

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4571**

BY DELEGATES CAMPBELL, AMBLER, LYNCH, R. MILLER,

CANESTRARO, THOMPSON, HICKS, COOPER, WAGNER,

BREWER AND DEAN

[Introduced February 13, 2018; Referred

to the Committee on the Judiciary.]

1 A BILL to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to  
 2 the final day of filing announcements of candidates for a political office; and providing that  
 3 the deadline is 11:59 p.m.; requiring that the office of the Secretary of State be open until  
 4 that time; and requiring the offices of the County Clerks of each county be open from 12  
 5 p. m. until 6 p. m. on that date.

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

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

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

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

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

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

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

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

15 (c) The certificate of announcement shall be filed with the proper officer not earlier than  
 16 the second Monday in January before the primary election day and not later than the last Saturday  
 17 in January before the primary election day and must be received before midnight, eastern

18 standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service  
19 before that hour. This includes the offices of justice of the Supreme Court of Appeals, circuit court  
20 judge, family court judge and magistrate, which are to be filled on a nonpartisan and division basis  
21 at the primary election: Provided, That on the final day of a political filing period, the deadline  
22 time is 11:59 p.m. and the office of the Secretary of State shall be open until 11:59 p.m. The  
23 offices of the County Clerk in all counties of the state shall be open on that final day of a political  
24 filing period from 12 p.m. until 6 p.m.

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

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

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

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

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

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

38 (6) For partisan elections, the name of the candidate's political party and a statement that  
39 the candidate: (A) Is a member of and affiliated with that political party as evidenced by the  
40 candidate's current registration as a voter affiliated with that party; and (B) has not been registered  
41 as a voter affiliated with any other political party for a period of sixty days before the date of filing  
42 the announcement;

43 (7) For candidates for delegate to national convention, the name of the presidential

44 candidate to be listed on the ballot as the preference of the candidate on the first convention  
45 ballot; or a statement that the candidate prefers to remain “uncommitted”;

46 (8) A statement that the person filing the certificate of announcement is a candidate for  
47 the office in good faith;

48 (9) The words “subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
49 20\_\_\_\_” and a space for the signature of the officer giving the oath.

50 (e) The Secretary of State or the board of ballot commissioners, as the case may be, may  
51 refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a  
52 certified copy of the voter's registration record of the candidate showing that the candidate was  
53 registered as a voter in a party other than the one named in the certificate of announcement during  
54 the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed  
55 formal complaint of violation of this section and the certified copy of the voter's registration record  
56 of the candidate are filed with the officer receiving that candidate's certificate of announcement  
57 no later than ten days following the close of the filing period, the candidate may not be refused  
58 certification for this reason.

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

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

70 candidate for delegate who is disapproved by the presidential candidate.

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

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

NOTE: The purpose of this bill is to provide that on the final day of filing announcements of candidates for a political office the deadline is 11:59 p.m. The bill requires that the office of the Secretary of State be open until that time; and that the offices of the County Clerks of each county be open from 12 p. m. until 6 p. m. on that date.

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