommittee to act as vacancy committee where a senate or delegate district is wholly within one county.

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