

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 119

SENATOR ROMANO, *original sponsor*

[Originating in the Committee on Government

Organization; reported on February 24, 2020]

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; and permitting candidates running for legislative or statewide office to
4 submit a personal statement.

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
21 basis at the primary election: *Provided*, That on the final day of a political filing period, the office
22 of the Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the county
23 clerk in all counties of the state shall be open on that final day of a political filing period from 9:00
24 a.m. 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, ~~containing~~ 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) (7) For certificates of announcement for the primary election occurring in 2022 and for
39 every election thereafter, a telephone number, e-mail address, and web address for the
40 candidate's campaign website or social media accounts, if available;

41 ~~(6)~~ (7) For partisan elections, the name of the candidate's political party and a statement
42 that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the
43 candidate's current registration as a voter affiliated with that party; and (B) has not been registered

44 as a voter affiliated with any other political party for a period of 60 days before the date of filing
45 the announcement;

46 ~~(7)~~ (8) For candidates for delegate to national convention, the name of the presidential
47 candidate to be listed on the ballot as the preference of the candidate on the first convention
48 ballot; or a statement that the candidate prefers to remain “uncommitted”;

49 ~~(8)~~ (9) A statement that the person filing the certificate of announcement is a candidate for
50 the office in good faith;

51 ~~(9)~~ (10) The words “subscribed and sworn to before me this _____ day of
52 _____, 20____” and a space for the signature of the officer giving the oath.

53 (e) Prior to the primary election occurring in 2022 and prior to each election occurring
54 thereafter, the Secretary of State shall use the information provided pursuant to subsection (d) of
55 this section by candidates for the election to any office or political position to be filled by the voters
56 of more than one county to prepare an electronic voters’ guide for the general public. The guide
57 shall be published electronically on the website of the Secretary of State.

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

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

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

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

79 ~~(h)~~ (i) A person may not be a candidate for more than one office or office division at any
80 election: *Provided*, That a candidate for an office may also be a candidate for President of the
81 United States, for membership on political party executive committees, or for delegate to a political
82 party national convention: *Provided, however*, That an unsuccessful candidate for a nonpartisan
83 office in an election held concurrently with the primary election may be appointed under the
84 provisions of §3-5-19 of this code to fill a vacancy on the general ballot.

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