

SB 557

FILED

2010 APR -2 PM 4:07

**WEST VIRGINIA LEGISLATURE**

OFFICE OF THE CLERK  
SECRETARY OF STATE

**SEVENTY-NINTH LEGISLATURE**

**REGULAR SESSION, 2010**

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**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**Senate Bill No. 557**

(SENATORS KESSLER, OLIVERIO,  
D. FACEMIRE AND MINARD, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

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AN ACT to amend and reenact §3-10-5 of the Code of West Virginia, 1931, as amended, clarifying the procedures for the filling of vacancies in the State Legislature.

*Be it enacted by the Legislature of West Virginia:*

That §3-10-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. FILLING VACANCIES.**

**§3-10-5. Vacancies in State Legislature.**

- 1 (a) Any vacancy in the office of State Senator or member
- 2 of the House of Delegates shall be filled by appointment
- 3 by the Governor, from a list of three legally qualified
- 4 persons submitted by the party executive committee of the
- 5 party with which the person holding the office immedi-
- 6 ately preceding the vacancy was affiliated. Such list of
- 7 qualified persons to fill the vacancy shall be submitted to
- 8 the Governor within fifteen days after the vacancy occurs

9 and the Governor shall duly make his or her appointment  
10 to fill the vacancy from the list of legally qualified person  
11 within five days after the list is received. If the list is not  
12 submitted to the Governor within the fifteen day period,  
13 the Governor shall appoint within five days thereafter a  
14 legally qualified person of the same political party as the  
15 person vacating the office.

16 (b) In the case of a member of the House of Delegates,  
17 the list shall be submitted by the party executive commit-  
18 tee of the delegate district in which the vacating member  
19 resided at the time of his or her election or appointment.  
20 The appointment to fill a vacancy in the House of Dele-  
21 gates is for the unexpired term.

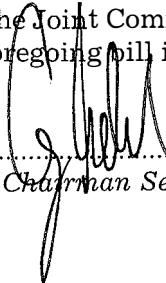
22 (c) In the case of a State Senator, the list shall be sub-  
23 mitted by the party executive committee of the state  
24 senatorial district in which the vacating senator resided at  
25 the time of his or her election or appointment. If the  
26 unexpired term in the office of the State Senator will be  
27 for less than two years and two months, the appointment  
28 is for the unexpired term. If the unexpired term will be for  
29 a period equal to or longer than two years and two  
30 months, the appointment is until the next general election  
31 and until the election and qualification of a successor to  
32 the person appointed, at which general election the  
33 vacancy shall be filled by election for the unexpired term.  
34 Notice of an election to fill a vacancy in the office of State  
35 Senator shall be given by the Governor by proclamation  
36 and shall be published before the election as a Class II-0  
37 legal advertisement in compliance with the provisions of  
38 article three, chapter fifty-nine of this code, and the  
39 publication area for the publication shall be each county  
40 in the senatorial district. Nominations for candidates to  
41 fill a vacancy shall be made in the manner prescribed for  
42 nominating a candidate to fill a vacancy in the office of  
43 Governor to be voted for at a general election. The state  
44 senatorial district executive committee of the political

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45 party shall discharge the duties incident to State Senator  
46 nominations devolving upon the party state executive  
47 committee in nominating a candidate for a state office.

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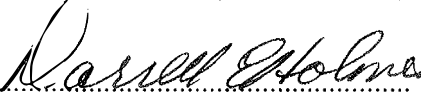
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

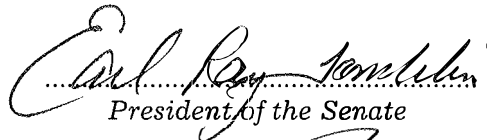
  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *2nd*  
*April*  
Day of ....., 2010.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 01 2010

Time 4:10 pm