

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 481

SENATOR TRUMP, *original sponsor*

[Originating in the Committee on the Judiciary;

Reported on February 8, 2019]

1 A BILL to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended, relating
2 to the Judicial Vacancy Advisory Commission; altering the in-state residency requirements
3 for members of the commission; providing that no more than four of its appointed members
4 may be residents of the same congressional district; providing that no more than two of its
5 appointed members may be residents of the same state senatorial district; clarifying that
6 current commission members will not be disqualified from serving for the remainder of
7 their terms based on amendments to in-state residency requirements; and deleting
8 obsolete language.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. FILLING VACANCIES.

§3-10-3a. Judicial Vacancy Advisory Commission.

1 (a) The Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial
2 vacancies. The commission shall meet and submit a list of no more than five nor less than two
3 ~~best~~ of the most qualified persons to the Governor within 90 days of the occurrence of a vacancy,
4 or the formal announcement of the justice or judge by letter to the Governor of an upcoming
5 resignation or retirement that will result in the occurrence of a vacancy, in the office of Justice of
6 the Supreme Court of Appeals, judge of a circuit court, or judge of a family court. The Governor
7 shall make the appointment to fill the vacancy, as required by this article, within 30 days following
8 the receipt of the list of qualified candidates or within 30 days following the vacancy, whichever
9 occurs later.

10 (b) The commission shall consist of eight appointed members ~~Four public members shall~~
11 ~~be~~ appointed by the Governor for six-year terms, ~~except for the initial appointments which shall~~
12 ~~be staggered in accordance with subsection (c) of this section~~ ~~Four attorney members shall be~~
13 ~~appointed by the Governor for six-year terms, except as provided in subsection (c) of this section~~
14 including four public members and four attorney members. The Governor shall appoint attorney
15 members from a list of nominees provided by the Board of Governors of the West Virginia State

16 Bar. The Board of Governors of the West Virginia State Bar shall nominate no more than 20 nor
17 less than 10 ~~best~~ of the most qualified attorneys for appointment to the commission whenever
18 there is a vacancy in the membership of the commission reserved for attorney members. The
19 commission shall choose one of its appointed members to serve as chair for a three-year term.
20 No more than four appointed members of the commission shall belong to the same political party.
21 ~~No more than three appointed members of the commission shall be residents of the same~~
22 ~~congressional district.~~ All members of the commission shall be citizens of this state. Public
23 members of the commission may not be licensed to practice law in West Virginia or any other
24 jurisdiction.

25 ~~(c) Of the initial appointments made to the commission, two public members and two~~
26 ~~attorney members shall be appointed for a term ending two years after the effective date of this~~
27 ~~section, one public member and one attorney member shall be appointed for a term ending four~~
28 ~~years after the effective date of this section, and one public member and one attorney member~~
29 ~~shall be appointed for a term ending six years after the effective date of this section.~~

30 (1) No more than four appointed members of the commission may be residents of the
31 same congressional district.

32 (2) No more than two appointed members of the commission may be residents of the
33 same state senatorial district, as provided in §1-2-1 of this code, at the time of appointment:
34 Provided, That the members of the commission appointed prior to the enactment of this
35 subsection and serving on the commission upon the effective date of this subdivision are not
36 disqualified from service for the remainder of the member's term based on the residency
37 requirements of this subsection.

38 (d) The Governor, or his or her designee, the President of the West Virginia State Bar,
39 and the Dean of the West Virginia University College of Law shall serve as ex officio members of
40 the commission.

41 (e) Members of the commission shall serve without compensation, except that commission
42 members are entitled to reimbursement of travel and other necessary expenses actually incurred
43 while engaged in official commission activities in accordance with the guidelines of the Travel
44 Management Office of the Department of Administration, or its successor entity. The Governor's
45 Office shall cooperate with the commission to ensure that all resources necessary to carrying out
46 the official duties of the commission are provided, including staff assistance, equipment, and
47 materials.

48 (f) The commission shall adopt written policies that formalize and standardize all operating
49 procedures and ethical practices of its members including, but not limited to, procedures for
50 training commission members, publishing notice of judicial vacancies, recruiting qualified
51 individuals for consideration by the commission, receiving applications from qualified individuals,
52 notifying the public of judicial vacancies, notifying state or local groups and organizations of
53 judicial vacancies, and soliciting public comment on judicial vacancies. The written policies of the
54 commission are not subject to the provisions of chapter 29A of this code but shall be filed with the
55 Secretary of State.

56 (g) A majority of the commission plus one shall constitute a quorum to do business.

57 (h) All organizational meetings of the commission shall be open to the public and subject
58 to the requirements of §6-9A-1 *et seq.* of this code. An "organizational meeting" means an initial
59 meeting to discuss the commission's procedures and requirements for a judicial vacancy. The
60 commission shall hold at least one organizational meeting upon the occurrence of a judicial
61 vacancy. All other meetings of the commission are exempt from §6-9A-1 *et seq.* of this code.

62 (i) The commission shall make available to the public copies of any applications and any
63 letters of recommendation written on behalf of any applicants. All other documents or materials
64 created or received by the commission shall be confidential and exempt from the provisions of
65 chapter 29B of this code, except for the list of ~~best-qualified~~ the most qualified persons or
66 accompanying memoranda submitted to the Governor in accordance with the provisions of

67 subsection (j) of this section, which shall be available for public inspection, and the written policies
68 required to be filed with the Secretary of State in accordance with subsection (f) of this section.

69 (j) The commission shall submit its list of ~~best-qualified~~ the most qualified persons to the
70 Governor in alphabetical order. A memorandum may accompany the list of ~~best-qualified~~ the most
71 qualified persons and state facts concerning each of the persons listed. The commission shall
72 make copies of any list of ~~best-qualified~~ the most qualified persons and accompanying
73 memoranda it submits to the Governor available for public inspection.

NOTE: The purpose of this bill is to provide that no more than two appointed members of the Judicial Vacancy Advisory Commission may be residents of the same state senatorial district.

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