

1 **H. B. 4409**

2
3 (By Delegate J. Miller)

4 [Introduced February 3, 2012; referred to the
5 Committee on the Judiciary then Finance.]

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10 A BILL to amend and reenact §3-5-8a of the Code of West Virginia,
11 1931, as amended, relating to primary elections and nominating
12 procedures and reducing the signature requirement of petitions
13 in lieu of the filing fee and replace the oath of
14 impecuniosity with a statement of intent.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §3-5-8a of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

19 **§3-5-8a. Nominating petitions as alternatives to filing fees; ~~oath~~**
20 **~~of impecuniosity required~~ statement that the candidate**
21 **is unable to pay the filing fee required; petition in**
22 **lieu of payment of filing fee.**

23 A candidate seeking nomination to any office who is unable to

1 pay the filing fee may qualify through the following petition
2 process in lieu of payment of the filing fee.

3 The candidate shall file ~~an oath~~ a statement with the
4 appropriate office required under section eight of this article
5 stating that he or she is unable to pay the filing fee ~~due to a~~
6 ~~lack of financial resources.~~ Such oath and instead intends to
7 submit voter-signed petitions. The statement shall be filed not
8 earlier than the second Monday in January next preceding the
9 primary election day.

10 Upon receipt of the written ~~oath~~ statement the receiving
11 officer shall provide the candidate with in-lieu-of-filing-fee
12 petition forms and instructions on gathering the required
13 signatures. The number of required signatures shall be ~~four~~
14 ~~qualified voters~~ one qualified voter for each whole dollar of the
15 filing fee: *Provided*, That the filing fee shall be waived, in
16 whole and not in part. Only signatures of voters registered in the
17 county, district or other political division represented by the
18 office sought may be solicited. Solicitors of signatures shall
19 also be residents of the county, district or other geographical
20 entity represented by the office sought: *Provided, however*, That
21 for offices to be filled by the voters of more than one county,
22 separate petition forms shall be used for the signatures of
23 qualified voters from each county.

24 No qualified voter forfeits his or her opportunity to vote in

1 the primary election by signing an in-lieu-of-filing-fee petition.

2 The candidate may submit a greater number of signatures to
3 allow for subsequent losses due to invalidity of some signatures.
4 The clerk of the county commission may not be required to determine
5 the validity of a greater number of signatures than that required
6 by this section.

7 Signatures obtained on an in-lieu-of-filing-fee petition shall
8 not be counted toward the number of voters required to sign a
9 nomination certificate in accordance with section twenty-three of
10 this article.

11 The candidate shall file all in-lieu-of-filing-fee petitions
12 with the required number of valid signatures with the clerk of the
13 county commission or Secretary of State, as the case may be, not
14 later than the last date required by law for filing declarations of
15 candidacies and payment of the filing fee.

16 The ~~oath~~ statement and forms required by this section shall be
17 prescribed by the Secretary of State.

NOTE: The purpose of this bill is to increase the ability of candidates to obtain ballot access by reducing the signature requirement for the filing fee waiver. The bill also replaces the oath of impecuniosity with a statement from the candidate stating that the candidate is unable to pay the filing fee and will submit voter-signed petitions in lieu of paying the filing fee.

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

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