

# H. B. 2628

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

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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.**

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  
8 Senate and any other office or political position to be filled by  
9 the 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 filled  
12 by the voters of a single county or a subdivision of a county,  
13 except for candidates for the House of Delegates or State Senate,  
14 shall file a certificate of announcement with the clerk of the  
15 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~~ first Monday ~~in~~ after  
21 January 1 next preceding the primary election day, and not later  
22 than the last Saturday in January next preceding the primary  
23 election day, and must be received before midnight, eastern  
24 standard time, of that day or, if mailed, shall be postmarked by  
25 the United States Postal Service before that hour.

26 (d) The certificate of announcement shall be on a form  
27 prescribed by the Secretary of State on which the candidate shall  
28 make a sworn statement before a notary public or other officer  
29 authorized to administer oaths, containing the following infor-  
30 mation:

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

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

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

38       (4) The county of residence and a statement that the candi-  
39     date is a legally qualified voter of that county; and the magiste-  
40     rial district of residence for candidates elected from magisterial  
41     districts or under magisterial district limitations;

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

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

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

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

58       (9) The words “subscribed and sworn to before me this  
59 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_” and a space for the  
60 signature of the officer giving the oath.

61       (e) The Secretary of State or the board of ballot commission-  
62 ers, as the case may be, may refuse to certify the candidacy or  
63 may remove the certification of the candidacy upon receipt of a  
64 certified copy of the voter’s registration record of the candidate  
65 showing that the candidate was registered as a voter in a party  
66 other than the one named in the certificate of announcement  
67 during the sixty days immediately preceding the filing of the  
68 certificate: *Provided*, That unless a signed formal complaint of  
69 violation of this section and the certified copy of the voter’s  
70 registration record of the candidate are filed with the officer  
71 receiving that candidate’s certificate of announcement no later  
72 than ten days following the close of the filing period, the  
73 candidate may not be refused certification for this reason.

74       (f) The certificate of announcement shall be subscribed and  
75 sworn to by the candidate before some officer qualified to  
76 administer oaths, who shall certify the same. Any person who  
77 knowingly provides false information on the certificate is guilty

78 of false swearing and shall be punished in accordance with  
79 section three, article nine of this chapter.

80 (g) Any candidate for delegate to a national convention may  
81 change his or her statement of presidential preference by  
82 notifying the Secretary of State by letter received by the Secre-  
83 tary of State no later than the third Tuesday following the close  
84 of candidate filing. When the rules of the political party allow  
85 each presidential candidate to approve or reject candidates for  
86 delegate to convention who may appear on the ballot as commit-  
87 ted to that presidential candidate, the presidential candidate or  
88 the candidate's committee on his or her behalf may file a list of  
89 approved or rejected candidates for delegate and the Secretary of  
90 State shall list as "uncommitted" any candidate for delegate who  
91 is disapproved by the presidential candidate.

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

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

103       (j) The provisions of this section enacted during the regular  
104 session of the Legislature in the year 1991 shall apply to the  
105 primary election held in the year 1992 and every primary  
106 election held thereafter. The provisions of this section enacted  
107 during the regular session of the Legislature in the year 2009  
108 shall apply to the primary election held in the year 2010 and  
109 every primary election held 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.

