WEST VIRGINIA CODE CHAPTER 6 ARTICLE 5

WV Legislature

§6-5-1. When terms of office to begin.

The terms of officers, except when elected or appointed to fill vacancies, shall begin respectively as follows: That of Governor, Secretary of State, State Superintendent of Free Schools, Treasurer, Auditor, Attorney General and Commissioner of Agriculture, on the first Monday after the second Wednesday of January next after their election; that of a member of the Legislature, on December 1, next after his or her election; and that of the justices of the Supreme Court of Appeals, the judges of the Intermediate Court of Appeals, the judges of the several circuit courts, the judges of the family and other inferior courts, the county commissioners, prosecuting attorneys, surveyors of land, assessors, sheriffs, clerks of the circuit, or other inferior courts, clerks of the county commissions, magistrates, on January 1, next after their election.

Whenever a person is elected or appointed to fill a vacancy, his or her term shall be as prescribed by chapter three of this code.

WV Legislature

§6-5-2. Continuance until successor qualified.

The term of every officer shall continue (unless the office be vacated by death, resignation, removal from office, or otherwise) until his successor is elected or appointed, and shall have qualified.

WV Legislature

§6-5-2a. Appointments to state boards, agencies, commissions and committees affected by changes in congressional districts.

Any amendment of section three, article two, chapter one of this the code relating to congressional districts shall not affect the qualification or tenure of office of any person who was appointed a member of any state board, agency, commission or committee prior to the effective date of such amendment; however, all appointments made after the effective date of such amendment to any state board, agency, commission or committee on which membership is affected by congressional district requirements shall be made in accordance with the congressional district arrangement provided by said amendment.

If the total number of members prescribed by law on any board, agency, commission or committee, on which membership is affected by congressional district requirements, shall exceed the members from congressional districts, the excess members shall be appointed at large, unless otherwise provided for in this code.

WV Legislature

§6-5-3. Validity of acts of officers de facto.

All judgments given and all acts done by any person, by authority or color of any office, or the deputation thereof, under the restored government of Virginia or of this state, before his removal therefrom, shall be valid, though it afterwards may have been or may be decided or adjudged that he was not lawfully elected or appointed, or was disqualified to hold the office, or that the same had been forfeited or vacated.

WV Legislature

§6-5-4. Residence of officers.

The Governor, Secretary of State, state superintendent of free schools, Auditor, Treasurer, Attorney General and Commissioner of Agriculture, shall reside at the seat of government during their term of office, and keep there the public records, books and papers pertaining to their respective offices. Every judge of a circuit court shall, during his continuance in office, reside in the circuit for which he was chosen. Every county and district officer, except the prosecuting attorney, shall, during his continuance in office, reside in the county or district for which he was elected. And the removal by any such officer from the state, circuit, county or district for which he was elected or chosen shall vacate his office.

WV Legislature

§6-5-5. Disqualification by conviction of treason, felony, or bribery.

No person convicted of treason, felony, or bribery in any election, before any court in or out of this state, shall, while such conviction remains unreversed, be elected or appointed to any office under the laws of this state; and, if any person, while holding such office, be so convicted, the office shall be thereby vacated.

WV Legislature

§6-5-6. Disqualification by sale or farming of office or sharing of emoluments.

If any person holding, or expecting to hold, any office under the laws of this state, shall sell the same, or let it to farm, or share with another person the emoluments of the office, either in whole or in part, or contract to do so, such person and the person who may buy or take to farm, or share in the emoluments, or contract to do so, shall be thereby disqualified from holding such office.

WV Legislature

§6-5-7. Disqualification by duelling.

Any citizen of this state who shall, either in or out of the state, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in such duel, shall ever thereafter be incapable of holding any office of honor, trust or profit in this state.

WV Legislature

§6-5-8. Disqualification of justice who accepts office as deputy sheriff.

A justice of the peace who accepts the office of deputy sheriff and qualifies as such, or continues the duties of such office where he has already qualified, shall thereby vacate his office as a justice of the peace.

WV Legislature

§6-5-9. Office property to be delivered to successor.

All acts of the Legislature, codes, forms, reports, blank books, dockets and other property of whatever kind furnished to any officer by authority of law, are declared to be the property of the office, and shall be delivered by the retiring officer to his successor within ten days after the latter shall have entered upon the duties of his office.

WV Legislature

§6-5-10. Procedure on failure to deliver property to successor; penalty.

If the predecessor of any officer fail to comply with any of the requirements of the preceding section, it shall be the duty of such officer to notify the prosecuting attorney of the county of such failure, who shall forthwith proceed to recover the property, if it can be found, and to place the official bond of such delinquent party in suit, and there shall be a recovery on his official bond of the value of all property not delivered as required by the preceding section or recovered, and, unless it appear that such failure was through no fault of the party complained of, a penalty of $100, and the costs of the suit, including an attorney's fee of $10. The penalty recovered in the suit on the bond shall be paid into the general school fund of the state.

WV Legislature

§6-5-11. Members of Legislature not to be discriminated against in connection with seniority rights; pension coverage or benefits or insurance coverage or benefits provided by employer.

In order to encourage dedicated public service, it shall be unlawful for any private employer to discriminate against an employee who is a member of the Legislature, in connection with any employee seniority rights, employee pension coverage or benefits or employee insurance coverage or benefits, because of such employee's absence from work to attend regular or extraordinary sessions of the Legislature: Provided, That such employee continues to contribute his share of the costs for any such coverage or benefits when such contribution is required by his employer. An employee shall have a cause of action against his employer for violation of the provisions of this section and such cause of action may be enforced in a civil action for such purpose.

WV Legislature

§6-5-12. Leave of absence for public officials for performing public duties.

Any persons elected to a part-time public office or appointed to a part-time elected public office shall be entitled to a leave of absence from his or her private employment except when such employment is with an employer employing five or fewer persons on a full-time basis on the days or portion of any day during which he or she is engaged in performing the duties of his or her public office. The leave of absence shall not result in any penalty being imposed upon the persons entitled to the leave of absence: Provided, That such leave of absence may be without pay by the private employer.

WV Legislature