

1 **Senate Bill No. 312**

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

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5 [Introduced January 26, 2015; referred to the Committee on the Judiciary.]
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9 A BILL to amend and reenact §3-8-7 of the Code of West Virginia, 1931, as amended, relating to
10 disqualification of nominees for general election due to failure to file campaign finance
11 statements.

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

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

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

16 **§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.**

17 (a) Any person, candidate, financial agent or treasurer of a political party committee who fails
18 to file a sworn, itemized statement required by this article within the time limitations specified in this
19 article or who willfully files a grossly incomplete or grossly inaccurate statement ~~shall be~~ is guilty
20 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 or confined in jail
21 for not more than one year, or both fined and confined. ~~in the discretion of the court~~ Sixty days after

1 any primary or other election, the Secretary of State, or county clerk or municipal recorder, as the
2 case may be, shall give notice of any failure to file a sworn statement or the filing of any grossly
3 incomplete or grossly inaccurate statement by any person, candidate, financial agent or treasurer of
4 a political party committee and forward copies of any grossly incomplete or grossly inaccurate
5 statement to the prosecuting attorney of the county where the person, candidate, financial agent or
6 treasurer resides, is located or has its principal place of business.

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

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

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

21 (4) The Secretary of State and county clerk may review and audit any sworn statement

1 required to be filed pursuant to this article. The State Election Commission shall propose legislative
2 rules for promulgation, in accordance with chapter twenty-nine-a of this code, to establish procedures
3 for the assessment of civil penalties as provided in this section.

4 ~~(c) No candidate nominated at a primary election who has failed to file a sworn statement,~~
5 ~~as required by this article, shall have his or her name placed on the official ballot for the ensuing~~
6 ~~election, unless there has been filed by or on behalf of such candidate, or by his or her financial~~
7 ~~agent, if any, the financial statement relating to nominations required by this article. (1) Any~~
8 ~~candidate, whether nominated by primary election or appointed by executive committee or executive~~
9 ~~committee chair, who has failed to file any sworn statement as required by this article, relating to the~~
10 ~~immediately preceding primary election for any office by the eighty-fourth day before the general~~
11 ~~election, is disqualified and may not have his or her name appear on the general election ballot. The~~
12 ~~provisions of subsection (d), section five-b of this article notwithstanding, any sworn statement filed~~
13 ~~after the deadline required by section five of this article must be received in the office indicated by~~
14 ~~subsection (a), section five-b of this article by the close of business on the eighty-fourth day before~~
15 ~~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 a any sworn statement as
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 ~~such~~ the statement.

(NOTE: The purpose of this bill is to set a deadline by which candidates or their financial agents must file financial statements in order to avoid being disqualified as a nominee for the general election.

Strike-throughs indicate language that would be stricken from the present law. Underlines indicate language that is new.)