

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1379 Session of  
1985

INTRODUCED BY KUKOVICH, PICCOLA, ITKIN, SWEET, BELFANTI,  
DeWEESE, FREEMAN, AFFLERBACH, PRATT, DAWIDA, PISTELLA, DALEY,  
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STABACK, MICHLOVIC, MURPHY AND VAN HORNE, JUNE 10, 1985

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 10, 1985

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 Clean Campaign  
12 funding of certain Statewide judicial elections; limiting  
13 certain contributions; imposing powers and duties on the  
14 Department of State; and providing penalties.

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

17 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known  
18 as the Pennsylvania Election Code, is amended by adding an  
19 article to read:

20 ARTICLE XVI-A

21 Pennsylvania Clean Campaign Funding

22 Section 1601-A. Application of Article.--The provisions of  
23 this article shall be applicable to candidates for the following

State-wide offices who elect to apply for Pennsylvania Clean Campaign funding hereunder:

(1) Supreme Court Justice.

(2) Superior Court Judge.

(3) Commonwealth Court Judge.

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

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

Section 1604-A. Allocation of Certain Tax Proceeds to Pennsylvania Clean Campaign Fund.--Beginning with tax years commencing January 1, 1985, and thereafter, each individual subject to the tax imposed by Article III of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," whose tax liability for any such year is one dollar and fifty cents (\$1.50) or more may designate one dollar and fifty cents (\$1.50) of his or her personal income taxes to be paid into the Pennsylvania Clean Campaign Fund. In the case of married

1 taxpayers filing a joint return, each spouse may designate one  
2 dollar and fifty cents (\$1.50) to be paid into said fund if  
3 their tax liability is three dollars (\$3.00) or more. All such  
4 designated tax revenues shall be paid into the Pennsylvania  
5 Clean Campaign Fund. The check-off and instructions shall be  
6 prominently displayed on the first page of the return form. The  
7 instructions shall readily indicate that any such designations  
8 neither increase or decrease an individual's tax liability.

9 Section 1605-A. Certification of Moneys in Pennsylvania  
10 Clean Campaign Fund.--By June 30 of each year, the State  
11 Treasurer shall certify to the secretary the current balance  
12 available in the Pennsylvania Clean Campaign Fund.

13 Section 1606-A. Qualification for Pennsylvania Clean  
14 Campaign Funding.--(a) Any candidate for State-wide judicial  
15 office as described in section 1601-A may apply for Pennsylvania  
16 Clean Campaign funding under this article if such candidate  
17 meets the contributory thresholds established in subsection (b)  
18 and otherwise conforms to the requirements of this article. No  
19 candidate shall be obligated to apply for funding hereunder and  
20 if any candidate elects not to apply, the provisions of this  
21 article shall be inapplicable to such person and their  
22 candidacy. Any candidate electing to receive Pennsylvania Clean  
23 Campaign funding must declare his intention to do so and specify  
24 the State office for which he is a candidate. Any and all  
25 committees authorized to receive contributions or make  
26 expenditures for the candidate who has so declared must abide by  
27 the provisions of section 1612-A. Any candidate who for any  
28 reason has his name withdrawn from the ballot for a State-wide  
29 judicial election, after receipt of Pennsylvania Clean Campaign  
30 funds, shall return all moneys received to the fund as well as

1 offering back qualifying contributions for that State-wide  
2 judicial office.

3 (b) (1) In order to qualify for Pennsylvania Clean Campaign  
4 funding in the general election, a candidate must receive  
5 subsequent to the date of the primary election but prior to the  
6 date of the general election qualifying contributions of the  
7 following amounts:

8	<u>Office</u>	<u>Qualifying Contributions Required</u>
9	<u>(i) Supreme Court Justices</u>	<u>\$25,000</u>
10	<u>(ii) Superior Court Judges</u>	<u>25,000</u>
11	<u>(iii) Commonwealth Court Judges</u>	<u>25,000</u>

12 (2) In order to qualify for Pennsylvania Clean Campaign  
13 funding in the primary election, a candidate must receive prior  
14 to the date of the primary election, but subsequent to the  
15 immediately preceding general election, one-half of the amount  
16 specified in clause (1) for the appropriate office.

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

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

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

25 (ii) If a contributor receives goods or services of value in  
26 return for his contribution, the qualifying contribution shall  
27 be calculated as the original contribution, minus the fair  
28 market value of the goods or services received.

29 (iii) Any contribution by an individual which exceeds one  
30 hundred dollars (\$100.00) in the aggregate shall be deemed only

a one hundred dollar (\$100.00) qualifying contribution for the purposes of this section and for the matching payment provisions of section 1607-A.

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

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

(b) The two dollars and fifty cents (\$2.50) for each dollar 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 Clean 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 said 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 said fund for the general election.

Section 1608-A. Limitations on Pennsylvania Clean Campaign Funding.--(a) Every candidate who qualifies for and receives Pennsylvania Clean 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 Clean Campaign funding available for the general election for each candidate under this article shall be as follows:

<u>Office</u>	<u>Maximum Pennsylvania Clean Campaign Funding</u>
<u>(i) Supreme Court Justices</u>	<u>\$100,000</u>
<u>(ii) Superior Court Judges</u>	<u>100,000</u>
<u>(iii) Commonwealth Court Judges</u>	<u>100,000</u>

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

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

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

(2) Candidates who are running in a judicial retention election.

(3) Candidates in the primary election who are unopposed for the nomination.

(d) As used in this article, "major political party" shall

1 mean a political party whose candidate for Governor received  
2 either the highest or second highest number of votes in the  
3 preceding gubernatorial election.

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

10 (b) If in the secretary's opinion insufficient funds exist  
11 in the Pennsylvania Clean Campaign Fund to provide the  
12 anticipated full funding to eligible candidates in a given  
13 primary or general election, the secretary shall distribute the  
14 available funds to qualified candidates on a pro-rata basis. In  
15 determining whether sufficient funds are available, the  
16 secretary shall not take into consideration the needs of any  
17 subsequent primary or general elections but shall base the  
18 decision solely on the immediate primary or election at hand.

19 Section 1610-A. Use of Pennsylvania Clean Campaign Funds by  
20 Candidates.--(a) Pennsylvania Clean Campaign funds distributed  
21 to candidates pursuant to this article may be used only for the  
22 election for which they are distributed and only for the  
23 following purposes:

24 (1) Radio and television time.

25 (2) Billboard rental.

26 (3) Newspaper advertising.

27 (4) Production costs of advertising.

28 (5) Printing and mailing of campaign literature.

29 (6) Legal and accounting.

30 (7) Telephone expenses.

1     (8) Campaign office rental.

2     (9) Travel expenses.

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

7     Section 1611-A. Expenditures.--(a) Expenditures made by a  
8 candidate and his authorized committees, for all purposes and  
9 from all sources, including, but not limited to, amounts of  
10 Pennsylvania Clean Campaign funds distributed under this  
11 article, proceeds of loans, gifts, contributions from any source  
12 or personal funds, subsequent to the date of the primary  
13 election, but prior to the date of the general election, may not  
14 exceed three hundred thousand dollars (\$300,000).

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

19     (c) Notwithstanding any other provision of this article, a  
20 candidate who accepts public funding pursuant to the formula  
21 established in section 1607-A, but whose major political party  
22 opponent elects not to apply for such public funding, shall not  
23 be bound by the expenditure limits specified in this section.

24     Section 1612-A. Limitations on Certain Contributions.--(a)  
25 Any candidate for a State-wide judicial office shall not accept  
26 contributions for each primary, general or special election  
27 exceeds those specified limits as follows:

<u>Contributor</u>	<u>Limit</u>
<u>(1) Individual</u>	<u>\$1,000</u>
<u>(2) Candidate and spouse</u>	<u>25,000</u>



1     (3) Political action committee

2               as defined in section 1621(1)                             1,000

3     (4) Partnerships   1,000

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

12     Section 1613-A. Inflation Indexing of Certain Limitations.--  
13 The dollar figures contained in sections 1606-A, 1608-A and  
14 1611-A shall be adjusted annually during March at a rate equal  
15 to the average percentage change in the All-Urban Consumer Price  
16 Index for the Pittsburgh, Philadelphia and Scranton standard  
17 metropolitan statistical areas as published by the Bureau of  
18 Labor Statistics of the United States Department of Labor, or  
19 any successor agency, occurring in the prior calendar year. The  
20 base year shall be 1984. The average shall be calculated and  
21 certified by the secretary annually by adding the percentage  
22 increase in each of the three areas and dividing by three. The  
23 calculation and resulting new figures shall be published in the  
24 Pennsylvania Bulletin during March.

25     Section 1614-A. Annual Report.--The secretary shall report  
26 annually to the General Assembly and the Governor on the  
27 operations of Pennsylvania Clean Campaign funds as provided by  
28 this article. Such report shall include, but not be limited to,  
29 the revenues and expenditures in the fund, the amounts  
30 distributed to candidates, the results of any audits performed

1 on candidates in compliance with the provisions of this article  
2 and any prosecutions brought for violations of this article.

3 Section 1615-A. Return of Excess Funds.--All unexpended  
4 campaign funds in a candidate's and his authorized committees'  
5 possession sixty (60) days after the election shall be returned  
6 to the secretary for deposit in the Pennsylvania Clean Campaign  
7 Fund, up to the amount of the funds which were distributed to  
8 the candidate under this article.

9 Section 1616-A. Penalties.--(a) A person who violates the  
10 provisions of this act and who, as a result, obtains  
11 Pennsylvania Clean Campaign funds to which he is not entitled  
12 shall be guilty of a misdemeanor of the first degree and upon  
13 conviction shall be subject to a fine not to exceed the greater  
14 of ten thousand dollars (\$10,000) or three times the amount of  
15 funds wrongfully obtained, or imprisonment for up to five years  
16 or both such fine and imprisonment.

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

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

29 Section 2. This act shall be applicable to returns of  
30 taxpayers of calendar years commencing January 1, 1985, and

1 thereafter. Pennsylvania Clean Campaign funding shall be first  
2 provided for candidates for Statewide judicial office in the  
3 primary election in April of 1986 and in each primary, municipal  
4 and general election thereafter.

5 Section 3. This act shall take effect immediately.