

## WEST VIRGINIA CODE: §5-1-22

### **§5-1-22. Vacancies in offices filled by appointment of Governor; Senate action; bond requirements; filling vacancies in other appointive offices.**

(a) In case of a vacancy, during the recess of the Senate, in any office, which vacancy the Governor is authorized to fill by and with the advice and consent of the Senate, the Governor shall, by appointment within ninety days, fill such vacancy until the next meeting of the Senate, when the Governor shall submit to the Senate a nomination to fill such vacancy and, upon confirmation of such nomination by the Senate, by a vote of a majority of all the members elected to the Senate, taken by yeas and nays, the person so nominated and confirmed shall hold said office during the remainder of the term for which his or her predecessor in office was appointed, and until his or her successor shall be appointed and qualified. No person whose nomination for office has been rejected by the Senate shall again be nominated for the same office during the session in which his or her nomination was so rejected, unless at the request of the Senate, nor shall the person be appointed to the same office during the recess of the Senate. No appointee who resigns from any such office prior to confirmation, or whose name has not been submitted for confirmation while the Senate is in session, shall be eligible, during the recess of the Senate, to hold any office the nomination for which must be confirmed by the Senate.

(b) Any person appointed to temporarily fill a vacancy shall possess the qualifications required by law for that vacant position, and may only remain in the vacated position for a maximum of ninety days.

(c) If an employee of a state agency is temporarily appointed to fill a vacancy, the employee may fill such vacancy without resigning from the position he or she ordinarily holds: Provided, that the employee's compensation shall be the greater of:

- (1) The employee's regular salary in his or her usual position; or
- (2) The salary for the office the employee temporarily fills.

(d) If a vacancy is temporarily filled by a person not otherwise employed by any agency of the State of West Virginia, then that person shall be compensated at a rate no greater than that of the salary for the office that person temporarily fills.

(e) The bond, if any, required by law to be given by any officer so temporarily appointed by the Governor, shall be in such penalty as is required by law of the incumbent of such office.

(f) Any vacancy in any other office filled by appointment, or in any office hereafter created to be filled by appointment, shall be filled by the same person, court or body authorized to make appointment to such office for the full term thereof.