WEST VIRGINIA CODE: §51-3-18

§51-3-18. Expeditious filling of judicial vacancies.

(a) The Legislature finds that when judicial offices created under the Constitution and laws of the state are vacant for extended periods of time, the proper functioning of the judicial branch of the government is impeded. The Legislature further finds that when a vacancy in a judicial office is to be filled by appointment, it is in the public interest that any questions regarding the qualifications or eligibility of the person nominated or appointed to fill the vacancy be determined expeditiously.

(b) When, pursuant to the provisions of section seven, article VIII of the Constitution of West Virginia, the Governor appoints a person to fill a vacancy in the office of Justice of the Supreme Court of Appeals or in the office of judge of the circuit court, no suit or action challenging the qualifications or eligibility of the person so appointed, if it be based upon any fact or circumstance in existence at the time of the appointment, will be cognizable in any court of this state unless it be brought within twenty days after the appointment by the Governor.

(c) When, pursuant to the provisions of section ten, article VIII of the Constitution of West Virginia and the general laws adopted thereunder, a person is appointed to fill a vacancy in the office of magistrate, no suit or action challenging the qualifications or eligibility of the person so appointed, if it be based upon any fact or circumstance in existence at the time of the appointment, will be cognizable in any court of this state unless it be brought within twenty days after the appointment.

(d) When, pursuant to the provisions of section sixteen, article VIII of the Constitution of West Virginia, the Governor appoints a person to fill a vacancy in the office of judge of the family court, no suit or action challenging the qualifications or eligibility of the person so appointed, if it be based upon any fact or circumstance in existence at the time of the appointment, will be cognizable in any court of this state unless it be brought within twenty days after the appointment by the Governor.

(e) Following a judicial appointment, if no suit or action is commenced within the time specified above, or if, in a suit having been timely brought, it is finally adjudged that the appointee is qualified and eligible to hold the office to which he or she has been appointed, then the appointee may take the oath of office and thereafter execute the office for the unexpired term to which he or she has been appointed, subject to removal under section eight, article VIII of the Constitution of West Virginia, in the case of a judge of the Supreme Court of Appeals, the circuit court or the family court, only by impeachment, and in the case of a magistrate, in the manner provided by general law for removal of a magistrate.

(f) An action timely brought to challenge the qualifications or eligibility of an appointee to judicial office shall be given priority over all other actions on the docket of the court in

WVLegislature

which the action is brought.

(g) Nothing contained in this section is intended by the Legislature to interfere with the authority of the Supreme Court of Appeals to discipline or retire judges or magistrates as that authority is set forth in the Constitution of West Virginia and in rules adopted by the Supreme Court of Appeals pursuant to the Constitution of West Virginia.

(h) The Legislature declares that the offices of magistrate, judge of the family court, judge of the circuit court and Justice of the Supreme Court of Appeals are elective in nature and are all "offices to be filled by election by the people" within the meaning of the exceptions clause of section fifteen, article VI of the Constitution of West Virginia, which clause describes the kind and character of the offices thereby removed from the operation of the prohibitory clause and not the method by which the offices are to be filled.

WV Legislature