

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-SECOND LEGISLATURE**  
**REGULAR SESSION, 2015**



**ENROLLED**

**Senate Bill No. 312**

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

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

E N R O L L E D

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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.

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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 of the House of Delegates*

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The within ..... this the .....

Day of ....., 2015.

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*Governor*