

**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA**

No. 18-0712

STATE OF WEST VIRGINIA, ex rel.  
DONALD L. BLANKENSHIP,  
CANDIDATE FOR U.S. SENATE IN  
WEST VIRGINIA, and  
CONSTITUTION PARTY OF  
WEST VIRGINIA,

Petitioners,

v.

MAC WARNER,  
IN HIS OFFICIAL CAPACITY AS  
WEST VIRGINIA SECRETARY OF STATE

Respondent.

**MOTION TO INTERVENE AND INCORPORATED MEMORANDUM OF LAW  
ON BEHALF OF THE WEST VIRGINIA REPUBLICAN PARTY, INC.**

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Pursuant to Rule 32 of the West Virginia Rules of Appellate Procedure, the West Virginia Republican Party, Inc. (“West Virginia Republican Party” or “Party”) respectfully moves to intervene in this matter for the reasons stated below.

### **INTRODUCTION**

Don Blankenship sought and failed to win the Party’s nomination for the United States Senate, and he now seeks to run against the Party’s nominee in direct violation of state law. Unhappy with the route he chose to try to get to the General Election, Mr. Blankenship asks this Court to ignore or strike down state law, and order the West Virginia Secretary of State (“Secretary of State”) to give him a second bite of the apple. His action should fail because the West Virginia Legislature has enacted laws, consistent with state and federal constitutions, to prohibit exactly this type of disruption to the electoral process.

This Court should grant the West Virginia Republican Party leave to intervene by right or permission because if Mr. Blankenship is successful, the consequences will be suffered not by the Secretary of State but by the Party. In this election and in future elections, the Party’s primary process will be undermined, the votes cast by its members will be rendered moot, and its duly-chosen nominee will be harmed. Moreover, because the Secretary of State and the Party have differing interests, the Party will not be adequately represented by the Secretary of State.

### **BACKGROUND**

Don Blankenship lost his campaign to be West Virginia’s Republican nominee for United States Senate, but he is nevertheless seeking to be a candidate in this fall’s General Election. Less than two weeks after receiving only twenty percent of the Republican primary vote, Mr. Blankenship announced that he would run as a “third-party candidate” for the United States

Senate in the 2018 General Election. Blankenship then changed his party registration from the Republican Party to the “Constitution Party.”

West Virginia election law provides two pathways for becoming a candidate for public office in the General Election—one for candidates of political parties recognized under state law and one for candidates of unrecognized parties. A “political party” under West Virginia law is “any affiliation of voters representing any principle or organization, which at the last preceding General Election, polled for its candidate for governor *at least one percent of the total number of votes cast* for all candidates for that office in the state.” W. Va. Code § 3-1-8 (emphasis added). Put more simply, a recognized party is one that received at least one percent of the votes cast for governor in the last General Election—here, the 2016 General Election.

The pathway for candidates seeking the nomination of recognized parties goes through either a convention or primary, depending on the percentage of votes for governor the party last received. If the party received more than ten percent of the vote, the candidate must be nominated by a primary election. W. Va. Code § 3-5-4. If the party polled more than one but less than ten percent, a candidate may instead be nominated by party convention. W. Va. Code § 3-5-22.

At present, there are four recognized political parties in West Virginia based on the results of the 2016 General Election: the Democratic Party, the Republican Party, the Mountain Party, and the Libertarian Party. (*See Recognized Political Parties in WV, Attached as Exhibit 1*). Notably, the “Constitution Party of West Virginia” is not, and never has been, a recognized political party for purposes of elections in West Virginia. Since the Constitution Party of West Virginia’s (“Constitution Party”) formation in 2004, it has nominated no gubernatorial candidate that has polled at least one percent of the total number of votes cast for that office.

Potential candidates for the Constitution Party, like Mr. Blankenship, must follow the second pathway to a nomination: a petition process. But under West Virginia Code § 3-5-23(a), unrecognized parties can only nominate candidates “who are not already candidates in the primary election for public office otherwise than by conventions or primary elections.” W. Va. Code § 3-5-23(a). Subsection (g) also states that a potential candidate for an unrecognized party cannot lose a recognized party’s nomination and then seek an unrecognized party’s nomination:

any person who was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code *may not, after failing to win the nomination of his or her political party, become a candidate for the same political office by virtue of the nomination-certification process as set forth in this section.*

W. Va. Code § 3-5-23(g) (emphasis added).

This type of sore loser provision is common throughout the country—more than forty states have a version of it. Those laws prohibit or limit, in various ways, the “losing candidate in one party’s primary election from subsequently filing to run as the nominee of another party *or as an independent candidate* on the general election ballot in the same electoral cycle.” Michael S. Kang, *Sore Loser Laws and Democratic Contestation*, 99 Geo. L.J. 1013 (April 2011) (emphasis added). These laws and other reasonable restrictions on a candidate’s ability to appear on an election ballot have long been upheld. *See, e.g., Storer v. Brown*, 415 U.S. 724, 736 (1974) (finding that California’s one-year disaffiliation statute furthers a compelling interest in the stability of the state’s political system, which outweighs the interest of the candidate to seek independent ballot status); *Backus v. Spears*, 677 F.2d 397 (4th Circ. 1982) (concluding that South Carolina can forbid petition candidacies by persons defeated in party primaries in order to promote orderly primary elections); *Nat’l Comm. of the U.S. Taxpayers Party v. Garza*, 924 F. Supp. 71 (W.D. Tex. 1996) (holding that “sore loser” restrictions are a valid and legitimate restriction for settling intraparty disputes prior to the general election).

Despite the clear sore loser provisions set forth in West Virginia Code § 3-5-23, Mr. Blankenship attempted to file a certificate of nomination to be the Constitution Party's nominee for United States Senate. Mr. Blankenship filed his paperwork and a corresponding 11,468 signatures with the West Virginia Secretary of State's office on July 24, 2018.<sup>1</sup> The Secretary of State rejected Mr. Blankenship's candidacy, finding that the sore loser provisions of West Virginia Code § 3-5-23 prohibit him from utilizing the nomination-certificate process since he previously sought and failed to win the nomination of the West Virginia Republican Party for United States Senate in the 2018 Primary Election.

Mr. Blankenship now asks this Court to order the West Virginia Secretary of State to list him as a candidate on the General Election ballot for United States Senate.

### **ARGUMENT**

The West Virginia Republican Party moves to intervene in this original action to protect its interests in: (1) maintaining the integrity of the various routes to the general election ballot established by the West Virginia Legislature; (2) ensuring that the votes cast in the Republican primary are respected; (3) tempering the destabilizing effects of party splintering and excessive factionalism; (4) guarding against divisive intraparty fights after a political party has chosen its nominee; and (5) preserving the overall stability of West Virginia's political system. Under Rule 32 of the West Virginia Rules of Appellate Procedure, the Party has a right to intervene if "the representation of the applicant's interest by existing parties is or may be inadequate, and the applicant is or may be bound by the judgment in the action." W. Va. R. App. P. 32. This Court also may grant intervention in its discretion. *Id.* On either ground, the Party's motion—timely filed just three business days after Mr. Blankenship initiated the suit—should be granted.

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<sup>1</sup> The West Virginia Secretary of State's Office has presumed approximately 7,100 of those signatures to be valid, which would be a sufficient number of qualified signatures. (See Letter from WV Secretary of State Mac Warner, Attached as Exhibit 2). The letter states that the signatures are still being verified.



**I. The West Virginia Republican Party Is Entitled to Intervene as a Matter of Right.**

**A. The Party has an interest in the subject matter of this action.**

There can be no question that the West Virginia Republican Party has a substantial interest in this action. Mr. Blankenship is challenging the validity of a statute that was enacted specifically to protect the rights of recognized political parties, including the West Virginia Republican Party, to nominate their chosen candidates. *See* W. Va. Code § 3-5-23(g); *see also* Kang, *Sore Loser Laws and Democratic Contestation*, 99 Geo. L.J. at 1053 (noting that courts reviewing sore loser laws have “presupposed that the major parties must determine their best representative and advance only a single candidate to the general electorate”). Indeed, the Legislature has protected that interest for years. Even before the enactment of subsection (g), the Code prohibited individuals like Mr. Blankenship from taking a second bite of the electoral apple by providing that unrecognized parties only “may nominate candidates who *are not already candidates in the primary election . . .*” W. Va. Code § 3-5-23(a) (emphasis added). That law, and others like it around the country, ensure that party primaries are “not merely an exercise or warm-up for the general election but an integral part of the entire election process.” *Storer*, 415 U.S. at 735.

Mr. Blankenship is seeking to exploit a process from which the Legislature intentionally excluded him and is directly threatening not only the Party’s statutory rights but also its freedom of association. The First Amendment protects a political party’s right to determine its nominee for United States Senate by the primary election process. *Cal. Democratic Party v. Jones*, 530 U.S. 567, 574 (2000); *see S.C. Green Party*, 612 F.3d at 756 (“These rights include the freedom for individuals to ‘band together’ in political parties to promote electoral candidates who support their political views.”).

If Mr. Blankenship prevails in this lawsuit, his do-over candidacy will undermine in numerous ways the West Virginia Republican Party's statutory and constitutional rights to pick its nominee for United States Senate. His presence on the ballot will effectively render moot the votes cast in the 2018 Republican primary. It will lead to party splintering in this election and future ones, and to the destabilizing effects that come with excessive factionalism. *See Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 367 (1997). It will permit and encourage "independent candidacies prompted by short-range political goals, pique, or personal quarrel." *Storer*, 415 U.S. at 735. And it will turn the general election ballot from one "reserved for major struggles" into "a forum for continuing intraparty feuds." *Id.*

**B. The Party will effectively be bound by the judgment in this action.**

For several legal and practical reasons, the Party will effectively be bound by the judgment in this action.

*First*, if Mr. Blankenship prevails, the West Virginia Republican Party's ability to enforce the sore loser law against him or future candidates like him will be legally impaired. Any decision in this case concerning the constitutionality or applicability of the sore loser law will have precedential effect on future cases. A decision by this Court about the scope or constitutionality of state law binds every circuit court in the State.

*Second*, in addition to the legal effect of a decision in this case, any disposition of this matter will practically impede the Party's ability to enforce the sore loser law against Mr. Blankenship. Even if the Party could file its own lawsuit, the short amount of time remaining before the printing of ballots makes this case effectively the final word on whether Mr. Blankenship will get a second go at the U.S. Senate in this election cycle. As a practical matter, the decisions of this Court and, if necessary, the U.S. Supreme Court will be a *fait accompli*. *See Cummings*, 208 W. Va. at 401 (finding that intervention should be permitted if the

party seeking to intervene would be “practically disadvantaged by the disposition of the action”).

*Third*, any decision in this case concerning the constitutionality of the sore loser law will necessarily circumscribe any future efforts by the Party to protect its interests before the West Virginia Legislature. To the extent the current sore loser laws are found unenforceable, the Party would seek future relief from the Legislature. But any legislators seeking to enact new protections will rightly seek to ensure that such laws comply with any principles or holdings set forth in the decision in this case.

**C. The West Virginia Republican Party’s interests are not adequately represented by the parties to the litigation.**

The Party’s interests are not adequately represented by the existing defendant in the case, namely the Secretary of State. While the Party and the Secretary of State both agree that the state’s “sore loser” law is constitutional and applicable to Mr. Blankenship, they do not share “precisely the same goal.” *Stuart v. Huff*, 706 F.3d 345, 352 (4th Cir. 2013).

Ordinarily, the government may be “the most natural party to shoulder the responsibility of defending” the constitutionality of a state statute. *Id.* at 351. But this Court has held that while a party and the government may have “similarity of interests,” that “does not necessarily mean that there will be adequate representation of those interests” by the government. *State ex rel. v. Cummings*, 208 W. Va. 393, 404, 540 S.E.2d 917, 928 (1999); *see also Commonwealth of Pennsylvania v. President United States of Am.*, 888 F.3d 52, 61–62 (3d Cir. 2018) (“[T]here is no guarantee that the government will sufficiently attend to the Little Sisters’ specific interests as it attempts to uphold both IFRs in their entirety.”); *Nat. Res. Def. Council v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977) (recognizing that government entities have interests that are unique from intervenors: government entities are “broadly concerned with implementation and

enforcement,” while proposed intervenors are “more narrowly focused” on the specific controversy at hand). In *Cummings*, this Court allowed an interest group to intervene, despite a similarity of interest with the government party, because the interest group sought “to represent a more narrow interest.” *Cummings*, 208 W. Va. at 404, 540 S.E.2d at 928.

That is especially true in an election contest. Courts around the country have recognized divergent interests between the government and the parties who are directly affected by an election contest. For example, the United States District Court for the Southern District of West Virginia previously granted a candidate’s motion to intervene as a matter of right because the candidate had a “direct, personal interest in upholding the law” and the government defendants had exhibited “changing position[s].” *Callaghan v. Tennant*, No. 2:12-CV-03419, 2012 WL 13020811, at \*1 (S.D. W. Va. Aug. 1, 2012). The Fifth Circuit has similarly allowed intervention in an election contest by concerned citizens who engineered a drive to amend a city charter, holding the city’s representation would be inadequate. The concerned citizens had “demonstrated a particular interest in cementing their electoral victory and defending the charter amendment itself.” *City of Houston v. Am. Traffic Sols., Inc.*, 668 F.3d 291, 294 (5th Cir. 2012). “If the amendment is overturned, their money and time will have been spent in vain.” *Id.*

Here, the Secretary represents all West Virginia voters, including Mr. Blankenship and his voters. W. Va. Code §3-1A-6(a) (“The Secretary of State shall be the chief election official of the state [of West Virginia].”); *see also Cleveland County Ass’n for Gov’t by People v. Cleveland County Bd. of Com’rs*, 142 F.3d 468, 474 (D.C. Cir. 1998) (allowing intervention as of right). His duty is not to represent the interests of one political party over a candidate who sought and failed to receive that party’s nomination. Instead, the Secretary must “consider the overall fairness of the election system to be employed in the future, the expense of litigation to

defend the existing system, and the social and political divisiveness of the election issue.” *Meek v. Metro. Dade County, Fla.*, 985 F.2d 1471, 1478 (11th Cir. 1993) (allowing intervention as of right). Such interests will no doubt be important to the Court in deciding this dispute, and the Secretary will assuredly represent those interests ably.

These broader and sometimes conflicting duties, however, mean that the Secretary must balance an interest in defending and enforcing the sore loser law with an interest in the expeditious and final resolution of this lawsuit. West Virginia statutes impose certain time requirements on the Secretary in finalizing the ballot. W. Va. Code § 3-5-18(b) (requiring certification of the general election ballot no later than seventy-one days prior to the general election)<sup>2</sup>; W. Va. Code § 3-3-11 (requiring absentee ballots be printed no less than forty-six days prior to the general election).<sup>3</sup> It is reasonable to conclude that the Secretary of State’s interest in further litigation may be outweighed by his other duties, including his interest in an orderly election, as the statutory deadlines draw closer.

The Party does not share the Secretary’s conflicting interests. Its interest is solely in prohibiting Mr. Blankenship, and other future candidates like him, from rendering the party’s primary election nomination process useless. The Party has a right to “promote political stability, preserve party integrity . . . and prevent voter confusion.” *State ex rel. Billings v. City of Point Pleasant*, 194 W. Va. 301, 460 S.E.2d 436 (1995); *see S.C. Green Party v. S.C. State Election Com’n*, 612 F.3d 752, 756 (4th Cir. 2010) (quoting *Eu v. San Francisco County Democratic Cent. Comm.*, 489 U.S. 214, 224 (1989) (holding that a political party has “[a] right to choose [its] ‘standard bearer’ in the form of a nominee.”)). And unlike the Secretary the State,

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<sup>2</sup> For this year’s General Election, that deadline is August 27, 2018. (See West Virginia Election Calendar 2018, Attached as Exhibit 3).

<sup>3</sup> This deadline is September 21, 2018. (See Exhibit 3).

the Party has an unconflicted and steadfast interest in “cementing” the results of its primary election here and in future years. *See City of Houston*, 668 F.3d at 294.

There is no point at which the Party’s interest in pursuing this litigation will wane. The Secretary of State’s interest will expire once the ballots are printed. But the Party’s interest in enforcing the sore loser law against Mr. Blankenship will persist until the date of the general election. *See Cleveland County Ass’n for Gov’t by People*, 142 F.3d at 474 (holding that a party was not adequately represented when the government entity would have a different inclination in settlement discussions); *see also City of Houston*, 668 F.3d at 294 (same). Even after the printing of the general election ballots, a favorable ruling in this matter is in the interest of the West Virginia Republican Party. The Party would seek an order directing the Secretary of State to correct the ballots, to ensure compliance with the law and to reduce voter confusion. And at minimum, the Party would be able to tell voters that Mr. Blankenship is not a valid candidate.

The Party also has a long-term interest in ensuring that the sore loser law is upheld and properly applied. Election law cases often continue long after the particular election at issue, because courts recognize that they raise issues that fall within the mootness exception for controversies capable of repetition that evade review. *See e.g., Storer*, 415 U.S. at 737, n.8. Even after this case can have no practical effect on the 2018 General Election, the Party will retain a strong interest in ensuring that the constitutionality and applicability of the law be zealously defended.

## **II. Permissive Intervention is Alternatively Warranted.**

In the event this Court does not find intervention as a matter of right warranted, it should exercise its discretion to grant permissive intervention under Rule 32. As this Court has said, “[a] liberal view toward allowing intervention should be followed.” *See Cummings*, 208 W. Va. at 403 (citing *Sierra Club v. Robertson*, 960 F.2d 83, 86 (8th Cir.1992)). Any doubt on allowing

intervention “should be resolved in favor of allowing it, because this serves the judicial system's interest in resolving all related controversies in a single action.” *Id.*

The inclusion of the West Virginia Republican Party will not unduly delay or prejudice the adjudication of Mr. Blankenship's rights. Mr. Blankenship filed suit on August 9, 2018, and the Party's motion has been filed within three business days. Granting intervention at this juncture would not delay this matter. The Party is prepared to file a substantive response on August 24, 2018, the same day this Court has requested a response from the Secretary of State.

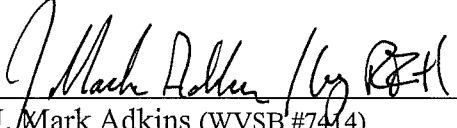
Moreover, the inclusion of the West Virginia Republican Party facilitates the resolution of the underlying factual dispute in an efficient manner. Should the West Virginia Republican Party's motion to intervene be denied, it could exercise its right to file its own action seeking to enforce the sore loser laws against Mr. Blankenship's attempted do-over candidacy for the United States Senate. Permitting the Party to intervene here provides the benefit of consolidating as much of this controversy as possible.

## CONCLUSION

For the foregoing reasons, the West Virginia Republican Party should be entitled to intervene by right or permission.

THE WEST VIRGINIA REPUBLICAN PARTY, INC.

By counsel,

  
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**Recognized Political Parties in WV**

In West Virginia, a group of citizens may gain party recognition by having a candidate for governor attain 1% of the total votes cast for governor in the most recent election. Recognized political parties may nominate candidates for the general election in the primary election or by convention. Everyone else may only appear on the general election ballot by collecting signatures. Recognized political parties also elect people to form executive committees. The parties listed below are the major, recognized political parties in West Virginia.

**Democratic Party**

[www.wvdemocrats.com](http://www.wvdemocrats.com)

State Chair: Belinda Blafore

Executive Director: Curt Zickafoose

Headquarters: 717 Lee Street, Suite 214, Charleston, WV 25301

Phone: (304) 342-6606 ☐

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**Republican Party**

[www.wvgop.org](http://www.wvgop.org)

State Chair: Melody Potter

Headquarters: P.O. Box 2711, Charleston, WV 25330

Phone: (304) 768-0493 ☐

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**Mountain Party**

[www.mountainpartywv.com](http://www.mountainpartywv.com)

State Chair: Jesse Johnson

Vice-Chair: Travis Booth

Headquarters: 121 Village Green Road, Salem WV 26426

Phone: (304) 989-1629 ☐

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**Libertarian Party**

[www.lpwv.org](http://www.lpwv.org)

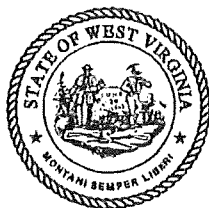
Chairman: Michael S. Wilson

Executive Director: David Moran (Vice-Chair)

Headquarters: P.O. Box 135 Jane Lew, WV 26378

Phone: (855) 687-5798 ☐

**EXHIBIT****1**



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State Capitol  
Charleston, West Virginia 25305

**Mac Warner**  
Secretary of State  
State of West Virginia

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July 26, 2018

Donald Leon Blankenship  
P.O. Box 2757  
Williamson, WV 25661  
TRANSMITTED VIA CERTIFIED  
& ELECTRONIC MAIL  
[info@votedonblankenship.com](mailto:info@votedonblankenship.com)

Dear Mr. Blankenship:

I am writing concerning your *Candidate's Certificate of Announcement for 2018 Elections* you filed with this Office on July 24, 2018. The document indicates you are desirous of pursuing the Office of United States Senate. In short, this office must deny your certification for the reasons stated below.

This Office has conducted a preliminary review of "the validity of the certificates and signatures thereon" pursuant to W.Va. Code § 3-5-23(e). Based on our cursory examination, you have submitted 11,468 total signatures, and we presume approximately 7,100 to be valid. As such, we believe you have met the threshold requisite number of qualified signatures required by the code.

In making this final determination, this Office looks to the procedural history leading up to the decision. On December 17, 2017, our office published *Running for Office in West Virginia*, a guidebook for candidates seeking office in this State. The document provides guidance on this issue accordingly:

THE "SORE LOSER" or "SOUR GRAPES" LAW (W. Va. Code §§ 3-5-7(d)(6) and 3-5-23)

Candidates affiliated with a recognized political party who run for election in a primary election and who lose the nomination **cannot** change her or his voter registration to a minor party organization/unaffiliated candidate to take advantage of the later filing deadlines and have their name on the subsequent general election ballot.

*Id.* at 4.

This interpretation of election law relates to then existing W.Va. Code 3-5-23(a) which provided:

Groups of citizens having no party organization may nominate candidates who are not already candidates in the primary election for public office otherwise than by conventions or primary elections. In that case, the candidate or candidates, jointly or severally, shall file

EXHIBIT  
2

Mr. Blankenship  
July 26, 2018  
Page 2

a nomination certificate in accordance with the provisions of this section and the provisions of section twenty-four of this article.

[Emphasis added]

On January 23, 2018, you filed a *Candidate's Certificate of Announcement for the 2018 Election* seeking the Office of U.S. Senator as a member of the Republican political party. The Republican Party is a recognized political party pursuant to W.Va. Code § 3-1-8.

During your campaign for office as a Republican, on March 10, 2018, the State Legislature passed H.B. 4434 which provides further clarity to the issue at hand. The legislation was approved by the Governor on March 22, 2018 with an effective date of June 5, 2018. The bill enumerates two new subsections as follows:

(f) For the purposes of this section, any person who, at the time of the filing of the nomination certificate or certificates, is registered and affiliated with a recognized political party as defined in §3-1-8 of this code may not become a candidate for political office by virtue of the nomination-certificate process as set forth in this section.

(g) For the purposes of this section, any person who was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code may not, after failing to win the nomination of his or her political party, become a candidate for the same political office by virtue of the nomination-certificate process as set forth in this section.

On March 12, 2018, our Office certified you as a Republican candidate for U.S. Senator. On May 8, 2018, the Primary Election was held and you were unsuccessful in obtaining the nomination of the Republic Party obtaining 19.97% of the votes cast.

On or about May 19, 2018, the Constitution Party nominated you to serve as their nominee for U.S. Senate.<sup>1</sup> On May 21, 2018, you changed your political affiliation from the Republican Party to the Constitution Party. Thereafter, you filed to obtain authorization to solicit signatures for independent and minor party candidates pursuant to W.Va. Code § 3-5-23(b). Although you were refused credentials by Ohio County, you obtained authorization in the fifty-four remaining counties on the following dates: Cabell & Kanawha (Jun. 4, 2018); Boone, Clay, Jackson, Nicholas, Pocahontas, Putnam, Roane & Tyler (Jun. 5, 2018); Lewis, Logan, Marion, Raleigh, Randolph, Ritchie, Taylor, Tucker & Wetzel (Jun. 6, 2018); Berkeley, Hancock, Hardy & Mingo (Jun. 7, 2018); Braxton, Calhoun, Doddridge, Mineral, Monongalia, Summers & Wyoming (Jun. 8, 2018); Brooke, Fayette, Gilmer, Grant, Harrison, Jefferson,

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<sup>1</sup> The Constitution Party is not a recognized political party in this State. W.Va. Code § 3-1-8 requires a political party to garner no less than one percent of the total votes cast in the preceding gubernatorial election. This State has four recognized political parties: Democrat; Republican; Mountain; and Libertarian. It should be noted that a review of the Constitution Party website ([www.cpvwv.org](http://www.cpvwv.org)) does not reference notice of any nomination convention or formal meeting held on May 19, 2018.

Mr. Blankenship  
July 26, 2018  
Page 3

Lincoln, Marshall, Mason, Mercer, Monroe, Morgan, Pleasants, Preston, Upshur, Webster, Wirt & Wood (Jun. 11, 2018); Barbour & Wayne (Jun. 12, 2018); Hampshire (Jun. 13, 2018); and McDowell (Jun. 21, 2018).

Periodically, representatives on your behalf delivered petition signatures to this Office. Certified and electronic copies of the petition signatures have been sent to the respective county clerks for investigation, review and entry into the Statewide Voter Registration System. A two-week deadline for action has been requested by this Office of the clerks for a final official aggregate of valid signatures.

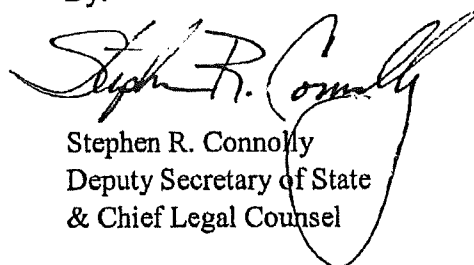
In closing, our Office is denying your certification as a candidate for U.S. Senate under the process contained in W.Va. Code § 3-5-23 for independent and minor party candidates. The fee you remitted with your filing will be retained by this Office until the conclusion of any formal legal process initiated due to this decision.

I remain committed to open dialog with you and your campaign representatives throughout the ensuing process. In that we are represented by outside counsel, please direct any inquiries to Marc Williams, with the law firm of Nelson Mullins Riley & Scarborough, LLP.

Respectfully submitted,

MAC WARNER  
SECRETARY OF STATE

By:



Stephen R. Connolly  
Deputy Secretary of State  
& Chief Legal Counsel

cc: Phillip Hudok  
- Vice-Chairman – Constitution Party of West Virginia

# 2018 ELECTIONS CALENDAR



WEST VIRGINIA SECRETARY OF STATE'S OFFICE  
ELECTIONS DIVISION

**Office Main: 1-304-558-6000**  
**Toll-Free Number: 1-866-767-8683**  
[elections@wvsos.com](mailto:elections@wvsos.com)

EXHIBIT

3

## **2018 ELECTIONS IN WEST VIRGINIA**

PRIMARY ELECTION – May 8, 2018

GENERAL ELECTION – November 6, 2018

### **Races on the ballot in 2018:**

U.S. Senate  
U.S. House of Representatives  
State Senate  
House of Delegates  
County Commission  
Board of Education  
Conservation District Supervisor  
Greater Huntington Park & Recreation District  
State Executive Committee  
District Executive Committee (Congressional, Senatorial & Delegate)  
County Executive Committee

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### **COMPUTATION OF TIME**

"If any applicable provision of this code or any legislative rule or other administrative rule or regulation . . . designates a particular date on, before or after which an act, event, default or omission is required or allowed to occur, and if the particular date designated falls on a Saturday, Sunday, legal holiday or designated day off, then the date on which the act, event, default or omission is required or allowed to occur is the next day that is not a Saturday, Sunday, legal holiday or designated day off."

- W. Va. Code § 2-2-1(e)

"When a proceeding is directed to take place or any act to be done on any particular day of the month or within any period of time prescribed or allowed . . . if that day or the last day falls on a Saturday, Sunday, legal holiday . . . the next day that is not a Saturday, Sunday, legal holiday . . . shall be deemed to be the one intended . . ."

- W. Va. Code § 2-2-2(a)

"Accordingly, in the opinion of the Attorney General, where the last day upon which an act must, or may, be done falls upon a Sunday, the Monday following should be considered as the last day upon which the act can be done."

- See Report and Opinions of the Attorney General, pages 216-17 (1941)

## ELECTION CALENDAR 2018

January 1 - May 2, 2018	<p><b>Receive Application for Absentee Ballot from Military or Overseas Voter (UOCAVA)</b>  Received no earlier than the first day of January of an election year, or <b>84</b> days preceding the election, whichever is earlier, but not later than the <b>6th</b> day preceding the election, which application shall, upon the voter's request, be accepted as an application for ballots for all elections in the calendar year.</p> <p style="text-align: center;">- W. Va. Code § 3-3-5(b)</p>
January 10 - January 25, 2018	<p><b>Give Notice of Appointment of Ballot Commissioners</b>  At least <b>5</b> days before appointment of Ballot Commissioners the County Clerk notifies each chairman of the two county executive committees of the parties that cast the largest number of votes in the last preceding General Election of the time for making the appointment.</p> <p>Each chairman shall designate, in writing, a person to be appointed as Ballot Commissioner between <b>January 15</b> and <b>January 30</b>. If no appointment made by the Committee, the County Clerk shall appoint.</p> <p style="text-align: center;">- W. Va. Code § 3-1-19</p>
January 8, 2018 (Deadline)	<p><b>Notice of Precinct Change</b>  Notice must be given of the intent to change precincts at least <b>1 month</b> before any precinct boundary changes go into effect, and such changes must be made at least 90 days before an election.</p> <p>Last day on which to complete Class II-0 legal notice of County Commission's intention to change, divide, or consolidate voting precincts for primary election; notice published once each week for <b>2</b> successive weeks in <b>2</b> qualified newspapers of opposite politics published in the publication area.</p> <p style="text-align: center;">- W. Va. Code §§ 3-1-7(b), 59-3-1 et seq.</p>
January 8, 2018	<p><b>List of Authorized Ballot Vendors Issued</b>  On or before the <b>2<sup>nd</sup> Monday</b> of January of each year the Secretary of State provides a list of all vendors authorized to print ballots for state, county and municipal elections to the county clerk.</p> <p style="text-align: center;">- W. Va. Code § 3-1-21(a)</p>

<p>January 8 - January 27, 2018 (Deadline is 11:59 p.m.)</p>	<p><b>Candidate Filing Period</b> Not earlier than <b>2<sup>nd</sup> Monday</b> in January and not later than <b>last Saturday</b> in January preceding primary election, candidates for nomination or election in the Primary Election file certificates of announcement of candidacy and filing fee with:</p> <ul style="list-style-type: none"> <li>• The Secretary of State if a statewide race or the office is to be filled by voters of more than one county and includes non-partisan judicial offices except magistrate;</li> <li>• The County Clerk if office is to be filled by voters of a single county, includes non-partisan magistrate; or</li> <li>• The Town Recorder or City Clerk if for an office to be filled by voters of a municipality.</li> </ul> <p>Must be received before <b>midnight</b> E.S.T. or, if mailed, be postmarked by the U.S. Postal Service before midnight, E.S.T. on the last day of filing, <b>January 27</b>.</p> <p><i>Candidates unable to pay filing fee must provide oath stating he or she is unable to pay fee due to a lack of financial resources and receive in-lieu-of-filing-fee petition forms and instructions on gathering signatures. Candidate shall file petitions with required number of signatures by close of filing on <b>January 27</b>.</i></p> <p>- W. Va. Code §§ 3-5-7, 3-5-8, 3-5-8a</p>
<p>January 15 – January 30, 2018</p>	<p><b>Appoint Ballot Commissioners</b> Ballot Commissioners are appointed between <b>15<sup>th</sup></b> and <b>30<sup>th</sup></b> of January in each year a General Election is held.</p> <p>The designees of each party shall be appointed if he or she meets the qualifications for a <b>2</b> year term, and cannot be a candidate for any office in any election during the term.</p> <p>The County Clerk appoints if the party county executive committee fails to appoint in a timely manner.</p> <p>- W. Va. Code § 3-1-19</p>
<p>January 27, 2018 (Deadline is 11:59 p.m.)</p>	<p><b>Candidate Filing Deadline</b> Certificate of announcement received in filing office or, if mailed postmarked, before <b>midnight</b>.</p> <p>- W. Va. Code § 3-5-7</p>



February 1, 2018	<p><b>Term of Ballot Commissioners begins</b> Term is for <b>2</b> years. Vacancies are filled in the same manner as original appointment.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-19</li> </ul>
February 7, 2018	<p>90 days before Primary Election</p>
February 7, 2018	<p><b>Deadline for Ordering Precinct Change</b> Last day for County Commission (after at least a <b>1 month notice</b>) to enter an order changing the boundaries of any precinct into <b>2 or more</b> precincts, or consolidate <b>2 or more</b> precincts into <b>1</b>, or to change the location of the polling place whenever the public convenience may require it. Within <b>15</b> days after such order is issued, the County Commission shall publish the order as a Class II-O legal advertisement.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-7(b)</li> </ul>
February 7, 2018	<p><b>Adopt Policy Extending Emergency Absentee Voting</b> Last day County Commission may adopt policy extending the emergency absentee voting procedures to:</p> <ol style="list-style-type: none"> <li>1. Hospitals or other duly licensed health care facilities within an adjacent county or within <b>35</b> miles of the county seat; and</li> <li>2. Nursing homes within the county.</li> </ol> <p>County Commission must adopt this policy <b>90 days</b> before election and a copy of this policy must be filed with the Secretary of State.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5c(a)</li> </ul>
February 7, 2018	<p><b>Petition for Suspension of Election Official</b> Petition seeking suspension of an election official must be filed with County Commission at least <b>90 days</b> before an election. The petition must be signed by <b>25</b> registered voters of the precinct where election official last served. Upon presentation of evidence of listed grounds, County Commission may, upon majority vote, suspend the eligibility to serve as an election official for <b>2</b> years.</p> <p>County Commission may, on its own motion, suspend an election official for specific causes for <b>4</b> years.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-28</li> </ul>

February 7, 2018	<p><b>Notice of Emergency Precinct Change</b> In the case of an emergency <u>and</u> with the approval of the Secretary of State, last day on which to complete notice of County Commission's intention to change, divide or consolidate voting precincts is at least <b>1 month</b> before any precinct boundary change. Notice must be published once each week for <b>2</b> successive weeks in <b>2</b> qualified newspapers of opposite politics as Class II-O legal ad.</p> <p>- W. Va. Code § 3-1-7(g), 59-3-1 <i>et seq.</i></p>
February 9, 2018 (Deadline for committee)	<p><b>Executive Committees Fill Vacancies in Nomination by Appointment due to No Candidate Filing</b> Deadline to fill vacancies is no later than the <b>2<sup>nd</sup> Friday</b> following the close of filing for the committee, and no later than <b>3<sup>rd</sup> Tuesday</b> following the close of filing for the committee chairperson.</p> <p>Last day for the executive committee (or its chair) to appoint a nominee for the Primary Election ballot if a vacancy is caused by failure to file and to certify the nomination to the proper filing officer.</p> <p>- W. Va. Code § 3-5-11</p>
February 13, 2018 (Deadline for committee chair)	<p>84 days before Primary Election</p> <p><b>Last Day for Candidate to Withdraw from Primary Election</b> A candidate who has filed a certificate of announcement and wishes to withdraw and decline to stand as a candidate for office shall file a signed and notarized statement of withdrawal with the same officer with whom the certificate of announcement was filed, which must be <u>received</u> not later than the <b>3<sup>rd</sup> Tuesday</b> following the candidate filing deadline.</p> <p>If filed within the specified time period, the name of a candidate who files the statement of withdrawal may not be printed on the ballot. No candidate who files a statement of withdrawal after that time will have his or her name removed from the ballot.</p> <p>- W. Va. Code § 3-5-11</p>
February 13, 2018	<p><b>Notice of Number of Election Officials</b> The County Commission designates the number and type of election boards for the various precincts and gives written notice to the county executive committees of the <b>2</b> major</p>

February 13, 2018 (ctd.)	<p>political parties stating the number of nominations which may be made for poll clerks and commissioners.</p> <p><i>Recommended that notice of the number of emergency absentee voting commissioners needed is also provided at this time.</i></p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-29</li> </ul>
February 13, 2018 (Deadline)	<p><b>Secretary of State Certifies and Posts List of Candidates Filed with the Secretary of State's Office</b></p> <p>By <b>84 days</b> before the election the Secretary of State arranges and certifies names of all candidates who filed and posts such list in office until after the Primary Election.</p> <p>Secretary of State begins determining the certified candidates to be on the ballots in each county and transmits to the counties. The County Clerks are to receive by the <b>70<sup>th</sup></b> day before the election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-5-9</li> </ul>
February 13 – May 2, 2018	<p><b>Accept Applications for Mail-in Absentee Ballot from Eligible Voters</b></p> <p>Period begins during which an eligible voter may submit an absentee ballot application, completed in his or her own handwriting, to the County Clerk in person, by mail, by fax or by email. Application must be received no earlier than <b>84 days</b> preceding the Primary Election and not later than <b>6 days</b> preceding Primary Election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5</li> </ul>
February 20, 2018 (At 9:00 am)	<p><b>Drawing for Order on the Ballot</b></p> <p>For all ballot systems beginning at 9:00 a.m. on the <b>4<sup>th</sup> Tuesday</b> following the close of candidate filing, a drawing by lot shall be conducted in the office of the County Clerk of each county to determine the order of names of candidates for any office or division for which <b>more than 1</b> is to be nominated. Notice of the time and date is provided on the certificate of announcement.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-5-13a</li> </ul>

February 26, 2018 (Deadline for Executive Committee to act)	<p><b>Executive Committees Fill Vacancies in Nomination by Appointment for General Election Ballot if Vacancy is Caused by Failure to File</b></p> <p>If vacancy is due to no candidate filing, the executive committee may appoint a nominee for the General Election ballot no later than <b>30 days after</b> the last day to file a certificate of announcement.</p> <p>If committee does not act, the chairperson may appoint a nominee no later than <b>2 days</b> following executive committee deadline.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-5-19</li> </ul>
February 28, 2018 (Deadline for Chair to act)	
February 27, 2018	70 days before Primary Election
February 27, 2018	<p><b>Certification of Candidates to County Clerk</b></p> <p><b>70 days</b> before the election the County Clerk is to receive the certification of candidates from the Secretary of State's Office.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-5-9</li> </ul> <p><i>[This date conflicts with the Code requirement for the Ballot Order Drawing. County Clerks will receive the certification via email by February 16, 2018, and via certified mail no later than the Code deadline of February 27, 2018.]</i></p>
February 27, 2018	<p><b>Estimate Number of Absentee Ballots</b></p> <p>No later than <b>70 days</b> before the election the County Clerk estimates number of official absent and early voter's ballots required.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-11(a)</li> </ul>
February 27, 2018	<p><b>Election Official Nominations Filed</b></p> <p>No later than <b>70 days</b> before the Primary Election, each county executive committee, or its chairman or secretary on its behalf, shall file in writing with the County Commission a list of persons nominated by a majority vote of the committee at a duly called meeting, as election officials and the positions for which they are designated, and those persons nominated as alternates. The number of alternates for each party may not exceed the number of precincts in the county.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §3-1-30</li> </ul>

February 27, 2018 (Approximate date)	<p><b>Candidate Name Removed from Ballot Due to Death</b> Upon request of the candidate's family, the board of ballot commissioners may remove the name of a candidate who dies <u>if</u> the death occurs <i>before</i> the ballots are printed.</p> <p>If death occurs <i>after</i> ballots are printed, a written notice shall be posted with the sample ballot at each precinct which states: "To the voter: (candidate name) of (residence), a candidate for (office sought) is deceased."</p> <p>- W. Va. Code § 3-5-11(b)</p>
March 9, 2018	60 days before Primary Election
March 9, 2018	<p><b>Emergency Order to Change Precincts</b> In case of an emergency and with the permission of the Secretary of State, the County Commission may enter an order to consolidate, divide or change the boundaries of a precinct within a county no later than <b>60 days</b> before the election.</p> <p>Within <b>15 days</b> after such order is issued, the County Commission shall publish the order as Class II-O legal advertisement.</p> <p>- W. Va. Code § 3-1-7(g), 59-3-1 <i>et seq.</i></p>
March 13, 2018	56 days before Primary Election
March 13, 2018	<p><b>Notice Given for Number of Emergency Absentee Voting Commissioners Needed</b> <b>56 days</b> before the Primary Election, the County Clerk notifies the County Commission of the number of sets of emergency absentee ballot commissioners necessary <u>only if</u> the County Commission adopted a policy to provide emergency absentee voting services.</p> <p>- W. Va. Code § 3-3-5c(b)</p>
March 20, 2018	49 days before Primary Election
March 20, 2018	<p><b>Election Officials and Alternates Appointed</b> No later than <b>49 days</b> before the election, the County Commission shall appoint the election officials for each designated election board as follows:</p>

March 20, 2018 (ctd.)	<ol style="list-style-type: none"> <li>1. Eligible persons nominated and timely filed by the executive committees as poll clerks, election commissioners;</li> <li>2. Additional persons selected by the County Commission to serve as election commissioners; and</li> <li>3. Persons to fill any positions for which no nominations were filed.</li> </ol> <p>The County Commission shall also appoint emergency absentee voting commissioners <i>(at the same meeting or at a subsequent meeting)</i>.</p> <p>The County Commission shall:</p> <ol style="list-style-type: none"> <li>1. Appoint the alternates nominated by the executive committees;</li> <li>2. Appoint additional alternates; and</li> <li>3. Determine the number of persons who may be instructed to attend training as alternates.</li> </ol> <p>- W. Va. Code § 3-3-5c</p>
March 20, 2018	<p><b>Write-In Candidate Filing Deadline for Election of ONLY Nonpartisan offices:</b></p> <ol style="list-style-type: none"> <li>1. Board of Education Member</li> <li>2. Soil Conservation District Supervisor</li> </ol> <p>Eligible persons who seek to be elected by write-in votes to an office which is to be filled at the Primary Election shall file a write-in candidate's certificate of announcement by the <b>49<sup>th</sup> day</b> before the Primary Election.</p> <p>- W. Va. Code § 3-6-4a</p>
March 23, 2018	<p>46 days before Primary Election</p>
March 23, 2018	<p><b>Delivery of Absentee Ballots to County Clerk</b></p> <p>The board of ballot commissioners are to have the official absentee ballots printed and delivered to the County Clerk <b>46 days</b> before the election.</p> <p>- W. Va. Code § 3-3-11</p>
March 23, 2018 – May 2, 2018 (May 3, 2018 <i>if</i> applications are received on May 2, 2018)	<p><b>Mail Absentee Ballots</b></p> <p>County Clerks must mail absentee ballots within <b>1 day</b> after both the completed application <i>and</i> the ballots are received.</p>

March 23, 2018 – May 2, 2018 (ctd.)	<p>Upon acceptance of a completed application, determine whether the requirements have been met and transmit absentee ballot(s), envelopes, instructions, and any other supplies required for voting the ballot. If determined the requirements have not been met, transmit balloting materials and give notice to the voter that the ballot will be provisional.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-3-5, 3-3-11</li> </ul>
March 31 – April 6, 2018	<p><b>Primary-First Campaign Finance Report (or Annual Report)</b> Reports due on the <b>last Saturday</b> in March and filed within <b>6 days</b> thereafter:</p> <ul style="list-style-type: none"> <li>• Primary-First (PACS and 2018 candidate committees)</li> <li>• Annual (for previous candidate committees and open pre-candidates)</li> </ul> <p><i>This report covers the transactions from March 25, 2017 through March 30, 2018.</i></p> <p>Candidates, treasurers and financial agents submit reports to the Secretary of State, County Clerk, or Municipal Recorder, determined by which office is sought. A detailed itemized statement is submitted, setting forth all activity from the previous report or organization date. If the total amount of transactions do not exceed \$500 during the reporting period a waiver may be filed.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-8-5, 3-8-5(b);</li> <li>- Code of State Rules (CSR) § 146-3-8</li> </ul>
March 24, 2018	<p><b>Approved Voter Registration Program for Eligible High School Students</b> No later than <b>45 days</b> before the election the County Clerk shall conduct an approved program of voter registration services for eligible high school students at each high school within the county.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-8</li> </ul>
March 27, 2018 (Deadline depends upon date of appointment)	<p><b>Notice Mailed to Election Officials</b> Within <b>7 days</b> following appointment, county commission notifies, by first-class mail, all election commissioners, poll clerks and alternates of their appointment, including a response form.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-30(h)</li> </ul>

April 3, 2018 (Deadline depends upon date of appointment)	<p><b>Election Officials Respond to Notification from County Clerk confirming ability to serve.</b></p> <p>When an election official or alternate fails to return the response notice (or otherwise confirm to the County Clerk his or her agreement to serve within the required time, the position shall be considered vacant and the County Clerk shall proceed to fill the vacancies within <b>14 days</b> following the date of appointment.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-30(l)</li> </ul>
April 8, 2018 – May 1, 2018	<p><b>Instructional Program for Election Officials</b></p> <p>Within <b>30 days</b> prior to election, County Clerk conducts Instructional program using training materials produced by Secretary of State, to all election officials, explaining and illustrating procedures for conducting elections, duties of the various election officials and methods of voting.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-46(c)</li> </ul>
April 12 – 18, 2018	<p><b>Publish Sample Ballot for Early Voting</b></p> <p>Not more than <b>26 nor less than 20 days</b> preceding the Primary Election, Ballot Commissioners publish sample official primary ballot for each party, nonpartisan candidates, and public questions as follows:</p> <ol style="list-style-type: none"> <li>1. For counties in which <b>2 or more</b> qualified newspapers publish a daily newspaper, publish a Class I-O legal advertisement in the <b>2</b> qualified daily newspapers of different political parties within the county having the largest circulation</li> <li>2. For counties having no more than <b>1</b> daily newspaper, or having only <b>1 or more</b> qualified weekly newspapers, publish sample as Class I legal advertisement in qualified newspaper having largest circulation</li> </ol> <ul style="list-style-type: none"> <li>- §§ 3-5-10, 59-3-1 <i>et seq.</i></li> </ul>
April 17, 2018 (Deadline)	<p><b>Voter Registration Deadline</b></p> <p>Voter registration for an election shall close <b>21 days</b> before the election, or on the <b>1st day</b> thereafter which is <u>not</u> a Saturday, Sunday or legal holiday.</p> <p>Completed application of eligible voter for registration, transfer, change of political party or other change submitted by the close of voter registration will be effective for any subsequent election, if:</p>



<p>April 17, 2018 (Deadline, ctd.)</p>	<ol style="list-style-type: none"> <li>1. Received at office of the County Clerk, no later than the hour of the close of registration;</li> <li>2. Accepted by a designated agency or motor vehicle licensing office no later than the close of registration;</li> <li>3. Accepted through a registration outreach program and received by the County Clerk no later than the close of registration;</li> <li>4. Addressed to the appropriate County Clerk and postmarked by the postal service no later than the date of the close of registration;</li> <li>5. Accepted through an approved electronic voter registration system and received no later than the close of business on the final day of registration; or</li> <li>6. The verification notice mailed to the applicant is not returned as undeliverable</li> </ol> <p>Voters must change party affiliation on file by close of registration in order to participate in that party's Primary Election.</p> <p>- W. Va. Code §3-2-6</p>
<p>April 18 – May 1, 2018</p>	<p><b>Inspection of ballots, electronic poll books and vote recording devices.</b></p> <p><b>1</b> inspection can be done for Early Voting and Election Day materials <i>or</i> they can be done separately if Election Day materials are not ready.</p> <p><b>Preparation</b> of materials is completed and <b>Notification</b> given to County Commission and Ballot Commissioners no later than <b>7 days</b> before election (Early Voting = April 18; Election Day = May 1).</p> <p><b>Convene</b> County Commissioners and Ballot Commissioners no later than <b>5 days</b> before election. [Early Voting = April 20; Election Day = May 3].</p> <p>Class I-O public notice regarding place and time of inspection is published no later than <b>3 days</b> before inspection.</p> <p>- W. Va. Code §3-4A-13</p>
<p>April 18 – May 7, 2018</p>	<p><b>Authorized Late Voter Registration Accepted from Certain Uniformed and Overseas Voters</b></p> <p>Between the <b>20<sup>th</sup></b> day before the election and <b>1 day</b> before the election, a member of the uniformed services, an overseas citizen whose employment supports national security functions or purposes and the spouse or dependent <b>residing</b></p>

April 18 – May 7, 2018 (ctd.)	<p>with one of the above, who has been discharged <b>60</b> days preceding an election, may register to vote in person at the County Clerk’s Office. Appropriate documentation/affidavit must be presented as required by law.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-6a;</li> <li>- CSR § 153-44-1 <i>et seq.</i></li> </ul>
April 20, 2018	<p><b>Accept Voter Registration Card by Mail without Postmark</b> No later than <b>3 days</b> following the close of registration is the last day an application for registration may be accepted if addressed to the appropriate County Clerk and received by mail with the postmark missing or illegible.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-6(b)</li> </ul>
April 23, 2018 (deadline)	<p><b>Correct Incomplete Applications for Voter Registrations</b> Within <b>4 business days</b> after the close of registration, County Clerk may correct applications for voter registration containing incomplete information if applicant provides the required information.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-6(b)(1)</li> </ul>
April 23 – April 27, 2018	<p><b>Pre-Primary Campaign Financial Reports Due</b> Beginning <b>15 days</b> before Primary and filed within <b>4 business days</b> thereafter.</p> <p><i>This report covers the transactions from March 31, 2018 through April 22, 2018.</i></p> <p>Candidates, agents and treasurers file with the Secretary of State or County Clerk or Municipal Recorder a detailed itemized statement setting forth all financial transactions made subsequent to the last report filed.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-8-5, 3-8-5a;</li> <li>- CSR § 146-3-8</li> </ul>
April 23 – May 7, 2018	<p><b>“Last Minute” Independent Expenditures Reported</b> (Expenditure made on or after the <b>15<sup>th</sup></b> day but more than <b>12 hours</b> before the day of any election – report must be received within <b>24 hours</b> after the expenditure is made.)</p> <p>Independent expenditures of \$1,000 or more for statewide, legislative or multi-county offices <u>or</u> in the amount of \$500 or more for county, single-county or municipal offices which are</p>

April 23 – May 7, 2018 (ctd.)	made <i>must</i> be reported within <b>24 hours</b> to the Secretary of State or County Clerk or the Municipal Recorder.
April 25 - May 5, 2018	<ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-2</li> </ul> <p><b>Early Voting In Person</b> Beginning on the <b>13<sup>th</sup></b> day and continuing through the <b>3<sup>rd</sup></b> day before the election, voter may vote an early ballot at the county courthouse, an annex or a designated community voting location during normal business hours; additionally, early voting must be conducted between 9 a.m. and 5 p.m. on the last <b>2 Saturdays</b> before the Primary Election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-3</li> </ul>
May 1, 2018	<p><b>Public Test of Tabulating Equipment</b> <b>1 week</b> prior to the start of the count of the votes, notice must be provided <u>no more</u> than <b>2 weeks</b> but <u>not less</u> than <b>48 hours</b> before test by publication of Class I-O legal advertisement. (Notice must be provided between April 17 – April 29.)</p> <p>After processing pre-audited ballots, the County Commission certifies the equipment to be free from error as determined by the test. Testing material and certification is to be placed in a sealed container until the start of canvass.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-4A-26, 59-3-1 <i>et seq.</i></li> </ul>
May 1 – 7, 2018	<p><b>Instructional Program Make-Up Session</b> Within last <b>7 days</b> before election, County Clerk conducts make-up session for election officials unable to attend regular session.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-46(c)</li> </ul>
May 1, 2018 - May 7, 2018	<p><b>Publish Official List of Candidates or Sample Ballot for Election Day</b> On the last day on which a newspaper is published immediately preceding the Primary Election, Ballot Commissioners publish the official list of candidates and issues, or the sample ballot, as follows:</p> <ol style="list-style-type: none"> <li>1. For counties in which <b>2 or more</b> qualified newspapers publish a daily newspaper, publish as Class I-O legal advertisement in the <b>2</b> qualified daily newspapers of different political parties within the county having the largest circulation;</li> </ol>

May 1, 2018 - May 7, 2018 (ctd.)	<p>2. for counties having no more than <b>1</b> daily newspaper, or having only <b>1 or more</b> qualified weekly newspapers, publish as Class I legal advertisement in qualified newspaper having largest circulation</p> <p>Counties may choose to publish the sample ballot for a <b>2nd</b> time instead of the official list.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-5-10, 59-3-1 <i>et seq.</i></li> </ul>
May 1, 2018 - May 8, 2018 (Deadline until Noon on May 8)	<p><b>Receive Requests for Emergency Absentee Ballot</b> No earlier than <b>7 days</b> preceding the election and no later than <b>noon</b> of Election Day, upon request of a voter, a member of the voter's immediate family or a staff member of a nursing home an emergency absentee ballot may be requested. Eligible persons include:</p> <ol style="list-style-type: none"> <li>1. A voter who, on Election Day, is in the hospital or other duly licensed health care facility within the county of their residence (provided the County Commission has adopted an extension of service, to a health care facility in an adjacent county or within <b>35</b> miles of the county seat);</li> <li>2. A voter who resides for less than <b>30 days</b> prior to the election in a nursing home within the county, provided the County Commission has adopted an extension of service to those facilities</li> </ol> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-3-1(c), 3-3-5c(d)</li> </ul>
May 2, 2018	<p><b>Deadline for Absentee by Mail Application</b> Not later than the <b>6<sup>th</sup></b> day preceding the election, last day to receive application for absentee ballot by mail. Ballot shall be mailed no later than following day.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5(b)(1)</li> </ul>
May 5, 2018 (Deadline)	<p><b>Deadline for Early Voting in Person</b> Last day to vote an early ballot in person (occurs on a Saturday)</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-3</li> </ul>
May 7, 2018	<p><b>Deadline to Hand-Deliver Absentee Ballot to the Clerk's Office</b> No later than <b>1 day</b> preceding the election, the last day for County Clerk to accept hand delivered absentee ballot by mail.</p>

May 7, 2018 (ctd.)	<p>No person may personally deliver more than <b>2</b> absentee ballots in any election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5(k)</li> </ul>
May 7, 2018	<p><b>Election Commissioners Receive Election Supplies</b> No later than <b>1 day</b> before Primary Election, the last day on which election commissioner(s) of each precinct, as designated by County Commissioners, shall receive necessary election supplies from County Clerk.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-1-24, 3-4A-13(f)</li> </ul>
May 7, 2018	<p><b>Failure to Pick Up Supplies, Delivery Thereof</b> By close of County Clerk's Office <b>1 day</b> prior to Primary Election, Board of Ballot Commissioners (or chairman thereof) forthwith dispatches, by special messenger, election supplies to any election commissioner who has failed to pick up supplies by designated time.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-25</li> </ul>
May 8, 2018	<p><b><u>PRIMARY ELECTION DAY</u></b> <b>2<sup>nd</sup></b> Tuesday in May of even years. Polls open 6:30 a.m. and close 7:30 p.m.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-1-31, 3-5-1</li> </ul> <p>In counties using electronic voting systems, County Clerk must deliver vote recording devices to polling places not less than <b>1 hour</b> prior to polls opening.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-4A-16</li> </ul> <p>If appointed election official fails to appear at polling place by 5:45 a.m., election officials shall contact County Clerk for assistance in filling vacancy.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-30(j)</li> </ul> <p>Upon request by or for persons eligible to vote emergency absentee ballot made no later than noon of Election Day, emergency absentee voting commissioners deliver application and ballot to voter in hospital (or nursing home if authorized).</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5c</li> </ul>

	<p>A voter whose registration record lists one address but has since moved to another within the county may update the registration at the polling place and shall vote in the precinct of current residence using a provisional ballot.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-2-22(a)(6), 3-2-31(b)</li> </ul>
May 8, 2018	<p>A voter whose legal name has changed may update the registration by filing an affidavit of change of legal name at the polling place on Election Day.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-22(d)(2)</li> </ul>
May 9, 2018	<p><b>Post Summary Returns</b> Upon completion of the count, the returns are to be open to the public by posting a summary of the returns as have been tabulated at the central counting center.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-4A-28(e)</li> </ul>
May 14, 2018	<p><b>Absentee Ballots without Postmark Accepted</b> <b>1 day</b> after Election Day, absentee ballots without postmark are accepted if delivered by the US Postal Service or other express shipping service and received by the County Clerk, no later than the day after Election Day. (Does not apply to UOCAVA ballots.)</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5</li> </ul>
May 14, 2018 (Deadline depends on date canvass is completed in all jurisdictions)	<p><b>Absentee Ballots Postmarked by Election Day Accepted</b> No later than the hour at which the board of canvassers convenes to begin the canvass, absentee ballot by mail accepted if ballot bears a postmark of the US Postal Service dated no later than Election Day and the ballot is received by the County Clerk, within the required time. Absentee from military are accepted without postmark if received prior to start of canvass.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-3-5, 3-5-17</li> </ul> <p><b>Canvass Returns</b> On the <b>5<sup>th</sup></b> day, Sundays excepted, after Primary Election, County Commission, as the board of canvassers, meets to canvass Primary Election returns. The board of canvassers shall meet from day to day adjourning no longer than is absolutely necessary until the canvass is complete.</p>

<p>Deadline depends on date canvass is completed in all jurisdictions.</p>	<p><b>Declare</b> Upon completion of canvass, publicly declare the election results and wait <b>48 hours</b> (do not count Saturdays, Sundays and legal holidays) to allow for recount requests to be submitted.</p> <p><i>Multi-county races must wait until the last county declares results for the 48 hours to begin. Notice will be provided by the Elections Division on the start times.</i></p>
<p>Deadline depends on date results are declared</p>	<p><b>Recount</b> Recount request must be made within <b>48 hours</b> of the declaration of results. If a candidate is on the ballot in more than one county, the <b>48 hours</b> begins after the final county's board of canvassers declares the results. A candidate may demand a recount.</p> <p><b>Note:</b> If a recount has been demanded, the board of canvassers shall have <b>48 hours</b> in which to send notice to all candidates who filed for the office in which a recount has been demanded. Such recount shall be set for no sooner than <b>3 days</b> after serving the notice. After the notice is served, candidates so served shall then have an additional <b>24 hours</b> in which to demand a recount of precincts not requested to be recounted by candidate originally requesting recount. The recount is open to the public. However, only those authorized may handle election materials.</p> <p>- W. Va. Code § 3-6-9</p>
<p>Deadline depends on date results are declared and recounts</p>	<p><b>Certify</b> <b>48 hours</b> after the declaration, CERTIFY election results in races where a recount was NOT requested.</p> <p>- W. Va. Code §§3-5-17, 3-6-9, 3-6-10</p>
<p>Deadline depends on date of election certification</p>	<p><b>Contest Primary Election</b> Within <b>10 days</b> after the results of election are <u>certified</u>, candidate may contest the Primary Election before the County Commission in which any primary procedures, practices or results may be in issue. A contest is a legal proceeding. Legal counsel <i>should</i> (but not mandatorily) be obtained by parties involved.</p> <p>- W. Va. Code §§ 3-5-20, 3-7-1, 3-7-6</p>

May 21 – June 18, 2018	<p><b>Post-Primary Financial Statement</b>  <b>13 days</b> after each primary and within <b>20 business days</b> after the <b>13<sup>th</sup></b> day.</p> <p><i>This report covers the transactions from April 23, 2018 through May 20, 2018.</i></p> <p>Candidates, agents and treasurers file with the Secretary of State or County Clerk or Municipal Recorder a detailed itemized statement setting forth financial transactions subsequent to last report.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-8-5, 3-8-5a;</li> <li>- CSR § 146-3-8</li> </ul>
June 7, 2018 (Deadline)	<p><b>Transmit Certificates of Results</b>  The certification of the results of the Primary Election should be sent to Secretary of State <u>as soon as possible</u> but no later than <b>30 days</b> after the primary.</p> <p>Board of canvassers transmits original certificates of election results for all offices to be filled by the voters of more than one county to the Secretary of State, along with copies of certificates of results for county candidates.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-5-17, 3-5-18</li> </ul>
July 1, 2018	<p><b>Terms of Board of Education and Soil Conservation District Supervisors Begin</b></p> <p>New members of the Board of Education and Soil Conservation District elected to full terms and un-expired terms take office.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 18-5-1b, 19-21A-6</li> </ul>
July 7, 2018	<p><b>Report Failure to File Financial Statement to Prosecuting Attorney</b>  <b>60 days</b> after Primary Election, Secretary of State and County Clerk to give notice of the failure of any candidates, agents or treasures to file required, detailed, itemized financial statements of transactions connected with Primary Election to Prosecuting Attorney where candidate resides.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-7(a)</li> </ul>



July 7, 2018	<p><b>Written notification to candidates/committees that failed to file financial statements</b> (60 days after the Primary Election)</p> <p>Written notice is to be sent by certified mail to candidates/committees that failed to file the required finance reports relating to the Primary Election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-7</li> </ul>
July 9, 2018 (Deadline)	<p><b>GENERAL ELECTION DATES</b></p> <p><b>Notice of Precinct Change</b> At least <b>1 month</b> before any precinct changes, the last day on which to complete Class II-0 legal notice of County Commission's intention to change, divide or consolidate voting precincts for the General Election; notice published once each week for <b>2</b> successive weeks in <b>2</b> qualified newspapers of opposite politics.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-1-7(b), 59-3-1 <i>et seq.</i></li> </ul>
August 1, 2018	<p><b>Deadline for No Party Organization/Unaffiliated Candidates to File Nominating Petitions, Certificate of Announcements and Pay Filing Fee</b> No later than <b>August 1</b> preceding the General Election, certificates nominating candidates to be file no later than August 1, 2018 with the Secretary of State or County Clerk, depending upon the office being sought.</p> <p>If nomination certificate is not timely filed and filing fee not timely paid, they may not be accepted by the filing office.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-5-23, 3-5-24</li> </ul>
August 1 - 21, 2018	<p><b>Special Filing Period for Board of Education Vacancy Occurring after Close of Filing for Primary Election</b> No earlier than the <b>1<sup>st</sup></b> Monday in August and no later than <b>77 days</b> before the General Election, candidate filing period for unexpired term of Board of Education to fill vacancy which occurs after the close of the Primary Election candidate filing but not later than <b>84 days</b> before the General Election. The certificate of announcement and filing fee shall be remitted to the County Clerk no earlier than <b>August 1</b> and no later than <b>77 days</b> before the General Election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-5-19(c)</li> </ul>

<p>August 10, 2018 August 8, 2018 (Deadline)</p>	<p>90 days before the General Election</p> <p><b>Notice of Emergency Precinct Change</b> The last day County Commission may complete notice to change, divide or consolidate voting precincts for General Election in cases of emergency and with permission of Secretary of State is <i>at least 1 month</i> before entering emergency order to change precinct line</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-1-7(g), 59-3-1</li> </ul>
<p>August 8, 2018 (Deadline)</p>	<p><b>Deadline for Ordering Precinct Change</b> Not within <b>90 days</b> next preceding General Election, last day for County Commission to enter an order changing the boundaries of any precinct into <b>2 or more</b> precincts, or consolidate <b>2 or more</b> precincts into <b>1</b>, or to change the location of the polling place whenever the public convenience may require it. Within <b>15 days</b> after such order is issued, after at least a <b>1 month</b> notice, the County Commission shall publish the order as a Class II-O legal advertisement.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-7(b)</li> </ul>
<p>August 8, 2018</p>	<p><b>Petition for Suspension of Election Official</b> At least <b>90 days</b> prior to an Election Day, the last day for petition to be filed with County Commission seeking the suspension of an election official; petition signed by <b>25</b> registered voters of precinct where election official last served. Upon presentation of evidence of listed grounds, County Commission may, upon majority vote, suspend the eligibility to serve as an election official for <b>2 years</b>. County Commission may, on its own motion, suspend an election official for specific causes for <b>4 years</b>.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-28(c)</li> </ul>
<p>August 8, 2018 (Deadline)</p>	<p><b>Adopt Policy Extending Emergency Absentee Voting</b> (At least <b>90 days</b> prior to the election affected)</p> <p>Last day County Commission may adopt policy extending the emergency absentee voting procedures to hospitals or other duly licensed health care facilities within an adjacent county or within <b>35 miles</b> of the county seat, or to nursing homes within the county (NOTE: a copy of this policy must be filed with the Secretary of State).</p> <ul style="list-style-type: none"> <li>- W. Va. Code (§ 3-3-5c(a)</li> </ul>
<p>August 14, 2018</p>	

August 14, 2018 (Deadline)	<p>84 days before General Election Day</p> <p><b>Notice of Number of Election Officials</b> At least <b>84 days</b> before the election, the County Commission designates the number and type of election boards for the various precincts and gives written notice to the county executive committees of the <b>2</b> major political parties of the number of nominations which may be made for poll clerks and commissioners. Recommend County Clerk notify executive committees of number of emergency absentee voting commissioners to nominate at same time.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-1-29, 3-3-5c</li> </ul>
August 14, 2018	<p><b>Last Day for Candidate to Withdraw from General Election</b> The last day for candidate to file a notarized statement of withdrawal with the same officer with whom the certificate of announcement was filed must be provided to the County Clerk No later than <b>84 days</b> before the General Election</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-5-11</li> </ul>
August 14, 2018	<p><b>Disqualification for failure to file Primary Financial Statements</b> Late financial statements must be received in the filing office by close of business on this day. Failure to file is an automatic disqualification and the candidate's name is removed from the ballot. If disqualified, the executive committee may appoint according to the provisions of §3-5-19(a)(4).</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-7</li> </ul>
August 14 – October 31, 2018	<p><b>Application For Absentee Ballot by mail accepted from Voters</b> An eligible voter's application by mail for absentee voter's ballot must be received no earlier than <b>84 days</b> preceding the election and no later than <b>6 days</b> preceding General Election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-3-1(b)(3), 3-3-5(b)(1)</li> </ul>
August 20, 2018 (Deadline for committee)	<p><b>Executive Committee or Chair Appointment to Fill Vacancy in Nomination</b> (For committee -- After Primary Election, but not later than <b>78 days</b> preceding General Election.) Last day an executive committee may fill vacancy in nomination if the vacancy occurs <b>84 days</b> before the General Election and is caused by any of the reasons below:</p>



August 28, 2018	<p><b>Election Official Nominations Filed</b> No later than <b>70 days</b> before the election, each county executive committee, or its chairman or secretary on its behalf, shall file in writing with the County Commission a list of persons nominated by a majority vote of the committee at a duly called meeting, as election officials and the positions for which they are designated, and those persons nominated as alternates.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-30(a)(4)</li> </ul>
September 5, 2018 (Deadline for Primary)	<p><b>Voter History</b> After each primary, general, municipal or special election, the County Clerk shall enter the voting records into the statewide voter registration database within <b>120 days</b> after the election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-18(e)</li> </ul>
September 7, 2018	<p><b>Emergency Order to Change Precincts</b> (No later than <b>60 days</b> before the General Election)</p> <p>Last day for county commission, in case of emergency and with permission of the Secretary of State, to enter an order to consolidate, divide or change the boundaries of any precinct within a county. Within <b>15 days</b> after such order is issued, the County Commission shall publish the order as Class II-O legal advertisement.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-1-7(g), 59-3-1 <i>et seq.</i></li> </ul>
September 11, 2018 (Deadline)	<p><b>Notice of Number of Sets of Emergency Absentee Voting Commissioners Needed</b> (On or before the <b>56th day</b> preceding the election)</p> <p>The County Clerk shall notify the County Commission of the number of sets of emergency absentee ballot commissioners which he or she deems necessary to perform the duties.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5c(b)</li> </ul>
September 18, 2018	49 days before the General Election
September 18, 2018	<p><b>Election Officials and Alternates Appointed</b> (No later than <b>49 days</b> before the election)</p> <p>The County Commission shall appoint the election officials for each designated election board as follows:</p>

	<ol style="list-style-type: none"> <li>1. Eligible persons nominated and timely filed by the executive committees as poll clerks, election commissioners;</li> <li>2. The additional persons selected by the County Commission to serve as election commissioners; and</li> <li>3. Persons to fill any positions for which no nominations were filed.</li> </ol> <p>The County Commission shall also appoint emergency absentee voting commissioners. <i>At the same meeting or at a subsequent meeting</i>, the County Commission shall appoint the alternates nominated by the executive committees, appoint additional alternates and determine the number of persons who may be instructed to attend training as alternates.</p> <p>- W. Va. Code §§ 3-1-30, 3-3-5c, 3-4A-14</p>
<p>September 18, 2018 (Deadline)</p>	<p><b>Write-In Candidate Filing Deadline for General Election</b> (Received no later than the close of business <b>49 days</b> before the election at which the office is to be filled)</p> <p>Eligible person who seeks to be elected by write-in votes to an office which is to be filled in the General Election shall file a write-in candidate's certificate of announcement. A filing fee is not required.</p> <p>- W. Va. Code § 3-6-4a</p>
<p>September 21, 2018</p>	<p>46 days before the General Election</p>
<p>September 21, 2018 (Deadline)</p>	<p><b>Delivery of Absentee Ballots to County Clerk</b> (No less than <b>46 days</b> prior to General Election)</p> <p>Last day for board of ballot commissioners to have printed and delivered to County Clerk the official absent voters' ballots.</p> <p>- W. Va. Code § 3-3-11</p>
<p>September 21 – October 31, 2018 (November 1, 2018 for applications received October 31, 2018)</p>	<p><b>Mail Absentee Ballots</b> Within <b>1 day</b> after both the completed application and the ballot are received. Ballots delivered at least <b>46 days</b> before election and applications due no later than <b>6 days</b> before election.</p> <p>Upon acceptance of a completed application, if the requirements have been met, mail official absent voter's ballot(s), envelopes, instructions, and any other supplies required for voting the ballot. If determined the requirements</p>

<p>September 24 - 28, 2018</p>	<p>have not been met, give notice that the ballot will be provisional and transmit materials.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5</li> </ul> <p><b>First General Report</b> (Not earlier than <b>43 days</b> to be filed within <b>4 business days</b> thereafter preceding the General Election)</p> <p><i>This report covers the transactions from May 21, 2018 through September 23, 2018.</i></p> <p>Candidates, agents and treasurers file with the Secretary of State or County Clerk or Municipal Recorder a detailed itemized statement setting forth all contributions received and expenditures made which exceed \$500 or whenever loans are outstanding subsequent to the previous statement.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-8-5, 3-8-5a;</li> <li>- CSR § 146-3-8</li> </ul>
<p>September 25, 2018 (Deadline, depending on date of appointment)</p>	<p><b>Notice Mailed to Election Officials</b> Within <b>7 days</b> following appointment, County Commission notifies, by first-class mail, all election commissioners, poll clerks and alternates of their appointment, including a response form.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-30</li> </ul>
<p>October 2, 2018 (Deadline, depending on date of appointment)</p>	<p><b>Pollworkers Respond to Notification from Clerk</b> When an election official or alternate fails to return the response notice or otherwise confirm to the County Clerk his or her agreement to serve within the required time, the position shall be considered vacant and the County Clerk shall proceed to fill the vacancies within <b>14 days</b> following the date of appointment.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-30</li> </ul>
<p>October 7, 2018 (Deadline)</p>	<p><b>Instructional Program for Election Officials</b> Within <b>30 days</b> prior to election, County Clerk conducts instructional program showing training film produced by Secretary of State, to all election officials, explaining and illustrating procedures for conducting elections, duties of the various election officials and methods of voting.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-46(c), 3-4A-14</li> </ul>

<p>October 11 – 17, 2018</p>	<p><b>Publish Sample Ballot for Early Voting</b> (Not more than <b>26</b> nor less than <b>20 days</b> preceding the General Election)</p> <p>Ballot commissioners publish sample official General Election ballots as follows:</p> <ol style="list-style-type: none"> <li>1. For counties in which <b>2 or more</b> qualified newspapers publish a daily newspaper, publish a Class I-O legal advertisement in the <b>2</b> qualified daily newspapers of different political parties within the county having the largest circulation;</li> <li>2. For counties having no more than <b>1</b> daily newspaper, or having <b>only 1</b> or more qualified weekly newspapers, publish sample as Class I legal advertisement in the qualified newspaper having largest circulation.</li> </ol> <p>- W. Va. Code § 3-6-3, 59-3-1 <i>et seq.</i></p>
<p>October 16, 2018</p>	<p><b>Voter Registration Deadline</b> Voter registration for an election shall close <b>21 days</b> before the election, or on the <b>1st</b> day thereafter which is not a Saturday, Sunday or legal holiday.</p> <p>Completed application of eligible voter for registration, transfer, change of political party or other change submitted by the close of voter registration will be effective for any subsequent election, if:</p> <ol style="list-style-type: none"> <li>1. Received at office of the County Clerk, no later than the hour of the close of registration;</li> <li>2. Accepted by a designated agency or motor vehicle licensing office no later than the close of registration;</li> <li>3. Accepted through a registration outreach program and received by the County Clerk no later than the close of registration;</li> <li>4. Addressed to the appropriate County Clerk and postmarked by the postal service no later than the date of the close of registration;</li> <li>5. Accepted through an approved electronic voter registration system and received no later than the close of business on the final day of registration; or</li> <li>6. The verification notice mailed to the applicant is not returned as undeliverable.</li> </ol> <p>- W. Va. Code §§ 3-2-6, 3-2-7</p>



October 17, 2018	<p><b>Inspection of ballots, electronic poll books and vote recording devices.</b> (1 inspection can be done for Early Voting and Election Day materials or they can be done separately if Election Day materials are not prepared)</p> <p><b>Preparation</b> of materials is completed and <b>Notification</b> given to County Commission and Ballot Commissioners <b>no later than 7 days</b> before election [EV = October 17; ED = October 30]</p> <p><b>Convene</b> County Commissioners and Ballot Commissioners <b>no later than 5 days</b> before election. [EV = October 19; ED = November 1]</p> <p>Class I-0 public notice regarding place and time of inspection is published <b>no later than 3 days</b> before inspection.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-4A-13</li> </ul>
October 22, 2018	<p><b>Correct Incomplete Applications for Voter Registration</b> County Clerk may correct applications for voter registration containing incomplete information if applicant provides the required information within <b>4 business days</b> after the close of registration.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-6(b)(1)</li> </ul>
October 23, 2018	<p><b>Accept Voter Registration Card by Mail without Postmark</b> The last day an application for registration may be accepted if addressed to the appropriate County Clerk and received by mail with the postmark missing or illegible is no later than <b>3 days</b> following the close of registration.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-6(b)(2)(A)</li> </ul>
October 22 – October 26, 2018	<p><b>Pre-General Financial Reports Due</b> (<b>15 days</b> to be filed within <b>4 business days</b> thereafter preceding General Election)</p> <p><i>This report covers the transactions from September 24, 2018 through October 21, 2018.</i></p> <p>Candidates, agents and treasurers file with the Secretary of State or County Clerk or Municipal Recorder a detailed itemized statement setting forth all financial transactions subsequent to last report.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-5, 3-8-5a; CSR § 146-3-8</li> </ul>

October 22 – November 5, 2018	<p><b>“Last Minute” Independent Expenditures Reported</b> (Expenditure made on or after the <b>15th day</b> but more than <b>12 hours</b> before the day of any election - report must be received within <b>24 hours</b> after the expenditure is made)</p> <p>Independent expenditures in the amount of \$1,000 or more for statewide, legislative or multi-county offices or in the amount of \$500 or more for county, single-county or municipal offices which are made must be reported within <b>24 hours</b> to the Secretary of State or the County Clerk.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-2</li> </ul>
October 24 – November 3, 2018	<p><b>Early Voting in Person Conducted</b> (Beginning on the <b>13<sup>th</sup> day</b> and continuing through the <b>3<sup>rd</sup> day</b> before the election)</p> <p>Voter may vote an early ballot at the county courthouse, an annex or a designated community voting location during normal business hours; additionally, early voting must be conducted between 9 a.m. and 5 p.m. on the last <b>2 Saturdays</b> before the primary election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-3</li> </ul>
October 30, 2018	<p><b>Public Test of Tabulating Equipment</b> (<b>1 week</b> prior to the start of the count of the votes)</p> <p>Notice provided no more than <b>2 weeks</b> and not less than <b>48 hours</b> before test by publication of Class I-0 legal advertisement. [<b>October 28 – November 5</b>]</p> <p>After processing pre-audited ballots, the County Commission certifies the equipment to be free from error as determined by the test. Testing material and certification is to be placed in a sealed container until the start of canvass.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-4A-26, 59-3-1 <i>et seq.</i></li> </ul>
October 31 – November 6, 2018	<p><b>Instructional Program Make-Up Session</b> (Within last <b>7 days</b> before election)</p> <p>County Clerk conducts make-up session for election officials unable to attend regular session.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-1-46(c), 3-4A-14</li> </ul>

<p>October 31 – November 6, 2018</p>	<p><b>Publish Official List of Candidates or Sample Ballot for Election Day</b> (On the last day on which a newspaper is published immediately preceding the General Election)</p> <p>Ballot commissioners publish the official list of candidates and issues as follows:</p> <ol style="list-style-type: none"> <li>1. For counties in which <b>2 or more</b> qualified newspapers publish a daily newspaper, publish a Class I-O legal advertisement in the <b>2</b> qualified daily newspapers of different political parties within the county having the largest circulation;</li> <li>2. For counties having no more than <b>1</b> daily newspaper, or having <b>only 1</b> or more qualified weekly newspapers, publish sample as Class I legal advertisement in qualified newspapers having largest circulation</li> </ol> <p>Counties may choose to publish the facsimile ballot for a <b>2nd</b> time instead of the official list.</p> <p>- W. Va. Code § 3-6-3, 59-3-1 <i>et seq.</i></p>
<p>October 31 – Noon, November 6, 2018</p>	<p><b>Request Emergency Absentee Ballot</b> (No earlier than <b>7</b> days preceding the election and no later than noon of Election Day)</p> <p>Period in which an eligible person (a member of said voter's immediate family or hospital personnel) may request an emergency absent voter ballot. Eligible persons include:</p> <ol style="list-style-type: none"> <li>1. A voter who, on election day, is in the hospital or other duly licensed health care facility within the county of their residence (or, provided the county commission has adopted an extension of service, to a health care facility in an adjacent county or within <b>35 miles</b> of the county seat);</li> <li>2. A voter who resides no more than <b>30 days</b> in a nursing home within the county, provided the county commission has adopted an extension of service to those facilities.</li> </ol> <p>- W. Va. Code §§ 3-3-1(c)(2), 3-3-5c(d)</p>
<p>October 31, 2018 (Deadline)</p>	<p><b>Deadline for Absentee by Mail Application</b> The last day to receive application for absentee ballot by mail. Ballot shall be mailed no later than following day is no later than <b>6</b> days preceding the election.</p> <p>- W. Va. Code § 3-3-5(b)(1)</p>

November 1, 2018 (By close of business at the filing office)	<p><b>Write-In Candidate Filing Deadline In Case of Death of Candidate</b> Vacancy occurs no earlier than <b>21 days (October 18)</b> and no later than <b>5 days (November 3)</b> before the General Election, the certificate shall be received no later than the close of business <b>5 days</b> before the election, or the close of business on the day following the occurrence of the vacancy, whichever is later.</p> <p>Write-in candidate files certificate of announcement to become certified write-in candidate in case of death of candidate.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-6-4a(c)(3)</li> </ul>
November 3, 2018	<p><b>Deadline for Early Voting in Person</b> Last day to vote an early ballot in person at the designated early voting location.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-3</li> </ul>
November 5, 2018 (Deadline)	<p><b>Deadline to Hand-Deliver Absentee Ballots to the County Clerk's Office</b> The last day for County Clerk to accept hand delivered absentee ballot by mail is no later than <b>1 day</b> preceding the election. No person may personally deliver more than <b>2</b> absentee ballots in any election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5(k)</li> </ul>
November 5, 2018 (Deadline)	<p><b>Election Commissioners Receive Election Supplies</b> The last day on which election commissioners of each precinct, as designated by ballot commissioners, shall receive necessary election supplies from the County Clerk is not later than <b>1 day</b> before the General Election.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-24, 3-4A-13(f), 3-5-14</li> </ul>
November 5, 2018 (Deadline)	<p><b>Failure to Pick Up Supplies</b> (By close of offices of County Clerk on the day prior to General Election.)</p> <p>Board of ballot commissioners, or chairman, dispatches, by special messenger, election supplies to any election commissioner who has failed to pick up supplies by designated time.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-25, 3-4A-13a</li> </ul>

<p><u>November 6, 2018</u></p>	<p><u>GENERAL ELECTION DAY</u></p> <p>(Tuesday after first Monday in November of even years)</p> <p>Polls open at 6:30 a.m. and close at 7:30 p.m.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-31</li> </ul> <p>If appointed election official fails to appear at polling place by 5:45 a.m., election officials shall contact County Clerk for assistance in filling vacancy.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-1-30</li> </ul> <p>In counties using electronic voting systems, County Clerk must deliver vote recording devices to the polling places not less than <b>1 hour</b> prior to polls opening.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-4A-16</li> </ul> <p>Upon request by or for person eligible to vote emergency absentee voter's ballot made no later than <b>noon</b> of Election Day, emergency absentee voting commissioners deliver application and ballot to voter in hospital (or nursing home if authorized).</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5c</li> </ul> <p>A voter whose registration record lists one address but has since moved to another within the county may update their registration at the polling place and shall vote in the precinct of current residence using a provisional ballot.</p> <ul style="list-style-type: none"> <li>- W. Va. Code §§ 3-2-22(a)(6), 3-2-31(b)</li> </ul> <p>A voter whose legal name has changed may update their registration by filing an affidavit of change of legal name at the polling place on Election Day without using a provisional ballot.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-22(d)(2)</li> </ul> <p>A Federal Write-in Absentee Ballot (FWAB) must be received by the County Clerk prior to the close of the polls on Election Day or it may not be counted. Write-in ballot is only for persons outside U.S. who applied for regular absentee ballot at least <b>30 days</b> before the election, but could not receive and</p>
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November 6, 2018	<p>return it within the absentee voting period due to remote location.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5b(f)</li> </ul>
	<p><b>Post Summary Returns</b> Upon completion of the count, the returns are to be open to the public by posting a summary of the returns as have been tabulated at the central counting center.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-4A-28(e)</li> </ul>
November 7, 2018	<p><b>Absentee Ballots Without Postmark Accepted</b> (Day after Election)</p> <p>Absentee ballots without postmark are accepted if delivered by the US Postal Service or other express shipping service and received by the County Clerk, no later than the day after Election Day.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5</li> </ul>
November 13, 2018 (Deadline)	<p><b>Absentee Ballots Postmarked by Election Day Accepted</b> (No later than the hour at which the board of canvassers convenes to begin the canvass.)</p> <p>Absentee ballot by mail accepted if ballot bears a postmark of the US Postal Service dated no later than Election Day and the ballot is received by the County Clerk before the canvass begins.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-3-5</li> </ul>
November 13, 2018	<p><b>Canvass Returns</b> On the 5<sup>th</sup> day, Sundays excepted, after General Election, County commission, as the board of canvassers, meets to canvass primary election returns. The board of canvassers shall meet from day to day adjourning no longer than is absolutely necessary until the canvass is complete.</p>
Deadline depends on date canvass is completed in all jurisdictions.	<p><b>Declare</b> Upon completion of canvass, publicly declare the election results and wait <b>48 hours</b> (do not count Saturdays, Sundays and legal holidays) to allow for recount requests to be submitted.</p>

<p>Deadline depends on date results are declared</p>	<p>Multi-county races must wait until the last county declares results for the 48 hours to begin. Notice will be provided by the Elections Division on the start times.</p> <p><b>Recount</b>  Recount request must be made within <b>48 hours</b> of the declaration of results. If a candidate is on the ballot in more than one county, the <b>48 hours</b> begins after the final county's canvassing board declares the results. A candidate may demand a recount.</p> <p><b>Note:</b> If a recount has been demanded, the board shall have <b>48 hours</b> in which to send notice to all candidates who filed for the office in which a recount has been demanded. Such recount shall be set for no sooner than <b>3 days</b> after serving the notice. After the notice is served, candidates so served shall then have an additional <b>24 hours</b> in which to demand a recount of precincts not requested to be recounted by candidate originally requesting recount. The recount is open to the public. However, only those authorized may handle election materials.</p> <p>- W. Va. Code § 3-6-9</p>
<p>Deadline depends on date results are declared and recounts</p>	<p><b>Certify</b>  <b>48 hours</b> after the declaration, CERTIFY election results in races where a recount was NOT requested.</p> <p>- W. Va. Code §§ 3-5-17, 3-6-9, 3-6-10</p>
<p>Deadline depends on date election results are declared</p>	<p><b>Contest General Election</b>  (Within <b>10 days</b> after the results of election are <u>certified</u>)</p> <p>Candidate may contest the General Election before the County Commission of the county in which any procedures, practices or results may be in issue. A contest is a legal proceeding. Legal counsel should be obtained by parties involved.</p> <p>- W. Va. Code §§ 3-5-20, 3-7-1, 3-7-6</p>
<p>November 19 – December 17, 2018</p>	<p><b>Post-General Reports Due</b>  <b>(13 days</b> after each General Election and within <b>20 business days</b> after the 13<sup>th</sup> day)</p> <p><i><b>This report covers the transactions from October 22, 2018 through November 8, 2018.</b></i></p>

November 19 – December 17, 2018 (ctd.)	<p>Candidates, agents and treasurers file with the Secretary of State or County Clerk or Municipal Recorder a detailed itemized statement setting forth all financial transactions made subsequent to last report.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-5, 3-8-5a;</li> <li>- CSR § 146-3-8</li> </ul>
December 6, 2018 (Deadline)	<p><b>Transmit Certificates of Election Results to Secretary of State</b> (Within <b>30 days</b> from the date of the election.)</p> <p>Board of canvassers transmits certificates of election results to Secretary of State for State Senators and members of House of Delegates, along with copies of certificates for all other officers. Board of canvassers transmit original certificates of election results for U.S. House of Representatives and U.S. Senate to the Governor with copies of those certificates to the Secretary of State.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-6-11</li> </ul>
January 7, 2019	<p><b>Report Failure to File Financial Statement to Prosecuting Attorney</b> (<b>60 days</b> after General Election)</p> <p>Secretary of State and County Clerk give notice of any failure of candidates, agents or treasurers to file required, detailed, itemized financial statements of transactions connected with General Election to Prosecuting Attorney where candidate resides.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-7(a)</li> </ul>
March 6, 2019	<p><b>Voter History</b> (Within <b>120 days</b> following General Election)</p> <p>After each primary, general, municipal or special election, the County Clerk shall enter the voting records into the statewide voter registration database.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-2-18(e)</li> </ul>
March 30 – April 5, 2019	<p><b>Annual Financial Statements</b> Filing period starts on the last Saturday in March and is to be filed within <b>6 days</b>. This report is filed annually until the committee is closed.</p>



<p>March 30 – April 5, 2019 (ctd.)</p>	<p><b><i>This report covers the transactions from November 19, 2018 through March 29, 2019 for 2018 candidates &amp; political committees.</i></b></p> <p><b><i>This report covers the transactions from March 30, 2018 through March 29, 2019 for candidates in elections other than the 2018 election, with open campaign accounts &amp; pre-candidates for future elections.</i></b></p> <p>Candidates, agents and treasurers file with the Secretary of State or County Clerk or Municipal Recorder a detailed itemized statement setting forth all contributions received and expenditures exceeding five hundred dollars as of the date of this report, including all transactions subsequent to any previous statement filed.</p> <ul style="list-style-type: none"> <li>- W. Va. Code § 3-8-5;</li> <li>- CSR § 146-3-8</li> </ul>
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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 18-0712

STATE OF WEST VIRGINIA, ex rel.  
DONALD L. BLANKENSHIP,  
CANDIDATE FOR U.S. SENATE IN  
WEST VIRGINIA, and  
CONSTITUTION PARTY OF  
WEST VIRGINIA,

Petitioners,  
v.

MAC WARNER,  
IN HIS OFFICIAL CAPACITY AS  
WEST VIRGINIA SECRETARY OF STATE

Respondent.

**CERTIFICATE OF SERVICE**

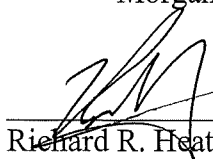
I, Richard R. Heath, Jr., do hereby certify that on the 14th day of August, 2018, I have caused a copy of the forgoing *Motion to Intervene and Incorporated Memorandum of Law on Behalf of the West Virginia Republican, Party, Inc.* to be served upon the following individuals via hand delivery or U.S. Mail:

The Honorable Mac Warner  
Secretary of State  
State Capitol, Building 1, Suite 157-K  
1900 Kanawha Boulevard East  
Charleston, WV 25305

Marc E. Williams  
Nelson Mullins Riley & Scarborough LLP  
949 Third Avenue, Suite 200  
Huntington, WV 25701

Patrick Morrissey  
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1900 Kanawha Boulevard East  
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P.O. Box 1295  
Morgantown, WV 26507

  
Richard R. Heath, Jr. (WVSB #9067)