

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 438

FISCAL
NOTE

BY SENATORS ROMANO AND BALDWIN

[Introduced January 25, 2019; Referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to
2 creating an online voters' guide; requiring all information in the certificate of
3 announcement; permitting candidates running for statewide office to submit a personal
4 statement; directing the State Election Committee to create the guide; and requiring the
5 Secretary of State post the voters' guide on its website.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-7. Filing certificates of 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 before the primary election day and not later than the last Saturday
17 in January before the primary election day and must be received before midnight, eastern

18 standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service
19 before that hour. This includes the offices of justice of the Supreme Court of Appeals, circuit court
20 judge, family court judge and magistrate, which are to be filled on a nonpartisan and division basis
21 at the primary election: *Provided*, That on the final day of a political filing period, the office of the
22 Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the county clerk
23 in all counties of the state shall be open on that final day of a political filing period from 9:00 a.m.
24 until 12:00 p.m.

25 (d) The certificate of announcement shall be on a form prescribed by the Secretary of
26 State on which the candidate shall make a sworn statement before a notary public or other officer
27 authorized to administer oaths, and must contain the following information:

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

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

30 (3) The legal name of the candidate and the exact name the candidate desires to appear
31 on the ballot, subject to limitations prescribed in §3-5-13 of this code;

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

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

38 (6) A telephone number, e-mail address, and web address for the candidate's website or
39 social media accounts, if available;

40 (7) For candidates for Governor, Attorney General, Auditor, Commissioner of Agriculture,
41 Secretary of State, Treasurer, and Supreme Court of Appeals, a personal statement, not to
42 exceed 500 words in length, outlining the candidate's relevant educational, professional, civic and
43 community service for the office sought;

44 ~~(6)~~ (8) For partisan elections, the name of the candidate's political party and a statement
45 that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the
46 candidate's current registration as a voter affiliated with that party; and (B) has not been registered
47 as a voter affiliated with any other political party for a period of 60 days before the date of filing
48 the announcement;

49 ~~(7)~~ (9) For candidates for delegate to national convention, the name of the presidential
50 candidate to be listed on the ballot as the preference of the candidate on the first convention
51 ballot; or a statement that the candidate prefers to remain "uncommitted";

52 ~~(8)~~ (10) A statement that the person filing the certificate of announcement is a candidate
53 for the office in good faith;

54 ~~(9)~~ (11) The words "subscribed and sworn to before me this _____ day of
55 _____, 20____" and a space for the signature of the officer giving the oath.

56 (e) The State Election Commission shall use the information provided pursuant to
57 subsection (d) of this section to prepare a voters' guide for the general public. Copies of the guide
58 shall be posted on the website of the Secretary of State, as soon as may be practical.

59 ~~(e)~~ (f) The Secretary of State or the board of ballot commissioners, as the case may be,
60 may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt
61 of a certified copy of the voter's registration record of the candidate showing that the candidate
62 was registered as a voter in a party other than the one named in the certificate of announcement
63 during the 60 days immediately preceding the filing of the certificate: *Provided*, That unless a
64 signed formal complaint of violation of this section and the certified copy of the voter's registration
65 record of the candidate are filed with the officer receiving that candidate's certificate of
66 announcement no later than 10 days following the close of the filing period, the candidate may
67 not be refused certification for this reason.

68 ~~(f)~~ (g) The certificate of announcement shall be subscribed and sworn to by the candidate
69 before some officer qualified to administer oaths, who shall certify the same. Any person who

70 knowingly provides false information on the certificate is guilty of false swearing and shall be
71 punished in accordance with §3-9-3 of this code.

72 ~~(g)~~ (h) Any candidate for delegate to a national convention may change his or her
73 statement of presidential preference by notifying the Secretary of State by letter received by the
74 Secretary of State no later than the third Tuesday following the close of candidate filing. When
75 the rules of the political party allow each presidential candidate to approve or reject candidates
76 for delegate to convention who may appear on the ballot as committed to that presidential
77 candidate, the presidential candidate or the candidate's committee on his or her behalf may file a
78 list of approved or rejected candidates for delegate and the Secretary of State shall list as
79 "uncommitted" any candidate for delegate who is disapproved by the presidential candidate.

80 ~~(h)~~ (i) A person may not be a candidate for more than one office or office division at any
81 election: *Provided*, That a candidate for an office may also be a candidate for President of the
82 United States, for membership on political party executive committees or for delegate to a political
83 party national convention: *Provided*, That an unsuccessful candidate for a nonpartisan office in
84 an election held concurrently with the primary election may be appointed under the provisions of
85 section 19 of this article to fill a vacancy on the general ballot.

86 ~~(i)~~ (j) A candidate who files a certificate of announcement for more than one office or
87 division and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior
88 to the close of the filing period may not be certified by the Secretary of State or placed on the
89 ballot for any office by the board of ballot commissioners.

NOTE: The purpose of this bill is to establish an accessible online voters' guide on the Secretary of State's website. The guide would be created by the State Election Commission using information provided on certificates of announcement. Candidates for statewide office would be eligible to submit a personal statement in addition to other information required on the certificate of announcement.

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