WEST VIRGINIA CODE: §3-7-5

§3-7-5. Depositions; subpoenas; time; tie vote decision.

Either party may begin to take the depositions in such contests for seats in the Legislature at any time after the delivery of the original notice by the contestant. But reasonable notice of every such deposition shall be given, and such notice shall specify the names of the witnesses to be examined. The depositions may be taken before a justice, notary, or any officer authorized to take depositions in civil suits; and the officer before whom they are taken shall certify and seal the same, and endorse his name across the place where they are sealed, and address and transmit the same, by mail or otherwise, to the clerk of the body in which the seat is contested. When the contest is referred to a committee, the clerk shall deliver the depositions to such committee for examination and report. The parties shall finish taking depositions five days at least before the second Wednesday of January next following. Neither party shall have the benefit of any deposition taken otherwise than as aforesaid, unless further time be given by resolution of the proper branch of the Legislature.

Subpoenas for witnesses shall be issued by the clerk of the circuit court, or by a justice, upon application of either party; and witnesses shall be entitled to the same allowances and privileges, and be subject to the same penalties, as if summoned to attend before the circuit court in civil suits.

If it be ascertained that an equal number of legal votes was given for the contestant and the person returned, the Senate or the House of Delegates, as the case may be, in which the contest is pending, shall declare which of them is elected.

WV Legislature