

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Joint Resolution 3**

BY SENATORS BOSO AND CLINE

[Introduced January 10, 2018; Referred  
to the Committee on the Judiciary; and then to the  
Committee on Finance]

1 Proposing an amendment to the Constitution of the State of West Virginia amending section one,  
 2 article V thereof; and amending section 51, article VI thereof, all relating to the authority  
 3 of the Legislature with regard to the state budget; giving the Legislature the sole authority  
 4 to determine what funds are necessary for the efficient and effective operation of the  
 5 legislative, executive and judicial departments; numbering and designating such proposed  
 6 amendment; and providing a summarized statement of the purpose of such proposed  
 7 amendment.

8 *Resolved by the Legislature of West Virginia, two thirds of the members elected to each*  
 9 *house agreeing thereto:*

10 That the question of ratification or rejection of an amendment to the Constitution of the  
 11 State of West Virginia be submitted to the voters of the state at the next general election to be  
 12 held in the year 2018, which proposed amendment is that section one, article V thereof; and  
 13 section 51, article VI thereof be amended to read as follows:

14 ARTICLE V.

15 **§1. Division of powers.**

16 The legislative, executive and judicial departments shall be separate and distinct, so that  
 17 neither shall exercise the powers properly belonging to either of the others. ~~nor shall any~~ No  
 18 person may exercise the powers of more than one of them at the same time. ~~except that justices~~  
 19 ~~of the peace shall be eligible to the Legislature~~ The Legislature has the sole power to determine  
 20 what funds are necessary for the efficient and effective operation of the legislative, executive and  
 21 judicial departments.

22 ARTICLE VI.

23 **§51. Budget and supplementary appropriation bills.**

24 The Legislature ~~shall~~ may not appropriate any money out of the treasury except in  
 25 accordance with the provisions of this section.

26 **Subsection A -- Appropriation Bills**

1 (1) Every appropriation bill shall be either a budget bill, or a supplementary appropriation  
2 bill. ~~as hereinafter provided~~

3 **Subsection B -- Budget Bills**

4 (2) Within ten days after the convening of the regular session of the Legislature in odd-  
5 numbered years, unless ~~such~~ that time ~~shall be~~ is extended by the Legislature, and on the second  
6 Wednesday of January in even-numbered years, the Governor shall submit to the Legislature a  
7 budget for the next ensuing fiscal year. The budget shall contain a complete plan of proposed  
8 expenditures and estimated revenues for the fiscal year and shall show the estimated surplus or  
9 deficit of revenues at the end of each fiscal year. Accompanying each budget shall be a statement  
10 showing: (a) An estimate of the revenues and expenditures for the current fiscal year, including  
11 the actual revenues and actual expenditures to the extent available, and the revenues and  
12 expenditures for the next preceding fiscal year; (b) the current assets, liabilities, reserves and  
13 surplus or deficit of the state; (c) the debts and funds of the state; (d) an estimate of the state's  
14 financial condition as of the beginning and end of the fiscal year covered by the budget; (e) any  
15 explanation the Governor may desire to make as to the important features of the budget and any  
16 suggestions as to methods for reduction or increase of the state's revenue.

17 (3) Each budget shall embrace an itemized estimate of the appropriations, in ~~such~~ the  
18 form and detail as the Governor ~~shall determine~~ determines or as may be prescribed by law: (a)  
19 For the Legislature as certified to the Governor in the manner hereinafter provided; (b) for the  
20 executive department; (c) for the judiciary department, as provided by law, certified to the  
21 Governor by the Auditor; (d) for payment and discharge of the principal and interest of any debt  
22 of the state created in conformity with the constitution, and all laws enacted in pursuance thereof;  
23 (e) for the salaries payable by the state under the constitution and laws of the state; and (f) for  
24 ~~such~~ other purposes as are set forth in the constitution and in laws made in pursuance thereof.

25 (4) The Governor shall deliver to the presiding officer of each house the budget and a bill  
26 for all the proposed appropriations of the budget clearly itemized and classified, in ~~such~~ the form

1 and detail as the Governor ~~shall determine~~ determines or as may be prescribed by law; and the  
 2 presiding officer of each house shall promptly cause the bill to be introduced therein, and ~~such~~  
 3 the bill shall be known as the "Budget Bill." The Governor may, with the consent of the Legislature,  
 4 before final action thereon by the Legislature, amend or supplement the budget to correct an  
 5 oversight, or to provide funds contingent on passage of pending legislation, and in case of an  
 6 emergency, he or she may deliver ~~such an~~ the amendment or supplement to the presiding officers  
 7 of both houses; and the amendment or supplement ~~shall thereby become~~ becomes a part of the  
 8 budget bill as an addition to the items of the bill or as a modification of or a substitute for any item  
 9 of the bill the amendment or supplement may affect.

10 (5) The Legislature ~~shall~~ may not amend the budget bill so as to create a deficit but may  
 11 amend the bill by increasing or decreasing any item therein. ~~Provided, That no item relating to~~  
 12 ~~the judiciary shall be decreased, and~~ Except as otherwise provided in this constitution, the salary  
 13 or compensation of any public officer ~~shall~~ may not be increased or decreased during his or her  
 14 term of office. ~~Provided further, That~~ The Legislature ~~shall~~ may not increase the estimate of  
 15 revenue submitted in the budget without the approval of the Governor.

16 (6) The Justices of the Supreme Court of Appeals, and the Governor and such  
 17 representatives of the executive departments, boards, officers and commissions of the state  
 18 expending or applying for state moneys as have been designated by the Governor for this  
 19 purpose, ~~shall have the right~~ may, and when requested by either house of the Legislature it ~~shall~~  
 20 ~~be~~ is their duty, to appear and be heard with respect to any budget bill, and to answer inquiries  
 21 relative thereto.

### 22 **Subsection C -- Supplementary Appropriation Bills**

23 (7) Neither house shall consider other appropriations until the budget bill has been finally  
 24 acted upon by both houses, and no ~~such~~ other appropriations ~~shall be~~ are valid except: ~~in~~  
 25 ~~accordance with the provisions following~~ (a) Every ~~such~~ appropriation shall be embodied in a  
 26 separate bill limited to some single work, object or purpose ~~therein stated and called therein in~~ in

1 the bill and called a supplementary appropriation bill; and (b) each supplementary appropriation  
2 bill shall provide the revenue necessary to pay the appropriation ~~thereby~~ made by a tax, direct or  
3 indirect, to be laid and collected as ~~shall be~~ directed in the bill unless it appears from ~~such~~ the  
4 budget that there is sufficient revenue available.

5 **Subsection D -- General Provisions**

6 (8) If the budget bill ~~shall not have~~ has not been finally acted upon by the Legislature three  
7 days before the expiration of its regular session, the Governor shall issue a proclamation  
8 extending the session for ~~such further~~ an additional period as may, in his or her judgment, be  
9 necessary for the passage of the bill; but no matter other than the bill ~~shall~~ may be considered  
10 during such an extension of a session except a provision for the cost ~~thereof~~ of the session.

11 (9) For the purpose of making up the proposed budget, the Governor shall ~~have the power~~  
12 ~~and it shall be his duty, to~~ require from the proper state officials, including ~~herein~~ all executive  
13 departments, all executive and administrative officers, bureaus, boards, commissions and  
14 agencies expending or supervising the expenditure of, and all institutions applying for state  
15 moneys and appropriations, ~~such~~ itemized estimates and other information, in ~~such~~ the form and  
16 at ~~such~~ times as he ~~shall direct~~ or she directs. The estimates for the legislative department,  
17 certified by the presiding officer of each house, and for the judiciary, as provided by law, certified  
18 by the auditor, shall be transmitted to the Governor in ~~such~~ the form and at ~~such times as he shall~~  
19 ~~direct~~ the time he or she directs and shall be included in the proposed budget.

20 (10) The Governor may provide for public hearings on all estimates and may require the  
21 attendance ~~at such hearings~~ of representatives of all agencies and all institutions applying for  
22 state moneys at the hearings. After ~~such~~ the public hearings ~~he~~ the Governor may, in his or her  
23 discretion, revise all estimates except those for the legislative and judiciary departments.

24 (11) Every budget bill or supplementary appropriation bill passed by a majority of the  
25 members elected to each house of the Legislature shall, before it becomes a law, be presented  
26 to the Governor. The Governor may veto the bill, or he or she may disapprove or reduce items

1 or parts of items contained ~~therein~~ the bill. If ~~he~~ the Governor approves he or she shall sign it and  
 2 ~~thereupon~~ upon signing it shall ~~become~~ becomes a law. The bill, items or parts ~~thereof~~ of the bill,  
 3 disapproved or reduced by the Governor, shall be returned with his or her objections to each  
 4 house of the Legislature.

5 Each house shall enter the objections at large upon its journal and proceed to reconsider.  
 6 If, after reconsideration, two thirds of the members elected to each house agree to pass the bill,  
 7 or ~~such~~ the items or parts ~~thereof~~ of the items, as were disapproved or reduced, the bill, items or  
 8 parts ~~thereof~~ of the items, approved by two thirds of ~~such~~ the members, shall become law,  
 9 notwithstanding the objections of the Governor. In all such cases, the vote of each house shall  
 10 be determined by yeas and nays to be entered on the journal.

11 A bill, item or part thereof, which is not returned by the Governor within five days (Sundays  
 12 excepted) after the bill has been presented to him ~~shall become~~ or her becomes a law ~~in like~~  
 13 ~~manner~~ as if he or she had signed the bill, unless the Legislature, by adjournment, prevents ~~such~~  
 14 the return, in which case it shall be filed in the office of the Secretary of State, within five days  
 15 after ~~such~~ the adjournment, and ~~shall become~~ becomes a law; or it shall be so filed the Governor  
 16 may file the bill within ~~such~~ five days with ~~the~~ his or her objections, ~~of the governor~~ in which case  
 17 ~~it shall become~~ the bill becomes law to the extent not disapproved by the Governor.

18 (12) The Legislature may, from time to time, enact ~~such~~ laws, not inconsistent with this  
 19 section ~~as may be~~ it considers necessary and proper to carry out ~~its~~ the provisions of this section.

20 (13) In the event of ~~any~~ an inconsistency between ~~any~~ of the provisions of this section and  
 21 ~~any of the~~ other provisions of the constitution, the provisions of this section shall prevail. ~~But~~  
 22 ~~nothing herein shall be construed as preventing~~ However, this section does not prevent the  
 23 Governor from calling extraordinary sessions of the Legislature, as provided by section nineteen  
 24 of this article, or ~~as preventing~~ prevents the Legislature at ~~such~~ extraordinary sessions from  
 25 considering ~~any~~ an emergency appropriation or appropriations.

1           (14) If ~~any~~ an item of ~~any~~ an appropriation bill passed under the provisions of this section  
2 ~~shall be~~ is held invalid upon any ground, ~~such~~ the invalidity ~~shall~~ does not affect the legality of the  
3 bill or of any other item of ~~such~~ the bill or bills.

4           *Resolved further*, That in accordance with the provisions of article eleven, chapter three  
5 of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered  
6 “Amendment No. 1” and designated as the “Judicial Budget Oversight Amendment” and the  
7 purpose of the proposed amendment is summarized as follows: “Giving the Legislature the sole  
8 authority to determine what funds are necessary for the efficient and effective operation of the  
9 legislative, executive and judicial departments.”

NOTE: The purpose of this resolution is to propose an amendment to the West Virginia Constitution giving the Legislature the sole authority to determine what funds are necessary for the efficient and effective operation of the legislative, executive and judicial departments.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.