WEST VIRGINIA CODE CHAPTER 58 ARTICLE 3

WV Legislature

§58-3-1. When appeal lies to circuit court.

An appeal shall lie to the circuit court of the county from the final order of the county commission in the following cases: (a) In cases of contested elections tried and determined by such court; (b) in cases of contempt; (c) the establishment and regulation of a road, way, bridge, public landing, ferry or mill; (d) the probate of a will; (e) the appointment and qualification of a personal representative, guardian, including, but not limited to, all fiduciaries made pursuant to article ten-a, chapter forty-four of this code, or committee, and the settlement of their accounts; (f) the disposition of disputes arising from the provisions of article three, chapter forty-two of this code, which appeal shall be de novo; (g) in any other case by law specially provided.

WV Legislature

§58-3-1a. Procedures for appeals.

Any interested person may appeal the final order of the county commission described by the provisions of subdivision (f), section one of this article to the circuit court as a matter of right by requesting the appeal within four months after the final order of the county commission is rendered. The appeal shall be determined by trial de novo. Upon receipt of the request for appeal, the clerk of the county commission shall collect the circuit court filing fee therefor and forward the same, together with the final order and the request, to the clerk of the circuit court. The court may require the clerk of the county commission to file with the circuit clerk all or any portion of the record of the proceedings which resulted in the final order. No bond may be required from any party to the appeal. The final order of the county commission shall be stayed pending the appeal proceedings. If, after the appeal is filed in the circuit court, the matter is not brought on for hearing before the end of the second term thereafter, the appeal shall be considered abandoned and shall be dismissed at the cost of the appellant unless sufficient cause is shown for a further continuance. Upon such dismissal, the final order of the county commission is affirmed. No appeal which has been so dismissed by the circuit court may be reinstated after the expiration of the next regular term following such dismissal.

WV Legislature

§58-3-2. When procedure to be controlled by provisions of this article.

In any case where there may be an appeal under the preceding section and the manner of appeal is not otherwise specially provided by law, the procedure shall be controlled by the provisions in the following sections of this article; and in any case where the manner of appeal is otherwise specially provided, the provisions in the following sections of this article shall apply and control the procedure to the extent that they are applicable and not inconsistent with special provisions.

WV Legislature

§58-3-3. Bills or certification of exceptions for appeal; refusal of commissioner to sign bill or certificate; party availing of error without formal bill.

At the trial or hearing of any matter by the county court as to which an appeal will lie under section one of this article, a party may except to any opinion of the court and tender a bill of exceptions to such opinion, which, if the truth of the case be fairly stated therein, shall be signed by the commissioners holding the court, or a majority of them, and the same shall be a part of the record of the case. Or, in lieu of such bill of exceptions, such exception may with like effect be shown by certificate in the manner provided in sections thirty-six and thirty-seven, article six, chapter fifty-six of this code, signed by such commissioners, or a majority of them. If any commissioner refuse to sign such bill of exceptions or such certificate in a case in which he participated in the decision complained of, he may be compelled to do so by the circuit court of the county by mandamus. A party to any such proceeding, as to which an appeal will lie as aforesaid may avail himself of any error appearing on the record by which he is prejudiced without obtaining a formal bill of exceptions, provided he objects or excepts on the record to the action of the court complained of, and provided it is such a matter as can be considered without a formal bill of exceptions.

WV Legislature

§58-3-4. Presentation of petition for appeal; when petition must be presented; original record to accompany petition.

In any case in which an appeal lies under section one of this article on behalf of a party to a controversy in a county court, such party may present to the circuit court of the county in which the judgment, order or proceeding complained of was rendered, made or had, or in the vacation of such court, to the judge of such court, the petition of such party for an appeal. Such petition shall be presented within four months after such judgment, order or proceeding was rendered, had or made, and shall assign errors. It shall be accompanied by the original record of the proceeding in lieu of a transcript thereof. Such original record shall be understood as including all papers filed in the proceeding, certified copies of all orders entered in the proceeding, copies of which are not in the files, and all matters included in bills of exceptions, or certificates in lieu thereof, as provided in section three of this article. The record may likewise include and the court may consider an agreed statement of facts, and, in case the testimony in the proceeding below was not stenographically reported and preserved, a certificate of facts made by such commissioners, or a majority of them.

WV Legislature

§58-3-5. Procedure when appeal allowed.

If the appeal be allowed, it shall be docketed and the order of allowance shall specify what bond, if any, is required before such appeal shall take effect, and the petition and record mentioned in the preceding section shall be filed with the clerk of the circuit court. A copy of the order of allowance shall be served upon the opposite party, and upon proper return of such service and the execution of the required bond, the appeal shall be proceeded with in the circuit court. The petition shall be heard and determined and the appeal shall be decided upon the original record of the proceeding as defined in the preceding section.

WV Legislature

§58-3-6. Application to Supreme Court of Appeals when appeal refused by circuit court; action by Supreme Court of Appeals.

If the appeal be refused by the circuit court, the refusal shall be indorsed on the petition, which, together with the original record mentioned in section four of this article, may then be presented to the Supreme Court of Appeals, or a judge thereof in vacation. If the matter be one in which an appeal would lie to that court from a judgment of the circuit court affirming the action of the county court, the Supreme Court of Appeals, or judge thereof, may in such case allow or refuse the appeal, and, in case of allowance, the allowance shall be certified to the circuit court and the like proceedings shall be had in the circuit court as if the allowance were by the circuit court or judge.

WV Legislature

§58-3-7. Procedure upon circuit court's decision.

After the decision of the appeal by the circuit court, the cause or matter shall be remanded to the county court or be retained in the circuit court and there proceeded with as the circuit court may determine and order.

WV Legislature