WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2015

ENROLLED
COMMITTEE SUBSTITUTE FOR
House Bill No. 2010

(By Delegate(s) Kessinger, McCuskey, Boarder, Shott, Rowan, Frich, Westfall, Lane, Anderson, Sobonya and Faircloth)

Passed February 23, 2015

In effect ninety days from passage.
AN ACT to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-4 of said code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend and reenact §3-10-3 of said code; to amend and reenact §3-12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12 and §3-12-14 of said code; to amend and reenact §6-5-1 of said code; to amend and reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of said code; and to
amend and reenact §51-2A-5 of said code, all relating to electoral reforms of the West Virginia judiciary generally; requiring the election of justices of the Supreme Court of Appeals, circuit court judges, family court judges and magistrates be on a nonpartisan basis; requiring that elections to certain offices be on a division basis when more than one justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate is to be elected; providing for the timing and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that elections for justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate are to be held on the same date as the primary election; requiring nonpartisan ballots be used: establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing occasions for special elections to be held to fill vacancies; providing that unsuccessful nonpartisan candidates can be selected to fill ballot vacancies in a general election; providing the timing of commencement of the terms of offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; and providing for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

Be it enacted by the Legislature of West Virginia:

That §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §3-4A-11a of said code be amended and reenacted; that §3-5-4 of said code be amended and reenacted; that said code be amended by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; that §3-5-7, §3-5-13 and §3-5-13a of said code be amended and reenacted; that §3-10-3 of said code be amended and reenacted; that §3-12-3, §3-12-6,
§3-16. Election of state officers.

(a) At the general election to be held in 1968, and every fourth year thereafter, there shall be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of Agriculture. At the general election in 1968, and every second year thereafter, there shall be elected a member of the State Senate for each senatorial district, and a member or members of the House of Delegates of the state from each county or each delegate district.

(b) At the time of the primary election to be held in the year 2016, and every twelfth year thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of the primary election to be held in 2020, and every twelfth year thereafter, two justices of the Supreme Court of Appeals and at the time of the primary election to be held in 2024, and every twelfth year thereafter, two justices of the Supreme Court of Appeals. Effective with the primary election held in the year 2016, the election of justices of the Supreme Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully in article five of this chapter.

§3-17. Election of circuit judges; county and district officers; magistrates.

(a) There shall be elected, at the time of the primary election to be held in 2016, and every eighth year thereafter, one judge of
the circuit court of every judicial circuit entitled to one judge, 
and one judge for each numbered division of the judicial circuit 
in those judicial circuits entitled to two or more circuit judges; 
and at the time of the primary election to be held in 2016, and in 
every fourth year thereafter, the number of magistrates 
prescribed by law for the county. Beginning with the election 
held in the year 2016, an election for the purpose of electing 
judges of the circuit court, or an election for the purpose of 
electing magistrates, shall be upon a nonpartisan ballot printed 
for the purpose.

(b) At the general election to be held in 1992, and every 
fourth year thereafter, a sheriff, prosecuting attorney, surveyor 
of lands, and the number of assessors prescribed by law for the 
county; and at the general election to be held in 1990, and every 
second year thereafter, a commissioner of the county 
commission for each county; and at the general election to be 
held in 1992, and every sixth year thereafter, a clerk of the 
county commission and a clerk of the circuit court for each 
county.

(c) Effective with the primary election of 2016, all elections 
for judge of the circuit courts in the respective circuits and 
magistrates in each county will be elected on a nonpartisan basis 
and by division as set forth more fully in article five of this 
chapter.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity 
to be printed, ballot stub numbers.

(a) The board of ballot commissioners in counties using 
ballots upon which votes may be recorded by means of marking 
with electronically sensible ink or pencil and which marks are 
tabulated electronically shall cause the ballots to be printed or
displayed upon the screens of the electronic voting system for use in elections.

(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to sections thirteen and thirteen- 

(2) For the general election, the heading of the ballot, the straight ticket positions, the instructions to straight ticket voters, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to section two, article six of this chapter, except as otherwise provided in this article.

(3) (A) Effective with the primary election held in 2016, and thereafter, for the nonpartisan judicial offices, by division, of:

(i) Justice of the Supreme Court of Appeals;

(ii) Judge of the circuit court;

(iii) Family court judge; and

(iv) Magistrate;

(B) Nonpartisan elections for Board of Education: and

(C) Any question to be voted upon; are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under this chapter.

(4) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the
secracy of the ballot are provided and lines for the signatures of
the poll clerks on the ballot are printed on a portion of the ballot
which is deposited in the ballot box and upon which marks do
not interfere with the proper tabulation of the votes.

(5) The arrangement of candidates within each office is to be
determined in the same manner as for other electronic voting
systems, as prescribed in this chapter. On the general election
ballot for all offices, and on the primary election ballot only for
those offices to be filled by election, except delegate to national
convention, lines for entering write-in votes are to be provided
below the names of candidates for each office, and the number
of lines provided for any office shall equal the number of
persons to be elected, or three, whichever is fewer. The words
"WRITE-IN, IF ANY" are to be printed, where applicable,
directly under each line for write-ins. The lines are to be
opposite a position to mark the vote.

c) Except for electronic voting systems that utilize screens
upon which votes may be recorded by means of a stylus or by
means of touch, the primary election ballots are to be printed in
the color of ink specified by the Secretary of State for the
various political parties, and the general election ballot is to be
printed in black ink. For electronic voting systems that utilize
screens upon which votes may be recorded by means of a stylus
or by means of touch, the primary ballots and the general
election ballot are to be printed in black ink. All ballots are to be
printed, where applicable, on white paper suitable for automatic
tabulation and are to contain a perforated stub at the top or
bottom of the ballot, which is to be numbered sequentially in the
same manner as provided in section thirteen, article five of this
chapter, or are to be displayed on the screens of the electronic
voting system upon which votes are recorded by means of a
stylus or touch. The number of ballots printed and the packaging
of ballots for the precincts are to conform to the requirements for
paper ballots provided in this chapter.
(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-4. Nomination of candidates in primary elections.

(a) At each primary election, the candidate or candidates of each political party for all offices to be filled at the ensuing general election by the voters of the entire state, of each congressional district, of each state senatorial district, of each delegate district, and of each county in the state shall be nominated by the voters of the different political parties, except that no presidential elector shall be nominated at a primary election.

(b) In primary elections a plurality of the votes cast shall be sufficient for the nomination of candidates for office. Where only one candidate of a political party for any office in a political division, including party committeemen and delegates to national conventions, is to be chosen the candidate receiving the highest number of votes therefor in the primary election shall be declared the party nominee for such office. Where two or more such candidates are to be chosen in the primary election, the candidates constituting the proper number to be so chosen who shall receive the highest number of votes cast in the political division in which they are candidates shall be declared the party nominees and choices for such offices, except that:

(1) Candidates for the office of commissioner of the county commission shall be nominated and elected in accordance with the provisions of section ten, article nine of the Constitution of the State of West Virginia and the requirements of section one-b, article one, chapter seven of this code;
§3-5-6a. Election of justices of the Supreme Court of Appeals.

(a) An election for the purpose of electing a justice or justices of the Supreme Court of Appeals shall be held on the same date as the primary election, as provided by law, upon a nonpartisan ballot by division printed for this purpose. For election purposes, in each election at which shall be elected more than one justice of the Supreme Court of Appeals, the election shall be by numbered division corresponding to the number of justices being elected. Each justice shall be elected at large from the entire state.

(b) In each nonpartisan election by division for a justice of the Supreme Court of Appeals, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie vote.
§3-5-6b. Election of circuit judges.

(a) An election for the purpose of electing a circuit court judge or judges shall be held on the same date as the primary election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a circuit court judge, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie vote.

§3-5-6c. Election of family court judges.

(a) An election for the purpose of electing a family court judge or judges shall be held on the same date as the primary election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a family court judge, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie vote.

§3-5-6d. Election of magistrates.

(a) An election for the purpose of electing a magistrate or magistrates by division shall be held on the same date as the
(b) The certificate of announcement shall be filed as follows:

1. Candidates for the House of Delegates, the State Senate, circuit judge, family court judge, and any other office or political position to be filled by the voters of more than one county shall file a certificate of announcement with the Secretary of State.

2. Candidates for an office or political position to be filled by the voters of a single county or a subdivision of a county, except for candidates for the House of Delegates, State Senate, circuit judge or family court judge, shall file a certificate of announcement with the clerk of the county commission.

3. Candidates for an office to be filled by the voters of a municipality shall file a certificate of announcement with the recorder or city clerk.
(c) The certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January before the primary election day and not later than the last Saturday in January before the primary election day and must be received before midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour. This includes the offices of justice of the Supreme Court of Appeals, circuit court judge, family court judge and magistrate, which are to be filled on a nonpartisan and division basis at the primary election.

(d) The certificate of announcement shall be on a form prescribed by the Secretary of State on which the candidate shall make a sworn statement before a notary public or other officer authorized to administer oaths, containing the following information:

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought: the district, if any; and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in section thirteen, article five of this chapter;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

(5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state and zip code;

(6) For partisan elections, the name of the candidate's political party and a statement that the candidate: (A) Is a
member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of sixty days before the date of filing the announcement;

(7) For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot: or a statement that the candidate prefers to remain "uncommitted";

(8) A statement that the person filing the certificate of announcement is a candidate for the office in good faith;

(9) The words "subscribed and sworn to before me this _____ day of ____________, 20____" and a space for the signature of the officer giving the oath.

(e) The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter's registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the sixty days immediately preceding the filing of the certificate: Provided, That unless a signed formal complaint of violation of this section and the certified copy of the voter's registration record of the candidate are filed with the officer receiving that candidate's certificate of announcement no later than ten days following the close of the filing period, the candidate may not be refused certification for this reason.

(f) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty
of false swearing and shall be punished in accordance with
section three, article nine of this chapter.

(g) Any candidate for delegate to a national convention may
change his or her statement of presidential preference by
notifying the Secretary of State by letter received by the
Secretary of State no later than the third Tuesday following the
close of candidate filing. When the rules of the political party
allow each presidential candidate to approve or reject candidates
for delegate to convention who may appear on the ballot as
committed to that presidential candidate, the presidential
candidate or the candidate’s committee on his or her behalf may
file a list of approved or rejected candidates for delegate and the
Secretary of State shall list as “uncommitted” any candidate for
delegate who is disapproved by the presidential candidate.

(h) A person may not be a candidate for more than one office
or office division at any election: Provided, That a candidate for
an office may also be a candidate for President of the United
States, for membership on political party executive committees
or for delegate to a political party national convention: Provided,
however, That an unsuccessful candidate for a nonpartisan office
in an election held concurrently with the primary election may
be appointed under the provisions of section nineteen of this
article to fill a vacancy on the general ballot.

(i) A candidate who files a certificate of announcement for
more than one office or division and does not withdraw, as
provided by section eleven, article five of this chapter, from all
but one office prior to the close of the filing period may not be
certified by the Secretary of State or placed on the ballot for any
office by the board of ballot commissioners.

§3-5-13. Form and contents of ballots.

The following provisions apply to the form and contents of
election ballots:
(1) The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

(2) The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words “Primary Election” and the month, day and year of the election. The ballot title of the political party ballots is to contain the words “Official Ballot of the (Name) Party” and the official symbol of the political party may be included in the heading.

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officer shall commence with the words “Nonpartisan Ballot of Election of Judicial Officers” and each such office shall be listed in the following order:

(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all justices of the Supreme Court of Appeals shall contain the words “Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia”. The names of the candidates for the Supreme Court of Appeals shall be printed by division without references to political party affiliation or registration.

(ii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The names of the candidates for the respective circuit court judge office shall be printed by division without references to political party affiliation or registration.

(iii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words
"Nonpartisan Ballot of Election of Family Court Judge(s)". The names of the candidates for the respective family court judge office shall be printed by division without references to political party affiliation or registration.

(iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Magistrate(s)". The names of the candidates for the respective magistrate office shall be printed by division without references to political party affiliation or registration.

(B) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Board of Education is to contain the words "Nonpartisan Ballot of Election of Members of the County Board of Education". The districts for which less than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed without reference to political party affiliation and without designation as to a particular term of office.

(C) Any other ballot or portion of a ballot on a question is to have a heading which clearly states the purpose of the election according to the statutory requirements for that question.

(3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the ballot by heavy lines and the offices shall be arranged in columns with the following headings, from left to right across the ballot: "National Ticket", "State Ticket", "County Ticket" and, in a presidential election year, "National Convention" or, in a nonpresidential election year, "District Ticket". The columns are to be separated by heavy lines. Within the columns, the offices are to be arranged in the order prescribed in section thirteen-a of this article.
(B) For voting machines, electronic voting devices and any ballot tabulated by electronic means, the offices are to appear in the same sequence as prescribed in section thirteen-a of this article and under the same headings as prescribed in paragraph (A) of this subdivision. The number of pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and composition requirements subject to approval by the Secretary of State.

(C) The title of each office is to be separated from preceding offices or candidates by a line and is to be printed in bold type no smaller than eight point. Below the office is to be printed the number of the district, if any, the number of the division, if any, and the words "Vote for ________" with the number to be nominated or elected or "Vote For Not More Than ________" in multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words "Vote for One" printed below the name of the office: Provided, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

(D) The location for indicating the voter’s choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot is to contain
a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are to be printed in lower case letters beneath the names of the candidates.

(C) The arrangement of names within each office must be determined as prescribed in section thirteen-a of this article.

(D) If the number of candidates for an office exceeds the space available on a column or ballot page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages are to be nearly equal and clear instructions given the voter that the candidates for the office are continued on the following column or page.

(5) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office
or for the voters to elect sufficient members to the board of
Education or to executive committees, the vacant positions on
the ballot shall be filled with the words "No Candidate Filed":
*Provided, That in paper ballot systems which allow for write-ins
to be made directly on the ballot, a blank line shall be placed in
any vacant position in the office of board of education or for
election to any party executive committee. A line shall separate
each candidate from every other candidate for the same office.
Notwithstanding any other provision of this code, if there are
multiple vacant positions on a ballot for one office, the multiple
vacant positions which would otherwise be filled with the words
"No Candidate Filed" may be replaced with a brief detailed
description, approved by the Secretary of State, indicating that
there are no candidates listed for the vacant positions.

(6) In presidential election years, the words "For election in
accordance with the plan adopted by the party and filed with the
Secretary of State" is to be printed following the names of all
candidates for delegate to national convention.

(7) All paper ballots are to be printed in black ink on paper
sufficiently thick so that the printing or marking cannot be
discernible from the back: *Provided, That no paper ballot voted
pursuant to the provisions of 42 U. S. C. §1973, *et seq.,* the
Uniformed and Overseas Citizens Absentee Voting Act of 1986,
or federal write-in absentee ballot may be rejected due to paper
type, envelope type, or notarization requirement. Ballot cards
and paper for printing ballots using electronically sensible ink
are to meet minimum requirements of the tabulating systems and
are to conform in size and weight to ensure ease in tabulation.

(8) Ballots are to contain perforated tabs at the top of the
ballots and are to be printed with unique sequential numbers
from one to the highest number representing the total number of
ballots printed. On paper ballots, the ballot is to be bordered by
163 a solid line at least one sixteenth of an inch wide and the ballot
164 is to be trimmed to within one-half inch of that border.

165 (9) On the back of every official ballot or ballot card the
166 words “Official Ballot” with the name of the county and the date
167 of the election are to be printed. Beneath the date of the election
168 there are to be two blank lines followed by the words “Poll
169 Clerks”.

170 (10) The face of sample paper ballots and sample ballot
171 labels are to be like other official ballots or ballot labels except
172 that the word “sample” is to be prominently printed across the
173 front of the ballot in a manner that ensures the names of
174 candidates are not obscured and the word “sample” may be
175 printed in red ink. No printing may be placed on the back of the
176 sample.

§3-5-13a. Order of offices and candidates on the ballot; uniform
drawing date.

(a) The order of offices for state and county elections on all
1 ballots within the state shall be as prescribed herein. When the
2 office does not appear on the ballot in an election, then it shall be
3 omitted from the sequence. When an unexpired term for an
4 office appears on the ballot along with a full term, the unexpired
5 term shall appear immediately below the full term.

7 NATIONAL TICKET: President (and Vice President in the
8 general election), United States Senator, member of the United
9 States House of Representatives.

10 STATE TICKET: Governor, Secretary of State, Auditor,
11 Treasurer, Commissioner of Agriculture, Attorney General,
12 State Senator, member of the House of Delegates, any other
13 multicounty office, state executive committee.
COUNTY TICKET: Clerk of the circuit court, county commissioner, clerk of the county commission, prosecuting attorney, sheriff, assessor, surveyor, congressional district executive committee, senatorial district executive committee in multicounty districts, delegate district executive committee in multicounty districts.

NATIONAL CONVENTION: Delegate to the national convention — at-large, delegate to the national convention — congressional district.

DISTRICT TICKET: County executive committee.

(b) Except for office divisions in which no more than one person has filed a certificate of announcement, the arrangement of names for all offices shall be determined by lot according to the following provisions:

(1) On the fourth Tuesday following the close of the candidate filing, beginning at nine o'clock a.m., a drawing by lot shall be conducted in the office of the clerk of the county commission in each county. Notice of the drawing shall be given on the form for the certificate of announcement and no further notice shall be required. The clerk of the county commission shall superintend and conduct the drawing and the method of conducting the drawing shall be prescribed by the Secretary of State.

(2) Except as provided herein, the position of each candidate within each office division shall be determined by the position drawn for that candidate individually: Provided, That if fewer candidates file for an office division than the total number to be nominated or elected, the vacant positions shall appear following the names of all candidates for the office.

(3) Candidates for delegate to national convention who have filed a commitment to a candidate for president shall be listed
§3-10-3. Vacancies in offices of state officials, United States Senators and judges.

(a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, or in any office created or made elective to be filled by the voters of the entire state, is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by section one of this article.

(b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of a circuit court or judge of a family court is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, as required by subsection (d) of this section. If an election is required under subsection (d) of this section, the Governor, circuit court or the chief judge thereof in vacation, is responsible for the proper proclamation by order and notice required by section one of this article.

(c) Any vacancy in the office of magistrate is appointed according to the provisions of section one, article six, chapter fifty of this code, and subsequent election to fill the remainder of the term, as required by subsection (d) of this section.
(d) (1) When the vacancy in Justice of the Supreme Court of Appeals, judge of the circuit court, judge of a family court or magistrate occurs after the eighty-fourth day before a general election, and the affected term of office ends on the thirty-first day of December following the next election, the person appointed to fill the vacancy shall continue in office until the completion of the term.

(2) When the vacancy occurs before the close of the candidate filing period for the primary election, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently with the primary election, and the appointment shall continue until a successor is elected and certified.

(3) When the vacancy occurs after the close of candidate filing for the primary election and not later than eighty-four days before the general election, the vacancy shall be filled by election in a nonpartisan judicial election held concurrently with the general election, and the appointment shall continue until a successor is elected and certified.

(e) When an election to fill a vacancy is required to be held at the general election according to the provisions of subsection (d) of this section, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for Justice of the Supreme Court of Appeals, judge of a circuit court, judge of the family court or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the first Monday in August and no later than seventy-seven days before the general election.

ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC CAMPAIGN FINANCING PILOT PROGRAM.

§3-12-3. Definitions.

As used in this article, the following terms and phrases have the following meanings:
(1) "Candidate's committee" means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(2) "Certified candidate" means an individual seeking election to the West Virginia Supreme Court of Appeals who has been certified in accordance with section ten of this article as having met all of the requirements for receiving public campaign financing from the fund.

(3) "Contribution" means a gift subscription, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person made for the purpose of influencing the nomination, election or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: Provided, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(4) "Exploratory contribution" means a contribution of no more than $1,000 made by an individual adult, including a participating candidate and members of his or her immediate family, during the exploratory period but prior to filing the declaration of intent. Exploratory contributions may not exceed $20,000 in the aggregate.
(5) "Exploratory period" means the period during which a participating candidate may raise and spend exploratory contributions to examine his or her chances of election and to qualify for public campaign financing under this article. The exploratory period begins on January 1 the year before the election in which the candidate may run for Justice of the Supreme Court of Appeals and ends on the last Saturday in January of the election year.

(6) "Financial agent" means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(7) "Fund" means the Supreme Court of Appeals Public Campaign Financing Fund created by section five of this article.

(8) "Immediate family" or "immediate family members" means the spouse, parents, step-parents, siblings and children of the participating candidate.

(9) "Nonparticipating candidate" means a candidate who is:

(A) Seeking election to the Supreme Court of Appeals;

(B) Is neither certified nor attempting to be certified to receive public campaign financing from the fund; and

(C) Has an opponent who is a participating or certified candidate.

(10) "Nonpartisan judicial election campaign period" means the period beginning on the first day of the primary election filing period, as determined under section seven, article five of
this chapter, and ending on the day of the nonpartisan judicial election.

(11) “Participating candidate” means a candidate who is seeking election to the Supreme Court of Appeals and is attempting to be certified in accordance with section ten of this article to receive public campaign financing from the fund.

(12) “Person” means an individual, partnership, committee, association and any other organization or group of individuals.

(13) “Qualifying contribution” means a contribution received from a West Virginia registered voter of not less than $1 nor more than $100 in the form of cash, check or money order, made payable to a participating candidate or the candidate’s committee, or in the form of an electronic payment or debit or credit card payment. received during the qualifying period.

(14) “Qualifying period” means the period during which participating candidates may raise and spend qualifying contributions in order to qualify to receive public campaign financing.

For candidates seeking to be placed on the nonpartisan judicial election ballot, the qualifying period begins on September 1 preceding the election year and ends on the last Saturday in January of the election year.

§3-12-6. Sources of revenue for the fund.

Revenue from the following sources shall be deposited in the fund:

(1) All exploratory and qualifying contributions in excess of the established maximums;

(2) Money returned by participating or certified candidates who fail to comply with this article;
(3) Unspent or unobligated moneys allotted to certified candidates and remaining unspent or unobligated on the date of the nonpartisan judicial election for which the money was distributed;

(4) If a certified candidate loses, all remaining unspent or unobligated moneys;

(5) Civil penalties levied by the State Election Commission against candidates for violations of this article;

(6) Civil penalties levied by the Secretary of State pursuant to section seven, article eight of this chapter;

(7) Voluntary donations made directly to the fund;

(8) Any interest income or other return earned on the money’s investment;

(9) On or before July 1, 2010, and for two successive years thereafter, the State Auditor shall authorize the transfer of the amount of $1 million from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article;

(10) On or before July 1, 2015, the state Auditor shall authorize the transfer of the amount of $400,000 from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article; and

(11) Money appropriated to the fund.

§3-12-10. Certification of candidates.

(a) To be certified, a participating candidate shall apply to the State Election Commission for public campaign financing from the fund and file a sworn statement that he or she has
complied and will comply with all requirements of this article throughout the applicable campaign.

(b) Upon receipt of a notice from the Secretary of State that a participating candidate has received the required number and amount of qualifying contributions, the State Election Commission shall determine whether the candidate or candidate’s committee:

(1) Has signed and filed a declaration of intent as required by section seven of this article;

(2) Has obtained the required number and amount of qualifying contributions as required by section nine of this article;

(3) Has complied with the contribution restrictions of this article;

(4) Is eligible, as provided in section nine, article five of this chapter, to appear on the nonpartisan judicial election ballot; and

(5) Has met all other requirements of this article.

(c) The State Election Commission shall process applications in the order they are received and shall verify a participating candidate’s compliance with the requirements of subsection (b) of this section by using the verification and sampling techniques approved by the State Election Commission.

(d) The State Election Commission shall determine whether to certify a participating candidate as eligible to receive public campaign financing no later than three business days after the candidate or the candidate’s committee makes his or her final report of qualifying contributions or, if a challenge is filed under subsection (g) of this section, no later than six business days
after the candidate or the candidate’s committee makes his or her final report of qualifying contributions. A certified candidate shall comply with this article through the nonpartisan judicial election campaign period.

(e) No later than two business days after the State Election Commission certifies that a participating candidate is eligible to receive public campaign financing under this section, the State Election Commission, acting in concert with the State Auditor’s office and the State Treasurer’s office, shall cause a check to be issued to the candidate’s campaign depository account an amount equal to the public campaign financing benefit for which the candidate qualifies under section eleven of this article, minus the candidate’s qualifying contributions, and shall notify all other candidates for the same office of its determination.

(f) If the candidate desires to receive public financing benefits by electronic transfer, the candidate shall include in his or her application sufficient information and authorization for the State Treasurer to transfer payments to his or her campaign depository account.

(g) Any person may challenge the validity of any contribution listed by a participating candidate by filing a written challenge with the State Election Commission setting forth any reason why the contribution should not be accepted as a qualifying contribution. If a contribution is challenged under this subsection, the State Election Commission shall decide the validity of the challenge no later than the end of the next business day after the day that the challenge is filed, unless the State Election Commission determines that the candidate whose contribution is challenged has both a sufficient qualifying number and amount of qualifying contributions to be certified as a candidate under this section without considering the challenge. Within five business days of a challenge, the candidate or candidate’s committee who listed any contribution that is the
A candidate may withdraw from being a certified candidate and become a nonparticipating candidate at any time with the approval of the State Election Commission. Any candidate seeking to withdraw shall file a written request with the State Election Commission, which shall consider requests on a case-by-case basis. No certified candidate may withdraw until he or she has repaid all moneys received from the fund: Provided, That the State Election Commission may, in exceptional circumstances, waive the repayment requirement. The State Election Commission may assess a penalty not to exceed $10,000 against any candidate who withdraws without approval.
§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing Fund payments.

(a) The State Election Commission, acting in concert with the State Auditor’s office and the State Treasurer’s office, shall have a check issued within two business days after the date on which the candidate is certified, to make payments from the fund for the nonpartisan judicial election campaign period available to a certified candidate.

In a contested nonpartisan judicial election, a certified candidate shall receive $525,000 in campaign financing from the fund, minus the certified candidate’s qualifying contributions.

(b) The State Election Commission shall authorize the distribution of campaign financing moneys to certified candidates in equal amounts. The commission shall propose a legislative rule on distribution of funds.

(c) The State Election Commission may not authorize or direct the distribution of moneys to certified candidates in excess of the total amount of money deposited in the fund pursuant to section six of this article. If the commission determines that the money in the fund is insufficient to totally fund all certified candidates, the commission shall authorize the distribution of the remaining money proportionally, according to each candidate’s eligibility for funding. Each candidate may raise additional money in the same manner as a nonparticipating candidate for the same office up to the unfunded amount of the candidate’s eligible funding.

§3-12-12. Restrictions on contributions and expenditures.

(a) A certified candidate or his or her committee may not accept loans or contributions from any private source, including the personal funds of the candidate and the candidate’s...
immediate family, during the nonpartisan judicial election campaign period except as permitted by this article.

(b) After filing the declaration of intent and during the qualifying period, a participating candidate may not spend or obligate more than he or she has collected in exploratory and qualifying contributions. After the qualifying period and through the nonpartisan judicial election campaign period, a certified candidate may spend or obligate any unspent exploratory or qualifying contributions and the moneys he or she receives from the fund under the provisions of section eleven of this article.

c) A participating or certified candidate may expend exploratory and qualifying contributions and funds received from the fund only for lawful election expenses as provided in section nine, article eight of this chapter. Moneys distributed to a certified candidate from the fund may be expended only during the nonpartisan judicial election campaign period for which funds were dispersed. Money from the fund may not be used:

(1) In violation of the law;
(2) To repay any personal, family or business loans, expenditures or debts; or
(3) To help any other candidate.

d) A certified candidate or his or her committee shall return to the fund any unspent and unobligated exploratory contributions, qualifying contributions or moneys received from the fund within forty-eight hours after the date on which the candidate ceases to be certified.

e) A certified candidate or his or her committee shall return to the fund any unspent or unobligated public campaign financing funds no later than five business days after the nonpartisan judicial election.
§3-12-14. Duties of the State Election Commission; Secretary of State.

(a) In addition to its other duties, the State Election Commission shall carry out the duties of this article and complete the following as applicable:

(1) Prescribe forms for reports, statements, notices and other documents required by this article;

(2) Make an annual report to the Legislature accounting for moneys in the fund, describing the State Election Commission's activities and listing any recommendations for changes of law, administration or funding amounts;
(3) Propose emergency and legislative rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code, as may be necessary for the proper administration of this article;

(4) Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;

(5) Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified candidates receive funds promptly and to ensure that moneys required by this article to be paid to the fund are deposited in the fund;

(6) Cause an audit of the fund to be conducted by independent certified public accountants ninety days after a nonpartisan judicial election. The State Election Commission shall cooperate with the audit, provide all necessary documentation and financial records to the auditor and maintain a record of all information supplied by the audit;

(7) In consultation with the State Treasurer and the State Auditor, develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the commission shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability and safeguards the integrity of the fund;

(8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to determine whether the fund will have sufficient moneys to meet its obligations and sufficient moneys available for disbursement during the nonpartisan judicial election campaign period; and

(9) Transfer a portion of moneys maintained in the fund to the West Virginia Investment Management Board for their
supervised investment, after consultation with the State Treasurer, the State Auditor and the West Virginia Investment Management Board.

(b) In addition to his or her other duties, the Secretary of State shall carry out the duties of this article and complete the following as applicable:

1. Prescribe forms for reports, statements, notices and other documents required by this article;

2. Prepare and publish information about this article and provide it to potential candidates and citizens of this state;

3. Prepare and publish instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with this article and to explain the duties of candidates and others participating in elections under this article:

4. Propose emergency and legislative rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code as may be necessary for the proper administration of this article;

5. Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;

6. Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified candidates receive funds promptly and to ensure that moneys required by this article to be paid to the fund are deposited in the fund;

7. Ensure public access to the campaign finance reports required pursuant to this article, and whenever possible, use
The terms of officers, except when elected or appointed to fill vacancies, shall begin respectively as follows: That of
CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-1. Magistrate court created.

There is hereby created in each county of this state a magistrate court with such numbers of magistrates for each court as are hereafter provided. There shall be elected by the voters of each county, at the general election to be held in 1976, and in every fourth year thereafter, such number of magistrates as is provided in section two of this article. The filing fee for the office of magistrate shall be one percent of the annual salary. The term of magistrates shall be for four years and shall begin on January 1, of the year following the year of election.

Effective with the primary election of 2016, all elections for magistrates will be on a nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for magistrates and all elections for magistrates are to be held in the nonpartisan judicial election as set forth in article five, chapter...
three of this code. All indications of party identification on
election ballots for magistrate shall be omitted.


Subject to the provisions of section one. article ten, chapter
three of this code, when a vacancy occurs in the office of
magistrate, the judge of the circuit court, or the chief judge
thereof if there is more than one judge of the circuit court, shall
fill the same by appointment.

At a nonpartisan judicial election in which a magistrate is
elected for an unexpired term, the circuit judge, or the chief
judge thereof if there is more than one judge of the circuit court,
shall cause a notice of such election to be published prior to such
election as a Class II-O legal advertisement in compliance with
the provisions of article three, chapter fifty-nine of this code, and
the publication area for such publication shall be the county
involved.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-1. Justices.

The Supreme Court of Appeals shall consist of five justices,
elected and qualified according to the Constitution and the laws
of this state, any three of whom shall constitute a quorum.
Effective with the primary election of 2016, all elections for
justices will be on a nonpartisan basis by division. Beginning in
2016, there will no longer be primary elections held for the
office of justice and all elections for justice are to be held in the
nonpartisan judicial election as set forth in article five, chapter
three of this code. All indications of party identification on
election ballots for that office shall be omitted.
ARTICLE 2A. FAMILY COURTS.

§51-2A-5. Term of office of family court judge; initial appointment; elections.

(a) Beginning with the election to be conducted in the year 2016, family court judges shall be elected. In family court circuits having two or more family court judges there shall be, for election purposes, numbered divisions corresponding to the number of family court judges in each area. Each family court judge shall be elected at large by the entire family court circuit. In each numbered division of a family court circuit, the candidates for nomination or election shall be voted upon and the votes cast for the candidates in each division shall be tallied separately from the votes cast for candidates in other numbered divisions within the family court circuit. The candidate or candidates receiving the highest number of the votes cast within a numbered division shall be nominated or elected, as the case may be. Effective with the primary election of 2016, all elections for family court judges in the respective circuits will be on a nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for family court judges and all elections for family court judges are to be held in the nonpartisan judicial election as set forth in article five, chapter three of this code. All indications of party identification on election ballots for family court judge shall be omitted.

(b) The term of office for all family court judges elected in 2002 shall be for six years, commencing on January 1, 2003, and ending on December 31, 2008. Subsequent terms of office for family court judges elected thereafter shall be for eight years.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is disapproved this the ___ day of March, 2015.

Governor