

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1929 Session of
2009

INTRODUCED BY SCHRODER, SWANGER, McILVAINE SMITH, BEAR, BOYD,
CONKLIN, CREIGHTON, EVERETT, GRUCELA, HORNAMAN, KAUFFMAN,
MURT, MUSTIO AND ROAE, AUGUST 13, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, AUGUST 13, 2009

AN ACT

1 Providing for a Citizens Constitutional Convention, for a
2 referendum on the question and for the nomination and
3 election of delegates; defining the powers and duties of the
4 convention; providing for operation of the convention;
5 conferring powers and imposing duties on the Governor, the
6 Secretary of the Commonwealth, the Chief Justice of the
7 Supreme Court, officers of the General Assembly and county
8 election boards; providing for a referendum on the
9 convention's report; and making an appropriation.

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7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Citizens
11 Constitutional Convention Act of 2010.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Candidate." An individual seeking to become an elected
17 delegate.

18 "Committee." The preparatory committee established under
19 this act.

20 "Convention." The Citizens Constitutional Convention
21 authorized by this act.

22 "County board." A county board of elections.

23 "Delegate." An elected or alternate delegate to the
24 convention.

25 "Elected delegate." A delegate who is elected to the
26 convention under this act.

27 "Public official." A person elected by the public, elected
28 or appointed by a governmental body or an appointed official in
29 the executive, legislative or judicial branch of this
30 Commonwealth or any of its political subdivisions. The term

shall not include members of advisory boards that have no authority to do any of the following:

(1) Expend public funds, other than reimbursement for personal expenses.

(2) Otherwise exercise the power of the Commonwealth or any of its subdivisions.

"Secretary." The Secretary of the Commonwealth.

Section 3. Referendum.

(a) Question.--At the primary election on May 18, 2010, the following question shall be submitted to the electorate of this Commonwealth to determine its will regarding a Constitutional Convention:

Shall a Constitutional Convention be called in accordance with and subject to the limitations and requirements contained in the Citizens Constitutional Convention Act of 2010, to prepare for submission to the electorate proposals for the revision of all Articles of the Constitution of Pennsylvania except Article I?

(b) Election.--The secretary shall certify questions to the county boards. The election shall be conducted in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(c) Secretary.--If a majority of the electors casting votes on the question under subsection (a) vote in the affirmative, the secretary shall transmit notice of the vote to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.

Section 4. Convention, membership, qualifications and vacancies.

(a) Call.--If a majority of the electors voting upon the

question set forth in section 3(a) vote in the affirmative, a convention shall be called by the Governor.

(b) Delegates.--The convention shall consist of three elected delegates from each senatorial district. Each elector in each senatorial district may vote for not more than two candidates. The three candidates receiving the highest number of votes shall be elected delegates. The candidate receiving the fourth-highest number of votes shall be the first alternate delegate; the candidate receiving the fifth-highest number of votes shall be the second alternate delegate.

(c) Qualifications.--A delegate must meet the following qualifications:

(1) Be at least 18 years of age prior to May 18, 2010.

(2) Have been a citizen and resident of this Commonwealth for at least four years before election.

(3) Have resided in and been a registered elector of the elected delegate's senatorial district for at least one year preceding election.

(4) Reside in the elected delegate's senatorial district during their term of service.

(5) Not be a public official on the effective date of this act under section 16(2), or during their term of service.

(6) Not be a registered lobbyist in this Commonwealth on the effective date of this act, or during their term of service.

(d) Salary.--Elected delegates shall be entitled to a salary equal to the salary of a member of the General Assembly during their term of service, payable monthly.

(e) Expenses.--Elected delegates shall be entitled to

reimbursement for the following expenses:

(1) Actual mileage traveled in a personal vehicle in the performance of their duties during their term of service, documented, reported and payable monthly at the applicable Federal rate, including commuting mileage.

(2) Actual expenses for other modes of ground transportation in the performance of their duties during their term of service, documented, reported and payable monthly, including commuting expenses.

(3) Actual expenses for overnight lodging required for the convenience of elected delegates traveling more than 50 miles from their residence in the performance of their duties during their term of service, documented, reported and payable monthly.

(f) Terms of service.--Terms of service for elected delegates shall commence on the date of their oath of office. Terms shall expire September 30, 2011, except for delegate members of the preparatory committee, whose terms shall expire October 31, 2011.

(g) Immunity.--The following shall apply:

(1) A delegate shall, in all cases except treason, felony, violation of oath of office and breach of the peace, be privileged from arrest during attendance and travel to and from the convention.

(2) A delegate shall not be questioned in any other place for any speech or debate in the convention.

(h) Exclusions.--The following shall apply:

(1) No elected delegate shall, during their term of service, be appointed to or hold any civil office under this Commonwealth to which a salary, fee or perquisite is

1 attached.

2 (2) No member of Congress or other person holding any
3 office, except that of attorney-at-law or in the National
4 Guard or a reserve component of the armed forces of the
5 United States, under the United States or this Commonwealth
6 to which a salary, fee or perquisite is attached shall be a
7 delegate during their continuance in office.

8 (3) Elected delegates shall be prohibited from serving
9 as a public official as defined in section 2 for a period of
10 two years after their term of service expires.

11 Section 5. Nomination of elected delegates and withdrawals.

12 (a) Nomination.--Candidates for delegates to the convention
13 shall be nominated by petition in accordance with all of the
14 following:

15 (1) The secretary shall prescribe the form of the
16 petition, which shall not include any reference to the
17 political affiliation of the candidate.

18 (2) A petition must be signed by at least 100 qualified
19 electors of the candidate's senatorial district in accordance
20 with all of the following:

21 (i) An elector may not sign more than two nomination
22 petitions.

23 (ii) A signer must state the signer's residence,
24 giving city, borough or township, with street and number,
25 and that the signer is a qualified elector of the
26 district. The signature must be dated.

27 (iii) A petition shall not be circulated prior to
28 February 16, 2010. A signature shall not be counted
29 unless it bears a date later than February 15, 2010.

30 (iv) A petition may be on one or more sheets.

1 Different sheets must be used for signers residing in
2 different counties. If more than one sheet is used, the
3 sheets must be bound together when offered for filing if
4 they are intended to constitute one petition, and each
5 sheet must be numbered consecutively at the foot of each
6 page, beginning with number one. Each sheet must have
7 appended to it the affidavit for the individual who
8 circulated it setting forth all of the following:

9 (A) That the individual is a qualified elector
10 of the senatorial district named in the petition.

11 (B) The individual's residence, giving city,
12 borough or township, with street and number.

13 (C) That the signers to the petition signed with
14 the knowledge of the contents of the petition.

15 (D) That the residences of the signers are
16 correctly stated.

17 (E) That each signer resides in the district
18 named in the affidavit.

19 (F) That each signer signed on the date set
20 forth.

21 (G) That, to the best of the affidavit's
22 knowledge and belief, the signers are qualified
23 electors of the district.

24 (3) A petition must be filed in the office of the
25 secretary by 5 p.m. on March 9, 2010. A filing fee of \$100
26 must be paid by the candidate by certified check or money
27 order.

28 (b) Candidate's affidavit.--A candidate must file with the
29 office of the secretary, by 5 p.m. on March 9, 2010, an
30 affidavit stating or attesting to all of the following:

1 (1) The candidate's residence with street, number and
2 post office address.

3 (2) That the candidate is eligible for the office of
4 elected delegate to the convention.

5 (3) That, if elected, the candidate will faithfully
6 observe the limitations and requirements imposed upon the
7 convention by this act.

8 (4) That the candidate meets the qualifications set
9 forth in section 4(c).

10 (c) Statement of financial interests.--A candidate must file
11 copies of a statement of financial interests with the office of
12 the secretary and the State Ethics Commission by 5 p.m. on March
13 9, 2010.

14 (d) Withdrawal.--A candidate may withdraw as a candidate if
15 the candidate:

16 (1) Makes the request in writing. The request must be
17 signed by the candidate and acknowledged before an officer
18 empowered to administer oaths.

19 (2) Files the request in the office of the secretary by
20 5 p.m. on March 24, 2010.

21 (e) Certification.--The secretary shall certify the names of
22 the nominees to the county boards as provided by law no later
23 than March 31, 2010.

24 (f) Forms.--The secretary shall provide all forms and
25 instructions for candidates in a timely and convenient manner
26 consistent with that used for legislative elections.

27 Section 6. Elected and alternate delegates.

28 Elections for elected delegates shall be held at the primary
29 election on May 18, 2010, and shall be nonpartisan. The
30 secretary shall forward to each county board the names of the

1 candidates. Candidates' names shall be grouped together on the
2 ballot without reference to party affiliation, separate from the
3 names of candidates for any other office, and subsequent to the
4 question set forth in section 3(a). Each elector voting at the
5 municipal election shall be entitled to vote for two candidates
6 from the elector's senatorial district. If the question which is
7 set forth in section 3(a) is approved by a majority of the
8 electors casting votes:

9 (1) The three candidates receiving the highest number of
10 votes shall be the elected delegates of that district.

11 (2) The candidate receiving the fourth-highest number of
12 votes shall be the first alternate delegate; the candidate
13 receiving the fifth-highest number of votes shall be the
14 second alternate delegate.

15 (3) In the case of a tie vote, the election shall be
16 determined in accordance with the provisions of section 1418
17 of the act of June 3, 1937 (P.L.1333, No.320), known as the
18 Pennsylvania Election Code.

19 (4) The county boards shall, by June 1, 2010, certify
20 the return of the election for all delegates to the
21 secretary.

22 (5) The secretary shall, by June 8, 2010, certify to the
23 Governor the names of elected and alternate delegates.

24 Section 7. Vacancies.

25 (a) Candidate.--In the event of the death of a candidate
26 prior to March 31, 2010, that candidate's name shall be removed
27 from the ballot. In the event of the death of a candidate on or
28 after April 3, 2010, votes received by that candidate in the
29 municipal election shall be counted and recorded, but void, and
30 a vacancy shall exist.

1 (b) Elected delegate.--In the event of a vacancy in the
2 office of elected delegate, the first alternate delegate from
3 the same senatorial district shall become the elected delegate;
4 if the first alternate is unable to serve, the second alternate
5 delegate shall become the elected delegate, etc. If no such
6 alternate delegate is available to fill a vacancy, the remaining
7 elected delegates from the same district, together with the
8 Senator from that district, shall collectively nominate a single
9 candidate to be confirmed by a majority of the convention as
10 soon as practicable to fill the vacancy.

11 Section 8. Organization of convention and sessions.

12 (a) Convening.--The following shall apply:

13 (1) The convention's elected delegates shall convene in
14 the Hall of the House of Representatives on December 1, 2010,
15 at 12 noon.

16 (2) The convention shall be called to order by the
17 Governor.

18 (3) The secretary shall certify the returns of the
19 elections for elected and alternate delegates and issue
20 certificates of election.

21 (4) The Chief Justice of the Supreme Court shall, after
22 the returns have been certified, administer the oath of
23 office in the following form:

24 I do solemnly swear (or affirm) that I will support,
25 obey and defend the Constitution of the United States
26 and the Constitution of Pennsylvania, that I will
27 abide by the limitations and requirements of the
28 Citizens Constitutional Convention Act of 2010, and
29 that I will discharge my duties with fidelity.

30 (5) Each elected delegate shall sign and swear a written

1 version of the oath of office, provided by the secretary, to
2 be preserved with the official journals of the convention,
3 and other copies as needed by the secretary.

4 (b) Organization.--The following shall apply:

5 (1) The convention shall be the final judge of the
6 qualifications of its own delegates.

7 (2) The convention shall elect from among its elected
8 delegates a president, first vice-president, second vice-
9 president and a secretary.

10 (3) The convention shall elect from among its elected
11 delegates 15 members to serve on a preparatory committee with
12 the elected officers of the convention. The committee shall
13 also include the Majority Leader of the Senate, the Minority
14 Leader of the Senate, the Majority Leader of the House of
15 Representatives and the Minority Leader of the House of
16 Representatives.

17 (4) The convention shall organize ten committees to
18 separately address each article of the Constitution of
19 Pennsylvania subject to the scope of the convention.

20 (5) The convention shall organize a committee on
21 arrangement, submission and address to the people.

22 (c) Duties of preparatory committee.--The following shall
23 apply:

24 (1) The committee shall prescribe rules for all of the
25 following, subject to adoption by a majority of the elected
26 delegates at the commencement of working sessions:

27 (i) Procedure.

28 (ii) Conduct of delegates, including censure,
29 suspension or removal.

30 (2) The committee shall be authorized to do all of the

1 following, when required for the conduct of the business of
2 the convention:

3 (i) Lease or otherwise obtain suitable meeting and
4 office space and to purchase or lease supplies,
5 equipment, publications and other material necessary for
6 the work of the convention.

7 (ii) Hire or engage staff necessary for the work of
8 the convention.

9 (iii) Initiate relevant studies through its own
10 personnel or in cooperation with any public or private
11 agencies.

12 (iv) Hold public hearings.

13 (v) Enter into contracts.

14 (vi) Receive from the Commonwealth agencies and
15 political subdivisions and local agencies assistance
16 necessary or desirable to carry out properly the powers
17 and duties under this subsection.

18 (vii) Submit a budget and additional reports to the
19 General Assembly in sufficient time for the General
20 Assembly to pass any necessary appropriation act required
21 by section 15, as needed.

22 (d) Sessions.--The following shall apply:

23 (1) The organizational session shall be adjourned no
24 later than 5 p.m. on December 3, 2010.

25 (2) Working sessions of the convention shall commence on
26 January 11, 2011.

27 (e) Sine die adjournment.--The convention shall adjourn sine
28 die no later than September 13, 2011.

29 Section 9. Function.

30 (a) Scope.--The convention has the power, by a vote of two-

1 thirds of its elected delegates on final passage, to make
2 recommendations to the electorate on all subjects contained
3 within the Constitution of Pennsylvania except for those
4 contained within Article I of the Constitution of Pennsylvania,
5 pertaining to the Declaration of Rights.

6 (b) Reorganization.--In dealing with the subject matter
7 under subsection (a), the convention may recommend amendment,
8 addition, deletion, division, transfer, continuation without
9 change and implementation schedules.

10 Section 10. Manner of submitting proposals to electorate.

11 (a) Convention.--The following shall apply:

12 (1) The recommendations of the convention shall be
13 submitted to the electorate as determined by the convention.

14 (2) The convention shall frame the ballot question or
15 questions.

16 (b) Certification.--The changes proposed and the ballot
17 question or questions shall be certified by the president and
18 secretary of the convention to the secretary by September 30,
19 2010.

20 Section 11. Submission to electorate.

21 (a) Secretary.--The following shall apply:

22 (1) The secretary shall publish the Constitution of
23 Pennsylvania showing the changes proposed by the convention
24 and any address to the people by the convention, in
25 convenient printed form and in convenient digital form at the
26 earliest time practicable after certification.

27 (2) The secretary shall advertise the proposals and
28 address of the convention in at least two newspapers of
29 general circulation in every county once during the second
30 week of October 2011 and once during the fourth week of

1 October 2011.

2 (3) The secretary shall send a sufficient number of
3 copies of the printed publication under paragraph (1) to each
4 county board to satisfy the requirements of subsection (b).

5 (4) Upon request of an elector, the secretary shall send
6 a copy of the publication under paragraph (1).

7 (b) County boards.--Each county board shall make the
8 publication under subsection (a)(1) available at each polling
9 place in a quantity equal to the number of voting booths,
10 terminals or stations at that polling place.

11 (c) Election.--The following shall apply:

12 (1) The recommendations of the convention shall be
13 submitted to the electors for their approval or rejection at
14 the municipal election on November 8, 2011.

15 (2) A majority affirmative vote of the electors casting
16 votes on the ballot question or questions certified under
17 section 10(b) in the election is necessary for the adoption
18 of the recommendations of the convention.

19 (d) Certification.--The secretary shall certify the results
20 of the election by November 29, 2011.

21 Section 12. Lobbying.

22 (a) Delegates.--The following shall apply:

23 (1) Direct lobbying of individual delegates by
24 organizations or individuals registered as lobbyists within
25 this Commonwealth on the effective date of this act and for
26 the duration of the convention, other than meetings between
27 individual electors of a senatorial district and the delegate
28 or delegates representing the same district, shall be
29 prohibited.

30 (2) No delegate shall accept any gift, meal, service or

1 other benefit, or any promise of such in the future, offered
2 by any party in an effort to influence the outcome of the
3 convention.

4 (b) Convention.--The following shall apply:

5 (1) Lobbyists prohibited from lobbying delegates in
6 subsection (a)(1) shall be permitted to lobby the convention
7 as a whole by the following methods:

8 (i) Providing printed reference materials in
9 quantities sufficient for distribution to all elected
10 delegates, subject to any pertinent policies adopted by
11 the convention.

12 (ii) Providing printed and oral testimony at a
13 hearing before any committee or subcommittee of the
14 convention, subject to any pertinent policies adopted by
15 the convention.

16 (iii) Providing printed reference materials to
17 committees or subcommittees of the convention in
18 quantities sufficient for distribution to all elected
19 delegates, subject to any pertinent policies adopted by
20 the convention.

21 (2) The convention shall not accept, on behalf of its
22 delegates, any gift, meal, service or other benefit, or any
23 promise of such in the future, offered by any party in an
24 effort to influence the outcome of the convention.

25 Section 13. Convention open to public.

26 Sessions of the convention as a whole and all meetings of its
27 committees and subcommittees shall be open to the public.

28 Section 14. Judicial immunity.

29 Provided no portion of the resultant Constitution of
30 Pennsylvania, duly proposed by the convention and adopted by the

1 electorate according to the provisions of this act, is found to
2 be in violation of the Constitution of the United States, no
3 court of this Commonwealth shall have the authority to overturn
4 its provisions.

5 Section 15. Appropriation.

6 If the question in section 3(a) is approved by the
7 electorate, the sum of \$20,000,000 shall be transferred from the
8 nonlapsing leadership accounts of the General Assembly, in four
9 equal contributions by the majority and minority caucuses of the
10 Senate and the House of Representatives, to carry out the
11 provisions of this act. Further sums required by the convention
12 to perform its duties, contributed in similar fashion, shall be
13 provided upon request by the convention in accordance with
14 section 8(c)(2)(vii).

15 Section 16. Effective date.

16 This act shall take effect as follows:

17 (1) Section 15 of this act shall take effect upon
18 publication of the notice under section 3(c).

19 (2) The remainder of this act shall take effect
20 immediately.