Introduced

Senate Bill 438

By Senators Romano and Baldwin

[Introduced January 25, 2019; Referred to the Committee on the Judiciary; and then to the Committee on Finance]
A BILL to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to creating an online voters’ guide; requiring all information in the certificate of announcement; permitting candidates running for statewide office to submit a personal statement; directing the State Election Committee to create the guide; and requiring the Secretary of State post the voters’ guide on its website.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-7. Filing certificates of announcements of candidacies; requirements; withdrawal of candidates when section applicable.

(a) Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring his or her candidacy for the nomination or election to the office.

(b) The certificate of announcement shall be filed as follows:

(1) Candidates for the House of Delegates, the State Senate, circuit judge, family court judge, and any other office or political position to be filled by the voters of more than one county shall file a certificate of announcement with the Secretary of State.

(2) Candidates for an office or political position to be filled by the voters of a single county or a subdivision of a county, except for candidates for the House of Delegates, State Senate, circuit judge or family court judge, shall file a certificate of announcement with the clerk of the county commission.

(3) Candidates for an office to be filled by the voters of a municipality shall file a certificate of announcement with the recorder or city clerk.

(c) The certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January before the primary election day and not later than the last Saturday in January before the primary election day and must be received before midnight, eastern
standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour. This includes the offices of justice of the Supreme Court of Appeals, circuit court judge, family court judge and magistrate, which are to be filled on a nonpartisan and division basis at the primary election: Provided, That on the final day of a political filing period, the office of the Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the county clerk in all counties of the state shall be open on that final day of a political filing period from 9:00 a.m. until 12:00 p.m.

(d) The certificate of announcement shall be on a form prescribed by the Secretary of State on which the candidate shall make a sworn statement before a notary public or other officer authorized to administer oaths, and must contain the following information:

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought; the district, if any; and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in §3-5-13 of this code;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

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

(6) A telephone number, e-mail address, and web address for the candidate’s website or social media accounts, if available;

(7) For candidates for Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, and Supreme Court of Appeals, a personal statement, not to exceed 500 words in length, outlining the candidate’s relevant educational, professional, civic and community service for the office sought;
For partisan elections, the name of the candidate’s political party and a statement that the candidate: (A) is a member of and affiliated with that political party as evidenced by the candidate’s current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of 60 days before the date of filing the announcement;

For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot; or a statement that the candidate prefers to remain “uncommitted”; A statement that the person filing the certificate of announcement is a candidate for the office in good faith;

The words “subscribed and sworn to before me this _____ day of ____________, 20____” and a space for the signature of the officer giving the oath.

The State Election Commission shall use the information provided pursuant to subsection (d) of this section to prepare a voters’ guide for the general public. Copies of the guide shall be posted on the website of the Secretary of State, as soon as may be practical.

The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter’s registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the 60 days immediately preceding the filing of the certificate: Provided, That unless a signed formal complaint of violation of this section and the certified copy of the voter’s registration record of the candidate are filed with the officer receiving that candidate’s certificate of announcement no later than 10 days following the close of the filing period, the candidate may not be refused certification for this reason.

The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who
knowingly provides false information on the certificate is guilty of false swearing and shall be
punished in accordance with §3-9-3 of this code.

(h) Any candidate for delegate to a national convention may change his or her
statement of presidential preference by notifying the Secretary of State by letter received by the
Secretary of State no later than the third Tuesday following the close of candidate filing. When
the rules of the political party allow each presidential candidate to approve or reject candidates
for delegate to convention who may appear on the ballot as committed to that presidential
candidate, the presidential candidate or the candidate’s committee on his or her behalf may file a
list of approved or rejected candidates for delegate and the Secretary of State shall list as
“uncommitted” any candidate for delegate who is disapproved by the presidential candidate.

(i) A person may not be a candidate for more than one office or office division at any
election: Provided, That a candidate for an office may also be a candidate for President of the
United States, for membership on political party executive committees or for delegate to a political
party national convention: Provided, That an unsuccessful candidate for a nonpartisan office in
an election held concurrently with the primary election may be appointed under the provisions of
section 19 of this article to fill a vacancy on the general ballot.

(j) A candidate who files a certificate of announcement for more than one office or
division and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior
to the close of the filing period may not be certified by the Secretary of State or placed on the
ballot for any office by the board of ballot commissioners.

NOTE: The purpose of this bill is to establish an accessible online voters’ guide on the
Secretary of State’s website. The guide would be created by the State Election
Commission using information provided on certificates of announcement. Candidates for
statewide office would be eligible to submit a personal statement in addition to other
information required on the certificate of announcement.

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