

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4477

By Delegates G. Howell, Hanshaw (Mr. Speaker),
Dittman, McGeehan, Hall, Canterbury, Hite, Masters,
Ridenour, Ellington, and Toney

[Originating in the Committee on the Judiciary;

Reported January 27, 2026]

1 A BILL to amend and reenact §3-1A-6 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §7-4-6 of the Code of West Virginia, 1931, as amended all relating to
3 requiring the Secretary of State to provide a county prosecuting attorney a written report of
4 refer potential violations of election laws, frauds, or irregularities in any registration or
5 election; also relating to requiring the prosecuting attorney to refer the matters contained
6 within the Secretary of State's report to the West Virginia Prosecuting Attorneys Institute
7 for appointment of a special prosecuting attorney; also relating to requiring the West
8 Virginia Prosecuting Attorneys Institute to appoint a special prosecutor to review and
9 investigate the allegations of potential election laws contained within the Secretary of
10 State's written report; also relating to periodic written updates that must be provided at
11 certain designated times to the Secretary of State by the appointed special prosecuting
12 attorney; also relating to requiring that each prosecuting attorney in this state is subject to
13 the appointment as a special prosecutor in these instances; also related to requiring that
14 the special prosecuting attorney shall serve without further compensation other than
15 reimbursement for their legitimate expenses associated with travel, mileage, room and
16 board from the county to which they are appointed as a special prosecutor; also relating to
17 requiring the county commission of the county to which they are appointed as a special
18 prosecutor shall be responsible for all allowable expenses; and also relating to not
19 requiring an appointed special prosecutor to take an additional oath when appointed as a
20 special prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-6. Powers and duties of Secretary of State; exercise of powers by appointees.

1 (a) The Secretary of State shall be the chief election official of the state. Except for those

2 rules required by the provisions of §3-1A-5 of this code to be promulgated by the commission, the
3 Secretary of State ~~shall have the authority~~ may, after consultation with the state Election
4 Commission, of which he or she is a member, ~~to~~ make, amend and rescind such orders and to
5 promulgate legislative rules, in accordance with ~~the provisions of~~ Chapter 29A of this code, as may
6 be necessary to standardize and make effective the provisions of this chapter. All election officials,
7 county commissions, clerks of county commissions, clerks of circuit courts, boards of ballot
8 commissioners, election commissioners and poll clerks shall abide by any orders that may be
9 issued and any legislative rules that may be promulgated by the Secretary of State and the
10 commission.

11 (b) The Secretary of State also ~~shall have authority to~~ may require collection and report of
12 statistical information and to require other reports by county commissions, clerks of county
13 commissions and clerks of circuit courts.

14 (c) The Secretary of State shall also advise with election officials; furnish to the election
15 officials a sufficient number of indexed copies of the current election laws of West Virginia and the
16 administrative orders and rules issued or promulgated thereunder; investigate the administration
17 of election laws, election frauds, and irregularities in any registration or election; provide a written
18 report of any violations of election laws, election frauds, or irregularities in any registration or
19 election to the appropriate prosecuting officials; and prepare an annual report.

20 (d) Upon receipt of the Secretary of State's written report of any violations of election laws,
21 election frauds, or irregularities in any registration or election pursuant to subsection (c) of this
22 section, the prosecuting attorney of the county where the potential violations of election laws
23 election frauds, or irregularities in any registration or election occurred shall refer the matter to the
24 West Virginia Prosecuting Attorneys Institute which shall appoint a special prosecuting attorney
25 who may institute criminal proceedings after reviewing and investigating the Secretary of State's
26 report of potential violations of election laws, election frauds, or irregularities in any registration or
27 election. Within 60 days of being appointed by the West Virginia Prosecuting Attorneys Institute,

the special prosecuting attorney shall provide the Secretary of State with a written report as to whether criminal proceedings relating to the Secretary of State's report of potential violations of election laws, election frauds, or irregularities in any registration or election, will be initiated, or, if more time is necessary to make that determination. If the special prosecuting attorney reports that more time is necessary to make a determination as to whether criminal proceedings will be initiated, the special prosecuting attorney will provide a written status report on the matter to the Secretary of State at least once every 60 days until a final determination is made. Upon a final determination by the special prosecuting attorney as to whether criminal proceedings will be initiated, the special prosecuting attorney will provide a final status report to the Secretary of State which shall indicate if criminal proceedings relating to the Secretary of State's report of potential violations of election laws, election frauds, or irregularities in any registration or election will be initiated.

~~(d)~~ (e) The Secretary of State shall also have the power to may administer oaths and affirmations, issue subpoenas for the attendance of witnesses, issue subpoena duces tecum to compel the production of books, papers, records, registration records and other evidence and fix the time and place for hearing any matters relating to the administration and enforcement of this chapter, or the rules promulgated by the state Election Commission or by the Secretary of State as the chief election official of the state. In case of disobedience to a subpoena or subpoena duces tecum, he or she may invoke the aid of any circuit court in requiring the attendance, evidence and testimony of witnesses and the production of papers, books, records, registration records and other evidence.

~~(e)~~ (f) (1) The Secretary of State shall also have the power may, after consultation with the Secretary of the Department of Military Affairs and Public Safety, to implement emergency procedures and rules to ensure that all eligible voters have the opportunity to cast a valid ballot and to uphold the integrity of an election in the event of natural disaster as declared by the Governor of this state, terrorist attack, war or general emergency, if any of which occur during or

immediately preceding an election.

(2) For purposes of this subsection, a "general emergency" means circumstances preventing the casting of ballots in one or more voting precincts. The chief judge of the circuit court of the county where the casting of ballots is being prevented must declare by order that a general emergency exists.

~~(f)~~ (g) All powers and duties vested in the Secretary of State pursuant to this article may be exercised by appointees of the Secretary of State at his or her discretion, but the Secretary of State ~~shall be~~ is responsible for their acts.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.

§7-4-6. West Virginia Prosecuting Attorneys Institute.

(a) There is continued the West Virginia Prosecuting Attorneys Institute, a public body whose membership shall consist of the 55 elected county prosecuting attorneys in the state. The Institute shall meet at least once each calendar year and the presence of 28 of the 55 prosecutors at any meeting constitutes a quorum for the conduct of the Institute's business.

(b) There is continued the executive council of the West Virginia Prosecuting Attorneys Institute, which shall consist of seven prosecuting attorneys elected by the membership of the West Virginia Prosecuting Attorneys Institute at its annual meeting and two persons appointed annually by the county commissioner's association of West Virginia. The executive council shall elect one member of the council to serve as chairman of the institute for a term of one year without compensation. The executive council shall serve as the regular executive body of the institute.

(c) There is continued the position of Executive Director of the West Virginia Prosecuting Attorneys Institute to be employed by the executive council of the institute. The executive director

of the West Virginia Prosecuting Attorneys Institute shall serve at the will and pleasure of the executive council of the institute. The executive director shall be licensed to practice law in the State of West Virginia and shall devote full time to his or her official duties and may not engage in the private practice of law.

(d) The duties and responsibilities of the institute, as implemented by and through its executive council and its executive director, include the following:

(1) The provision for special prosecuting attorneys to pursue a criminal matter, a juvenile delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any matter in which a special prosecutor previously appointed has failed to take any action on the matter within such time as the executive director considers unreasonable, not to exceed three terms of court from the date on which the special prosecutor was appointed: *Provided*, That such replacement or original appointment may be any attorney with a license in good standing in this state in any county upon the request of a circuit court judge of that county and upon the approval of the executive council;

(2) The establishment and implementation of general and specialized training programs for prosecuting attorneys, their staffs and, where determined practical by the executive council and executive director, all statutorily authorized law-enforcement or investigative agencies of the state or its political subdivisions;

(3) The establishment of a training program for all newly appointed or newly elected prosecuting attorneys;

(4) The provision of materials for prosecuting attorneys and their staffs, including legal research, technical assistance, and technical and professional publications;

(5) The compilation and dissemination of information on behalf of prosecuting attorneys and their staffs on current developments and changes in the law and the administration of criminal justice;

(6) The establishment and implementation of uniform reporting procedures for

prosecuting attorneys and their professional staffs in order to maintain and to provide accurate and timely data and information relative to criminal prosecutorial matters;

(7) The acceptance and expenditure of grants, moneys for reimbursement of expenses, gifts, and acceptance of services from any public or private source;

(8) The entering into of agreements and contracts with public or private agencies, groups, organizations, or educational institutions;

(9) The identification of experts and other resources for use by prosecutors in criminal matters;

(10) The recommendation to the Legislature or the Supreme Court of Appeals of the State of West Virginia on measures required, or procedural rules to be promulgated, to make uniform the processing of juvenile cases in the 55 counties of the state; and

(11) The development of a written handbook for prosecutors and their assistants to use which delineates relevant information concerning the elements of various crimes in West Virginia and other information the institute considers appropriate.

(e) Each prosecuting attorney is subject to appointment by the institute to serve as a special prosecuting attorney in any county where the prosecutor for that county or his or her office has been disqualified from participating in a particular criminal case, a juvenile delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any matter in which a special prosecutor previously appointed has failed to take any action on the matter within such time as the executive director considers unreasonable, not to exceed three terms of court from the date on which the special prosecutor was appointed: *Provided*, That such replacement or original appointment may be any attorney with a license in good standing in this state. The circuit judge of any county of this state, who disqualifies the prosecutor or his or her office from participating in a particular criminal case, a juvenile delinquency matter, or a matter involving child abuse or neglect pursuant to chapter 49 of this code in that county, shall seek the appointment by the institute of a special prosecuting attorney to substitute for the disqualified prosecutor. The

executive director of the institute shall, upon written request to the institute by any circuit judge as a result of disqualification of the prosecutor or for other good cause shown, and upon approval of the executive council, appoint a prosecuting attorney to serve as a special prosecuting attorney. The special prosecuting attorney appointed shall serve without any further compensation other than that paid to him or her by his or her county, except that he or she is entitled to be reimbursed for his or her legitimate expenses associated with travel, mileage, and room and board from the county to which he or she is appointed as a prosecutor. The county commission in which county he or she is special prosecutor is responsible for all expenses associated with the prosecution of the criminal action. A person who is serving as a prosecuting attorney or an assistant prosecuting attorney of any county is not required to take an additional oath when appointed to serve as a special prosecuting attorney.

(f) Each prosecuting attorney is subject to appointment by the institute to serve as a special prosecuting attorney in any county where a prosecuting attorney has made a referral for the appointment of a special prosecuting attorney pursuant to the provisions of §3-1A-6 of this code relating to violations of the state's election laws, election frauds, or irregularities in any registration or election. The special prosecuting attorney appointed shall serve without any further compensation other than that paid to him or her by his or her county, except that he or she is entitled to be reimbursed for his or her legitimate expenses associated with travel, mileage, and room and board from the county to which he or she is appointed as a special prosecuting attorney. The county commission in which county he or she is special prosecuting attorney is responsible for all expenses associated with the prosecution of the criminal action. A person who is serving as a prosecuting attorney or an assistant prosecuting attorney of any county is not required to take an additional oath when appointed to serve as a special prosecuting attorney.

~~(f)~~ (g) The executive director of the institute shall maintain an appointment list that shall include the names of all 55 prosecuting attorneys and that shall also include the names of any assistant prosecuting attorney who wishes to serve as a special prosecuting attorney upon the

same terms and conditions as set forth in this section. The executive director of the institute, with the approval of the executive council, shall appoint special prosecuting attorneys from the appointment list for any particular matter giving due consideration to the proximity of the proposed special prosecuting attorney's home county to the county requesting a special prosecutor and giving due consideration to the expertise of the special prosecuting attorney.

~~(g)~~ (h) Each county commission shall pay, on a monthly basis, a special prosecution premium to the Treasurer of the state for the funding of the West Virginia Prosecuting Attorneys Institute. The monthly premiums shall be paid according to the following schedule:

MONTHLY PREMIUMS

Assessed Valuation of Property
of All Classes in the County

Category	Minimum	Maximum	Premium
A	\$1,500,000,000	Unlimited	\$400
B	\$1,000,000,000	\$1,499,999,000	\$375
C	\$ 800,000,000	\$ 999,999,000	\$350
D	\$ 700,000,000	\$ 799,999,000	\$325
E	\$ 600,000,000	\$ 699,999,000	\$300
F	\$ 500,000,000	\$ 599,999,000	\$250
G	\$ 400,000,000	\$ 499,999,000	\$200
H	\$ 300,000,000	\$ 399,999,000	\$150
I	\$ 200,000,000	\$ 299,999,000	\$100
J	-0-	\$ 199,999,000	\$ 50

~~(h)~~ (i) Upon receipt of a premium, grant, reimbursement or other funding source, excluding federal funds as provided in §4-2-1 *et seq.* of this code, the Treasurer shall deposit the funds into a special revenue fund to be known as the West Virginia Prosecuting Attorneys Institute Fund. All costs of operating the West Virginia Prosecuting Attorneys Institute shall be paid from the West

117 Virginia Prosecuting Attorneys Institute Fund upon proper authorization by the executive council
118 or by the executive director of the institute and subject to annual appropriation by the Legislature of
119 the amounts contained within the fund.

120 ~~(i)~~ (j) The institute shall annually, by the first day of the regular Legislative session, provide
121 the Joint Committee on Government and Finance with a report setting forth the activities of the
122 institute and suggestions for legislative action.

123 ~~(j)~~ (k) Neither the institute nor its employees acting in their employment capacity shall
124 engage in activities before governmental bodies which advocate positions on issues other than
125 those issues consistent with the duties of the institute set forth in subsection (d) of this section.

NOTE: The purpose of this bill is to provide the Attorney General with prosecutorial power over county and municipal elected officials in certain circumstances. The bill also requires the Secretary of State to refer potential election fraud to the Attorney General for prosecution instead of a county prosecuting attorney.

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