

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3083

BY DELEGATES FORSHT, HARDY AND MALLOW

[Introduced March 12, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as
2 amended, relating to requiring runoff elections in the general election for judiciary
3 candidates if the candidate with the most votes receives at least five percent more votes
4 than the candidate with the next highest vote total during the primary election.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-16. Election of state officers.

1 (a) At the general election to be held in 1968, and every fourth year thereafter, there shall
2 be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and
3 Commissioner of Agriculture. At the general election in 1968, and every second year thereafter,
4 there shall be elected a member of the State Senate for each senatorial district, and a member
5 or members of the House of Delegates of the state from each county or each delegate district.

6 (b) At the time of the primary election to be held in the year 2016, and every twelfth year
7 thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of
8 the primary election to be held in 2020, and every twelfth year thereafter, two justices of the
9 Supreme Court of Appeals and at the time of the primary election to be held in 2024, and every
10 twelfth year thereafter, two justices of the Supreme Court of Appeals. Effective with the primary
11 election held in the year 2016, the election of justices of the Supreme Court of Appeals shall be
12 on a nonpartisan basis and by division as set forth more fully in article five of this chapter.

13 (c) Beginning with the nonpartisan judicial election held in the primary election for 2022,
14 and in every primary election thereafter, if no candidate in a division for justice of the Supreme
15 Court of Appeals receives less than five percent more of the votes cast in the election for that
16 office than the candidate with the next highest vote count, a runoff election for that division shall
17 be conducted in the general election. The ballot for the runoff election shall indicate the purpose
18 for the runoff election between those two candidates who received the highest and next highest
19 number of ballots cast in that applicable division for justice of the Supreme Court of Appeals in

20 the election for that office held at the primary election.

§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 with the nonpartisan judicial primary election held in 2022, and in every
19 primary election year thereafter for nonpartisan judicial candidates, if no candidate in a division
20 for judge of a circuit court or magistrate court receives less than five percent more of the votes
21 cast in the election for that office than the candidate with the next highest vote count, a runoff
22 election for that division shall be conducted in the general election and the ballot shall indicate
23 the purpose for the runoff election between those two candidates who received the highest and
24 next highest number of ballots cast in that applicable division for judge of the circuit court or

25 magistrate court in the election for that office held at the primary election.

NOTE: The purpose of this bill is to require runoff elections in the general election for judiciary candidates if the candidate with the most votes receives less than five percent more votes than the candidate with the next highest vote total during the primary election.

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