

# H. B. 4403

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(BY DELEGATES MILEY, MANCHIN, LAWRENCE  
AND FLEISCHAUER)  
[BY REQUEST OF SECRETARY OF STATE]

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[Introduced February 2, 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.**

- 1 Any eligible person who seeks to be elected by write-in
- 2 votes to an office, except delegate to national convention,
- 3 which is to be filled in a primary, general or special election

4 held under the provisions of this chapter, shall file a write-in  
5 candidate's certificate of announcement as provided in this  
6 section. No certificate of announcement may be accepted  
7 and no person may be certified as a write-in candidate for a  
8 political party nomination for any office or for election as  
9 delegate to national convention.

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

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

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

20 (3) The specific address designating the location at which  
21 the candidate resides at the time of filing, including number

22 and street or rural route and box number and city, state and  
23 zip code;

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

26 (5) The words “subscribed and sworn to before me this  
27 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_” and a space for the  
28 signature of the officer giving the oath.

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

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

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

39       (2) When a vacancy occurs in the nomination of  
40 candidates for an office on the ballot resulting from the death  
41 of the nominee or from the disqualification or removal of a  
42 nominee from the ballot by a court of competent jurisdiction  
43 not earlier than the ~~twenty-first~~ forty-eighth day nor later  
44 than the fifth day before the general election, the certificate  
45 shall be received no later than the close of business on the  
46 fifth day before the election or the close of business on the  
47 day following the occurrence of the vacancy, whichever is  
48 later.

49       ~~(3) When a vacancy occurs in an elective office which~~  
50 ~~would not otherwise appear on the ballot in the election, but~~  
51 ~~which creates an unexpired term of one or more years which,~~  
52 ~~according to the provisions of this chapter, is to be filled by~~  
53 ~~election in the next ensuing election and the vacancy occurs~~  
54 ~~no earlier than the twenty-first day and no later than the fifth~~  
55 ~~day before the general election, the certificate shall be~~  
56 ~~received no later than the close of business on the fifth day~~

57 ~~before the election or the close of business on the day~~  
58 ~~following the occurrence of the vacancy, whichever is later.~~

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

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

68 (2) The clerk of the county commission shall,  
69 immediately following the filing deadline, post the names of  
70 all official write-in candidates for offices on the ballot in one  
71 county and certify and deliver to the election officials of the  
72 appropriate precincts, the names of all official write-in  
73 candidates and the office sought by each for statewide,  
74 district and county offices on the ballot in the precinct for

75 which valid write-in votes will be counted and the names  
76 shall be posted at the office where absentee voting is  
77 conducted and at the precincts in accordance with section  
78 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.