

H. B. 2628

(By Delegates Rowe, Shott, Lane, Guthrie, Pushkin, Byrd
Manchin, Skinner, Deem, Lynch and B. White)

[Introduced February 5, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to filing announcements of candidacies; and changing the date of announcement to the first Monday after January 1.

Be it enacted by the Legislature of West Virginia:

That §3-5-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

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

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

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

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

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

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

9 (c) The certificate of announcement shall be filed with the proper officer not earlier than the
10 ~~second~~ first Monday ~~in~~ after January 1 next preceding the primary election day, and not later than
11 the last Saturday in January next preceding the primary election day, and must be received before
12 midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States
13 Postal Service before that hour.

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

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

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

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

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

1 or under magisterial district limitations;

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

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

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

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

14 (9) The words "subscribed and sworn to before me this _____ day of _____,
15 20____" and a space for the signature of the officer giving the oath.

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

1 later than ten days following the close of the filing period, the candidate may not be refused
2 certification for this reason.

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

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

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

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

1 (j) The provisions of this section enacted during the regular session of the Legislature in the
2 year 1991 shall apply to the primary election held in the year 1992 and every primary election held
3 thereafter. The provisions of this section enacted during the regular session of the Legislature in the
4 year 2009 shall apply to the primary election held in the year 2010 and every primary election held
5 thereafter.

NOTE: The purpose of this bill is to change the date of filing announcements of candidacies to the first Monday after January 1, rather than the first Monday in January.

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