

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2013**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 527**

(SENATORS PALUMBO, CANN AND McCABE,  
*ORIGINAL SPONSORS*)

[PASSED APRIL 13, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 527

2013 MAY -3 PM 4:27  
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(SENATORS PALUMBO, CANN AND MCCABE,  
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[Passed April 13, 2013; in effect ninety days from passage.]

**AN ACT to repeal §3-10-4a of the Code of West Virginia, 1931, as amended; to amend and reenact §3-10-1, §3-10-2, §3-10-3, §3-10-3a, §3-10-4, §3-10-5, §3-10-6, §3-10-7 and §3-10-8 of said code; and to amend said code by adding thereto a new section, designated §3-10-9, all relating to filling vacancies of certain elected offices; defining terms; setting procedures for appointing persons to fill certain vacancies; requiring certain appointments within a certain period of time; listing time periods and certain offices where elections must be held to fill certain vacancies; setting special requirements for filling vacancies in certain offices; setting procedures for certain special elections; setting requirements for special filing periods where necessary; requiring certain notice be given regarding elections to fill vacancies; providing for payment of costs if a new election is necessary; allowing nomination of certain persons without party affiliation; allowing emergency orders by the Secretary of State in certain circumstances; removing and repealing certain language relating to previous elections; clarifying method used to fill vacancies in the Office of Governor; permitting meeting of the Judicial Vacancy Advisory**

Commission upon certain formal announcements of retirement or resignation; adjusting method to fill vacancies in certain statewide, legislative and judicial offices such that the timing for all are consistent; adjusting method to fill vacancies in United States Congress; requiring most elections to fill vacancies be held in conjunction with regularly scheduled elections; clarifying method used to fill vacancies in certain county offices; permitting vacancies in certain county offices to be filled by temporary replacements for no more than thirty days; and updating language regarding filling vacancies in certain elected offices.

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

That §3-10-4a of the Code of West Virginia, 1931, as amended, be repealed; that §3-10-1, §3-10-2, §3-10-3, §3-10-3a, §3-10-4, §3-10-5, §3-10-6, §3-10-7 and §3-10-8 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §3-10-9, all to read as follows:

## **ARTICLE 10. FILLING VACANCIES.**

### **§3-10-1. Elections to fill vacancies.**

1           (a) When a vacancy occurs in an elected office of the  
2 state or county, it shall be filled according to the processes set  
3 forth in this article. As used in this article, unless otherwise  
4 indicated by the context:

5           (1) "General cutoff date" means the eighty-fourth day  
6 before the general election that immediately precedes the  
7 general election where the office would be on the ballot for  
8 election if there were not a vacancy; and

9           (2) "Primary cutoff date" means the eighty-fourth day  
10 before the primary election that immediately precedes the  
11 general cutoff date.

12           (b) When this article requires an appointment to fill a  
13 vacancy in an elected office, the appointment shall be made  
14 within thirty days of the vacancy, unless this code  
15 specifically states a different time period for the specific  
16 office. The term that the appointee holds the office shall  
17 depend on when the vacancy occurs, as follows:

18           (1) If the vacancy occurs after the primary cutoff date,  
19 then that appointee shall hold the office until the end of the  
20 term of office: *Provided*, That if the vacancy for any county  
21 office or United States Senate occurs during the window after  
22 the primary cutoff date, but before the general cutoff date, the  
23 process contained in sections four, six, seven and eight of this  
24 article, depending on the specific office vacated, shall be  
25 followed; or

26           (2) If the vacancy occurs on or before the primary cutoff  
27 date, then the office shall be filled at the following regular  
28 primary and subsequent general election pursuant to this  
29 article and the appointee shall hold the office until a qualified  
30 replacement is elected and certified at that general election.  
31 The elected replacement shall hold the office until the end of  
32 the original term of office.

33           (c) If an election is required to fill the vacancy by  
34 subsection (b) of this section and the other provisions of this  
35 article, the election shall proceed depending on when the  
36 vacancy occurs and in which office it occurs. Elections to fill  
37 vacancies shall be held at the same places, and superintended,  
38 conducted and returned, and the result ascertained, certified  
39 and declared, in the same manner, and by the same officers,  
40 as in general elections, unless otherwise stated in this article.

41           (1) For a vacancy in the Office of Governor, the times for  
42 the special elections contained in section two of this article  
43 shall control. The proclamation entered pursuant to section  
44 two of this article by the person acting as Governor shall  
45 include the dates for the special candidate filing period, if  
46 necessary, and shall follow the requirements set forth in this  
47 section. All aspects of this section, where not in conflict with  
48 section two of this article, shall also be followed. If a  
49 regularly scheduled primary or general election fits within the  
50 times for the special elections contained in section two of this  
51 article, the special elections shall be conducted in conjunction  
52 with the regularly scheduled election or elections. If a special  
53 election is required by section two of this article and it cannot  
54 be held in conjunction with the regular election dates, then  
55 the compensation of election officers shall be reimbursed  
56 pursuant to section nine of this article.

57           (2) For a vacancy in the offices of United States House of  
58 Representatives or United States Senate, the times for the  
59 special election, if necessary, contained in section four of this  
60 article shall control. All aspects of this section, where not in  
61 conflict with section four of this article, shall also be  
62 followed.

63           (A) With regard to United States House of  
64 Representatives, the proclamation entered pursuant to section  
65 four of this article by the Governor shall include the dates for  
66 the special candidate filing period, if necessary, and shall  
67 follow the requirements set forth in this section. If a  
68 regularly scheduled primary or general election fits within the  
69 times for the special elections contained in section four of this  
70 article, the special elections shall be conducted in conjunction  
71 with the regularly scheduled election or elections. If a special  
72 election is required by section two of this article and it cannot  
73 be held in conjunction with the regular election dates, then

74 the compensation of election officers shall be reimbursed  
75 pursuant to section nine of this article.

76 (B) With regard to United States Senate, if a special  
77 general election following the regular general election is  
78 required by section four of this article, and it cannot be held  
79 in conjunction with the regular election dates, then the  
80 compensation of election officers shall be reimbursed  
81 pursuant to section nine of this article.

82 (3) For all other offices, the Governor, or other person  
83 granted authority by this article, shall issue a proclamation  
84 stating that the office will appear on the next regular primary  
85 election and subsequent general election, in order to fill the  
86 vacancy: *Provided*, That if the vacancy for any county office  
87 occurs during the window after the primary cutoff date, but  
88 before the general cutoff date, the process contained in  
89 sections six, seven and eight of this article shall be followed.  
90 If the candidate filing period for the next regular primary  
91 election has closed or has less than one week remaining, the  
92 proclamation shall provide for a special primary candidate  
93 filing period. If there are less than eighty-four days between  
94 the vacancy and the next regular primary election, then the  
95 proclamation shall state that the office will appear on the  
96 subsequent regular primary election and corresponding  
97 general election following the next regular primary election.

98 (d) (1) If a special candidate filing period is necessary, it  
99 shall begin no sooner than the day after the proclamation and  
100 shall close no earlier than close of business on the fourteenth  
101 day following the proclamation. A notarized declaration of  
102 candidacy and filing fee provided by section seven, article  
103 five of this chapter shall be filed either in person, by United  
104 States mail, electronic means or any other means authorized  
105 by the Secretary of State and received by the appropriate  
106 office before the close of the filing period. For petition in

107 lieu of payment of filing fees, a candidate seeking nomination  
108 for the vacancy may utilize the process set forth in section  
109 eight-a, article five of this chapter: *Provided*, That the  
110 minimum number of signatures required is equivalent to one  
111 qualified signature per one whole dollar of the filing fee for  
112 that office.

113 (2) If a primary election is required by the provisions of  
114 this article:

115 (A) For all statewide, multicounty and legislative  
116 elections, drawing for the primary election ballot position  
117 will take place at the Secretary of State's office twenty-four  
118 hours after the end of the filing period. For each major  
119 political party on the ballot, a single drawing by lot shall  
120 determine the candidate ballot position for ballots statewide.  
121 This drawing shall be witnessed by four clerks of the county  
122 commission chosen by the West Virginia Association of  
123 County Clerks, with no more than two clerks representing a  
124 single political party.

125 (B) For county elections, drawing for the primary election  
126 ballot position will take place at the county clerk's office  
127 twenty-four hours after the end of the filing period. For each  
128 major political party on the ballot, a single drawing by lot  
129 shall determine the candidate ballot position for ballots  
130 statewide. This drawing shall be witnessed by the chairperson  
131 of the county democratic and republican executive  
132 committees or their designee, and the president of the county  
133 commission or his or her designee.

134 (3) Ballot position for a general election required by this  
135 article shall be determined pursuant to subdivision (3),  
136 subsection (c), section two, article six of this chapter. If a  
137 general election required by this article occurs in conjunction  
138 with a regularly scheduled primary election, the general

139 election shall be listed along with the nonpartisan portion of  
140 each ballot in the order of offices provided for regular ballots  
141 in this chapter.

142 (c) When an election is required to fill a vacancy, the date  
143 of the election and offices to be elected, as well as any other  
144 information required in the proclamation, shall be published  
145 prior to such election as a Class I-O legal advertisement in  
146 compliance with the provisions of article three, chapter fifty-  
147 nine of this code, and the publication area for such  
148 publication shall be each county of the state that is eligible to  
149 vote in the election for those offices.

150 (f) If an election is required by this article, citizens having  
151 no party organization or affiliation may nominate candidates  
152 as provided by sections twenty-three and twenty-four of  
153 article five of this chapter: *Provided*, That when an election  
154 is required by the provisions of this article to be held at some  
155 time other than with a regularly scheduled election, all  
156 certificates nominating candidates shall be filed with the  
157 appropriate official no later than ninety days before the  
158 election.

159 (g) The persons elected, having first duly qualified, shall  
160 enter upon the duties of their respective offices. The elected  
161 replacement shall hold the office until the end of the original  
162 term of office.

### **§3-10-2. Vacancy in Office of Governor.**

1 (a) In case of the death, conviction on impeachment,  
2 failure to qualify, resignation or other disability of the  
3 Governor, the President of the Senate shall act as Governor  
4 until the vacancy is filled or the disability removed; and if the  
5 President of the Senate, for any of the above-named causes,  
6 shall be or become incapable of performing the duties of



7 Governor, the same shall devolve upon the Speaker of the  
8 House of Delegates; and in all other cases where there is no  
9 one to act as Governor, one shall be chosen by the joint vote  
10 of the Legislature. Whenever a vacancy shall occur in the  
11 Office of Governor before the first three years of the term  
12 shall have expired, a new election for Governor shall take  
13 place to fill the vacancy.

14 (b) The new election shall consist of a special primary  
15 election and a special general election, and shall occur at such  
16 time as will permit the person elected as Governor in the new  
17 election to assume office within one year of the date the  
18 vacancy occurred: *Provided*, That the special general election  
19 provided in this section may not apply to section eight, article  
20 one of this chapter. Within thirty days from the date the  
21 vacancy occurs, the person acting as Governor pursuant to  
22 the State Constitution shall issue a proclamation fixing the  
23 time for a statewide election to fill the vacancy in the Office  
24 of Governor. The special primary election to fill a vacancy  
25 in the Office of Governor shall take place no less than ninety  
26 days after the proclamation and no later than one hundred  
27 forty days from the date that the vacancy in the office occurs.  
28 The proclamation issued by the person acting as Governor  
29 pursuant to the State Constitution shall also provide for a  
30 special general election to take place no sooner than ninety  
31 days after the special primary election and no later than two  
32 hundred eighty days from the date that the vacancy in the  
33 office occurs.

34 (c) The election shall follow the requirements of section  
35 one of this article that are not in conflict with this section.

**§3-10-3. Vacancies in offices of state officials, United States  
Senators and judges.**

1 Any vacancy occurring in the offices of Secretary of  
2 State, Auditor, Treasurer, Attorney General, Commissioner  
3 of Agriculture, Justice of the Supreme Court of Appeals or in  
4 any office created or made elective to be filled by the voters  
5 of the entire state, judge of a circuit court or judge of a family  
6 court is filled by the Governor of the state by appointment  
7 and subsequent election to fill the remainder of the term, if  
8 required by section one of this article.

**§3-10-3a. Judicial Vacancy Advisory Commission.**

1 (a) The Judicial Vacancy Advisory Commission shall  
2 assist the Governor in filling judicial vacancies. The  
3 commission shall meet and submit a list of no more than five  
4 nor less than two best qualified persons to the Governor  
5 within ninety days of the occurrence of a vacancy, or the  
6 formal announcement of the justice or judge by letter to the  
7 Governor of an upcoming resignation or retirement that will  
8 result in the occurrence of a vacancy, in the office of Justice  
9 of the Supreme Court of Appeals, judge of a circuit court or  
10 judge of a family court. The Governor shall make the  
11 appointment to fill the vacancy, as required by this article,  
12 within thirty days following the receipt of the list of qualified  
13 candidates or within thirty days following the vacancy,  
14 whichever occurs later.

15 (b) The commission shall consist of eight appointed  
16 members. Four public members shall be appointed by the  
17 Governor for six-year terms, except for the initial  
18 appointments which shall be staggered in accordance with  
19 subsection (c) of this section. Four attorney members shall  
20 be appointed by the Governor for six-year terms, except as  
21 provided in subsection (c) of this section, from a list of  
22 nominees provided by the Board of Governors of the West  
23 Virginia State Bar. The Board of Governors of the West  
24 Virginia State Bar shall nominate no more than twenty nor

25 less than ten best qualified attorneys for appointment to the  
26 commission whenever there is a vacancy in the membership  
27 of the commission reserved for attorney members. The  
28 commission shall choose one of its appointed members to  
29 serve as chair for a three-year term. No more than four  
30 appointed members of the commission shall belong to the  
31 same political party. No more than three appointed members  
32 of the commission shall be residents of the same  
33 congressional district. All members of the commission shall  
34 be citizens of this state. Public members of the commission  
35 may not be licensed to practice law in West Virginia or any  
36 other jurisdiction.

37 (c) Of the initial appointments made to the commission,  
38 two public members and two attorney members shall be  
39 appointed for a term ending two years after the effective date  
40 of this section, one public member and one attorney member  
41 shall be appointed for a term ending four years after the  
42 effective date of this section, and one public member and one  
43 attorney member shall be appointed for a term ending six  
44 years after the effective date of this section.

45 (d) The Governor, or his or her designee, the President of  
46 the West Virginia State Bar and the Dean of the West  
47 Virginia University College of Law shall serve as *ex officio*  
48 members of the commission.

49 (e) Members of the commission shall serve without  
50 compensation, except that commission members are entitled  
51 to reimbursement of travel and other necessary expenses  
52 actually incurred while engaged in official commission  
53 activities in accordance with the guidelines of the Travel  
54 Management Office of the Department of Administration, or  
55 its successor entity. The Governor's Office shall cooperate  
56 with the commission to ensure that all resources necessary to

57 carrying out the official duties of the commission are  
58 provided, including staff assistance, equipment and materials.

59 (f) The commission shall adopt written policies that  
60 formalize and standardize all operating procedures and  
61 ethical practices of its members including, but not limited to,  
62 procedures for training commission members, publishing  
63 notice of judicial vacancies, recruiting qualified individuals  
64 for consideration by the commission, receiving applications  
65 from qualified individuals, notifying the public of judicial  
66 vacancies, notifying state or local groups and organizations  
67 of judicial vacancies and soliciting public comment on  
68 judicial vacancies. The written policies of the commission  
69 are not subject to the provisions of chapter twenty-nine-a of  
70 this code, but shall be filed with the Secretary of State.

71 (g) A majority of the commission plus one shall constitute  
72 a quorum to do business.

73 (h) All organizational meetings of the commission shall  
74 be open to the public and subject to the requirements of  
75 article nine-a, chapter six of this code. An "organizational  
76 meeting" means an initial meeting to discuss the  
77 commission's procedures and requirements for a judicial  
78 vacancy. The commission shall hold at least one  
79 organizational meeting upon the occurrence of a judicial  
80 vacancy. All other meetings of the commission are exempt  
81 from article nine-a, chapter six of this code.

82 (i) The commission shall make available to the public  
83 copies of any applications and any letters of recommendation  
84 written on behalf of any applicants. All other documents or  
85 materials created or received by the commission shall be  
86 confidential and exempt from the provisions of chapter  
87 twenty-nine-b of this code, except for the list of best-  
88 qualified persons or accompanying memoranda submitted to

89 the Governor in accordance with the provisions of subsection  
90 (j) of this section, which shall be available for public  
91 inspection, and the written policies required to be filed with  
92 the Secretary of State in accordance with subsection (f) of  
93 this section.

94 (j) The commission shall submit its list of best qualified  
95 persons to the Governor in alphabetical order. A  
96 memorandum may accompany the list of best-qualified  
97 persons and state facts concerning each of the persons listed.  
98 The commission shall make copies of any list of best-  
99 qualified persons and accompanying memoranda it submits  
100 to the Governor available for public inspection.

#### **§3-10-4. Vacancies in representation in United States Congress.**

1 (a) (1) If there is a vacancy in the representation from this  
2 state in the House of Representatives in the Congress of the  
3 United States, the Governor shall, within five days after the  
4 fact comes to his or her knowledge, issue a proclamation  
5 setting dates for a special general election that is not less than  
6 eighty-four nor more than one hundred twenty days from the  
7 date of the vacancy and requiring nomination of candidates  
8 as provided in subdivision (2) of this subsection: *Provided,*  
9 That no such proclamation may be made nor may a special  
10 election be held if the vacancy occurs after the eighty-fourth  
11 day prior to the regularly scheduled general election for a  
12 new full term of the office. The election shall follow the  
13 requirements of section one of this article that are not in  
14 conflict with this section.

15 (2) The party executive committees for the congressional  
16 district for which there is a vacancy shall each, within thirty  
17 days of the governors proclamation, nominate a candidate to  
18 stand at the general election required by subdivision (1) of  
19 this subsection.

20 (b) If there is a vacancy in the representation from this  
21 state in the Senate of the United States Congress, the vacancy  
22 shall be filled by the Governor of the state by appointment  
23 and:

24 (1) If the vacancy occurs on or before the primary cutoff  
25 date, then an election shall be held pursuant to section one of  
26 this article; or

27 (2) If the vacancy occurs after the primary cutoff date, but  
28 on or before the general cutoff date, then the Governor shall  
29 issue a proclamation providing for: (A) A special filing  
30 period; (B) a special primary election to be held in  
31 conjunction with the upcoming general election; and (C) a  
32 special general election to be held not less than eighty-four  
33 nor more than one hundred twenty days following the date of  
34 the special primary election. Each election shall follow the  
35 requirements of section one of this article that are not in  
36 conflict with this section.

### **§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 by  
3 the Governor, from a list of three legally qualified persons  
4 submitted by the party executive committee of the party with  
5 which the person holding the office immediately preceding  
6 the vacancy was affiliated. The list of qualified persons to fill  
7 the vacancy shall be submitted to the Governor within fifteen  
8 days after the vacancy occurs and the Governor shall duly  
9 make his or her appointment to fill the vacancy from the list  
10 of legally qualified persons within five days after the list is  
11 received. If the list is not submitted to the Governor within  
12 the fifteen day period, the Governor shall appoint within five  
13 days thereafter a legally qualified person of the same political  
14 party as the person vacating the office.

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

21           (c) In the case of a State Senator, the list shall be  
22 submitted by the party executive committee of the state  
23 senatorial district in which the vacating senator resided at the  
24 time of his or her election or appointment. The appointment  
25 to fill a vacancy in the State Senate is for the unexpired term,  
26 unless section one of this article requires a subsequent  
27 election to fill the remainder of the term, which shall follow  
28 the procedure set forth in section one of this article.

**§3-10-6. Vacancy in office of circuit court clerk.**

1           (a) When a vacancy occurs in the office of clerk of the  
2 circuit court, the circuit court by a majority vote of the judges  
3 shall fill the same within thirty days of the vacancy by  
4 appointment of a person of the same political party as the  
5 officeholder vacating the office for the period required by  
6 section one of this article.

7           (b) Notwithstanding any code provision to the contrary,  
8 the chief judge may appoint a temporary successor to the  
9 office of clerk of the circuit court until the requirements of  
10 this section have been met. The temporary successor may  
11 serve no more than thirty days from the date of the vacancy.

12           (c) If an election is necessary, the circuit court, or the  
13 chief judge thereof in vacation, is responsible for the proper  
14 proclamation, by order and notice required by section one of  
15 this article.

16 (d) Section one of this article shall be followed with  
17 respect to any election needed to fill a vacancy, except that if  
18 the vacancy occurs after the primary cutoff date but not later  
19 than the general cutoff date, candidates to fill the vacancy  
20 shall be nominated by the county executive committee in the  
21 manner provided in section nineteen, article five of this  
22 chapter, as in the case of filling vacancies in nominations, and  
23 the names of the persons, so nominated and certified to the  
24 clerk of the county commission of the county, shall be placed  
25 upon the ballot to be voted at the next general election.

**§3-10-7. Vacancies in offices of county commissioner and clerk  
of county commission.**

1 (a) Any vacancy in the office of county commissioner or  
2 clerk of county commission shall be filled by the county  
3 commission of the county, unless the number of vacancies in  
4 a county commission deprive that body of a quorum, in  
5 which case the Governor of the state shall fill any vacancy in  
6 the county commission necessary to create a quorum thereof.  
7 Persons appointed shall be of the same political party as the  
8 officeholder vacating the office for the period stated by  
9 section one of this article. If a quorum of the county  
10 commission cannot agree upon a person to fill a vacancy in  
11 the office of county commissioner within thirty days of the  
12 date the vacancy first occurred, the county executive  
13 committee of the vacating county commissioner's political  
14 party shall select and name a person to fill the vacancy from  
15 the membership of the vacating county commissioner's  
16 political party. The clerk shall be appointed within thirty  
17 days of the vacancy.

18 (b) Notwithstanding any code provision to the contrary,  
19 a county commission may appoint a temporary successor to  
20 the office of clerk of the county commission until the  
21 requirements of this section have been met. The temporary



22 successor may serve no more than thirty days from the date  
23 of the vacancy.

24 (c) If an election is necessary under section one of this  
25 article, the county commission, or the president thereof in  
26 vacation, shall be responsible for the proper proclamation, by  
27 order, and notice required by section one of this article.

28 (d) Section one of this article shall be followed with  
29 respect to any election needed to fill a vacancy, except that if  
30 the vacancy occurs after the primary cutoff date but not later  
31 than the general cutoff date, candidates to fill the vacancy  
32 shall be nominated by the county executive committee in the  
33 manner provided in section nineteen, article five of this  
34 chapter, as in the case of filling vacancies in nominations, and  
35 the names of the persons, so nominated and certified to the  
36 clerk of the county commission of the county, shall be placed  
37 upon the ballot to be voted at the next general election.

38 (e) If the election for an unexpired term is held at the  
39 same time as the election for a full term for county  
40 commissioner, the full term shall be counted first and the  
41 unexpired term shall be counted second. If the candidate  
42 with the highest number of votes for the unexpired term  
43 resides in the same magisterial district as the candidate with  
44 the highest number of votes for the full term, the candidate  
45 for the full term shall be seated. The candidate with the next  
46 highest number of votes for the unexpired term residing in a  
47 different magisterial district shall be seated for the unexpired  
48 term.

**§3-10-8. Vacancies in offices of prosecuting attorney, sheriff,  
assessor and surveyor.**

1 (a) Any vacancy occurring in the office of prosecuting  
2 attorney, sheriff, assessor or county surveyor shall be filled

3 by the county commission within thirty days of the vacancy  
4 by appointment of a person of the same political party as the  
5 officeholder vacating the office. The appointed person shall  
6 hold the office for the period stated by section one of this  
7 article.

8 (b) Notwithstanding any code provision to the contrary,  
9 a county commission may appoint a temporary successor to  
10 the office of prosecuting attorney, sheriff, assessor or county  
11 surveyor until the requirements of this section have been met.  
12 The temporary successor may serve no more than thirty days  
13 from the date of the vacancy.

14 (c) If an election is necessary under section one of this  
15 article, the county commission, or the president thereof in  
16 vacation, shall be responsible for the proper proclamation, by  
17 order, and notice required by section one of this article.

18 (d) Section one of this article shall be followed with  
19 respect to any election needed to fill a vacancy, except that if  
20 the vacancy occurs after the primary cutoff date but not later  
21 than the general cutoff date, candidates to fill the vacancy  
22 shall be nominated by the county executive committee in the  
23 manner provided in section nineteen, article five of this  
24 chapter, as in the case of filling vacancies in nominations, and  
25 the names of the persons, so nominated and certified to the  
26 clerk of the county commission of the county, shall be placed  
27 upon the ballot to be voted at the next general election.

**§3-10-9. Costs of special elections paid by state.**

1 If an election as required by sections two or four of this  
2 article cannot be held in conjunction with the regular election  
3 dates, then the cost of printing ballots and all other reasonable  
4 and necessary expenses in holding and making the return of  
5 the new election to fill a vacancy are obligations of the state

6 incurred by the ballot commissioners, clerks of the county  
7 commissions and county commissions of the various counties  
8 as agents of the state. All expenses of the new election are to  
9 be audited by the Secretary of State. The Secretary of State  
10 shall prepare and transmit to the county commissions forms  
11 on which the county commissions shall certify all expenses  
12 of the new election to the Secretary of State. If satisfied that  
13 the expenses as certified by the county commissions are  
14 reasonable and were necessarily incurred, the Secretary of  
15 State shall requisition the necessary warrants from the  
16 Auditor of the state to be drawn on the State Treasurer and  
17 shall mail the warrants directly to the vendors of the new  
18 election services, supplies and facilities.

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

*Rocky Ferguson*  
.....  
~~Member~~ ~~Chairman~~ Senate Committee

*James Well*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Joseph M. Minard*  
.....  
Clerk of the Senate

*Gregory S. ...*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

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

2013 MAY -3 PM 4:27  
FILED  
CLERK OF STATE

The within *is approved* this the *3rd*  
Day of *May*, 2013.

*Carl Ray Tomber*  
.....  
Governor

**PRESENTED TO THE GOVERNOR**

MAY - 1 2013

Time 1:55 pm