

Senate Bill No. 29

(By Senators Williams, Plymale and D. Facemire)

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

**FISCAL
NOTE**

A BILL to amend and reenact §3-6-4a of the Code of West Virginia,
1931, as amended, 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 §3-6-4a of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

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

Any eligible person who seeks to be elected by write-in votes
to an office, except delegate to national convention, which is to
be filled in a primary, general or special election held under the
provisions of this chapter, shall file a write-in candidate's

1 certificate of announcement as provided in this section. No
2 certificate of announcement may be accepted and no person may be
3 certified as a write-in candidate for a political party nomination
4 for any office or for election as delegate to national convention.

5 (a) The write-in candidate's certificate of announcement shall
6 be in a form prescribed by the Secretary of State on which the
7 candidate shall make a sworn statement before a notary public or
8 other officer authorized to give oaths containing the following
9 information:

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

12 (2) The legal name of the candidate and the first and last
13 name by which the candidate may be identified in seeking the
14 office;

15 (3) The specific address designating the location at which the
16 candidate resides at the time of filing, including number and
17 street or rural route and box number and city, state and zip code;

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

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

23 (6) A filing fee equal to twenty-five percent of the amount
24 required by the provisions of section eight, article five of this

1 chapter for the particular office sought by the write-in candidate.
2 All fees collected from write-in candidates shall be distributed in
3 the same manner as provided by the provisions of section eight,
4 article five of this chapter.

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

8 © The certificate of announcement shall be filed with and
9 received by the proper filing officer as follows:

10 (1) Except as provided in subdivisions (2) and (3) of this
11 subsection, the certificate of announcement for any office shall be
12 received no later than the close of business on the forty-second
13 day before the election at which the office is to be filled;

14 (2) When a vacancy occurs in the nomination of candidates for
15 an office on the ballot resulting from the death of the nominee or
16 from the disqualification or removal of a nominee from the ballot
17 by a court of competent jurisdiction not earlier than the twenty-
18 first day nor later than the fifth day before the general election,
19 the certificate shall be received no later than the close of
20 business on the fifth day before the election or the close of
21 business on the day following the occurrence of the vacancy,
22 whichever is later;

23 (3) When a vacancy occurs in an elective office which would
24 not otherwise appear on the ballot in the election, but which

1 creates an unexpired term of one or more years which, according to
2 the provisions of this chapter, is to be filled by election in the
3 next ensuing election and the vacancy occurs no earlier than the
4 twenty-first day and no later than the fifth day before the general
5 election, the certificate shall be received no later than the close
6 of business on the fifth day before the election or the close of
7 business on the day following the occurrence of the vacancy,
8 whichever is later.

9 (d) Any eligible person who files a completed write-in
10 candidate's certificate of announcement with the proper filing
11 officer within the required time shall be certified by that filing
12 officer as an official write-in candidate:

13 (1) The Secretary of State shall, immediately following the
14 filing deadline, post the names of all official write-in candidates
15 for offices on the ballot in more than one county and certify the
16 name of each official write-in candidate to the clerks of the
17 county commissions of the appropriate counties.

18 (2) The clerk of the county commission shall, immediately
19 following the filing deadline, post the names of all official
20 write-in candidates for offices on the ballot in one county and
21 certify and deliver to the election officials of the appropriate
22 precincts, the names of all official write-in candidates and the
23 office sought by each for statewide, district and county offices on
24 the ballot in the precinct for which valid write-in votes will be

1 counted and the names shall be posted at the office where absentee
2 voting is conducted and at the precincts in accordance with section
3 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.