

1 **H. B. 4403**

2
3 (By Delegates Miley, Manchin, Lawrence
4 and Fleischauer)

5 [By request of Secretary of State]

6 [Introduced February 2, 2012; referred to the
7 Committee on the Judiciary.]

**FISCAL
NOTE**

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9
10 A BILL to amend and reenact §3-6-4a of the Code of West Virginia,
11 1931, as amended, relating to changing the filing deadline for
12 certified write-in candidates.

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

14 That §3-6-4a of the Code of West Virginia, 1931, as amended,
15 be amended and reenacted to read as follows:

16 **ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

17 **§3-6-4a. Filing requirements for write-in candidates.**

18 Any eligible person who seeks to be elected by write-in votes
19 to an office, except delegate to national convention, which is to
20 be filled in a primary, general or special election held under the
21 provisions of this chapter, shall file a write-in candidate's
22 certificate of announcement as provided in this section. No
23 certificate of announcement may be accepted and no person may be
24 certified as a write-in candidate for a political party nomination

1 for any office or for election as delegate to national convention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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