

1 **H. B. 4547**

2
3 (By Delegate L. Phillips)
4 [Introduced February 14, 2014; 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 elections for
12 vacancies in county offices; and providing that a county
13 employee may run for a vacant county office without giving up
14 his or her current position.

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

16 That §3-10-7 and §3-10-8 of the Code of West Virginia, 1931,
17 as amended, be amended and reenacted, all to read as follows:

18 **ARTICLE 10. FILLING VACANCIES.**

19 **§3-10-7. Vacancies in offices of county commissioner and clerk of**
20 **county commission.**

21 (a) Any vacancy in the office of county commissioner or clerk
22 of county commission shall be filled by the county commission of
23 the county, unless the number of vacancies in a county commission

1 deprive that body of a quorum, in which case the Governor of the
2 state shall fill any vacancy in the county commission necessary to
3 create a quorum thereof. Persons appointed shall be of the same
4 political party as the officeholder vacating the office for the
5 period stated by section one of this article. If a quorum of the
6 county commission cannot agree upon a person to fill a vacancy in
7 the office of county commissioner within thirty days of the date
8 the vacancy first occurred, the county executive committee of the
9 vacating county commissioner's political party shall select and
10 name a person to fill the vacancy from the membership of the
11 vacating county commissioner's political party. The clerk shall be
12 appointed within thirty days of the vacancy.

13 (b) Notwithstanding any code provision to the contrary, a
14 county commission may appoint a temporary successor to the office
15 of clerk of the county commission until the requirements of this
16 section have been met. The temporary successor may serve no more
17 than thirty days from the date of the vacancy.

18 (c) If an election is necessary under section one of this
19 article, the county commission, or the president thereof in
20 vacation, shall be responsible for the proper proclamation, by
21 order, and notice required by section one of this article.

22 (d) Section one of this article shall be followed with respect
23 to any election needed to fill a vacancy, except that if the
24 vacancy occurs after the primary cutoff date but not later than the

1 general cutoff date, candidates to fill the vacancy shall be
2 nominated by the county executive committee in the manner provided
3 in section nineteen, article five of this chapter, as in the case
4 of filling vacancies in nominations, and the names of the persons,
5 so nominated and certified to the clerk of the county commission of
6 the county, shall be placed upon the ballot to be voted at the next
7 general election.

8 (e) If the election for an unexpired term is held at the same
9 time as the election for a full term for county commissioner, the
10 full term shall be counted first and the unexpired term shall be
11 counted second. If the candidate with the highest number of votes
12 for the unexpired term resides in the same magisterial district as
13 the candidate with the highest number of votes for the full term,
14 the candidate for the full term shall be seated. The candidate
15 with the next highest number of votes for the unexpired term
16 residing in a different magisterial district shall be seated for
17 the unexpired term.

18 (f) An employee of the county may run for election for a
19 vacant office of county commissioner or clerk of county commission
20 without giving up that employee's current position.

21 **§3-10-8. Vacancies in offices of prosecuting attorney, sheriff,**
22 **assessor and surveyor.**

23 (a) Any vacancy occurring in the office of prosecuting
24 attorney, sheriff, assessor or county surveyor shall be filled by

1 the county commission within thirty days of the vacancy by
2 appointment of a person of the same political party as the
3 officeholder vacating the office. The appointed person shall hold
4 the office for the period stated by section one of this article.

5 (b) Notwithstanding any code provision to the contrary, a
6 county commission may appoint a temporary successor to the office
7 of prosecuting attorney, sheriff, assessor or county surveyor until
8 the requirements of this section have been met. The temporary
9 successor may serve no more than thirty days from the date of the
10 vacancy.

11 (c) If an election is necessary under section one of this
12 article, the county commission, or the president thereof in
13 vacation, shall be responsible for the proper proclamation, by
14 order, and notice required by section one of this article.

15 (d) Section one of this article shall be followed with respect
16 to any election needed to fill a vacancy, except that if the
17 vacancy occurs after the primary cutoff date but not later than the
18 general cutoff date, candidates to fill the vacancy shall be
19 nominated by the county executive committee in the manner provided
20 in section nineteen, article five of this chapter, as in the case
21 of filling vacancies in nominations, and the names of the persons,
22 so nominated and certified to the clerk of the county commission of
23 the county, shall be placed upon the ballot to be voted at the next
24 general election.

1 (e) An employee of the county may run for election for a
2 vacant office of prosecuting attorney, sheriff or assessor without
3 giving up that employee's current position.

NOTE: The purpose of this bill is to provide that a county employee may run for a vacant county office without giving up the employee's current position.

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