

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5503

By Delegate Young

[Introduced February 07, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designate §3-1-52, relating to creating the "Resign to Run" law; and restrictions on
 3 qualifying for public office; providing that no person may qualify as a candidate for more
 4 than one public office, whether federal, state, district, county, or municipal, if the terms or
 5 any part thereof run concurrently with each other; and resignation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-52. Restrictions on individual qualifying for public office; "Resign to Run" law.

1 (a) Definitions.

2 As used in this section:

3 "Officer" means a person, whether elected or appointed, who has the authority to exercise
 4 the sovereign power of the state pertaining to an office recognized under the State Constitution or
 5 laws of the state. With respect to a municipality, the term "officer" means a person, whether elected
 6 or appointed, who has the authority to exercise municipal power as provided by the Constitution of
 7 the State of West Virginia, state laws, or municipal charter.

8 "Qualify" means to fulfill the requirements set forth in this article.

9 "Subordinate officer" means a person who has been delegated the authority to exercise
 10 the sovereign power of the state by an officer. With respect to a municipality, subordinate officer
 11 means a person who has been delegated the authority to exercise municipal power by an officer.

12 (b) No person may qualify as a candidate for more than one public office, whether federal,
 13 state, district, county, or municipal, if the terms or any part thereof run concurrently with each other.

14 (c)(1) No officer may qualify as a candidate for another state, district, county, or municipal
 15 public office if the terms or any part thereof run concurrently with each other without resigning from
 16 the office he or she presently holds.

17 (2) The resignation is irrevocable.

18 (3) The written resignation must be submitted at least 10 days prior to the first day of

19 qualifying for the office he or she intends to seek.

20 (4) The resignation must be effective no later than the earlier of the following dates:

21 (A) The date the officer would take office, if elected; or

22 (B) The date the officer's successor is required to take office.

23 (d)(1) An elected state, county, or municipal officer shall submit his or her resignation to the
24 officer before whom he or she qualified for the office he or she holds, with a copy to the Governor
25 and the Secretary of State.

26 (2) An appointed state, county, or municipal officer must submit his or her resignation to the
27 officer or authority which appointed him or her to the office he or she holds, with a copy to the
28 Governor and the Secretary of State.

29 (3) All other officers must submit their resignations to the Governor with a copy to the
30 Secretary of State.

31 (e) The office is considered vacant upon the effective date of the resignation submitted by
32 the official in his or her letter of resignation.

33 (f) Any officer who submits his or her resignation, effective immediately or effective on a
34 date prior to the date of his or her qualifying for office, may then qualify for office as a nonoffice
35 holder, and the provisions of this section do not apply.

36 (4)(A) Any officer who qualifies for federal public office shall resign from the office he or she
37 presently holds if the terms, or any part thereof, run concurrently with each other.

38 (B)The resignation is irrevocable.

39 (C)The resignation shall be submitted at least 10 days before the first day of qualifying for
40 the office he or she intends to seek.

41 (g) The written resignation must be effective no later than the earlier of the following dates:

42 (1) The date the officer would take office, if elected; or

43 (2) The date the officer's successor is required to take office.

44 (h) (1) An elected state, county, or municipal officer shall submit his or her resignation to

45 the officer before whom he or she qualified for the office he or she holds, with a copy to the
46 Governor and the Secretary of State.

47 (2) An appointed state, county, or municipal officer shall submit his or her resignation to the
48 officer or authority which appointed him or her to the office he or she holds, with a copy to the
49 Governor and the Secretary of State.

50 (3) All other officers shall submit their resignations to the Governor with a copy to the
51 Secretary of State.

52 (i) (1) The failure of an officer who qualifies for federal public office to submit a resignation
53 pursuant to this subsection constitutes an automatic irrevocable resignation, effective
54 immediately, from the office he or she presently holds.

55 (2) The Secretary of State shall send a notice of the automatic resignation to the Governor,
56 and in the case of a state, county, or municipal officer, a copy to:

57 (A) The officer before whom he or she qualified if the officer held an elective office; or

58 (B) The officer or authority who appointed him or her if the officer held an appointive office.

59 (j) The office is considered vacant upon the effective date of the resignation submitted by
60 the official in his or her letter of resignation.

61 (1) A person who is a subordinate officer, deputy sheriff, or police officer shall resign
62 effective upon qualifying pursuant to this section if the person is seeking to qualify for a public
63 office that is currently held by an officer who has authority to appoint, employ, promote, or
64 otherwise supervise that person and who has qualified as a candidate for reelection to that office.

65 (2) If an order of a court that has become final determines that a person did not comply with
66 this section, the person may not be qualified as a candidate for election and his or her name may
67 not appear on the ballot.

68 (k) This section does not apply to:

69 (1) Political party offices.

70 (2) Persons serving without salary as members of an appointive board or authority.

- 71 (3) Persons seeking the office of President or Vice President of the United States.
- 72 (l) Subsections (c) and (d) of this section do not apply to persons holding any federal office.
- 73 Subsection (d) of this section does not apply to an elected officer if the term of the office that he or
- 74 she presently holds is scheduled to expire and be filled by election in the same primary and
- 75 general election period as the federal office he or she is seeking.

NOTE: The purpose of this bill is to creating the "Resign to Run" law, providing restrictions on qualifying for public office; providing that no person may qualify as a candidate for more than one public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with each other; and resignation.

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