

FILED

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WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 312

(BY SENATORS NOHE, BOLEY, LEONHARDT,
PALUMBO AND D. HALL)

[PASSED MARCH 14, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB312

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(BY SENATORS NOHE, BOLEY, LEONHARDT,
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[Passed March 14, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §3-8-7 of the Code of West Virginia, 1931, as amended, relating generally to disqualification of nominees for general election due to failure to file campaign finance statements; providing that candidates who fail to file campaign finance statements by the eighty-fourth day before the general election are disqualified; clarifying that a disqualification under this section would create a ballot vacancy and permit the replacement of a candidate on the ballot; permitting the replacement of a candidate on the ballot; defining terms; and authorizing the Secretary of State to promulgate legislative rules concerning providing written notice to a candidate prior to his or her disqualification.

Be it enacted by the Legislature of West Virginia:

That §3-8-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

19 (b)(1) Any person, candidate, financial agent or treasurer
20 of a political party committee who fails to file a sworn,
21 itemized statement as required in this article or who files a
22 grossly incomplete or grossly inaccurate statement may be
23 assessed a civil penalty by the Secretary of State of \$25 a day
24 for each day after the due date the statement is delinquent,
25 grossly incomplete or grossly inaccurate. Sixty days after any
26 primary or other election, the county clerk shall give notice
27 to the Secretary of State of any failure to file a sworn
28 statement or the filing of any grossly incomplete or grossly
29 inaccurate statement by any person, candidate, financial agent
30 or treasurer of a political party committee and forward copies
31 of such delinquent, incomplete or inaccurate statements to the
32 Secretary of State.

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

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

40 (4) The Secretary of State and county clerk may review
41 and audit any sworn statement required to be filed pursuant
42 to this article. The State Election Commission shall propose
43 legislative rules for promulgation, in accordance with chapter
44 twenty-nine-a of this code, to establish procedures for the
45 assessment of civil penalties as provided in this section.

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

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

65 (3) The vacancy on the ballot created by the
66 disqualification in this subsection is subject to section
67 nineteen, article five, chapter three of this code.

68 (d) As used in this section, “grossly” means substantive
69 and material, and specifically includes false or misleading
70 representations and acts of omissions.

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

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

Mark R. Chapman
.....
Chairman Senate Committee

John B. Hill
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark S. Barnes
.....
Clerk of the Senate

Steph J. Brown
.....
Clerk of the House of Delegates

Michelle P. Price
.....
President of the Senate

Robert L. Williams
.....
Speaker of the House of Delegates

The within *is approved* this the *31st*
March
Day of, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2015

Time 3:25 pm