WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1998

ENROLLED
Committee Substitute for
SENATE BILL NO. 113

(By Senator BAILEY)

PASSED March 14, 1998
In Effect NINETY DAYS FROM Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 113

(SENATOR BAILEY, original sponsor)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to changing the dates of filing certificates of announcements for candidacy in primary elections; establishing effective dates; and making certain technical revisions.

Be it enacted by the Legislature of West Virginia:

That section seven, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-7. Filing announcements of candidacies; requirements; withdrawal of candidates when section applicable.
Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring as a candidate for the nomination or election to the office.

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

(1) With the secretary of state, if it be an office or political position to be filled by the voters of more than one county;

(2) With the clerk of the circuit court, if it be for an office to be filled by the voters of a single county or of a subdivision less than a county;

(3) With the recorder or city clerk if it be for an office to be filled by the voters of a municipality.

The certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January next preceding the primary election day, and not later than the last Saturday in January next preceding the primary election day, and must be received before midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States postal service before that hour.

(b) The certificate of announcement shall be in a form prescribed by the secretary of state on which the candidate shall make a sworn statement before a notary public or other officer authorized to give oaths, containing the following information:

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

(2) The name of the office sought; the district, if any; and the division, if any;
(3) The legal name of the candidate, and the exact name
the candidate desires to appear on the ballot, subject to
limitations prescribed in section thirteen, article five of
this chapter;

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

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

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

(7) For candidates for delegate to national convention,
the name of the presidential candidate to be listed on the
ballot as the preference of the candidate on the first
convention ballot; or, a statement that the candidate
prefers to remain "uncommitted";

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

(9) The words "subscribed and sworn to before me this
________________ day of __________________, 19______," and a space for the signature of the officer giving the oath.

The secretary of state or the board of ballot commis-
ers, as the case may be, may refuse to certify the candi-
dacy or remove the certification of the candidacy upon
receipt of a certified copy of the voter’s registration record of the candidate evidencing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the sixty days immediately preceding the filing of the certificate:

Provided, That unless a signed formal complaint of violation of this section and the certified copy of the voter’s registration record of the candidate be filed with the officer receiving that candidate’s certificate of announcement no later than ten days following the close of the filing period, the candidate shall not be refused certification for this reason.

(c) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty of false swearing and shall be punished as set forth in section three, article nine of this chapter.

(d) Any candidate for delegate to a national convention may change his or her statement of presidential preference by notifying the secretary of state by letter received by the secretary of state no later than the third Tuesday following the close of candidate filing. When the rules of the political party allow each presidential candidate to approve or reject candidates for delegate to convention who may appear on the ballot as committed to that presidential candidate, the presidential candidate or the candidate’s committee on his or her behalf may file a list of approved or rejected candidates for delegate, and the secretary of state shall list as “uncommitted” any candidate for delegate who is disapproved by the presidential candidate.

(e) No person shall be a candidate for more than one office or office division at any election: Provided, That a candidate for an office may also be a candidate for president of the United States, for membership on a
police party executive committee or for delegate to a
political party national convention. Notwithstanding the
provisions of this section, nothing shall prohibit a can-
date from jointly running for or holding the offices of
county clerk and circuit clerk in those counties which
operate a joint clerkship system.

(f) Any candidate who files a certificate of announce-
ment for more than one office or division and does not
withdraw, as provided by section eleven, article five of
this chapter, from all but one office prior to the close of
the filing period shall not be certified by the secretary of
state or placed on the ballot for any office by the board of
ballot commissioners.

The provisions of this section enacted during the regular
session of the Legislature in the year one thousand nine
hundred ninety-one shall apply to the primary election
held in the year one thousand nine hundred ninety-two
and every primary election held thereafter. The provisions
of this section enacted during the regular session of the
Legislature in the year one thousand nine hundred ninety-
eight shall apply to the primary election held in the year
two thousand and every primary election held thereafter.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee.

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ... this the ... day of ... 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/20/48
Time 10:56 A.M.