

H. B. 2417

(By Delegates Shaver, Mahan, Pethtel, Martin,
Williams and Talbott)

[Introduced January 12, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §3-5-8 of the Code of West Virginia,
1931, as amended; and to amend and reenact §3-6-4a of said
code, all relating to elections; requiring write-in candidates
for public office to pay a filing fee for the office sought;
and providing for distribution of the fee in the same manner
as other candidates.

Be it enacted by the Legislature of West Virginia:

That §3-5-8 of the Code of West Virginia, 1931, as amended, be
amended and reenacted; and that §3-6-4a of said code be amended and
reenacted, all to read as follows:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-8. Filing fees and their disposition.

When filing a certificate of announcement, every person who
becomes a candidate for nomination for or election to office in any
primary election ~~shall, at the time of filing the certificate of~~
~~announcement as required in this article,~~ or who seeks nomination

1 or election as a write-in candidate under the provisions of section
2 four-a, article six of this chapter is required to pay a filing fee
3 as follows:

4 (a) The filing fee for a candidate for President of the United
5 States, for Vice President of the United States, for United States
6 Senator, for member of the United States House of Representatives,
7 for Governor and for all other state elective offices ~~shall pay a~~
8 ~~fee~~ is an amount equivalent to one percent of the annual salary of
9 the office ~~for which the candidate announces~~ ~~Provided,~~ except that
10 the filing fee for ~~any~~ a candidate for President or Vice President
11 of the United States ~~shall~~ may not exceed \$2,500; ~~commencing with~~
12 ~~the 2004 filing period;~~

13 (b) The filing fee for a candidate for the office of judge of
14 a circuit court and judge of a family court ~~shall pay a fee~~ is an
15 amount equivalent to one percent of the total annual salary of the
16 office ~~for which the candidate announces~~ announced;

17 (c) The filing fee for a candidate for member of the House of
18 Delegates ~~shall pay a fee of~~ is an amount equivalent to one-half
19 percent of the total annual salary of the office and, for a
20 candidate for state senator, ~~shall pay a fee of~~ an amount
21 equivalent to one percent of the total annual salary of the office;

22 (d) The filing fee for a candidate for sheriff, prosecuting
23 attorney, circuit clerk, county clerk, assessor, member of the
24 county commission and magistrate ~~shall pay a fee~~ is an amount

1 equivalent to one percent of the annual salary the candidate
2 announces excluding any additional compensation or commission of
3 the office. ~~for which the candidate announces.~~ The filing fee for
4 a candidate for county board of education ~~shall pay a fee of is~~
5 \$25. ~~A candidate for any other county office shall pay a fee of~~
6 The filing fee for candidates of any other county office is \$10;

7 (e) Delegates to the national convention of any political
8 party ~~shall~~ are required to pay the following filing fees:

9 ~~A candidate for delegate-at-large, shall pay a fee of \$20 and~~
10 ~~a candidate for delegate from a congressional district, shall pay~~
11 ~~a fee of \$10;~~ The filing fee for a candidate for delegate-at-large
12 is \$20. The fee for a candidate for delegate from a congressional
13 district is \$10.

14 (f) Candidates for members of political executive committees
15 and other political committees ~~shall~~ are required to pay the
16 following filing fees:

17 ~~A candidate for member of a state executive committee of any~~
18 ~~political party, shall pay a fee of \$20; a candidate for member of~~
19 ~~a county executive committee of any a political party, shall pay a~~
20 ~~fee of \$10; and a candidate for member of a congressional,~~
21 ~~senatorial or delegate district committee of any political party,~~
22 ~~shall pay a fee of \$5.~~ The filing fee for a candidate for member
23 of a state executive committee is \$20. The fee for a member of a
24 county executive committee of a political party is \$10. The fee for

1 a candidate for member of a congressional, senatorial or delegate
2 district committee of a political party is \$5.

3 Candidates filing for an office to be filled by the voters of
4 one county shall pay the filing fee to the clerk of the county
5 commission. ~~and~~ Candidates filing for an office to be filled by the
6 voters of more than one county shall pay the filing fee to the
7 Secretary of State. ~~at the time of filing their certificates of~~
8 ~~announcement.~~ and No certificate of announcement ~~shall~~ may be
9 received until the filing fee is paid.

10 ~~All moneys received by the clerk from the fees shall be~~ Fees
11 received by the clerk of the county commission shall be credited to
12 the general county fund by the clerk. ~~Moneys received by the~~
13 ~~Secretary of State from fees paid by candidates for offices to be~~
14 ~~filled by all the voters of the state shall be~~ Fees received by
15 the Secretary of State, including fees from candidates for
16 statewide offices and from candidates for office in a district or
17 judicial circuit of more than one county, shall be deposited in a
18 special fund for that purpose and ~~shall be~~ apportioned and paid by
19 ~~him or her~~ the Secretary of State to the ~~several~~ counties ~~and that~~
20 ~~received from candidates from a district or judicial circuit of~~
21 ~~more than one county shall be apportioned to the counties~~
22 ~~comprising the district or judicial circuit in like manner. When~~
23 ~~such moneys are~~ on the basis of population. Filing fees received
24 by sheriffs ~~it~~ shall be credited to the general county fund.

1 **ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

2 **§3-6-4a. Filing requirements for write-in candidates.**

3 Any ~~An~~ eligible person who seeks to be elected by write-in
4 votes to an office ~~except delegate to national convention, which is~~
5 ~~to be filled~~ in a primary, general or special election held under
6 the provisions of this chapter, ~~shall~~ is required to file a write-
7 in candidate's certificate of announcement as provided in this
8 section. No certificate of announcement may be accepted and no
9 person may be certified as a write-in candidate for a political
10 party nomination for any office or for election as delegate to
11 national convention.

12 (a) The write-in candidate's certificate of announcement ~~shall~~
13 must be in a form prescribed by the Secretary of State on which the
14 candidate ~~shall make~~ makes a sworn statement, before a notary
15 public or other officer authorized to give oaths, ~~containing and~~
16 provides the following information:

17 (1) The name of the office sought and the district and
18 division, if any;

19 (2) The legal name of the candidate and the first and last
20 name by which the candidate may be identified in seeking the
21 office;

22 (3) The specific address designating ~~the location at which~~
23 ~~the candidate resides~~ the candidate's residence at the time of
24 filing, including number and street or rural route and box number

1 and city, state and zip code;

2 (4) A statement that the person ~~filing the certificate of~~
3 ~~announcement~~ is a candidate for the office in good faith; ~~and~~

4 (5) The words "subscribed and sworn to before me this _____
5 day of _____, ____" and a space for the signature of the
6 officer giving the oath; and

7 (6) A filing fee in the amount required by the provisions of
8 section eight, article five of this chapter for the office sought.
9 All fees collected from write-in candidates are distributed in the
10 same manner as provided by the provisions of section eight, article
11 five of this chapter.

12 (b) The certificate of announcement shall be filed with the
13 filing officer for the political division of the office as
14 prescribed in section seven, article five of this chapter.

15 (c) The certificate of announcement shall be filed with and
16 received by the proper filing officer as follows:

17 (1) Except as provided in subdivisions (2) and (3) of this
18 subsection, the certificate of announcement ~~for any office shall~~
19 must be received no later than the close of business on the forty-
20 second day before the election; ~~at which the office is to be~~
21 ~~filled;~~

22 (2) When a vacancy occurs in the nomination of candidates for
23 an office on the ballot resulting from the death of the nominee or
24 from the disqualification or removal of a nominee from the ballot

1 by a court of competent jurisdiction ~~not earlier than the twenty-~~
2 ~~first day nor later than the fifth day~~ between and including the
3 fifth and twenty-first day before the general election, the
4 certificate ~~shall~~ must be received no later than the close of
5 business on the fifth day before the election or the close of
6 business on the day following the occurrence of the vacancy,
7 whichever is later;

8 (3) When a vacancy occurs in an elective office which would
9 not otherwise appear on the ballot in the election ~~but which~~ and
10 creates an unexpired term of one or more years which, according to
11 the provisions of this chapter, is to be filled by election in the
12 next ensuing election and the vacancy occurs ~~no earlier than the~~
13 ~~twenty-first day and no later than the fifth day~~ between and
14 including the fifth and twenty-first day before the general
15 election, the certificate ~~shall~~ must be received no later than the
16 close of business on the fifth day before the election or the close
17 of business on the day following the occurrence of the vacancy,
18 whichever is later.

19 (d) ~~Any~~ An eligible person who files a completed write-in
20 candidate's certificate of announcement with the proper filing
21 officer within the required time shall be certified by that filing
22 officer as an official write-in candidate:

23 (1) Immediately following the filing deadline, the Secretary
24 of State shall ~~immediately following the filing deadline,~~ post the
25 names of all official write-in candidates for offices on the ballot

1 in more than one county and certify the name of each official
2 write-in candidate to the clerks of the county commissions of the
3 appropriate counties.

4 (2) Immediately following the filing deadline, the clerk of
5 the county commission shall ~~immediately following the filing~~
6 ~~deadline,~~ post the names of all official write-in candidates for
7 offices on the ballot in one county and certify and deliver to the
8 election officials of the appropriate precincts the names of all
9 official write-in candidates and the office sought by each for
10 statewide, district and county offices on the ballot in the
11 precinct for which valid write-in votes will be counted. ~~and the~~
12 ~~names shall be posted at the office~~ The clerk of the county
13 commission shall post the names of write-in candidates within the
14 area where absentee voting is conducted and at the precincts in
15 accordance with section twenty, article one of this chapter.

NOTE: The purpose of this bill is to require write-in candidates for public office to pay a filing fee for the office sought and to provide for distribution of the fee in the same manner as other candidates.

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