

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5166

**FISCAL
NOTE**

By Delegate Butler

[Introduced; referred
to the committee on]

1 A BILL to amend and reenact §3-8-7 of the Code of West Virginia, 1931, as amended, relating to
2 elections; requiring notice to be provided to any political committees violating the filing
3 requirements prior to assessing any civil fines; and giving the Secretary of State authority
4 to grant additional time for compliance not to exceed an additional 14 days.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.

1 (a) Any person, candidate, financial agent, or treasurer of a political committee who fails to
2 file a sworn, itemized statement required by this article within the time limitations specified in this
3 article or who willfully files a grossly incomplete or grossly inaccurate statement is guilty of a
4 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 or confined in jail for
5 not more than one year, or both fined and confined. Sixty days after any primary or other election,
6 the Secretary of State, county clerk, or municipal recorder, as the case may be, shall give notice of
7 any failure to file a sworn statement or the filing of any grossly incomplete or grossly inaccurate
8 statement by any person, candidate, financial agent, or treasurer of a political party committee and
9 forward copies of any grossly incomplete or grossly inaccurate statement to the prosecuting
10 attorney of the county where the person, candidate, financial agent, or treasurer resides, is
11 located, or has its principal place of business.

12 (b) (1) Any person, candidate, financial agent, or treasurer of a political committee who fails
13 to file a sworn, itemized statement as required in this article or who files a grossly incomplete or
14 grossly inaccurate statement shall be assessed a civil penalty by the Secretary of State of \$10 a
15 day for each day after the due date the statement is delinquent, grossly incomplete, or grossly
16 inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the
17 Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete, or
18 grossly inaccurate statement by any person, candidate, financial agent, or treasurer of a political
19 committee and forward copies of such delinquent, incomplete, or inaccurate statements to the

Secretary of State.

(2) A civil penalty assessed pursuant to this section shall be payable to the State of West Virginia and is collectable as authorized by law for the collection of debts.

(3) Prior to assessing a penalty pursuant to this section as a result of the filing of a delinquent report, the Secretary of State shall notify, not later than 14 days after the deadline for the required report, any person, candidate, financial agent, or treasurer of a political committee who fails to file a sworn, itemized statement required by this article, in writing that a report has not been filed or that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed pursuant to this section if the report or information required to complete the report is filed within seven days of the date of the written notice. Such notice shall be sent to the most recent email address, if any, and mailing address provided by the political committee and its treasurer.

(A) If the report or information required to complete the report is not filed within the seven-day period, the Secretary of State shall assess against the person, candidate, financial agent, or treasurer of a political committee who fails to file a sworn, itemized statement required by this article, the civil penalty set forth in this section.

(B) The Secretary of State may grant an additional period for compliance, not to exceed 14 days, for good cause shown and in response to a request filed within the seven-day period.

~~(3)~~ (4) The Secretary of State may negotiate and enter into settlement agreements for the payment of civil penalties assessed as a result of the filing of a delinquent, grossly incomplete, or inaccurate statement.

(4) ~~(5)~~ The Secretary of State shall publish online a list of all persons required to file statements with the Secretary of State who file statements after the deadline in an election cycle. This list shall be maintained and be publicly available online to include late activity for, at a minimum, the previous five years up to the current year.

~~(5)~~ (6) The Secretary of State and county clerk may review and audit any sworn statement

46 required to be filed pursuant to this article. The State Election Commission shall propose
47 legislative rules for promulgation, in accordance with §29A-3-1 *et seq.* of this code, to establish
48 procedures for the assessment of civil penalties as provided in this section.

49 (c) (1) Any candidate, whether nominated by primary election or appointed by executive
50 committee or executive committee chair, who has failed to file any sworn statement as required by
51 this article relating to the immediately preceding primary election for any office by the 84th day
52 before the general election, is disqualified and may not have his or her name appear on the
53 general election ballot. The provisions of §3-8-5b(d) of this code notwithstanding, any sworn
54 statement filed after the deadline required by §3-8-5 of this code must be received in the office
55 indicated by §3-8-5b(a) of this code by the close of business on the 84th day before the general
56 election.

57 (2) It is unlawful to issue a commission or certificate of election, or to administer the oath of
58 office, to any person elected to any public office who has failed to file any sworn statement
59 required by this article and no person may enter upon the duties of his or her office until he or she
60 has filed such statement, nor may he or she receive any salary or emolument for any period prior
61 to the filing of the statement.

62 (3) The vacancy on the ballot created by the disqualification in this subsection is subject to
63 §3-5-19 of this code.

64 (d) As used in this section, "grossly" means substantive and material, and specifically
65 includes false or misleading representations and acts of omissions.

66 (e) The Secretary of State shall provide by rule protocols for written notice via certified mail,
67 return receipt requested, to the person, candidate, financial agent, or treasurer of a political party
68 committee that is not in compliance with the requirements of this section. With respect to a
69 violation of subsection (c) of this section, the notice shall be provided 60 days after any primary or
70 other election.

NOTE: The purpose of this bill is to provide notice to any political committees violating the

filing requirements prior to assessing any civil fines and giving the Secretary of State authority to grant additional time for compliance not to exceed an additional 14 days.

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