

SB 113

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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

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SENATE OF WEST VIRGINIA

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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.

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

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

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

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

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

17 The certificate of announcement shall be filed with the
18 proper officer not earlier than the second Monday in
19 January next preceding the primary election day, and not
20 later than the last Saturday in January next preceding the
21 primary election day, and must be received before mid-
22 night, eastern standard time, of that day or, if mailed,
23 shall be postmarked by the United States postal service
24 before that hour.

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

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

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

34 (3) The legal name of the candidate, and the exact name
35 the candidate desires to appear on the ballot, subject to
36 limitations prescribed in section thirteen, article five of
37 this chapter;

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

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

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

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

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

62 (9) The words "subscribed and sworn to before me this
63 _____ day of _____, 19 _____,"
64 and a space for the signature of the officer giving the oath.

65 The secretary of state or the board of ballot commission-
66 ers, as the case may be, may refuse to certify the candi-
67 dacy or remove the certification of the candidacy upon

68 receipt of a certified copy of the voter's registration record
69 of the candidate evidencing that the candidate was
70 registered as a voter in a party other than the one named
71 in the certificate of announcement during the sixty days
72 immediately preceding the filing of the certificate:
73 *Provided*, That unless a signed formal complaint of
74 violation of this section and the certified copy of the
75 voter's registration record of the candidate be filed with
76 the officer receiving that candidate's certificate of an-
77 nouncement no later than ten days following the close of
78 the filing period, the candidate shall not be refused
79 certification for this reason.

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

86 (d) Any candidate for delegate to a national convention
87 may change his or her statement of presidential preference
88 by notifying the secretary of state by letter received by the
89 secretary of state no later than the third Tuesday follow-
90 ing the close of candidate filing. When the rules of the
91 political party allow each presidential candidate to
92 approve or reject candidates for delegate to convention
93 who may appear on the ballot as committed to that
94 presidential candidate, the presidential candidate or the
95 candidate's committee on his or her behalf may file a list
96 of approved or rejected candidates for delegate, and the
97 secretary of state shall list as "uncommitted" any candi-
98 date for delegate who is disapproved by the presidential
99 candidate.

100 (e) No person shall be a candidate for more than one
101 office or office division at any election: *Provided*, That a
102 candidate for an office may also be a candidate for
103 president of the United States, for membership on a

104 political party executive committee or for delegate to a
105 political party national convention. Notwithstanding the
106 provisions of this section, nothing shall prohibit a candi-
107 date from jointly running for or holding the offices of
108 county clerk and circuit clerk in those counties which
109 operate a joint clerkship system.

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

117 The provisions of this section enacted during the regular
118 session of the Legislature in the year one thousand nine
119 hundred ninety-one shall apply to the primary election
120 held in the year one thousand nine hundred ninety-two
121 and every primary election held thereafter. The provisions
122 of this section enacted during the regular session of the
123 Legislature in the year one thousand nine hundred ninety-
124 eight shall apply to the primary election held in the year
125 two thousand and every primary election held thereafter.

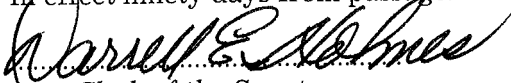
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

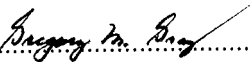

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Chairman Senate Committee.

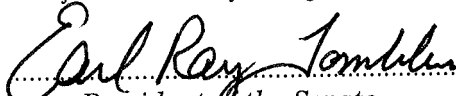

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Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.

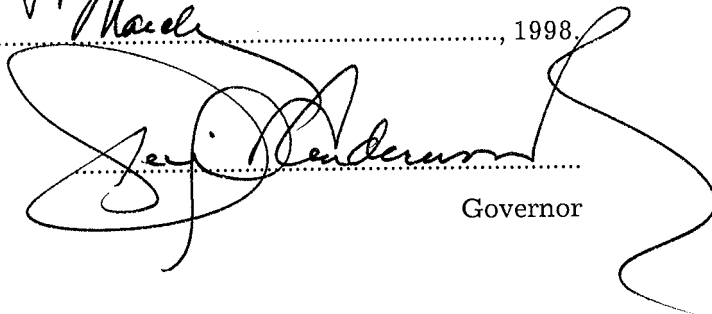

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within approved this the 24th
day of March, 1998.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/20/98

Time

10:46 am