

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4552

BY DELEGATES BARNHART, KIMBLE, HECKERT, AND

HILLENBRAND

[Passed March 8, 2024; in effect January 1, 2025.]

1 AN ACT to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating
2 to verification of candidate's party affiliation as stated in certificate of announcement;
3 specifying that certificate of announcement for partisan election must include candidate's
4 political party on date of submittal; requiring election officer receiving certificate of
5 announcement to electronically verify candidate's current party affiliation; requiring
6 election officer to refuse certificate of announcement if candidate's current party affiliation
7 not as stated on certificate of announcement; and providing an internal effective date.

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, Judge of
20 the Intermediate Court of Appeals, circuit court judge, family court judge and magistrate, which
21 are to be filled on a nonpartisan and division basis at the primary election: *Provided*, That on the
22 final day of a political filing period, the office of the Secretary of State shall be open from 9:00 a.m.
23 until 11:59 p.m. The offices of the County Clerk in all counties of the state shall be open on that
24 final day of a political filing period from 9:00 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 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) For partisan elections, the name of the candidate's political party on the date the
39 certificate of announcement is submitted and a statement that the candidate: (A) Is a member of
40 and affiliated with that political party as evidenced by the candidate's current registration as a

41 voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other
42 political party for a period of 60 days before the date of filing the announcement;

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

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

48 (9) The words "subscribed and sworn to before me this _____ day of _____,
49 20____" and a space for the signature of the officer giving the oath.

50 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may
51 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a
52 certified copy of the voter's registration record of the candidate showing that the candidate was
53 registered as a voter in a party other than the one named in the certificate of announcement during
54 the 60 days immediately preceding the filing of the certificate: *Provided*, That unless a signed
55 formal complaint of violation of this section and the certified copy of the voter's registration record
56 of the candidate are filed with the officer receiving that candidate's certificate of announcement
57 no later than 10 days following the close of the filing period, the candidate may not be refused
58 certification for this reason: *Provided, however*, That prior to accepting a Certificate of
59 Announcement for filing for an office which is elected in a partisan election, the Secretary of
60 State's Office, clerk of the county commission, recorder or city clerk shall electronically verify a
61 candidate's current party affiliation as subscribed and sworn to by the candidate. If a candidate's
62 current party affiliation is not as stated on the Certificate of Announcement, the filing shall be
63 refused.

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

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

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

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

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

86 (j) The amendments to this section enacted by the Legislature in the 2024 Regular
87 Session are effective January 1, 2025.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect January 1, 2025.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2024.

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Governor