

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 449

FISCAL
NOTE

BY SENATORS WELD AND BALDWIN

[Introduced January 28, 2019; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §3-10-8 of said code, all relating to providing for the nonpartisan
 3 elections of county prosecuting attorneys; requiring that nonpartisan elections of
 4 prosecuting attorneys commence in 2020; and providing that after said date, appointments
 5 to fill vacancies in office shall be nonpartisan.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-17. Election of circuit judges; county and district officers; magistrates.

1 (a) There shall be elected, at the time of the primary election to be held in 2016, and every
 2 eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to one judge,
 3 and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to
 4 two or more circuit judges; and at the time of the primary election to be held in 2016, and in every
 5 fourth year thereafter, the number of magistrates prescribed by law for the county. Beginning with
 6 the election held in the year 2016, an election for the purpose of electing judges of the circuit
 7 court, or an election for the purpose of electing magistrates, shall be upon a nonpartisan ballot
 8 printed for the purpose.

9 (b) There shall be elected, at the general election to be held in 1992, and every fourth year
 10 thereafter, a sheriff, ~~prosecuting attorney~~, surveyor of lands, and the number of assessors
 11 prescribed by law for the county; and at the general election to be held in 1990, and every second
 12 year thereafter, a commissioner of the county commission for each county; and at the general
 13 election to be held in 1992, and every sixth year thereafter, a clerk of the county commission and
 14 a clerk of the circuit court for each county.

15 (c) Effective with the primary election of 2016, all elections for judge of the circuit courts in
 16 the respective circuits and magistrates in each county will be elected on a nonpartisan basis and
 17 by division as set forth more fully in article five of this chapter.

18 (d) Beginning in 2020 and every fourth year thereafter, there shall be elected a prosecuting

19 attorney for each county by nonpartisan election to be held on the same date as the primary
 20 election for other elective offices in the county.

ARTICLE 10. FILLING VACANCIES.

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

1 (a) Any vacancy occurring in the office of prosecuting attorney, sheriff, assessor or county
 2 surveyor shall be filled by the county commission within 30 days of the vacancy by appointment
 3 of a person of the same political party as the officeholder vacating the office: Provided, That
 4 following the nonpartisan election of the prosecuting attorney in 2020, the county commission will
 5 no longer be required to appoint a successor prosecuting attorney on the basis of political party.

6 The appointed person shall hold the office for the period stated by section one of this article.

7 (b) Notwithstanding any code provision to the contrary, a county commission may appoint
 8 a temporary successor to the office of prosecuting attorney, sheriff, assessor or county surveyor
 9 until the requirements of this section have been met. The temporary successor may serve no
 10 more than 30 days from the date of the vacancy.

11 (c) If an election is necessary under section one of this article, the county commission, or
 12 the president thereof in vacation, shall be responsible for the proper proclamation, by order, and
 13 notice required by §3-10-1 of this code.

14 (d) ~~Section one of this article~~ The provisions of §3-10-1 of this code shall be followed with
 15 respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary
 16 cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be
 17 nominated by the county executive committee in the manner provided in §3-5-19 of this code, as
 18 in the case of filling vacancies in nominations, and the names of the persons, so nominated and
 19 certified to the clerk of the county commission of the county, shall be placed upon the ballot to be
 20 voted at the next general election.

NOTE: The purpose of this bill is to provide for nonpartisan elections of county prosecuting

attorneys.

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