

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5221

By Delegates Funkhouser, Hillenbrand, Moore,
Dittman, and Heckert

[By request of the Secretary of State]

[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 regulation and control of elections; increasing the civil penalties for failure to file required
3 campaign finance reports, or filing grossly incomplete or grossly inaccurate campaign
4 finance reports, from \$10 per day to a maximum of \$500 for the first violation, and \$1,000
5 per report for each subsequent violation; requiring notice to be provided to any political
6 committees violating the filing requirements prior to assessing any civil fines; giving the
7 Secretary of State authority to grant additional time for compliance not to exceed an
8 additional 14 days; authorizing the Secretary of State to negotiate and enter into
9 settlement agreements for payment of the civil penalty, including but not limited to, entering
10 into an installment payment plan; and requiring the Secretary of State to refer any civil
11 penalties that remain outstanding for a period greater than 30 days to a debt collection
12 agency or similar other responsible agent for collection.

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, or county clerk, ~~or municipal recorder~~, as the case may be, shall give notice
7 of 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.

(b)(1) Any person, candidate, financial agent, or treasurer of a political committee, and its treasurer, who fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete or grossly inaccurate statement shall be assessed a civil penalty by the Secretary of State of \$10 a day for each day after the due date the statement is delinquent, grossly incomplete, or grossly inaccurate as follows:

(1) The greater of \$100 or 10 percent of the balance of cash and any other sum of money on hand at the beginning of the period covered by the financial statement in addition to any contributions received during the reporting period, for a first offense in an election cycle. The civil penalty for a first offense shall not exceed \$500.

(2) In the case of a second or any subsequent violation pertaining to the same election cycle, the greater of \$200 or 15 percent of the balance of cash and any other sum of money on hand at the beginning of the period covered by the financial statement in addition to any contributions received during the respective reporting period. The civil penalty for a second or any subsequent violation shall not exceed \$1,000.

(3) Sixty days after any primary or other election, the county clerk shall give notice to the Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete, or grossly inaccurate statement by any person, candidate, financial agent, or treasurer of a political 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

(4) 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, the political committee, and its treasurer, 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 political committee, and its treasurer, 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.

(5) Prior to assessing a penalty pursuant to this section for the filing of a grossly incomplete or grossly inaccurate report, the Secretary of State shall notify the political committee, and its treasurer, that a filed report is inaccurate or incomplete, citing the omissions from the report. No penalty shall be assessed if the information required to complete the report is filed within 10 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 information required to complete the report is not filed within the 10-day period, the Secretary of State shall assess against the political committee, and its treasurer, 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 10-day period. However, no additional period shall be granted thereafter for compliance.

(6) A civil penalty assessed by the Secretary of State pursuant to this section shall be payable to the state of West Virginia no later than 30 days after the date the penalty is issued. A civil penalty is delinquent if the full amount of the civil penalty has not been timely paid.

~~(3)~~(A) 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. The Secretary of State may consider the following factors:

64 (i) The seriousness of the violations;

65 (ii) The history and extent of previous violations;

66 (iii) The demonstrated good faith of the political committee and treasurer;

67 (iv) The penalty necessary to deter future violations; and

68 (v) Any other matters that justice may require.

69 (B) In lieu of paying the full amount of the civil penalty within 30 days, a political committee,
70 and its treasurer, may enter into an installment payment plan with the Secretary of State.

71 (C) If the civil penalty remains delinquent for 30 days or longer, or if the political committee,
72 and its treasurer, fails to adhere to the terms of any installment plan, the Secretary of State shall
73 refer the civil penalty to a responsible licensed and bonded debt collection agency or similar other
74 responsible agent for collection.

75 ~~(4) (6) (7)~~ The Secretary of State shall publish online a list of all persons required to file
76 statements with the Secretary of State who file statements after the deadline in an election cycle.
77 This list shall be maintained and be publicly available online to include late activity for, at a
78 minimum, the previous five years up to the current year.

79 ~~(5) (7) (8)~~ The Secretary of State and county clerk may review and audit any sworn
80 statement required to be filed pursuant to this article. The State Election Commission shall
81 propose legislative rules for promulgation, in accordance with §29A-3-1 *et seq.* of this code, to
82 establish procedures for the assessment of civil penalties as provided in this section.

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

89 indicated by §3-8-5b(a) of this code by the close of business on the 84th day before the general
90 election.

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

96 (3) The vacancy on the ballot created by the disqualification in this subsection is subject to
97 §3-5-19 of this code.

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

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

NOTE: The purpose of this bill is to increase civil penalties for failure to file
required campaign finance reports.

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