WEST VIRGINIA CODE: §7-1-15

§7-1-15. Challenge of candidate for county commission; residency.

(a) (1) Any person desiring to contest the qualifications of another person whose nomination in the primary election, nomination by petition, or nomination by appointment to fill a vacancy on the ballot, has been certified and filed pursuant to article five, chapter three of this Code, as a candidate for the office of county commission at a general election, shall file a verified petition specifically setting forth the grounds of the challenge not later than thirty days after the date of the primary election.

(2) The court may permit a petition to be filed after the thirtieth day after the primary election upon a finding that the petitioner was unable to discover the grounds for challenging the qualifications of the candidate prior to the thirtieth after the primary election despite the exercise of reasonable diligence.

(3) The petition shall be filed with the circuit court of the county in which the candidate is seeking office.

(b) The circuit court shall at the earliest possible date set the matter for hearing, but in no event shall the hearing be held later than thirty days after the filing of the petition.

(c) The matter shall be tried by the circuit judge, without a jury. After hearing the evidence, the circuit judge shall determine whether the candidate whose qualifications have been challenged is legally qualified to have his or her name placed upon the ballot in question. The circuit judge shall issue a written decision on each challenge by separately stating findings of facts, conclusions of law within ten days of the conclusion of the hearing.

(d) The burden of proof shall be upon the petitioner, who must show by a preponderance of the evidence of the record as a whole that the candidate is not qualified to be a candidate for county commission.

(e) Within five days after judgment is rendered by the circuit court, the petitioner or the candidate, or both, may file an appeal in the Supreme Court upon giving a cost bond in the sum of $300. The appeal shall be immediately docketed in the Supreme Court and shall be decided at the earliest possible date, as a preference case over all others.

(f) The procedure set forth above shall be the sole and only manner in which the qualifications of a candidate for county commission may be challenged prior to the time of his or her election. After any such person has been elected to public office, the election may be challenged as otherwise provided by law. After any person assumes an elective office, his or her qualifications to hold that office may be contested as otherwise provided by law.

WV Legislature