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

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000
cc: The Hon. Tim Armstead
    Speaker of the House of Delegates
The Hon. Mitch Carmichael
    President of the Senate