

**Senate Bill No. 542**

(By Senators Barnes and Beach)

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[Introduced February 8, 2012; referred to the Committee on the  
Judiciary.]  
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §1-2-1a; and to amend  
12 and reenact §3-5-7 of said code, all relating to providing  
13 that if a Senate district is comprised of more than one  
14 county, both senators in that district may not reside in the  
15 same county; and providing that the Secretary of State shall  
16 refuse to certify the candidacy or shall remove the  
17 certification of a candidate for a Senate district which is  
18 comprised of more than one county upon receipt of the  
19 candidate's certificate of announcement which indicates that  
20 the candidate's county of residence is located in the same  
21 county as a sitting senator serving in that district whose  
22 term would run concurrently, in whole or in part, with the  
23 candidate's term of office if the candidate were elected.

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

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

4 **CHAPTER 1. THE STATE AND ITS SUBDIVISIONS.**

5 **ARTICLE 2. APPORTIONMENT OF REPRESENTATION.**

6 **§1-2-1a. Senatorial district comprised of more than one county.**

7 In accordance with section four, article VI of the  
8 Constitution of West Virginia, if a senate district is comprised of  
9 more than one county, both senators in that district may not reside  
10 in the same county. Pursuant to the provisions of section seven,  
11 article five, chapter three of this code, the Secretary of State  
12 shall refuse to certify the candidacy or shall remove the  
13 certification of a candidate for a senate district which is  
14 comprised of more than one county upon receipt of the candidate's  
15 certificate of announcement which indicates that the candidate's  
16 county of residence is located in the same county as a sitting  
17 senator serving in that district whose term would run concurrently,  
18 in whole or part, with the candidate's term of office if the  
19 candidate were elected.

20 **CHAPTER 3. ELECTIONS.**

21 **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

22 **§3-5-7. Filing announcements of candidacies; requirements;**  
23 **withdrawal of candidates when section applicable.**

1           (a) Any person who is eligible and seeks to hold an office or  
2 political party position to be filled by election in any primary or  
3 general election held under the provisions of this chapter shall  
4 file a certificate of announcement declaring his or her candidacy  
5 for the nomination or election to the office.

6           (b) The certificate of announcement shall be filed as follows:

7           (1) Candidates for the House of Delegates or the State Senate  
8 and any other office or political position to be filled by the  
9 voters of more than one county shall file a certificate of  
10 announcement with the Secretary of State.

11          (2) Candidates for an office or political position to be  
12 filled by the voters of a single county or a subdivision of a  
13 county, except for candidates for the House of Delegates or State  
14 Senate, shall file a certificate of announcement with the clerk of  
15 the county commission.

16          (3) Candidates for an office to be filled by the voters of a  
17 municipality shall file a certificate of announcement with the  
18 recorder or city clerk.

19          (c) The certificate of announcement shall be filed with the  
20 proper officer not earlier than the second Monday in January next  
21 preceding the primary election day, and not later than the last  
22 Saturday in January next preceding the primary election day, and  
23 must be received before midnight, eastern standard time, of that  
24 day or, if mailed, shall be postmarked by the United States Postal

1 Service before that hour.

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

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

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

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

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

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

21 (6) For partisan elections, the name of the candidate's  
22 political party and a statement that the candidate: (A) Is a  
23 member of and affiliated with that political party as evidenced by  
24 the candidate's current registration as a voter affiliated with

1 that party; and (B) has not been registered as a voter affiliated  
2 with any other political party for a period of sixty days before  
3 the date of filing the announcement;

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

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

10 (9) The words "subscribed and sworn to before me this \_\_\_\_\_  
11 day of \_\_\_\_\_, 20\_\_\_\_" and a space for the signature of the  
12 officer giving the oath.

13 (e) The Secretary of State or the board of ballot  
14 commissioners, as the case may be, may refuse to certify the  
15 candidacy or may remove the certification of the candidacy upon  
16 receipt of a certified copy of the voter's registration record of  
17 the candidate showing that the candidate was registered as a voter  
18 in a party other than the one named in the certificate of  
19 announcement during the sixty days immediately preceding the filing  
20 of the certificate: *Provided*, That unless a signed formal  
21 complaint of violation of this section and the certified copy of  
22 the voter's registration record of the candidate are filed with the  
23 officer receiving that candidate's certificate of announcement no  
24 later than ten days following the close of the filing period, the

1 candidate may not be refused certification for this reason.

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

8 (g) Any candidate for delegate to a national convention may  
9 change his or her statement of presidential preference by notifying  
10 the Secretary of State by letter received by the Secretary of State  
11 no later than the third Tuesday following the close of candidate  
12 filing. When the rules of the political party allow each  
13 presidential candidate to approve or reject candidates for delegate  
14 to convention who may appear on the ballot as committed to that  
15 presidential candidate, the presidential candidate or the  
16 candidate's committee on his or her behalf may file a list of  
17 approved or rejected candidates for delegate and the Secretary of  
18 State shall list as "uncommitted" any candidate for delegate who is  
19 disapproved by the presidential candidate.

20 (h) A person may not be a candidate for more than one office  
21 or office division at any election: *Provided*, That a candidate for  
22 an office may also be a candidate for President of the United  
23 States, for membership on political party executive committees or  
24 for delegate to a political party national convention.

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

7 (j) The provisions of this section enacted during the regular  
8 session of the Legislature in the year 1991 shall apply to the  
9 primary election held in the year 1992 and every primary election  
10 held thereafter. The provisions of this section enacted during the  
11 regular session of the Legislature in the year 2009 shall apply to  
12 the primary election held in the year 2010 and every primary  
13 election held thereafter.

14 (k) The Secretary of State shall refuse to certify the  
15 candidacy or shall remove the certification of a candidate for a  
16 senate district which is comprised of more than one county upon  
17 receipt of the candidate's certificate of announcement which  
18 indicates that the candidate's county of residence is located in  
19 the same county as a sitting senator serving in that district whose  
20 term would run concurrently, in whole or part, with the candidate's  
21 term of office if the candidate were elected.

NOTE: The purpose of this bill is to provide that in state senate districts comprised of more than one county, both senators

in that district may not reside in the same county. The bill also provides for the Secretary of State to refuse to certify the candidacy or to remove the certification of a candidate for a senate district which is comprised of more than one county upon receipt of the candidate's certificate of announcement which indicates that the candidate's county of residence is located in the same county as a sitting senator serving in that district whose term would run concurrently, in whole or part, with the candidate's term of office if the candidate were elected.

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

§1-2-1a is new; therefore, strike-throughs and underscoring have been omitted.