

# WEST VIRGINIA CODE: §3-10-7

## **§3-10-7. Vacancies in offices of county commissioner and clerk of county commission.**

(a) Any vacancy in the office of county commissioner or clerk of county commission shall be filled by appointment by the county commission. The appointee must be a person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred: Provided, That at the time of appointment, the appointee must have been a member of that political party for at least 60 days prior to the occurrence of the vacancy.

(b) If a quorum of the county commission fails to make an appointment within 30 days, the county executive committee of the same political party with which the person holding the office preceding the vacancy was affiliated at the time the vacancy occurred, shall submit a list of three legally qualified persons to fill the vacancy. Within 15 days from the date on which the list is received, the county commission shall appoint a candidate from the list to fill the vacancy. If the county commission fails to make the appointment within the specified time, then the county commissioner with the longest tenure shall eliminate one name from the submitted list, followed by the county commissioner with the second-longest tenure then eliminating one name from the submitted list. The name remaining after those two names have been eliminated shall be deemed to be appointed by the county commission to fill the vacancy.

(c) If the number of vacancies in a county commission deprives that body of a quorum, the Governor shall make an appointment to fill any vacancy in the county commission necessary to create a quorum, from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The Governor shall make any appointments necessary, beginning with the vacancy first created, to create a quorum in accordance with the same procedures applicable to county commissions under §3-10-7(a) of this code. Once a quorum of the county commission is reestablished by gubernatorial appointment, the authority to fill the remaining vacancies shall be filled in the manner prescribed in §3-10-7(a) of this code.

(d) An appointment made pursuant to this section is for the period of time provided in §3-10-1 of this code.

(e) Notwithstanding any code provision to the contrary, a county commission may appoint a temporary successor to the office of clerk of the county commission until the requirements of this section have been met. The temporary successor may serve no more than 30 days from the date of the vacancy.

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

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

(h) If the election for an unexpired term is held at the same time as the election for a full term for county commissioner, the full term shall be counted first and the unexpired term shall be counted second. If the candidate with the highest number of votes for the unexpired term resides in the same magisterial district as the candidate with the highest number of votes for the full term, the candidate for the full term shall be seated. The candidate with the next highest number of votes for the unexpired term residing in a different magisterial district shall be seated for the unexpired term.