

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 452

Session of  
1987

INTRODUCED BY KUKOVICH, MICHLOVIC, BURNS, KOSINSKI, TRELLO,  
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REBER AND RITTER, FEBRUARY 24, 1987

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 10, 1987

## AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled  
2 "An act concerning elections, including general, municipal,  
3 special and primary elections, the nomination of candidates,  
4 primary and election expenses and election contests; creating  
5 and defining membership of county boards of elections;  
6 imposing duties upon the Secretary of the Commonwealth,  
7 courts, county boards of elections, county commissioners;  
8 imposing penalties for violation of the act, and codifying,  
9 revising and consolidating the laws relating thereto; and  
10 repealing certain acts and parts of acts relating to  
11 elections," providing limited Pennsylvania Fair Campaign  
12 funding of certain Statewide elections; limiting certain  
13 contributions; imposing powers and duties on the Department  
14 of State; and providing penalties.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Section 1633(a) of the act of June 3, 1937  
18 (P.L.1333, No.320), known as the Pennsylvania Election Code,  
19 amended November 26, 1978 (P.L.1313, No.318), is amended to  
20 read:

21 Section 1633. Contributions or Expenditures by National  
22 Banks, Corporations or Unincorporated Associations.--

1 (a) It is unlawful for any National or State bank,  
2 partnership or any corporation, incorporated under the laws of  
3 this or any other state or any foreign country or any  
4 unincorporated association, except those corporations formed  
5 primarily for political purposes or as a political committee, to  
6 make a contribution or expenditure in connection with the  
7 election of any candidate or for any political purpose whatever  
8 except in connection with any question to be voted on by the  
9 electors of this Commonwealth. Furthermore, it shall be unlawful  
10 for any candidate, political committee, or other person to  
11 knowingly accept or receive any contribution prohibited by this  
12 section, or for any officer or any director of any corporation,  
13 bank, or any unincorporated association to consent to any  
14 contribution or expenditure by the corporation, bank or  
15 unincorporated association, as the case may be, prohibited by  
16 this section.

17 \* \* \*

18 Section 2. The act is amended by adding an article to read:

19 ARTICLE XVI-A

20 Campaign Cost Control

21 Section 1601-A. Application of Article.--(a) The provisions  
22 of this article shall be applicable to candidates for the  
23 following State-wide offices who elect to apply for Pennsylvania  
24 Fair Campaign funding hereunder:

25 (1) Governor.

26 (2) Lieutenant Governor.

27 (3) Attorney General.

28 (4) Auditor General.

29 (5) State Treasurer.

30 (6) Supreme Court Justice.

1     (7) Superior Court Judge.

2     (8) Commonwealth Court Judge.

3     (b) For the purposes of this article insofar as it relates  
4 to Pennsylvania Fair Campaign funding of nominated candidates in  
5 the general election, a political party's or political body's  
6 nominated candidates for Governor and Lieutenant Governor shall  
7 be considered as one candidacy and the provisions specifically  
8 applicable to the Governor shall be applicable to such combined  
9 candidacy.

10    Section 1602-A. Administration.--The provisions of this  
11 article shall be administered by the Secretary of the  
12 Commonwealth hereinafter referred to as the secretary. The  
13 secretary may adopt such rules and regulations as may be  
14 necessary for the implementation of this article.

15    Section 1603-A. Pennsylvania Fair Campaign Fund Created.--  
16 There is hereby created a special restricted receipts fund in  
17 the State Treasury to be known as the "Pennsylvania Fair  
18 Campaign Fund." Payments shall be made into said fund pursuant  
19 to section 1604-A and disbursements shall be made from said fund  
20 only upon the warrant of the Secretary of the Commonwealth and a  
21 warrant of the State Treasurer. As much of the moneys in the  
22 Pennsylvania Fair Campaign Fund as are necessary to make  
23 payments to candidates as provided in this article are  
24 appropriated from the Pennsylvania Fair Campaign Fund to the  
25 Department of State for the purpose of such payments.

26    Section 1604-A. Allocation of Certain Tax Proceeds to  
27 Pennsylvania Fair Campaign Fund.--Beginning with tax years  
28 commencing January 1, 1987, and thereafter, each individual  
29 subject to the tax imposed by Article III of the act of March 4,  
30 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"

1 whose tax liability for any such year is two dollars and fifty  
2 cents (\$2.50) or more may designate two dollars and fifty cents  
3 (\$2.50) of his or her personal income taxes to be paid into the  
4 Pennsylvania Fair Campaign Fund. In the case of married  
5 taxpayers filing a joint return, each spouse may designate two  
6 dollars and fifty cents (\$2.50) to be paid into the Pennsylvania  
7 Fair Campaign Fund if their tax liability is five dollars  
8 (\$5.00) or more. All such designated tax revenues shall be paid  
9 into the Pennsylvania Fair Campaign Fund. The check-off and  
10 instructions shall be prominently displayed on the first page of  
11 the return form. The instructions shall readily indicate that  
12 any such designations neither increase or decrease an  
13 individual's tax liability.

14 Section 1605-A. Certification of Moneys in Pennsylvania Fair  
15 Campaign Fund.--By June 30 of each year, the State Treasurer  
16 shall certify to the secretary the current balance available in  
17 the Pennsylvania Fair Campaign Fund.

18 Section 1606-A. Qualification for Pennsylvania Fair Campaign  
19 Funding.--(a) Any candidate for State-wide office as described  
20 in section 1601-A may apply for Pennsylvania Fair Campaign  
21 funding under this article if such candidate meets the  
22 contributory thresholds established in subsection (b) and  
23 otherwise conforms to the requirements of this article. No  
24 candidate shall be obligated to apply for funding hereunder and  
25 if any candidate elects not to apply, the provisions of this  
26 article pertaining to limits on expenditures or the use of their  
27 personal funds shall be inapplicable to such person and their  
28 candidacy. Any candidate electing to receive Pennsylvania Fair  
29 Campaign funding must declare his intention to do so and specify  
30 the State office for which he is a candidate. Any and all

1 committees authorized to receive contributions or make  
2 expenditures for the candidate who has so declared must abide by  
3 the provisions of section 1612-A. Any candidate who for any  
4 reason has his name withdrawn from the ballot for a State-wide  
5 election, after receipt of Pennsylvania Fair Campaign funds,  
6 shall return all moneys received to the Pennsylvania Fair  
7 Campaign Fund as well as offering back qualifying contributions  
8 for that State-wide office.

9 (b) (1) In order to qualify for Pennsylvania Fair Campaign  
10 funding in the general election, a candidate must receive  
11 subsequent to the date of the primary election but prior to the  
12 date of the general election qualifying contributions of the  
13 following amounts:

<u>Office</u>	<u>Qualifying Contributions Required</u>
15 <u>(i) Governor</u>	<u>\$100,000</u>
16 <u>(ii) Lieutenant Governor</u>	<u>25,000 (for primary only)</u>
17 <u>(iii) State Treasurer</u>	<u>50,000</u>
18 <u>(iv) Auditor General</u>	<u>50,000</u>
19 <u>(v) Attorney General</u>	<u>60,000</u>
20 <u>(vi) Supreme Court Justices</u>	<u>25,000</u>
21 <u>(vii) Superior Court Judges</u>	<u>25,000</u>
22 <u>(viii) Commonwealth Court Judges</u>	<u>25,000</u>

23 (2) In order to qualify for Pennsylvania Fair Campaign  
24 funding in the primary election, a candidate must receive prior  
25 to the date of the primary election, but subsequent to the  
26 immediately preceding general election, one-half of the amount  
27 specified in clause (1) for the appropriate office.

28 (3) (i) The term "qualifying contribution" shall include  
29 any contribution, as defined in section 1621(b), which has all  
30 of the following characteristics:

1     (A) Made by an individual resident of Pennsylvania.

2     (B) Made by a written instrument which indicates the  
3 contributor's full name and mailing residence and is not  
4 intended to be returned to the contributor or transferred to  
5 another political committee or candidate.

6     (ii) If a contributor receives goods or services of value in  
7 return for his contribution, the qualifying contribution shall  
8 be calculated as the original contribution, minus the fair  
9 market value of the goods or services received.

10    (iii) Any contribution by an individual which exceeds one  
11 hundred dollars (\$100.00) in the aggregate shall be deemed only  
12 a one hundred dollar (\$100.00) qualifying contribution for the  
13 purposes of this section and for the matching payment provisions  
14 of section 1607-A.

15    (c) The secretary shall select an auditor pursuant to the  
16 provisions of section 1635(a). Each candidate who elects to  
17 apply for Pennsylvania Fair Campaign funding shall provide  
18 evidence that such candidate has raised the qualifying  
19 contributions required by this section which evidence shall be  
20 verified and certified as correct to the secretary by the  
21 auditor selected hereunder.

22    Section 1607-A. Pennsylvania Fair Campaign Funding  
23 Formula.--(a) Every candidate who qualifies for Pennsylvania  
24 Fair Campaign funding for either the primary or the general  
25 election pursuant to section 1606-A shall receive matching  
26 payments from the Pennsylvania Fair Campaign Fund in the amount  
27 of two dollars and fifty cents (\$2.50) for each dollar of  
28 qualifying contribution as defined in section 1606-A(b)(3).

29    (b) The two dollars and fifty cents (\$2.50) for each dollar  
30 of qualifying contributions provided by this section shall be

provided only for qualifying contributions raised which exceed the threshold amounts specified in section 1606-A(b) and not to those qualifying contributions which are attributable to meeting such threshold amounts necessary to qualify for Pennsylvania Fair Campaign funding.

(c) (1) Only those qualifying contributions made during the period between a declaration of candidacy and the primary election shall be eligible for matching payments from the Pennsylvania Fair Campaign Fund for the primary election.

(2) Only those qualifying contributions made during the period between the primary election and the general election shall be eligible for matching payments from the Pennsylvania Fair Campaign Fund for the general election.

(d) Matching funds shall not be provided for any qualifying contribution unless the reporting requirements of section 1626(b) are satisfied.

Section 1608-A. Limitations on Pennsylvania Fair Campaign Funding.--(a) Every candidate who qualifies for and receives Pennsylvania Fair Campaign funding pursuant to the formula established in section 1607-A shall be entitled to receive no more than the maximum amount specified in subsection (b) for the office such candidate is seeking.

(b) (1) The maximum amount of Pennsylvania Fair Campaign funding available for the general election for each candidate under this article shall be as follows:

<u>Office</u>	<u>Maximum Pennsylvania Fair Campaign Funding</u>
<u>(i) Governor</u>	<u>\$2,000,000</u>
<u>(ii) Attorney General</u>	<u>400,000</u>
<u>(iii) Auditor General, State</u>	

1	<u>Treasurer</u>	<u>300,000</u>
2	<u>(iv) Lieutenant Governor</u>	<u>100,000 (primary only)</u>
3	<u>(v) Supreme Court Justices</u>	<u>150,000</u>
4	<u>(vi) Superior Court Judges</u>	<u>150,000</u>
5	<u>(vii) Commonwealth Court Judges</u>	<u>150,000</u>

6 (2) The maximum amount of Pennsylvania Fair Campaign funding  
7 available for the primary election for each candidate under this  
8 article shall be one-half the appropriate figure in clause (1).

9 (c) Notwithstanding any other provisions of this article no  
10 Pennsylvania Fair Campaign funding shall be provided to the  
11 following:

12 (1) Candidates in the general election who have been  
13 nominated by both major political parties.

14 (2) Candidates in the primary election who are unopposed for  
15 the nomination.

16 (d) As used in this article, "major political party" shall  
17 mean a political party whose candidate for Governor received  
18 either the highest or second highest number of votes in the  
19 preceding gubernatorial election.

20 Section 1609-A. Time of Payments.--(a) Beginning ninety  
21 (90) days prior to the relevant primary or general election, the  
22 secretary shall make payments authorized by this article at  
23 least every two (2) weeks. However, except for the final  
24 payment, no payment shall be due or paid if the payment does not  
25 equal at least five thousand dollars (\$5,000) in amount.

26 (b) If in the secretary's opinion insufficient funds exist  
27 in the Pennsylvania Fair Campaign Fund to provide the  
28 anticipated full funding to eligible candidates in a given  
29 primary or general election, the secretary shall distribute the  
30 available funds to qualified candidates on a pro-rata basis. In



determining whether sufficient funds are available, the secretary shall not take into consideration the needs of any subsequent primary or general elections but shall base the decision solely on the immediate primary or election at hand.

Section 1610-A. Use of Pennsylvania Fair Campaign Funds by Candidates.--(a) Pennsylvania Fair Campaign funds distributed to candidates pursuant to this article may be used only for the election for which they are distributed and only for the purposes set forth in section 1634.1 except that no fund moneys may be used:

(1) To transfer to other candidates or to committees of other candidates or to political committees.

(2) To pay for expenditures incurred after the date of the general election.

(b) Pennsylvania Fair Campaign funds distributed to a candidate pursuant to this article shall be placed in a single bank account. Expenditures from this account shall be made only for campaign expenses listed in subsection (a).

Section 1611-A. Expenditures.--(a) Expenditures made by a candidate and his authorized committees, for all purposes and from all sources, including, but not limited to, amounts of Pennsylvania Fair Campaign funds distributed under this article, proceeds of loans, gifts, contributions from any source or personal funds, subsequent to the date of the primary election, but prior to the date of the general election, may not exceed the amounts specified below:

<u>Office</u>	<u>Total Expenditure Limits</u>
<u>(i) Governor</u>	<u>\$4,000,000</u>
<u>(ii) Lieutenant Governor</u>	<u>200,000 (for primary only)</u>
<u>(iii) Attorney General</u>	<u>800,000</u>

1	(iv) State Treasurer	600,000
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2	(v) Auditor General	600,000
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3      (vi) Justices and Judges

4 of the Supreme Court,

5                    Superior Court and

6                      Commonwealth Court.                      300,000

7       (b) Expenditures made by a candidate and his authorized  
8       committees, subsequent to January 1 but prior to the date of the  
9       primary election, may not exceed one-half of the amount  
10       specified in subsection (a).

11       (c) Notwithstanding any other provision of this article, a  
12 candidate who accepts public funding pursuant to the formula  
13 established in 1607-A, but whose major political party opponent  
14 elects not to apply for such public funding, shall not be bound  
15 by the expenditure limits specified in this section and such  
16 candidate or candidates who accept public funding shall be  
17 eligible to qualify for those fair campaign funds which would  
18 have otherwise been available to the opponent.

Section 1612-A. Limitations on Certain Contributions.--(a)  
Any candidate for the office of Justice of the Supreme Court or  
Judge of the Superior Court or Commonwealth Court shall not  
accept any contribution from an individual or political action  
committee in excess of two hundred fifty dollars (\$250), except  
that the candidate and spouse may contribute up to twenty-five  
thousand dollars (\$25,000) for each primary, general or special  
election. Any non-judicial candidate for a State-wide office set  
forth under this article shall not accept contributions for each  
primary, general or special election which exceed those  
specified limits as follows:

30	Contributor	Limit
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1     (1) Individual                             \$1,000  
2     (2) Candidate and spouse                     25,000  
3     (3) Political action committee  
4     as defined in section 1621(1)                     1,000

5     (b) Aggregate contributions during the year of the election  
6     by a political party committee or candidate's political  
7     committee to candidates receiving Pennsylvania Fair Campaign  
8     funding shall not exceed the sum of contributions from  
9     individuals to the committee, provided that whenever  
10    contributions in the aggregate during the year of the election  
11    from an individual exceed one thousand dollars (\$1,000), only  
12    one thousand dollars (\$1,000) shall be included in that sum.

13    (c) A gift, subscription, loan, advance or deposit of money  
14    or anything of value to a candidate shall be considered a  
15    contribution both by the original source of the contribution and  
16    by any intermediary or conduit if the intermediary or conduit  
17    (1) exercises any control or any direction over the making of  
18    the contribution; or (2) solicits the contribution or arranges  
19    for the contribution to be made and directly or indirectly makes  
20    the candidate aware of such intermediary or conduit's role in  
21    soliciting or arranging the contribution for such candidate.

22    (d) For purposes of subsection (c), a contribution shall not  
23    be considered to be a contribution by an intermediary or conduit  
24    to the candidate if (1) the intermediary or conduit has been  
25    retained by the candidate's committee for the purpose of fund-  
26    raising and is reimbursed for expenses incurred in soliciting  
27    contributions; (2) in the case of an individual, the candidate  
28    has expressly authorized the intermediary or conduit to engage  
29    in fund-raising, or the individual occupies a significant  
30    position within the candidate's campaign organization; or (3) in

1 the case of a political committee, the intermediary or conduit  
2 is an authorized committee of the candidate.

3 Section 1613-A. Inflation Indexing of Certain Limitations.--

4 The dollar figures contained in sections 1606-A, 1608-A and  
5 1611-A shall be adjusted annually during March at a rate equal  
6 to the average percentage change in the All-Urban Consumer Price  
7 Index for the Pittsburgh, Philadelphia and Scranton standard  
8 metropolitan statistical areas as published by the Bureau of  
9 Labor Statistics of the United States Department of Labor, or  
10 any successor agency, occurring in the prior calendar year. The  
11 base year shall be 1986. The average shall be calculated and  
12 certified by the secretary annually by adding the percentage  
13 increase in each of the three areas and dividing by three. The  
14 calculation and resulting new figures shall be published in the  
15 Pennsylvania Bulletin during March.

16 Section 1614-A. Annual Report.--The secretary shall report

17 annually to the General Assembly and the Governor on the  
18 operations of Pennsylvania Fair Campaign funding as provided by  
19 this article. Such report shall include, but not be limited to,  
20 the revenues and expenditures in the Pennsylvania Fair Campaign  
21 Fund, the amounts distributed to candidates, the results of any  
22 audits performed on candidates in compliance with the provisions  
23 of this article and any prosecutions brought for violations of  
24 this article.

25 Section 1615-A. Repayment of Borrowed Funds.--Any funds

26 borrowed by any candidate or his campaign treasurer or committee  
27 for the purpose of nomination or election of the candidate shall  
28 be repaid in full by the candidate prior to the date of the  
29 general election in which he is a candidate for office.

30 Section 1616-A. Return of Excess Funds.--All unexpended

1 campaign funds in a candidate's and his authorized committees'  
2 possession sixty (60) days after the election shall be returned  
3 to the secretary for deposit in the Pennsylvania Fair Campaign  
4 Fund, up to the amount of the funds which were distributed to  
5 the candidate under this article.

6 Section 1617-A. Penalties.--(a) A person who violates the  
7 provisions of this act and who, as a result, obtains  
8 Pennsylvania Fair Campaign funds to which he is not entitled  
9 commits a misdemeanor of the first degree and upon conviction  
10 shall be subject to a fine not to exceed the greater of ten  
11 thousand dollars (\$10,000) or three times the amount of funds  
12 wrongfully obtained, or imprisonment for up to five years or  
13 both such fine and imprisonment.

14 (b) A person who violates section 1610-A or 1611-A of this  
15 act commits a misdemeanor of the first degree and upon  
16 conviction shall be subject to a fine not to exceed the greater  
17 of ten thousand dollars (\$10,000) or three times the amount of  
18 funds that were wrongfully used or expended or to imprisonment  
19 for up to five years, or to both such fine and imprisonment.

20 (c) Except as provided in subsections (a) and (b) of this  
21 section, a person who violates any provision of this act commits  
22 a misdemeanor of the third degree and upon conviction shall be  
23 subject to a fine of not more than one thousand dollars (\$1,000)  
24 or imprisonment for up to one year or both.

25 Section 3. This act shall be applicable to returns of  
26 taxpayers of calendar years commencing January 1, 1987, and  
27 thereafter. Pennsylvania Fair Campaign funding shall be first  
28 provided for candidates for Statewide office in the primary  
29 election of ~~1988~~ 1989 and in each primary, municipal and general <—  
30 election thereafter.

1       Section 4.   This act shall take effect immediately.