



*Jim Justice*  
*Governor of West Virginia*

April 26, 2017

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
State of West Virginia  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 255

Dear Secretary Warner:

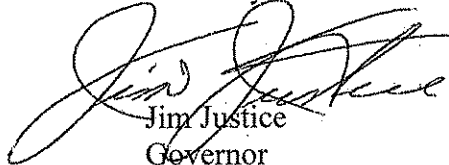
Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 255.

In this bill, the Legislature adopts the overarching policy that the political party of the person appointed to fill a vacancy in an Executive Constitutional Office, the West Virginia Legislature, or a county commissioner or clerk office is dependent on which political party the individual "was affiliated *at the time the vacancy occurred.*" (emphasis added) In *State ex. rel. Biafore v. Tomblin*, 782 S.E.2d 223 (2016), the Supreme Court of Appeals of West Virginia interpreted the West Virginia Code to require that, for the vacancy of a State Senator who was elected as a Democrat but switched his party registration to Republican, the Governor was required to appoint a Republican to fill his office. The Supreme Court stated that its "decision is grounded in law, not in ideology or politics." *Id.* at 232. Yet, the Legislature would use the holding of this case to justify codifying current law and public policy.

Unfortunately, the current law makes for short-sighted public policy. It rewards political tomfoolery rather than the will of the voters in the previous election. If applied to a situation where a Republican or Democrat switches his or her party registration to the Communist Party before vacating the office, Enrolled Committee Substitute for Senate Bill 255 would require the Governor to appoint a replacement from the Communist Party. That unfathomable scenario is possible under this bill, and I cannot sign it into law.

For the foregoing reasons, I disapprove and return Enrolled Committee Substitute for Senate Bill 255.

Sincerely,

  
Jim Justice  
Governor

**OFFICE OF THE GOVERNOR**

cc: The Hon. Tim Armstead  
Speaker of the House of Delegates  
The Hon. Mitch Carmichael  
President of the Senate