

1 ENROLLED

2 **Senate Bill No. 312**

3 (By Senators Nohe, Boley, Leonhardt, Palumbo and D. Hall)

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6 [Passed March 14, 2015; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §3-8-7 of the Code of West Virginia, 1931, as amended, relating
11 generally to disqualification of nominees for general election due to failure to file campaign
12 finance statements; providing that candidates who fail to file campaign finance statements
13 by the eighty-fourth day before the general election are disqualified; clarifying that a
14 disqualification under this section would create a ballot vacancy and permit the replacement
15 of a candidate on the ballot; permitting the replacement of a candidate on the ballot; defining
16 terms; and authorizing the Secretary of State to promulgate legislative rules concerning
17 providing written notice to a candidate prior to his or her disqualification.

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

19 That §3-8-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to
20 read as follows:

21 **ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.**

22 **§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.**

1 (a) Any person, candidate, financial agent or treasurer of a political party committee who fails
2 to file a sworn, itemized statement required by this article within the time limitations specified in this
3 article or who willfully files a grossly incomplete or grossly inaccurate statement is guilty of a
4 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 or confined in jail for
5 not more than one year, or both fined and confined. Sixty days after any primary or other election,
6 the Secretary of State, county clerk or municipal recorder, as the case may be, shall give notice of
7 any failure to file a sworn statement or the filing of any grossly incomplete or grossly inaccurate
8 statement by any person, candidate, financial agent or treasurer of a political party committee and
9 forward copies of any grossly incomplete or grossly inaccurate statement to the prosecuting attorney
10 of the county where the person, candidate, financial agent or treasurer resides, is located or has its
11 principal place of business.

12 (b) (1) Any person, candidate, financial agent or treasurer of a political party committee who
13 fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete
14 or grossly inaccurate statement may be assessed a civil penalty by the Secretary of State of \$25 a day
15 for each day after the due date the statement is delinquent, grossly incomplete or grossly inaccurate.
16 Sixty days after any primary or other election, the county clerk shall give notice to the Secretary of
17 State of any failure to file a sworn statement or the filing of any grossly incomplete or grossly
18 inaccurate statement by any person, candidate, financial agent or treasurer of a political party
19 committee and forward copies of such delinquent, incomplete or inaccurate statements to the
20 Secretary of State.

21 (2) A civil penalty assessed pursuant to this section shall be payable to the state of West
22 Virginia and is collectable as authorized by law for the collection of debts.

1 (3) The Secretary of State may negotiate and enter into settlement agreements for the
2 payment of civil penalties assessed as a result of the filing of a delinquent, grossly incomplete or
3 inaccurate statement.

4 (4) The Secretary of State and county clerk may review and audit any sworn statement
5 required to be filed pursuant to this article. The State Election Commission shall propose legislative
6 rules for promulgation, in accordance with chapter twenty-nine-a of this code, to establish procedures
7 for the assessment of civil penalties as provided in this section.

8 (c) (1) Any candidate, whether nominated by primary election or appointed by executive
9 committee or executive committee chair, who has failed to file any sworn statement as required by
10 this article, relating to the immediately preceding primary election for any office by the eighty-fourth
11 day before the general election, is disqualified and may not have his or her name appear on the
12 general election ballot. The provisions of subsection (d), section five-b of this article
13 notwithstanding, any sworn statement filed after the deadline required by section five of this article
14 must be received in the office indicated by subsection (a), section five-b of this article by the close
15 of business on the eighty-fourth day before the general election.

16 (2) It is unlawful to issue a commission or certificate of election, or to administer the oath
17 of office, to any person elected to any public office who has failed to file any sworn statement
18 required by this article and no person may enter upon the duties of his or her office until he or she
19 has filed such statement, nor may he or she receive any salary or emolument for any period prior to
20 the filing of the statement.

21 (3) The vacancy on the ballot created by the disqualification in this subsection is subject to
22 section nineteen, article five, chapter three of this code.

1 (d) As used in this section, “grossly” means substantive and material, and specifically
2 includes false or misleading representations and acts of omissions.

3 (e) The Secretary of State shall provide by rule protocols for written notice via certified mail,
4 return receipt requested, to the person, candidate, financial agent or treasurer of a political party
5 committee that is not in compliance with the requirements of this section. With respect to a violation
6 of subsection (c) of this section, the notice shall be provided sixty days after any primary or other
7 election.