

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 690**

BY SENATORS MULLINS AND CLINE

[Introduced February 22, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §3-5-1 and §3-5-7 of the Code of West Virginia, 1931, as amended,  
 2 all relating to making the second Friday in February on even numbered years the primary  
 3 election day in West Virginia beginning in 2018; and changing the dates for filing  
 4 announcements of the candidates.

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

1 That §3-5-1 and §3-5-7 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted, all to read as follows:

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

**§3-5-1. Time and place of holding primary elections in the year ~~one thousand nine hundred~~  
~~eighty~~ 2018 and thereafter; hours polls open.**

1 Primary elections shall be held at the voting place in each of the voting precincts in the  
 2 state, for the purposes set forth in this article, on the second ~~Tuesday in May 1986~~ Friday in  
 3 February 2018 and in each second year thereafter.

4 At such election the polls shall be opened and closed at the hours provided for opening  
 5 and closing the polls in a general election.

**§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 political party position to be  
 2 filled by election in any primary or general election held under the provisions of this chapter shall  
 3 file a certificate of announcement declaring his or her candidacy for the nomination or election to  
 4 the office.

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

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

9 (2) Candidates for an office or political position to be filled by the voters of a single county

10 or a subdivision of a county, except for candidates for the House of Delegates, State Senate,  
11 circuit judge or family court judge, shall file a certificate of announcement with the clerk of the  
12 county commission.

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

15 (c) The certificate of announcement shall be filed with the proper officer not earlier than  
16 the second Monday in ~~January~~ October before the primary election day and not later than the last  
17 Saturday in ~~January~~ October before the primary election day and must be received before  
18 midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States  
19 Postal Service before that hour. This includes the offices of justice of the Supreme Court of  
20 Appeals, circuit court judge, family court judge and magistrate, which are to be filled on a  
21 nonpartisan and division basis at the primary election.

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

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

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

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

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

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

35 (6) For partisan elections, the name of the candidate's political party and a statement that

36 the candidate: (A) Is a member of and affiliated with that political party as evidenced by the  
37 candidate's current registration as a voter affiliated with that party; and (B) has not been registered  
38 as a voter affiliated with any other political party for a period of sixty days before the date of filing  
39 the announcement;

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

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

45 (9) The words "subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
46 20\_\_\_\_" and a space for the signature of the officer giving the oath.

47 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may  
48 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a  
49 certified copy of the voter's registration record of the candidate showing that the candidate was  
50 registered as a voter in a party other than the one named in the certificate of announcement during  
51 the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed  
52 formal complaint of violation of this section and the certified copy of the voter's registration record  
53 of the candidate are filed with the officer receiving that candidate's certificate of announcement  
54 no later than ten days following the close of the filing period, the candidate may not be refused  
55 certification for this reason.

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

60 (g) Any candidate for delegate to a national convention may change his or her statement  
61 of presidential preference by notifying the Secretary of State by letter received by the Secretary

62 of State no later than the third Tuesday following the close of candidate filing. When the rules of  
63 the political party allow each presidential candidate to approve or reject candidates for delegate  
64 to convention who may appear on the ballot as committed to that presidential candidate, the  
65 presidential candidate or the candidate's committee on his or her behalf may file a list of approved  
66 or rejected candidates for delegate and the Secretary of State shall list as "uncommitted" any  
67 candidate for delegate who is disapproved by the presidential candidate.

68 (h) A person may not be a candidate for more than one office or office division at any  
69 election: *Provided*, That a candidate for an office may also be a candidate for President of the  
70 United States, for membership on political party executive committees or for delegate to a political  
71 party national convention: *Provided, however*, That an unsuccessful candidate for a nonpartisan  
72 office in an election held concurrently with the primary election may be appointed under the  
73 provisions of section nineteen of this article to fill a vacancy on the general ballot.

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

NOTE: The purpose of this bill is to make the second Friday of even numbered years the primary election day in West Virginia beginning in 2018. The bill changes the dates for filing announcements of the candidates.

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