

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 419 Session of  
1989

INTRODUCED BY SCHEETZ, HERMAN, LANGTRY, PHILLIPS, BUNT, BROUJOS,  
MOWERY AND FAIRCHILD, FEBRUARY 13, 1989

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 13, 1989

AN ACT

1 Providing for a constitutional convention with limited powers;  
2 providing for a referendum on the question; providing for the  
3 selection, nomination and election of delegates; defining the  
4 powers and duties of the convention; providing for its  
5 operation; conferring powers and imposing duties on the  
6 Governor, the Secretary of the Commonwealth, officers of the  
7 General Assembly and county election boards; providing for a  
8 referendum on the convention's report; and making an  
9 appropriation.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Referendum.

13 At the primary election in May 1989, the following question  
14 shall be submitted to the electorate of the Commonwealth to  
15 determine its will regarding a constitutional convention with  
16 limited powers:

17 Shall a constitutional convention be called in accordance  
18 with and subject to limitations and requirements  
19 contained in Act of the Session of the General  
20 Assembly, to prepare, for submission to the electorate,  
21 proposals for the revision of the subject matter of any

1 amendment proposed, but not approved, at the 1989 Primary  
2 and for the revision of Articles II, III and V as  
3 provided in Section 7(b) of Act of the Session of  
4 the General Assembly.

5 The county board of elections in each county shall print in  
6 bound form separate official ballots in sufficient numbers to  
7 furnish to the election officers in each election district of  
8 the county, one ballot to be supplied to each voter at the  
9 primary election and also specimen ballots equal in number to  
10 one-fifth of the official ballots. In districts where voting  
11 machines are used, the question may appear on the face of the  
12 machine where the machine is properly equipped for such purpose;  
13 otherwise, a separate printed ballot shall be used. The results  
14 of such election shall be tabulated by the proper election  
15 officers of each county and duly certified to the Secretary of  
16 the Commonwealth.

17 Section 2. Convention; membership; qualifications; vacancies.

18 (a) Convention.--If a majority of the electors voting upon  
19 the question favor the holding of a constitutional convention  
20 with limited powers, a convention shall be called by the  
21 Governor. It shall consist of 163 members. Three district  
22 delegates shall be elected from each senatorial district, all as  
23 hereinafter provided. Each elector in each such district may  
24 vote for not more than two candidates for the office of  
25 delegate. The three candidates receiving the highest number of  
26 votes shall be elected to the office of delegate. In addition,  
27 the Lieutenant Governor, the President pro tempore of the  
28 Senate, the Majority Leader of the Senate, the Majority Whip of  
29 the Senate, the Minority Leader of the Senate, the Minority Whip  
30 of the Senate, the Minority Caucus Chairman of the Senate, the

1 Speaker of the House of Representatives, the Majority Leader of  
2 the House of Representatives, the Majority Whip of the House of  
3 Representatives, the Minority Leader of the House of  
4 Representatives, the Minority Whip of the House of  
5 Representatives and the Minority Caucus Chairman of the House of  
6 Representatives shall be members ex officio of the convention  
7 and shall have the powers of elected delegates.

8 (b) Delegates.--Delegates shall be 21 years of age or older  
9 and shall have been citizens and residents of this Commonwealth  
10 for at least four years. Delegates shall have resided in and  
11 been registered electors of their respective senatorial  
12 districts one year next before their election, and shall reside  
13 in their respective senatorial districts during their terms of  
14 service.

15 (c) Vacancies.--In case of a vacancy in the office of  
16 delegate occurring after the municipal election, if the member  
17 is an ex officio member, the vacancy shall be filled by the  
18 person assuming such office; if the member was nominated in  
19 accordance with section 3(a), the remaining delegates of that  
20 political party shall elect a successor meeting the  
21 qualifications prescribed in subsection (b), and if the member  
22 was nominated in accordance with section 3(b), all the remaining  
23 delegates shall elect a successor meeting the qualifications  
24 prescribed in subsection (b).

25 Section 3. Nomination of delegates; withdrawals.

26 (a) General rule.--The county committee or committees of  
27 each political party in each senatorial district shall  
28 collectively nominate two candidates for the office of delegates  
29 in accordance with party rules and the names of the nominees  
30 shall be submitted to the Secretary of the Commonwealth who

1 shall certify the names of the nominees to the county board of  
2 elections as provided by law not later than 60 days preceding  
3 the municipal election in 1989.

4 (b) Petition.--Subject to the limitations upon the number in  
5 this act applicable to political parties, candidates may also be  
6 nominated by political bodies by petition in the form prescribed  
7 by the Secretary of the Commonwealth and shall be signed by at  
8 least 500 qualified electors of the senatorial district.

9 (c) Filing of petitions.--Such petitions shall be filed in  
10 the office of the Secretary of the Commonwealth not later than  
11 September 15, 1989. A filing fee of \$25 shall be paid by each  
12 candidate to the Secretary of the Commonwealth by certified  
13 check or money order.

14 (1) Any elector may sign not more than two nomination  
15 petitions for delegate to represent his district. Every  
16 signer of a nomination petition shall state his occupation  
17 and residence, giving city, borough or township, with street  
18 and number, if any, and that he is a qualified elector of the  
19 district named, and shall add the date of signing, expressed  
20 in words or numbers. No nomination petition shall be  
21 circulated prior to 20 days before the last day on which said  
22 petition may be filed, and no signature shall be counted  
23 unless it bears date within 20 days of the last day of filing  
24 the same.

25 (2) Nomination petitions may be on one or more sheets  
26 and different sheets must be used for signers resident in  
27 different counties. If more than one sheet is used, they  
28 shall be bound together when offered for filing if they are  
29 intended to constitute one petition, and each sheet shall be  
30 numbered consecutively at the foot of each page beginning

1 with number one.

2 (3) Each sheet shall have appended thereto the affidavit  
3 of the person who circulated it setting forth:

4 (i) that such person is a qualified elector of the  
5 senatorial district named in the petition;

6 (ii) his or her residence giving city, borough or  
7 township, with street and number, if any;

8 (iii) that the signers thereto signed with  
9 foreknowledge of the contents of the petition;

10 (iv) that their respective residences are correctly  
11 stated therein;

12 (v) that each signer resides in the district named  
13 in the affidavit;

14 (vi) that each signed on the date set opposite his  
15 name; and

16 (vii) that to the best of affiant's knowledge and  
17 belief the signers are qualified electors of the  
18 district.

19 (d) Affidavits.--Each candidate for delegate shall file with  
20 the Secretary of the Commonwealth an affidavit stating:

21 (1) his residence with street and number, if any, and  
22 his post office address;

23 (2) that he is eligible for the office of delegate to  
24 the constitutional convention;

25 (3) that, if elected, he will faithfully observe the  
26 limitations and requirements imposed upon the convention by  
27 this act; and

28 (4) that he has been a citizen and resident of this  
29 Commonwealth for at least four years and has been a  
30 registered elector in the district which he seeks to

1 represent for at least one year.

2 (e) Withdrawal.--Any candidate for election as a delegate to  
3 the convention may withdraw his name as a candidate by a request  
4 in writing, signed by him and acknowledged before an officer  
5 empowered to administer oaths, filed in the office of the  
6 Secretary of the Commonwealth not later than 5 p.m. on the fifth  
7 day next succeeding the last day for filing nomination  
8 petitions. In the event of the death or withdrawal of a  
9 candidate occurring prior to the time prescribed by this  
10 subsection, substitute nominations shall be made in accordance  
11 with the provisions of this section.

12 Section 4. Election of delegates.

13 Elections for delegates to the limited constitutional  
14 convention, if approved by the electorate, shall be held at the  
15 municipal election in the year 1989. The Secretary of the  
16 Commonwealth shall forward to the county board of elections of  
17 each county the names of the candidates for delegate to the  
18 constitutional convention. Each elector voting at the general  
19 election shall be entitled to vote for two candidates for  
20 delegate from his district. The three candidates receiving the  
21 highest number of votes in each district shall be elected  
22 delegates of that district. The county board of elections shall,  
23 on or before November 17, make to the Secretary of the  
24 Commonwealth the proper certification of returns of votes cast  
25 for the candidates for election for the office of delegate to  
26 the constitutional convention. The Secretary of the Commonwealth  
27 shall, not later than November 24, certify to the Governor the  
28 names of the delegates elected to the constitutional convention.  
29 In the case of a tie vote the election shall be determined in  
30 accordance with the provisions of section 1418 of the act of

1 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
2 Election Code.

3 Section 5. Preparatory committee; appropriation.

4 (a) Establishment.--The Lieutenant Governor, the President  
5 pro tempore of the Senate, the Majority Leader of the Senate,  
6 the Majority Whip of the Senate, the Minority Leader of the  
7 Senate, the Minority Whip of the Senate, the Minority Caucus  
8 Chairman of the Senate, the Speaker of the House of  
9 Representatives, the Majority Leader of the House of  
10 Representatives, the Majority Whip of the House of  
11 Representatives, the Minority Leader of the House of  
12 Representatives, the Minority Whip of the House of  
13 Representatives and the Minority Caucus Chairman of the House of  
14 Representatives shall constitute a preparatory committee to make  
15 arrangements for the convention.

16 (b) Authority.--The committee shall have authority  
17 immediately following an affirmative vote by the electorate on  
18 the question of holding a constitutional convention to lease or  
19 otherwise obtain suitable meeting and office space, to purchase  
20 or lease office supplies, equipment, books and other  
21 publications and other materials necessary for the work of the  
22 convention and to hire or engage such secretaries, technical  
23 assistants, printers and other employees or consultants as may  
24 be deemed necessary for the preparatory work of the convention.  
25 The committee shall initiate any studies, inquiries, surveys or  
26 analyses it may deem relevant through its own personnel or in  
27 cooperation with any public or private agencies, including  
28 institutes, universities, foundations or research organizations.  
29 In so doing, the committee may hold public or private hearings.  
30 It may issue subpoenas under the hand and seal of its chairman

1 commanding any person to appear before it and to answer  
2 questions touching matters properly being inquired into by the  
3 committee and to produce such books, papers, records and  
4 documents as the committee deems necessary. Such subpoenas may  
5 be served upon any person and shall have the force and effect of  
6 subpoenas issued out of the courts of this Commonwealth. Any  
7 person who willfully neglects or refuses to testify before the  
8 committee or to produce any books, papers, records or documents  
9 shall be subject to the penalties provided by the laws of this  
10 Commonwealth in such case. Each member of the committee shall  
11 have power to administer oaths and affirmations to witnesses  
12 appearing before the committee. The committee may request and  
13 shall receive from any department, division, board, bureau,  
14 commission or agency of the Commonwealth or any political  
15 subdivision thereof, such facilities, assistance and data as it  
16 deems necessary or desirable to carry out properly its powers  
17 and duties. The committee is hereby authorized and empowered to  
18 make and sign any agreements and to do and perform any acts that  
19 may be necessary, desirable or proper to carry out the  
20 provisions of this act. The committee shall also prepare budgets  
21 for the holding of the constitutional convention. Such  
22 recommended budgets shall be submitted to the General Assembly  
23 in sufficient time for the General Assembly to pass the  
24 necessary appropriation acts. The members of the committee shall  
25 receive no compensation for their service but shall be allowed  
26 their actual and necessary expenses incurred in the performance  
27 of their duties. The authority of the preparatory committee  
28 shall expire on December 1, 1989, at 12 noon, except to sign  
29 documents necessary to obtain payments from the State Treasury  
30 for any commitments made under the authority of this section



1 prior to December 1, 1989, and to submit any report to the  
2 constitutional convention. The sum of \$250,000 is hereby  
3 appropriated to the preparatory committee for the purposes set  
4 forth in this section.

5 Section 6. Organization of convention.

6 (a) Convening.--The convention shall convene in the Hall of  
7 the House of Representatives at Harrisburg, Dauphin County,  
8 Pennsylvania, on December 1, 1989, at 12 noon. The  
9 constitutional convention shall be called to order by the  
10 Governor. The Secretary of the Commonwealth shall certify the  
11 returns of the elections for delegates to the constitutional  
12 convention and issue certificates of election to those elected.  
13 The Chief Justice of the Supreme Court of Pennsylvania or his  
14 appointee shall then administer the oath of office in the  
15 following form: "I do solemnly swear (or affirm) that I will  
16 support, obey and defend the Constitution of the United States  
17 and the Constitution of this Commonwealth, and that I will  
18 discharge the duties of my office with fidelity."

19 (b) Procedure.--The convention shall then organize by  
20 electing from among its delegates a president, secretary and  
21 such other officers as shall be necessary for the transaction of  
22 its business. No member of the General Assembly shall be an  
23 officer of the convention. It shall determine the rules of its  
24 own proceedings and shall be the final judge of the  
25 qualifications of its own delegates. It shall also determine  
26 rules for the conduct of its delegates and provide for the  
27 censure, suspension or removal of a delegate, if necessary.

28 (c) Privilege.--Delegates to the constitutional convention  
29 shall, in all cases, except treason, felony, violation of their  
30 oath of office and breach or surety of the peace, be privileged

1 from arrest during their attendance at the session of the  
2 convention and in going to and returning from the same; and for  
3 any speech or debate in the convention they shall not be  
4 questioned in any other place.

5 (d) Authority.--In addition to any powers provided in this  
6 section, the convention shall have all of the powers given to  
7 the preparatory committee in section 5.

8 (e) Adjournment.--The convention shall also have the power  
9 to adjourn from time to time and to meet at such appropriate  
10 places in the City of Harrisburg as it shall determine.

11 (f) Sine die.--It shall conclude its session sine die not  
12 later than February 28, 1990.

13 Section 7. Substantive powers of the convention; limitations;  
14 mandatory duties of the convention.

15 (a) General rule.--Except as hereinafter provided in  
16 subsection (b), the constitutional convention shall have the  
17 power by a vote of a majority of the 163 members to make  
18 recommendations to the electorate on the following subjects  
19 only:

20 (1) All of Articles II, III and V of the Constitution of  
21 Pennsylvania.

22 (2) Any amendment proposed but not approved at the May  
23 1989 primary.

24 (b) Exclusion.--The convention shall not consider or include  
25 in its recommendations any proposal not germane to Articles II,  
26 III and V of the Constitution of Pennsylvania.

27 (c) Format.--In dealing with the subject matter as  
28 prescribed by this section, the convention may recommend the  
29 transfer to another article of any provision contained in those  
30 articles, or it may recommend its modification, deletion,

1 repeal, the substitution of an entirely new provision or its  
2 continuation without change.

3 (d) Numbering.--The recommendations of the convention on any  
4 of the articles shall not be numbered. If approved by the  
5 electors, these articles shall be numbered by the Governor as  
6 provided by law.

7 Section 8. Manner of submitting proposals to the electorate.

8 (a) General rule.--The recommendations of the constitutional  
9 convention shall be submitted to the electorate separately as  
10 determined by the convention. The replacements may be in any  
11 number of sections which the convention deems suitable. The  
12 convention shall also frame the ballot questions which shall  
13 bring before the electorate the recommendations of the  
14 convention. There shall be no less than one separate question  
15 for each of the articles to be recommended by the convention and  
16 another question for the amendment on legislative apportionment.

17 (b) Certification.--The changes proposed together with the  
18 questions framed by the convention, shall be certified by the  
19 president and secretary of the convention to the Secretary of  
20 the Commonwealth not later than March 7, 1990. The Secretary of  
21 the Commonwealth shall advertise the proposals of the convention  
22 in at least two newspapers of general circulation, if there are  
23 such, in every county of this Commonwealth once during the first  
24 week in May 1989. He shall also publish the Constitution of  
25 Pennsylvania showing the changes proposed by the convention in  
26 convenient form and send a copy thereof to each elector  
27 requesting it, and ten copies thereof through the county board  
28 of elections to each polling place for the use of the voters  
29 during the election.

30 Section 9. Submission of proposals to the electorate;

1                   proclamation by the Governor of the results.

2       The recommendations of the constitutional convention shall be  
3 submitted to the electors for their approval or rejection on a  
4 separate ballot at the primary held in May 1989. In districts  
5 where voting machines are used, the question may appear on the  
6 face of the machine where the machine is properly equipped for  
7 such purpose; otherwise a separate printed ballot shall be used.  
8 A majority vote of the electors voting thereon shall be  
9 necessary for the adoption of any of the recommendations of the  
10 convention. If adopted, any recommendation shall become  
11 effective as provided therein or by the schedule attached  
12 thereto. The Governor, upon receipt from the Secretary of the  
13 Commonwealth of a certificate of the results of the election,  
14 shall immediately make proclamation thereof.

15 Section 10. Expenses of members of the convention.

16       Except for members of the General Assembly, officers and  
17 employees of the Commonwealth, the members of the constitutional  
18 convention shall each receive the total sum of \$5,000 for  
19 expenses in four equal installments, three of which shall be  
20 payable on December 15, 1989, and January 15 and February 15,  
21 1990, and the fourth on the day when the convention adjourns  
22 finally. In addition, the members of the convention shall  
23 receive an allowance for traveling expenses of 25¢ per circular  
24 mile per week, computed on the same basis as traveling expenses  
25 for State Senators, payable monthly. The members of the General  
26 Assembly, officers and employees of the Commonwealth shall be  
27 reimbursed only for expenses actually incurred in attendance as  
28 delegates, unless the same are otherwise paid by the  
29 Commonwealth.

30 Section 11. Registration of lobbyists.

1       (a) General rule.--Any natural person who is employed or  
2 engaged for compensation by any other person or any partnership,  
3 committee, association, corporation or any other organization,  
4 to advocate passage or defeat of proposals of the constitutional  
5 convention or of any of its delegates shall, before beginning  
6 such activities, submit to the secretary of the convention a  
7 registration statement made under oath or affirmation before an  
8 officer authorized by law to administer oaths setting forth the  
9 name and business address of the lobbyist, the name and address  
10 of the person, partnership, committee, association, corporation  
11 or other organization by whom he is employed or engaged, the  
12 name and address of the person, partnership, committee,  
13 association, corporation or other organization in whose interest  
14 he will advocate the passage or defeat of proposals of the  
15 convention and the duration of his employment. Whenever any of  
16 the facts required herein change, the lobbyist shall file a  
17 revised statement.

18       (b) Penalty.--Any person violating any of the provisions of  
19 this section commits a misdemeanor and shall, upon conviction,  
20 be sentenced to pay a fine of not more than \$500 or to  
21 imprisonment for not more than one year, or both.

22 Section 12. Conventions open to the public.

23       Sessions of the convention as a whole shall be open to the  
24 public.

25 Section 13. Effective date.

26       This act shall take effect immediately.