

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 427 Session of 2015

INTRODUCED BY SIMMONS, GODSHALL, JAMES, DAVIDSON, KAUFFMAN,
DIAMOND, METCALFE, EVANKOVICH, McCARTER, GABLER, GILLEN,
TOOHIL, KIRKLAND, HELM AND DAY, FEBRUARY 9, 2015

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 9, 2015

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," in dates of elections and primaries and special
12 elections, further providing for affidavits of candidates; in
13 nomination of candidates, further providing for affidavits of
14 candidates, for examination of nomination petitions,
15 certificates and papers and return of rejected nomination
16 petitions, certificates and papers, for filling of certain
17 vacancies in public office and for substituted nominations to
18 fill certain vacancies; in ballots, further providing for
19 form and printing of ballots; and replacing references to
20 "justice of the peace" with "magisterial district judge."

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 406 of the act of June 3, 1937 (P.L.1333,
24 No.320), known as the Pennsylvania Election Code, is amended to
25 read:

26 Section 406. Election Officers to Be Sworn.--All judges,

1 inspectors, clerks of election and machine inspectors shall,
2 before entering upon their duties at any primary or election, be
3 duly sworn in the presence of each other and of the watchers and
4 overseers, if any. The judge shall first be sworn by the
5 minority inspector or by a magistrate, alderman or [justice of
6 the peace] magisterial district judge, and the inspectors,
7 clerks and machine inspectors shall then be sworn by the judge.
8 Each of them shall forthwith sign in duplicate the oath taken by
9 him upon forms to be furnished by the county board, and the same
10 shall be attested by the officer who administered the oath.

11 Section 2. Section 630.1 of the act, amended May 12, 2006
12 (P.L.178, No.45), is amended to read:

13 Section 630.1. Affidavits of Candidates.--Each candidate for
14 any State, county, city, borough, incorporated town, township,
15 school district or poor district office, or for the office of
16 United States Senator or Representative in Congress, selected as
17 provided in section 630 of this act, shall file with the
18 nomination certificate an affidavit stating--(a) his residence,
19 with street and number, if any, and his post-office address; (b)
20 his election district, giving city, borough, town or township;
21 (c) the name of the office for which he consents to be a
22 candidate; (d) that he is eligible for such office; (e) that he
23 will not knowingly violate any provision of this act, or of any
24 law regulating and limiting election expenses and prohibiting
25 corrupt practices in connection therewith; (f) unless he is a
26 candidate for judge of a court of common pleas, the Philadelphia
27 Municipal Court or the Traffic Court of Philadelphia[, or for
28 the office of school board in a district where that office is
29 elective] or for the office of [justice of the peace]
30 magisterial district judge, that he is not a candidate for the

1 same office of any party or political body other than the one
2 designated in such certificate; (g) that he is aware of the
3 provisions of section 1626 of this act requiring election and
4 post-election reporting of campaign contributions and
5 expenditures; and (h) that he is not a candidate for an office
6 which he already holds, the term of which is not set to expire
7 in the same year as the office subject to the affidavit.

8 Section 3. Section 909 of the act, amended February 19, 1986
9 (P.L.29, No.11), is amended to read:

10 Section 909. Petition May Consist of Several Sheets;
11 Affidavit of Circulator.--Said nomination petition may be on one
12 or more sheets, and different sheets must be used for signers
13 resident in different counties. If more than one sheet is used,
14 they shall be bound together when offered for filing if they are
15 intended to constitute one petition, and each sheet shall be
16 numbered consecutively beginning with number one, at the foot of
17 each page. In cases of petitions for delegate or alternate
18 delegate to National conventions, each sheet shall contain a
19 notation indicating the presidential candidate to whom he is
20 committed or the term "uncommitted." Each sheet shall have
21 appended thereto the affidavit of the circulator of each sheet,
22 setting forth--(a) that he or she is a qualified elector duly
23 registered and enrolled as a member of the designated party of
24 the State, or of the political district, as the case may be,
25 referred to in said petition, unless said petition relates to
26 the nomination of a candidate for a court of common pleas, for
27 the Philadelphia Municipal Court or for the Traffic Court of
28 Philadelphia or for [justice of the peace] magisterial district
29 judge, in which event the circulator need not be a duly
30 registered and enrolled member of the designated party; (b) his

1 residence, giving city, borough or township, with street and
2 number, if any; (c) that the signers thereto signed with full
3 knowledge of the contents of the petition; (d) that their
4 respective residences are correctly stated therein; (e) that
5 they all reside in the county named in the affidavit; (f) that
6 each signed on the date set opposite his name; and (g) that, to
7 the best of affiant's knowledge and belief, the signers are
8 qualified electors and duly registered and enrolled members of
9 the designated party of the State, or of the political district,
10 as the case may be.

11 Section 4. Section 910 of the act, amended May 12, 2006
12 (P.L.178, No.45), is amended to read:

13 Section 910. Affidavits of Candidates.--Each candidate for
14 any State, county, city, borough, incorporated town, township,
15 ward, school district, poor district, election district, party
16 office, party delegate or alternate, or for the office of United
17 States Senator or Representative in Congress, shall file with
18 his nomination petition his affidavit stating--(a) his
19 residence, with street and number, if any, and his post-office
20 address; (b) his election district, giving city, borough, town
21 or township; (c) the name of the office for which he consents to
22 be a candidate; (d) that he is eligible for such office; (e)
23 that he will not knowingly violate any provision of this act, or
24 of any law regulating and limiting nomination and election
25 expenses and prohibiting corrupt practices in connection
26 therewith; (f) unless he is a candidate for judge of a court of
27 common pleas, the Philadelphia Municipal Court or the Traffic
28 Court of Philadelphia, [or for the office of school director in
29 a district where that office is elective] or for the office of
30 [justice of the peace] magisterial district judge that he is not

1 a candidate for nomination for the same office of any party
2 other than the one designated in such petition; (g) if he is a
3 candidate for a delegate, or alternate delegate, member of State
4 committee, National committee or party officer, that he is a
5 registered and enrolled member of the designated party; (h) if
6 he is a candidate for delegate or alternate delegate the
7 presidential candidate to whom he is committed or the term
8 "uncommitted"; (i) that he is aware of the provisions of section
9 1626 of this act requiring pre-election and post-election
10 reporting of campaign contributions and expenditures; and (j)
11 that he is not a candidate for an office which he already holds,
12 the term of which is not set to expire in the same year as the
13 office subject to the affidavit. In cases of petitions for
14 delegate and alternate delegate to National conventions, the
15 candidate's affidavit shall state that his signature to the
16 delegate's statement, as hereinafter set forth, if such
17 statement is signed by said candidate, was affixed to the sheet
18 or sheets of said petition prior to the circulation of same. In
19 the case of a candidate for nomination as President of the
20 United States, it shall not be necessary for such candidate to
21 file the affidavit required in this section to be filed by
22 candidates, but the post-office address of such candidate shall
23 be stated in such nomination petition.

24 Section 5. Section 976 of the act, amended July 28, 1941
25 (P.L.526, No.213) and February 19, 1986 (P.L.29, No.11) and
26 repealed in part April 28, 1978 (P.L.202, No.53), is amended to
27 read:

28 Section 976. Examination of Nomination Petitions,
29 Certificates and Papers; Return of Rejected Nomination
30 Petitions, Certificates and Papers.--When any nomination

1 petition, nomination certificate or nomination paper is
2 presented in the office of the Secretary of the Commonwealth or
3 of any county board of elections for filing within the period
4 limited by this act, it shall be the duty of the said officer or
5 board to examine the same. No nomination petition, nomination
6 paper or nomination certificate shall be permitted to be filed
7 if--(a) it contains material errors or defects apparent on the
8 face thereof, or on the face of the appended or accompanying
9 affidavits; or (b) it contains material alterations made after
10 signing without the consent of the signers; or (c) it does not
11 contain a sufficient number of signatures as required by law;
12 Provided, however, That the Secretary of the Commonwealth or the
13 county board of elections, although not hereby required so to
14 do, may question the genuineness of any signature or signatures
15 appearing thereon, and if he or it shall thereupon find that any
16 such signature or signatures are not genuine, such signature or
17 signatures shall be disregarded in determining whether the
18 nomination petition, nomination paper or nomination certificate
19 contains a sufficient number of signatures as required by law;
20 or (d) in the case of nomination petitions, if nomination
21 petitions have been filed for printing the name of the same
22 person for the same office, except the office of judge of a
23 court of common pleas, the Philadelphia Municipal Court or the
24 Traffic Court of Philadelphia, [or the office of school director
25 in districts where that office is elective] or the office of
26 [justice of the peace] magisterial district judge upon the
27 official ballot of more than one political party; or (e) in the
28 case of nomination papers, if the candidate named therein has
29 filed a nomination petition for any public office for the
30 ensuing primary, or has been nominated for any such office by

1 nomination papers previously filed; or (f) if the nomination
2 petitions or papers are not accompanied by the filing fee or
3 certified check required for said office; or (g) in the case of
4 nomination papers, the appellation set forth therein is
5 identical with or deceptively similar to the words used by any
6 existing party or by any political body which has already filed
7 nomination papers for the same office, or if the appellation set
8 forth therein contains part of the name, or an abbreviation of
9 the name or part of the name of an existing political party, or
10 of a political body which has already filed nomination papers
11 for the same office. The invalidity of any sheet of a nomination
12 petition or nomination paper shall not affect the validity of
13 such petition or paper if a sufficient petition or paper remains
14 after eliminating such invalid sheet. The action of said officer
15 or board in refusing to receive and file any such nomination
16 petition, certificate or paper, may be reviewed by the court
17 upon an application to compel its reception as of the date when
18 it was presented to the office of such officer or board:

19 Provided, however, That said officer or board shall be entitled
20 to a reasonable time in which to examine any petitions,
21 certificates or papers, and to summon and interrogate the
22 candidates named therein, or the persons presenting said
23 petitions, certificates or papers, and his or their retention of
24 same for the purpose of making such examination or interrogation
25 shall not be construed as an acceptance or filing.

26 Upon completion of any examination, if any nomination
27 petition, certificate or paper is found to be defective, it
28 shall forthwith be rejected and returned to the candidate or one
29 of the candidates named therein, together with a statement of
30 the reasons for such rejection:

1 Provided further, That no nomination petition, nomination
2 paper or nomination certificate shall be permitted to be filed,
3 if the political party or political body referred to therein
4 shall be composed of a group of electors whose purposes or aims,
5 or one of whose purposes or aims, is the establishment, control,
6 conduct, seizure or overthrow of the Government of the
7 Commonwealth of Pennsylvania or the United States of America by
8 the use of force, violence, military measure or threats of one
9 or more of the foregoing. The authority to reject such
10 nomination petition, paper or certificate for this reason shall,
11 when filed with the Secretary of the Commonwealth, be vested in
12 a committee composed of the Governor, the Attorney General and
13 the Secretary of the Commonwealth, and when filed with any
14 county board of elections shall be vested in such board. If in
15 such case the committee or board, as the case may be, shall
16 conclude that the acceptance of such nomination petition, paper
17 or certificate should be refused, it shall within two days of
18 the filing of such nomination petition, paper or certificate fix
19 a place and a time five days in advance for hearing the matter,
20 and notice thereof shall be given to all parties affected
21 thereby. At the time and place so fixed the committee or board,
22 as the case may be, shall hear testimony, but shall not be bound
23 by technical rules of evidence. The testimony presented shall be
24 stenographically recorded and made a part of the record of the
25 committee or board. Within two days after such hearing the
26 committee or board, if satisfied upon competent evidence that
27 the said nomination petition, paper or certificate is not
28 entitled to be accepted and filed, it shall announce its
29 decision and immediately notify the parties affected thereby.
30 Failure to announce decision within two days after such hearing

1 shall be conclusive that such nomination petition, paper or
2 certificate has been accepted and filed. The decision of said
3 committee or board in refusing to accept and file such
4 nomination petition, paper or certificate may be reviewed by the
5 court upon an application to compel its reception as of the date
6 when presented to the Secretary of the Commonwealth or such
7 board. The application shall be made within two days of the time
8 when such decision is announced. If the application is properly
9 made, any judge of said court may fix a time and place for
10 hearing the matter in dispute, of which notice shall be served
11 with a copy of said application upon the Secretary of the
12 Commonwealth or the county board of elections, as the case may
13 be. At the time so fixed, the court, or any judge thereof
14 assigned for the purpose, shall hear the case de novo. If after
15 such hearing the said court shall find that the decision of the
16 committee or the board was erroneous, it shall issue its mandate
17 to the committee or board to correct its decision and to accept
18 and file the nomination paper, petition or certificate. From any
19 decision of the court an appeal may be taken within two days
20 after the entry thereof. It shall be the duty of the said court
21 to fix the hearing and to announce its decision within such
22 period of time as will permit the Secretary of the Commonwealth
23 or the county board of elections to permit the names of the
24 candidates affected by the court's decision to be printed on the
25 ballot, if the court should so determine.

26 Section 6. Section 978.1 of the act, amended August 13, 1963
27 (P.L.707, No.379) and repealed in part April 28, 1978 (P.L.202,
28 No.53), is amended to read:

29 Section 978.1. Vacancy in Party Nomination by Failure to Pay
30 Filing Fee or for Failure to File Loyalty Oath.--Every person

1 nominated at any primary election as the candidate of any
2 political party for any office, other than a borough, town,
3 township, school district or poor district office, or the office
4 of [justice of the peace] magisterial district judge, or
5 constable, who has not paid the filing fee required by section
6 nine hundred thirteen of this act, as amended, for the filing of
7 a nomination petition for such office, or who has not filed the
8 loyalty oath required by section 14, act of December 22, 1951
9 (P.L.1726), known as the "Pennsylvania Loyalty Act," as last
10 amended June 19, 1961 (P.L.446), shall pay the amount of such
11 fee to and file such oath with the Secretary of the
12 Commonwealth, or the county board of elections, as the case may
13 be, at least eighty-five (85) days previous to the day of the
14 general or municipal election at which such candidate's name
15 would appear on the ballot. Failure to pay such fee or file such
16 oath within the time herein prescribed shall result in a vacancy
17 in such party nomination. Such vacancy shall be filled in the
18 manner hereinafter provided for the filling of such vacancies
19 happening by reason of the death or withdrawal of any candidate.

20 Section 7. Section 981.1 of the act, amended May 12, 2006
21 (P.L.178, No.45), is amended to read:

22 Section 981.1. Affidavits of Candidates.--Each candidate for
23 any State, county, city, borough, incorporated town, township,
24 ward, school district, poor district or election district
25 office, or for the office of United States Senator or
26 Representative in Congress, selected as provided in sections 979
27 and 980 of this act, shall file with the substituted nomination
28 certificate an affidavit stating--(a) his residence, with street
29 and number, if any, and his post-office address; (b) his
30 election district, giving city, borough, town or township; (c)

1 the name of the office for which he consents to be a candidate;
2 (d) that he is eligible for such office; (e) that he will not
3 knowingly violate any provision of this act, or of any law
4 regulating and limiting election expenses and prohibiting
5 corrupt practices in connection therewith; (f) unless he is a
6 candidate for judge of a court of common pleas, the Philadelphia
7 Municipal Court or the Traffic Court of Philadelphia[, or for
8 the office of school board in a district where that office is
9 elective] or for the office of [justice of the peace]
10 magisterial district judge, that he is not a candidate for the
11 same office of any party or political body other than the one
12 designated in such certificate; (g) that he is aware of the
13 provisions of section 1626 of this act requiring election and
14 post-election reporting of campaign contributions and
15 expenditures; and (h) that he is not a candidate for an office
16 which he already holds, the term of which is not set to expire
17 in the same year as the office subject to the affidavit.

18 Section 8. Section 993(a) and (b) of the act, amended August
19 13, 1963 (P.L.707, No.379) and February 19, 1986 (P.L.29,
20 No.11), are amended to read:

21 Section 993. Filling of Certain Vacancies in Public Office
22 by Means of Nomination Certificates and Nomination Papers.--(a)
23 In all cases where a vacancy shall occur for any cause in an
24 elective public office, including that of judge of a court of
25 record, at a time when such vacancy is required by the
26 provisions of the Constitution or the laws of this Commonwealth
27 to be filled at the ensuing election but at a time when
28 nominations for such office cannot be made under any other
29 provision of this act, nominations to fill such vacancies shall
30 be made by political parties in accordance with party rules

1 relating to the filling of vacancies by means of nomination
2 certificates in the form prescribed in section nine hundred
3 ninety-four of this act, and by political bodies by means of
4 nomination papers in accordance with the provisions of sections
5 nine hundred fifty-one, nine hundred fifty-two and nine hundred
6 fifty-four of this act. No such nomination certificate shall
7 nominate any person who has already been nominated by any other
8 political party or by any political body for the same office
9 unless such person is a candidate for the office of judge of a
10 court of common pleas, the Philadelphia Municipal Court or the
11 Traffic Court of Philadelphia, [or for the office of school
12 director in districts where that office is elective] or for the
13 office of [justice of the peace] magisterial district judge. No
14 such nomination papers shall nominate any person who has already
15 been nominated by any political party or by any other political
16 body for any office to be filled at the ensuing November
17 election, unless such person is a candidate for the office of
18 judge of a court of common pleas, the Philadelphia Municipal
19 Court or the Traffic Court of Philadelphia, or for the office of
20 school director in districts where that office is elective or
21 for the office of [justice of the peace] magisterial district
22 judge.

23 (b) Said nomination certificates and nomination papers for
24 State public offices and judges of courts of records shall be
25 filed in the office of the Secretary of the Commonwealth at
26 least fifty (50) days prior to a general or municipal election,
27 as the case may be. Nomination certificates and nomination
28 papers for public offices in counties, cities, boroughs, towns,
29 townships, wards and school districts and for the offices of
30 aldermen and [justices of the peace] magisterial district judges

1 shall be filed in the office of the county board of elections at
2 least fifty (50) days prior to a municipal election.

3 * * *

4 Section 9. Sections 998(a) and (b) and 1004 of the act,
5 amended February 19, 1986 (P.L.29, No.11), are amended to read:

6 Section 998. Substituted Nominations to Fill Certain
7 Vacancies for a November Election.--(a) Any vacancy happening
8 or existing in any party nomination made in accordance with the
9 provisions of section nine hundred ninety-three of this act for
10 a November election by reason of the death or withdrawal of any
11 candidate may be filled by a substituted nomination made by such
12 committee as is authorized by the rules of the party to make
13 nominations in the event of vacancies on the party ticket, in
14 the form prescribed by section nine hundred ninety-four of this
15 act. But no substituted nomination certificate shall nominate
16 any person who has already been nominated by any other political
17 party or by any political body for the same office, unless such
18 person is a candidate for the office of judge of a court of
19 common pleas, the Philadelphia Municipal Court or the Traffic
20 Court of Philadelphia, [or for the office of school director in
21 districts where that office is elective] or for the office of
22 [justice of the peace] magisterial district judge.

23 (b) In case of the death or withdrawal of any candidate
24 nominated by a political body for an election, the committee
25 named in the original nomination papers may nominate a
26 substitute in his place by filing a substituted nomination
27 certificate in the form and manner prescribed by section nine
28 hundred eighty of this act. In the case of a vacancy caused by
29 the death of any candidate, said nomination certificate shall be
30 accompanied by a death certificate properly certified. No

1 substituted nomination certificate shall nominate any person who
2 has already been nominated by any political party or by any
3 other political body for any office to be filled at the ensuing
4 November election, unless such person is a candidate for the
5 office of judge of a court of common pleas, the Philadelphia
6 Municipal Court or the Traffic Court of Philadelphia, [or for
7 the office of school director in districts where that office is
8 elective] or for the office of [justice of the peace]
9 magisterial district judge.

10 * * *

11 Section 1004. Form of Ballots; Printing Ballots; Stubs;
12 Numbers.--From the lists furnished by the Secretary of the
13 Commonwealth under the provisions of sections 915 and 984, and
14 from petitions and papers filed in their office, the county
15 election board shall print the official primary and election
16 ballots in accordance with the provisions of this act: Provided,
17 however, That in no event, shall the name of any person
18 consenting to be a candidate for nomination for any one office,
19 except the office of judge of a court of common pleas, the
20 Philadelphia Municipal Court or the Traffic Court of
21 Philadelphia, [or the office of school director in districts
22 where that office is elective] or the office of [justice of the
23 peace] magisterial district judge be printed as a candidate for
24 such office upon the official primary ballot of more than one
25 party. All ballots for use in the same election district at any
26 primary or election shall be alike. They shall be at least six
27 inches long and four inches wide, and shall have a margin
28 extending beyond any printing thereon. They shall be printed
29 with the same kind of type (which shall not be smaller than the
30 size known as "brevier" or "eight point body") upon white paper

1 of uniform quality, without any impression or mark to
2 distinguish one from another, and with sufficient thickness to
3 prevent the printed matter from showing through. Each ballot
4 shall be attached to a stub, and all the ballots for the same
5 election district shall be bound together in books of fifty, in
6 such manner that each ballot may be detached from its stub and
7 removed separately. The ballots for each party to be used at a
8 primary shall be bound separately. The stubs of the ballots
9 shall be consecutively numbered, and in the case of primary
10 ballots, the number shall be preceded by an initial or
11 abbreviation designating the party name. The number and initial
12 or abbreviation which appears upon the stub shall also be
13 printed in the upper right hand corner of the back of the
14 ballot, separated from the remainder of the ballot by a diagonal
15 perforated line so prepared that the upper right hand corner of
16 the back of the ballot containing the number may be detached
17 from the ballot before it is deposited in the ballot box and
18 beside that corner shall also be printed, "Remove numbered stub
19 immediately before depositing your ballot in ballot box."

20 Section 10. Section 1405 of the act, amended December 22,
21 1971 (P.L.613, No.165), is amended to read:

22 Section 1405. Manner of Computing Irregular Ballots.--The
23 county board, in computing the votes cast at any primary or
24 election, shall compute and certify votes cast on irregular
25 ballots exactly as such names were written, stamped, affixed to
26 the ballot by sticker, or deposited or affixed in or on
27 receptacles for that purpose, and as they have been so returned
28 by the election officers. In the primary the Secretary of the
29 Commonwealth shall not certify the votes cast on irregular
30 ballots for any person for a National office including that of

1 the President of the United States, United States Senator and
2 Representative in Congress; or for any State office including
3 that of Governor and Lieutenant Governor, Auditor General, State
4 Treasurer, Senator and Representative in the General Assembly,
5 justices and judges of courts of record or for any party office
6 including that of delegate or alternate delegate to National
7 conventions and member of State committee unless the total
8 number of votes cast for said person is equal to or greater than
9 the number of signatures required on a nomination petition for
10 the particular office. In the primary the county board shall not
11 certify the votes cast on irregular ballots for any person for a
12 [justice of the peace] magisterial district judge, constable,
13 National, State, county, city, borough, town, township, ward,
14 school district, election or local party office unless the total
15 number of votes cast for said person is equal to or greater than
16 the number of signatures required on a nomination petition for
17 the particular office.

18 Section 11. This act shall take effect in 60 days.