

Senate Bill No. 129

(By Senators Carmichael, Gaunch, Blair, Leonhardt, Karnes and Mullins)

[Introduced January 14, 2015; referred to the Committee on the Judiciary; and then to the
Committee on 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 who may serve on court and how judges are selected; providing that judges may not receive additional compensation; setting forth court’s jurisdictional authority; providing that Supreme Court of Appeals controls its pleading, practice, procedure, scheduling of terms and adjournment; authorizing hiring of a clerk of the court and other employees; setting forth duties of clerk; providing that court’s budget be part of Supreme Court of Appeals’ budget; and permitting appeals to Supreme Court of Appeals.

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,

1 §51-1B-8, §51-1B-9 and §51-1B-10, all to read as follows:

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

3 **§51-1B-1. Judges; qualifications; how selected.**

4 An Intermediate Court of Appeals is established and shall operate by one or more panels,
5 each panel consisting of three judges, any two of whom constitutes a quorum for that panel. No
6 judge may be permanently assigned to this court, but a judge shall be assigned to a panel to hear
7 cases before that panel of the court by designation. Two of the three member judges of a panel shall
8 be selected from sitting or retired circuit court judges and one shall be a sitting Justice of the West
9 Virginia Supreme Court of Appeals. The Supreme Court of Appeals shall establish a process for
10 determining the members of each panel by random selection, except in those cases where special
11 expertise is desirable. The decision of a majority of the panel is the decision of the panel and is a
12 final decision of the Intermediate Court of Appeals for all purposes. When a judgment or order of
13 another court is reversed, modified or affirmed by the Intermediate Court of Appeals, all points fairly
14 arising upon the record shall be considered and decided. The reasoning of the court shall be
15 concisely stated in writing and preserved with the record. The court shall also prepare a syllabus of
16 the points adjudicated in each case in which an opinion is written and where a majority of the judges
17 concurred. The syllabus shall be prefixed to the published report of the case.

18 **§51-1B-2. Jurisdiction.**

19 The Intermediate Court of Appeals has no original jurisdiction. It shall have appellate
20 jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of greater value or
21 amount than \$100; in controversies concerning the title or boundaries of land, the probate of wills,
22 the appointment or qualification of a personal representative, guardian, committee or curator, or

1 concerning a mill, road, way, ferry or landing, or the right of a corporation or county to levy tolls or
2 taxes; in cases of quo warranto, habeas corpus, mandamus, certiorari and prohibition; and in cases
3 involving freedom or the constitutionality of a law. It shall have appellate jurisdiction in criminal
4 cases where there has been a conviction for felony or misdemeanor in a circuit court, and where a
5 conviction has been made in any inferior court and been affirmed in a circuit court, and in cases
6 relating to the public revenue, the right of appeal shall belong to the state, as well as the defendant,
7 and such other appellate jurisdiction, in both civil and criminal cases, as may be prescribed by law.
8 It has appellate jurisdiction in all cases involving appeals of workers' compensation cases. Appeal
9 to the Intermediate Court of Appeals shall be an appeal of right upon an assignment of error in the
10 judgment or proceedings of a circuit court; it has no discretion to reject any appeal.

11 **§51-1B-3. Regulation of pleading, practice and procedure.**

12 The Supreme Court of Appeals may, from time to time, make and promulgate general rules
13 and regulations governing pleading, practice and procedure in the Intermediate Court of Appeals as
14 in all other courts of record of this state.

15 **§51-1B-4. Scheduling of terms.**

16 The Supreme Court of Appeals shall, from time to time, determine the time and place that
17 the Intermediate Court of Appeals shall convene and transact its business, which may, depending on
18 the volume of appeals that need to be heard, consist of one or more terms, each of which shall
19 continue until the business assigned to the court is dispatched.

20 **§51-1B-5. Adjournment.**

21 The court may adjourn from day to day or from time to time, as the judges, or a majority
22 thereof, may order, until it disposes of all of the cases assigned to it.

1 prescribed by law or required by the court.

2 **§51-1B-9. Budget of the Intermediate Court of Appeals.**

3 The budget for the payment of the salaries and benefits of the clerical and secretarial staff of
4 the Intermediate Court of Appeals shall be included in the appropriation for the Supreme Court of
5 Appeals.

6 **§51-1B-10. Supreme Court of Appeals review.**

7 Any final decision rendered by the Intermediate Court of Appeals may be appealed by any
8 aggrieved party in interest to the Supreme Court of Appeals by writ of certiorari pursuant to the rules
9 promulgated by the Supreme Court of Appeals.

NOTE: The purpose of this bill is to create and authorize a new court to be known as the Intermediate Court of Appeals. The bill sets forth how its judges are to be selected. The bill provides that its judges may not receive additional compensation. The bill sets forth the court's jurisdictional authority. The bill provides that the Supreme Court of Appeals controls its pleading, practice, procedure, scheduling of terms and adjournment. The bill authorizes the hiring of a clerk of the court and other employees. The bill sets forth the duties of the clerk. The bill provides that the court's budget be part of the Supreme Court of Appeals' budget. The bill permits appeals to the Supreme Court of Appeals.

This article is new; therefore, strike-throughs and underscoring have been omitted.