

H. B. 2229

(By Delegates L. Phillips, Guthrie and Moore)

[Introduced January 22, 2015; referred to the

Committee on Political Subdivisions then the Judiciary.]

A BILL to amend and reenact §3-10-7 and §3-10-8 of the Code of West Virginia, 1931, as amended, all relating to elections for vacancies in county offices; and providing that a county employee may run for a vacant county office without giving up his or her current position.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. FILLING VACANCIES.

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

(a) Any vacancy in the office of county commissioner or clerk of county commission shall be filled by the county commission of the county, unless the number of vacancies in a county commission deprive that body of a quorum, in which case the Governor of the state shall fill any vacancy in the county commission necessary to create a quorum thereof. Persons appointed shall be of the same political party as the officeholder vacating the office for the period stated by section

1 one of this article. If a quorum of the county commission cannot agree upon a person to fill a
2 vacancy in the office of county commissioner within thirty days of the date the vacancy first
3 occurred, the county executive committee of the vacating county commissioner's political party shall
4 select and name a person to fill the vacancy from the membership of the vacating county
5 commissioner's political party. The clerk shall be appointed within thirty days of the vacancy.

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

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

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

19 (e) If the election for an unexpired term is held at the same time as the election for a full term
20 for county commissioner, the full term shall be counted first and the unexpired term shall be counted
21 second. If the candidate with the highest number of votes for the unexpired term resides in the same
22 magisterial district as the candidate with the highest number of votes for the full term, the candidate

1 for the full term shall be seated. The candidate with the next highest number of votes for the
2 unexpired term residing in a different magisterial district shall be seated for the unexpired term.

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

5 **§3-10-8. Vacancies in offices of prosecuting attorney, sheriff, assessor and surveyor.**

6 (a) Any vacancy occurring in the office of prosecuting attorney, sheriff, assessor or county
7 surveyor shall be filled by the county commission within thirty days of the vacancy by appointment
8 of a person of the same political party as the officeholder vacating the office. The appointed person
9 shall hold the office for the period stated by section one of this article.

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

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

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

- 1 (e) An employee of the county may run for election to a vacant office of prosecuting attorney,
- 2 sheriff or assessor without 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.