

H. B. 3130

(By Delegates Armstead, O'Neal, Pasdon, Ellington,  
Miller, Lane, Howell, Arvon and Andes)

[Introduced March 25, 2013; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §51-1B-1, §51-1B-2,  
§51-1B-3, §51-1B-4, §51-1B-5, §51-1B-6, §51-1B-7, §51-1B-8,  
§51-1B-9 and §51-1B-10, all relating to authorizing a new  
court to be known as the Intermediate Court of Appeals;  
setting forth the structure and duties of the court and its  
staff; establishing jurisdiction; and providing for salaries.

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

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new article, designated §51-1B-1, §51-1B-2,  
§51-1B-3, §51-1B-4, §51-1B-5, §51-1B-6, §51-1B-7, §51-1B-8, §51-1B-  
9 and §51-1B-10, all to read as follows:

**ARTICLE 1B. INTERMEDIATE COURTS OF APPEALS.**

**§51-1B-1. Judges; qualifications; selection.**

(a) An Intermediate Court of Appeals is established and shall  
operate by one or more panels. Each panel consists of three

1 judges, any two of whom constitutes a quorum for that panel. No  
2 judge may be permanently assigned to this court, but a judge shall  
3 be assigned to a panel to hear cases before a panel of the court by  
4 designation. Two of the three member judges of a panel shall be  
5 selected from sitting or retired circuit court judges and one shall  
6 be a sitting Justice of the West Virginia Supreme Court of Appeals.  
7 The Supreme Court of Appeals shall establish a process for  
8 determining the members of each panel by random selection, except  
9 in those cases where special expertise is desirable.

10 (b) The decision of a majority of the panel shall constitute  
11 the decision of the panel and shall be considered a final decision  
12 of the Intermediate Court of Appeals for all purposes. When a  
13 judgment or order of another court is reversed, modified or  
14 affirmed by the Intermediate Court of Appeals , each point fairly  
15 arising upon the record shall be considered and decided and its  
16 reasoning shall be concisely stated in writing and preserved with  
17 the record. It is the duty of the Intermediate Court of Appeals to  
18 prepare a syllabus of the points adjudicated in cases having a  
19 written opinion and where a majority of the judges concurred. The  
20 syllabus shall be prefixed to the opinion.

21 **§51-1B-2. Jurisdiction.**

22 (a) The Intermediate Court of Appeals has no original  
23 jurisdiction.

24 (b) It shall have appellate jurisdiction in:

1       (1) Civil cases where the matter in controversy, exclusive of  
2 costs, is of greater value or amount than \$100;

3       (2) Controversies concerning the title or boundaries of land,  
4 the probate of wills, the appointment or qualification of a  
5 personal representative, guardian, committee or curator, or  
6 concerning a mill, road, way, ferry or landing, or the right of a  
7 corporation or county to levy tolls or taxes;

8       (3) Cases of quo warranto, habeas corpus, mandamus, certiorari  
9 and prohibition;

10       (4) Cases involving freedom or the constitutionality of a law;

11       (5) Criminal cases where there has been a conviction for  
12 felony or misdemeanor in a circuit court and convictions that have  
13 been affirmed by a circuit court;

14       (6) Cases relating to the public revenue; and

15       (7) Cases involving appeals of worker's compensation.

16       (c) The right of appeal belongs to the state, as well as the  
17 defendant, and other appellate jurisdiction, in both civil and  
18 criminal cases, as may be prescribed by law. Appeal to the  
19 Intermediate Court of Appeals shall be an appeal of right upon an  
20 assignment of error in the judgment or proceedings of a circuit  
21 court. The Intermediate Court of Appeals may not reject any  
22 appeal.

23 **§51-1B-3. Rules of pleading, practice and procedure.**

24       The Supreme Court of Appeals may, from time to time,

1 promulgate rules governing pleading, practice and procedure in the  
2 Intermediate Court of Appeals.

3 **§51-1B-4. Scheduling of terms.**

4 The Supreme Court of Appeals shall, from time to time,  
5 determine the time and place the Intermediate Court of Appeals  
6 convenes and transacts its business. Depending on the volume of  
7 appeals, the Supreme Court of Appeals may order one or more terms,  
8 each continuing until the business assigned to the court has been  
9 completed.

10 **§51-1B-5. Adjournment.**

11 The court may adjourn from day to day or from time to time, as  
12 the judges, or a majority, may order, until it completes its  
13 business.

14 **§51-1B-6. Salary of judges.**

15 The salary of each of the judges appointed to serve as members  
16 of the Intermediate Courts of Appeals shall be his or her regular  
17 salary in his or her elected capacity, and each judge may not  
18 receive any additional compensation.

19 **§51-1B-7. Clerk; deputy, associate and assistant clerks; clerical**  
20 **assistants; compensation.**

21 The Supreme Court of Appeals system shall appoint one chief  
22 clerk to exclusively serve the Intermediate Court of Appeals and  
23 may appoint one deputy clerk, one assistant clerk and other full-

1 time or part-time clerical assistants as necessary and reasonable  
2 to properly perform the functions and duties of the office. The  
3 compensation of the chief clerk and his or her employees shall be  
4 fixed by the Supreme Court of Appeals, payable in the same manner  
5 and on the same schedule as the regular employees of the Supreme  
6 Court of Appeals. Those salaries are payable out of the biennium  
7 appropriations made by the Legislature according to law. The clerk  
8 and his or her employees are removable at the pleasure of the  
9 Supreme Court of Appeals or its Justices. Vacancies in the office  
10 of the clerk occurring during vacation may be filled by  
11 appointment, in writing, by a majority of the Justices of the  
12 Supreme Court of Appeals.

13 **§51-1B-8. Duties of clerk.**

14 The clerk , or one of his or her authorized employees, shall  
15 attend all the sessions of the Intermediate Court of Appeals. The  
16 clerk's office shall obey its orders and directions, preserve all  
17 records and papers of the court, and to perform such other duties  
18 as may be prescribed by law or required by the court.

19 **§51-1B-9. Budget of the Intermediate Court of Appeals.**

20 The budget for the payment of the salaries and benefits of the  
21 staff of the Intermediate Court of Appeals shall be included in the  
22 appropriation for the Supreme Court of Appeals.

23 **§51-1B-10. Supreme Court of Appeals review.**

1        Final decisions of the Intermediate Court of Appeals may be  
2 appealed by any aggrieved party in interest to the Supreme Court of  
3 Appeals by writ of certiorari pursuant to the rules promulgated by  
4 the Supreme Court of Appeals.

NOTE: The purpose of this bill is to create and provide structures and standards for a new Intermediate Court of Appeals.

This article is new; therefore, it has been completely underscored.