1 **H. B. 2397**

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3   (By Delegates Manchin and Lawrence)

4   [Introduced February 13, 2013; referred to the

5   Committee on Political Subdivisions then the Judiciary.]

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10 A BILL to amend and reenact §3-10-7 and §3-10-8 of the Code of West

11   Virginia, 1931, as amended, all relating to authorizing a

12   county commission to temporarily fill vacancies in the offices

13   of the clerk of the county commission, prosecuting attorney,

14   sheriff, assessor and county surveyor; and permitting the

15   temporary successors to serve a maximum of thirty days.

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

17   That §3-10-7 and §3-10-8 of the Code of West Virginia, 1931,

18 as amended, be amended and reenacted, all to read as follows:

19 **ARTICLE 10. FILLING VACANCIES.**

20 **§3-10-7. Vacancies in offices of county commissioner and clerk of**

21   **county commission.**

22   (a) Any vacancy in the office of county commissioner or clerk

23 of county commission shall be filled by the county commission of

1 the county, unless the number of vacancies in a county commission

2 deprive that body of a quorum, in which case the Governor of the

3 state shall fill any vacancy in the county commission necessary to

4 create a quorum thereof. Persons appointed shall be of the same

5 political party as the officeholder vacating the office and shall

6 continue in office until the next general election is certified, or

7 until the completion of the term if the term ends on December 31,

8 following the next general election: *Provided,* That ~~in the event~~

9 <u>if</u> a quorum of the county commission cannot agree upon a person to

10 fill a vacancy in the office of county commissioner within thirty

11 days of the date the vacancy first occurred, the county executive

12 committee of the vacating county commissioner's political party

13 shall select and name a person to fill the vacancy from the

14 membership of the vacating county commissioner's political party.

15 　　<u>(b)</u> Notice of the election shall be given by order of the

16 county commission and published as prescribed in section six of

17 this article.

18 　　<u>(c)</u> Nomination of candidates to fill the office for an

19 unexpired term in the office of county commissioner or clerk of the

20 county commission shall be made in the manner prescribed for making

21 nominations to fill a vacancy in the office of the clerk of the

22 circuit court.

23 　　<u>(d)</u> ~~In the event that~~ <u>If</u> the election for an unexpired term is

24 held at the same time as the election for a full term for county

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1 commissioner, the full term shall be counted first and the

2 unexpired term shall be counted second. If the candidate with the

3 highest number of votes for the unexpired term resides in the same

4 magisterial district as the candidate with the highest number of

5 votes for the full term, the candidate for the full term shall be

6 seated. The candidate with the next highest number of votes for

7 the unexpired term residing in a different magisterial district

8 shall be seated for the unexpired term.

9   (d) A county commission may appoint a temporary successor to

10 the office of clerk of the county commission until the requirements

11 of this section have been met. The temporary successor may serve no

12 more than thirty days from the date of the vacancy.

13 **§3-10-8.   Vacancies in offices of prosecuting attorney, sheriff,**

14   **assessor and surveyor.**

15   (a) Any vacancy occurring in the office of prosecuting

16 attorney, sheriff, assessor or county surveyor shall be filled by

17 the county commission by appointment of a person of the same

18 political party as the officeholder vacating the office. The

19 appointed person shall hold the office until the next general

20 election is certified, or until the completion of the term if the

21 term ends on December 31, following the next general election.

22 Notice of an election to fill a vacancy in any of the offices named

23 in this section shall be given by the county commission, or by the

24 president thereof in vacation, and published or posted in the

1 manner prescribed in section six of this article. Nomination of

2 candidates to fill any vacancy shall be made in the manner

3 prescribed in section six of this article for nominating candidates

4 to fill a vacancy in the office of the clerk of the circuit court.

5   (b) A county commission may appoint a temporary successor in

6 the office of prosecuting attorney, sheriff, assessor or county

7 surveyor until the requirements of this section have been met. The

8 temporary successor may serve no more than thirty days from the

9 date of the vacancy.

        NOTE: The purpose of this bill is to authorize a county
commission to temporarily fill vacancies in the offices of the
clerk of the county commission, prosecuting attorney, sheriff,
assessor and county surveyor. The bill permits the temporary
successors to serve a maximum of thirty days.

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