

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 750**

By Senator M. Maynard

[Introduced February 5, 2026; 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 clarifying the responsibility of the Governor to fill a vacancy in the state Legislature;  
3 providing a process for the selection of three legally qualified persons to fill a vacancy in  
4 the office of state Senator or member of the House of Delegates; allowing for virtual  
5 candidate interviews where more than three candidates apply; clarifying the interview  
6 process; and providing that a party county chairman appoint a subcommittee to act as  
7 vacancy committee where a senate or delegate district is wholly within one county.

*Be it enacted by the Legislature of West Virginia:*

| <b>ARTICLE</b> | <b>10.</b> | <b>FILLING</b> | <b>VACANCIES.</b> |
|----------------|------------|----------------|-------------------|
|----------------|------------|----------------|-------------------|

**§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 senatorial district executive committee or party delegate district executive committee, or, in  
4 the case of a single-county senatorial or delegate district, the county executive party, as  
5 applicable, of the same political party with which the person holding the office immediately  
6 preceding the vacancy was affiliated at the time of the previous election for that office. The list of  
7 qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the  
8 vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from  
9 the list of legally qualified persons within five days after the list is received. If the list is not  
10 submitted to the Governor within the 15-day period, the Governor shall appoint within five days  
11 thereafter a legally qualified person of the same political party with which the person holding the  
12 office immediately preceding the vacancy was affiliated at the time of the previous election for that  
13 office: *Provided*, That any such person appointed by the Governor must have been affiliated with  
14 that political party for at least one year prior to the occurrence of the vacancy.

15 (b) For the selection of three legally qualified persons, the delegate district committee or  
16 senate district committee shall convene, appoint a chairman from the body, conduct interviews,

17 and nominate a list of three candidates to send to the Governor within 15 days of the vacancy  
18 occurring. The state party chairman may assist the delegate district committee to facilitate the  
19 process of conducting interviews and filling such office, which shall include but is not limited to,  
20 facilitating and conducting the interviews, calling special meetings of the district vacancy  
21 committee, and certifying the results of such committee meetings to the Governor. The state  
22 chairman shall confirm that each candidate nominated by his or her political party is  
23 constitutionally eligible.

24 (c) The state chairman and state party staff may, in consultation with the elected chair of  
25 the district vacancy committee, prepare a list of questions that will be asked of candidates during  
26 their interview process. The state chairman and state party staff shall ensure that there is  
27 adequate public notice of such vacancy and that there are at least 72 hours between the time that  
28 such notice is posted publicly and the time that the application period closes.

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

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

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

41 (3) If there are more than three candidates who apply for such office, interviews of all  
42 eligible candidates shall be conducted in person at a location in the district or by virtual means.

43 The interviews shall also be conducted with the state party chairman, state party secretary, and  
44 the district executive committee members present, unless the district is entirely within a county,  
45 wherein the county party executive committee chairman and county party executive committee  
46 secretary will be present at the interview process. All interviews will be uniform, and no candidate  
47 shall be questioned by individual committee members or be given more or less time than another  
48 candidate. At the conclusion of the interviews, the district vacancy committee shall deliberate in  
49 private and choose three candidates to submit to the Governor.

50 (A) The district vacancy committee shall vote by blank ballot and no name shall be placed  
51 on the list submitted to the Governor unless they receive a majority of votes cast. The members of  
52 the district vacancy committee shall vote for up to three candidates on the first round of balloting. If  
53 any candidate receives a majority of votes cast, that candidate shall be nominated and his or her  
54 name shall be removed from the next round of voting.

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

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

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

69           (b) (g) In the case of a member of the House of Delegates, if the member was elected to a  
70 multi-county delegate district, the list shall be submitted by the party executive committee of the  
71 delegate district in which the vacating member resided at the time of his or her election or  
72 appointment. If the member was elected to a delegate district situated entirely within a single  
73 county, the list shall be submitted by the county executive committee in which the vacating  
74 member resided at the time of his or her election or appointment. The appointment to fill a vacancy  
75 in the House of Delegates is for the unexpired term.

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

84           (d) (i) No person may be appointed to fill a vacancy in the office of state senator or as a  
85 member of the House of Delegates who has not for one year preceding the appointment been a  
86 resident within the district he or she will represent. Notwithstanding any provision of this code to  
87 the contrary, the process to compose and submit the list, which is required to be submitted by the  
88 political party under which the person holding the office immediately preceding the vacancy was  
89 elected, shall be governed by the rules of the state executive committee of that political party.

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.