

Senate Bill No. 476

(By Senators Palumbo, Unger and Miller)

[Introduced February 1, 2012; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §3-6-4a of the Code of West Virginia,
1931, as amended, relating to changing the filing deadline for
certified write-in 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
certificate of announcement as provided in this section. No

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

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

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

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

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

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

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

22 (b) The certificate of announcement shall be filed with the
23 filing officer for the political division of the office as

1 prescribed in section seven, article five of this chapter.

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

4 (1) Except as provided in subdivision (2) ~~and (3)~~ of this
5 subsection, the certificate of announcement for any office shall be
6 received no later than the close of business on the ~~forty-second~~
7 forty-ninth day before the election at which the office is to be
8 filled;

9 (2) When a vacancy occurs in the nomination of candidates for
10 an office on the ballot resulting from the death of the nominee or
11 from the disqualification or removal of a nominee from the ballot
12 by a court of competent jurisdiction not earlier than the ~~twenty-~~
13 ~~first~~ forty-eighth day nor later than the fifth day before the
14 general election, the certificate shall be received no later than
15 the close of business on the fifth day before the election or the
16 close of business on the day following the occurrence of the
17 vacancy, whichever is later.

18 ~~(3) When a vacancy occurs in an elective office which would~~
19 ~~not otherwise appear on the ballot in the election, but which~~
20 ~~creates an unexpired term of one or more years which, according to~~
21 ~~the provisions of this chapter, is to be filled by election in the~~
22 ~~next ensuing election and the vacancy occurs no earlier than the~~
23 ~~twenty-first day and no later than the fifth day before the general~~

~~1 election, the certificate shall be received no later than the close
2 of business on the fifth day before the election or the close of
3 business on the day following the occurrence of the vacancy,
4 whichever is later.~~

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

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

14 (2) The clerk of the county commission shall, immediately
15 following the filing deadline, post the names of all official
16 write-in candidates for offices on the ballot in one county and
17 certify and deliver to the election officials of the appropriate
18 precincts, the names of all official write-in candidates and the
19 office sought by each for statewide, district and county offices on
20 the ballot in the precinct for which valid write-in votes will be
21 counted and the names shall be posted at the office where absentee
22 voting is conducted and at the precincts in accordance with section
23 twenty, article one of this chapter.

NOTE: The purpose of this bill is to ensure the filing deadline for certified write-in candidates is sufficiently early to support the required transmission deadline of absentee ballots to voters covered by the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA). The bill also removes language that conflicts with other sections of code concerning the filling of vacancies.

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