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SB

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 753

(BY SENATORS KESSLER, OLIVERIO, FOSTER, GREEN,
HUNTER, MINARD, WELLS, WHITE, BARNES,
DEEM, HALL AND MCKENZIE)

[Passed March 10, 2007; in effect ninety days from passage.]

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AN ACT to amend and reenact §3-5-19 of the Code of West Virginia, 1931, as amended, relating to filling vacancies in nominations.

Be it enacted by the Legislature of West Virginia:

That §3-5-19 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

§3-5-19. Vacancies in nominations; how filled; fees.

1 (a) If any vacancy occurs in the party nomination of
2 candidates for office nominated at the primary election
3 or by appointment under the provisions of section
4 eleven of this article, the vacancies may be filled,
5 subject to the following requirements and limitations:

6 (1) Each appointment made under this section shall be
7 made by the executive committee of the political party
8 for the political division in which the vacancy occurs:
9 *Provided*, That if the executive committee holds a duly
10 called meeting in accordance with section nine, article
11 one of this chapter but fails to make an appointment or
12 fails to certify the appointment of the candidate to the
13 proper filing officer within the time required, the
14 chairperson of the executive committee may make the
15 appointment not later than two days following the
16 deadline for the executive committee.

17 (2) Each appointment made under this section is
18 complete only upon the receipt by the proper filing
19 officer of the certificate of appointment by the
20 executive committee, or its chairperson, as the case may
21 be, the certificate of announcement of the candidate as
22 prescribed in section seven of this article and, except for
23 appointments made under subdivision (4), (5), (6) or (7)
24 of this subsection, the filing fee or waiver of fee as
25 prescribed in section eight or eight-a of this article. The
26 proper filing officer is the officer with whom the
27 original certificate of nomination is regularly filed for
28 that office.

29 (3) If a vacancy in nomination is caused by the failure
30 of a candidate to file for an office, or by withdrawal of
31 a candidate no later than the third Tuesday following
32 the close of candidate filing pursuant to the provisions

33 of section eleven of this article, a nominee may be
34 appointed by the executive committee and certified to
35 the proper filing officer no later than thirty days after
36 the last day to file a certificate of announcement
37 pursuant to section seven of this article.

38 (4) If a vacancy in nomination is caused by the
39 disqualification of a candidate and the vacancy occurs
40 not later than eighty-four days before the general
41 election, a nominee may be appointed by the executive
42 committee and certified to the proper filing officer not
43 later than seventy-eight days before the general
44 election. A candidate may be determined ineligible if a
45 written request is made by an individual with
46 information to show a candidate's ineligibility to the
47 State Election Commission no later than eighty-four
48 days before the general election explaining grounds why
49 a candidate is not eligible to be placed on the general
50 election ballot or not eligible to hold the office, if
51 elected. The State Election Commission shall review
52 the reasons for the request. If the commission finds the
53 circumstances warrant the disqualification of the
54 candidate, the commission may authorize appointment
55 by the executive committee to fill the vacancy. Upon
56 receipt of the authorization a nominee may be
57 appointed by the executive committee and certified to
58 the proper filing officer no later than seventy-eight days
59 before the general election.

60 (5) If a vacancy in nomination is caused by the
61 incapacity of the candidate and if the vacancy occurs
62 not later than eighty-four days before the general
63 election, a nominee may be appointed by the executive
64 committee and certified to the proper filing officer no
65 later than seventy-eight days before the general

66 election.

67 (6) If a vacancy in nomination is caused by the
68 withdrawal of the candidate no later than eighty-four
69 days before the general election due to extenuating
70 personal circumstances which will prevent the
71 candidate from serving in the office if elected and if the
72 candidate or the chairperson of the executive committee
73 for the political division applies in writing to the State
74 Election Commission no later than eighty-four days
75 before the general election for permission to remove the
76 candidate's name from the general election ballot, the
77 State Election Commission shall review the reasons for
78 the request. If the commission finds the circumstances
79 warrant the withdrawal of the candidate, the
80 commission shall authorize appointment by the
81 executive committee to fill the vacancy. Upon receipt of
82 the authorization, a nominee may be appointed by the
83 executive committee and certified to the proper filing
84 officer no later than seventy-eight days before the
85 general election.

86 (7) If a vacancy in nomination is caused by the death
87 of the candidate occurring no later than twenty-five
88 days before the general election, a nominee may be
89 appointed by the executive committee and certified to
90 the proper filing officer no later than twenty-one days
91 following the date of death or no later than twenty-two
92 days before the general election, whichever date occurs
93 first.

94 (b) Except as otherwise provided in article ten of this
95 chapter, if any vacancy occurs in a partisan office or
96 position other than political party executive committee,
97 which creates an unexpired term for a position which

98 would not otherwise appear on the ballot in the general
99 election, and the vacancy occurs after the close of
100 candidate filing for the primary election but not later
101 than eighty-four days before the general election, a
102 nominee of each political party may be appointed by the
103 executive committee and certified to the proper filing
104 officer no later than seventy-eight days before the
105 general election. Appointments shall be filed in the
106 same manner as provided in subsection (a) of this
107 section, except that the filing fee shall be paid before
108 the appointment is complete.

109 (c) When a vacancy occurs in the board of education
110 after the close of candidate filing for the primary
111 election but not later than eighty-four days before the
112 general election, a special candidate filing period shall
113 be established. Candidates seeking election to any
114 unexpired term for board of education shall file a
115 certificate of announcement and pay the filing fee to the
116 clerk of the county commission no earlier than the first
117 Monday in August and no later than seventy-seven days
118 before the general election.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chwhite
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Barrel Gibbs
.....
Clerk of the Senate

Gregory M. Sand
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *4th* Day of *April*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 03 2007

Time 1:40 pm