

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 139 Session of 2023

INTRODUCED BY MASTRIANO, J. WARD, LAUGHLIN AND COSTA,  
JANUARY 19, 2023

REFERRED TO STATE GOVERNMENT, JANUARY 19, 2023

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 primary and election expenses, further  
 12 providing for reporting by candidate and political committees  
 13 and other persons, for late contributions and independent  
 14 expenditures, for oath of compliance, perjury,  
 15 disqualification from office and commercial use, for residual  
 16 funds and for place of filing, providing for manner of filing  
 17 and for inability to file reports or statements  
 18 electronically by deadline and further providing for late  
 19 filing fee and certificate of filing, for additional powers  
 20 and duties of the Secretary of the Commonwealth and for  
 21 reports by business entities and publication by Secretary of  
 22 the Commonwealth.

23 The General Assembly of the Commonwealth of Pennsylvania  
 24 hereby enacts as follows:

25 Section 1. Section 1626(a) and (h) of the act of June 3,  
 26 1937 (P.L.1333, No.320), known as the Pennsylvania Election  
 27 Code, are amended and the section is amended by adding a  
 28 subsection to read:

1 Section 1626. Reporting by Candidate and Political  
2 Committees and other Persons.--

3 (a) Each treasurer of a political committee and each  
4 candidate for election to public office shall file with the  
5 appropriate supervisor reports of receipts and expenditures on  
6 forms, designed by the Secretary of the Commonwealth, if the  
7 amount received or expended or liabilities incurred shall exceed  
8 the sum of two hundred fifty dollars (\$250). Should such an  
9 amount not exceed two hundred fifty dollars (\$250), then the  
10 candidate or the treasurer of the committee shall file a [sworn]  
11 statement to that effect with the appropriate supervisor rather  
12 than the report required by this section.

13 \* \* \*

14 (h) All reports or statements required to be filed pursuant  
15 to this section shall be filed pursuant to [section 1630]  
16 sections 1629 and 1631.1. All reports and statements required by  
17 this section shall cover the campaign activity of a candidate  
18 only from the last prior report or statement.

19 \* \* \*

20 (k) (1) All reports or statements required to be filed with  
21 the Secretary of the Commonwealth shall be filed electronically  
22 using the electronic filing system developed by the Secretary of  
23 the Commonwealth that is consistent with the purposes of this  
24 subsection. A report or statement submitted electronically must:  
25 (i) require an electronic signature from the treasurer or  
26 assistant treasurer at the time of the filing of the report or  
27 statement. In addition, a report filed by a political committee,  
28 authorized by a candidate and created solely for the purpose of  
29 influencing an election on behalf of that candidate must be  
30 signed, using an electronic signature, stating that, to the best

1 of the candidate's knowledge, the political committee has not  
2 violated a provision of this act; and

3 (ii) be made subject to the penalties of 18 Pa.C.S. § 4904  
4 (relating to unsworn falsification to authorities).

5 (2) (i) A candidate or political committee not able to file  
6 electronically the report or statement required by this  
7 subsection shall request an exemption from the Secretary of the  
8 Commonwealth. The candidate or political committee upon approval  
9 of the Secretary of the Commonwealth shall file reports and  
10 statements on forms developed by the Secretary of the  
11 Commonwealth.

12 (ii) In order to request an exemption for electronic  
13 submissions or reports or statements, the candidate or political  
14 committee must demonstrate technological hardship. As used in  
15 this subclause, the term "technological hardship" means a lack  
16 of computer or Internet access or a disability that prevents  
17 electronic filing.

18 Section 2. Sections 1628, 1629 heading, (a) and (b), 1630  
19 and 1631(1) of the act are amended to read:

20 Section 1628. Late Contributions and Independent  
21 Expenditures.--Any candidate or political committee, authorized  
22 by a candidate and created solely for the purpose of influencing  
23 an election on behalf of that candidate, which receives any  
24 contribution or pledge of five hundred dollars (\$500) or more,  
25 and any person making an independent expenditure, as defined by  
26 this act, of five hundred dollars (\$500) or more after the final  
27 pre-election report has been deemed completed shall report such  
28 contribution, pledge or expenditure to the appropriate  
29 supervisor. Such report shall be sent by the candidate, chairman  
30 or treasurer of the political committee within twenty-four (24)

1 hours of receipt of the contribution. It shall be the duty of  
2 the supervisor to confirm the substance of such report. [The  
3 report shall be made by telegram, mailgram, overnight mail or  
4 facsimile transmission. Any] The reports filed with the  
5 Secretary of the Commonwealth shall be filed electronically in  
6 accordance with section 1631.1. If the candidate or political  
7 committee is not required to file electronically, the report  
8 shall be filed by facsimile, electronic mail or overnight mail  
9 courier service. Except for reports required to be filed  
10 electronically, a candidate in his own behalf, or chairman,  
11 treasurer or candidate [in] on behalf of the political committee  
12 may also comply with this section by appearing personally before  
13 such supervisor and reporting such late contributions or  
14 pledges.

15 Section 1629. [Oath of Compliance] Unsworn Falsification;  
16 Perjury; Disqualification from Office; Commercial Use.--

17 [(a) Each report shall be subscribed and sworn to by the  
18 individual submitting the report. In addition, any report filed  
19 by a political committee, authorized by a candidate and created  
20 solely for the purpose of influencing an election on behalf of  
21 that candidate, must be accompanied by an affidavit from that  
22 candidate which provides that, to the best of the candidate's  
23 knowledge, the political committee has not violated any  
24 provision of this act.]

25 (b) Any wilfully false, fraudulent or misleading statement  
26 or entry made by any candidate or treasurer in any statement or  
27 report [under oath] as required by this article, shall  
28 constitute the crime of [perjury] unsworn falsification to  
29 authorities, and be punishable as such according to the laws of  
30 this Commonwealth.

1 \* \* \*

2 Section 1630. Residual Funds.--

3 (a) In the event that a candidate or political committee  
4 terminates its financial activity as such, then the disbursement  
5 of any residual funds remaining in such an account shall be made  
6 in the following manner:

7 (1) any such funds may be used for any expenditure as  
8 defined by this article; [and]

9 (2) may be returned, pro rata, to the contributors by the  
10 candidate or treasurer of the political committee[. A final  
11 report must be made by the next January 31 in accordance with  
12 section 1627.]; or

13 (3) may be donated to a nonprofit organization.

14 (b) A final report must be made by the next January 31 in  
15 accordance with section 1627.

16 (c) For purposes of this section:

17 (1) "Affiliated" means serving as an officer of, on the  
18 board of directors of, as a paid employee of or a contractor of  
19 a nonprofit organization.

20 (2) "Family member" means a spouse or child.

21 (3) "Nonprofit organization" means an organization that is  
22 qualified by the Internal Revenue Service as meeting the  
23 requirements of 26 U.S.C. § 501(c)(3) (relating to exemption  
24 from tax on corporations, certain trusts, etc.) organized under  
25 the laws of this Commonwealth and is not affiliated with a  
26 candidate or the chairman or treasurer of a political committee,  
27 including a family member of the candidate, chairman or  
28 treasurer.

29 Section 1631. Place of Filing.--

30 Any statement or report required by this article to be filed,

1 shall be done in the following manner:

2 (1) (i) Any candidate, individual, or committee required to  
3 file a report concerning any candidate shall file that statement  
4 or report in the office of the supervisor with whom the  
5 candidate filed a nomination paper, nomination certificate,  
6 nomination petitions or with the supervisor with whom the  
7 candidate would have filed such if he had sought nomination in  
8 that manner.

9 [(ii) All candidates and political committees, authorized by  
10 candidates and created solely for the purpose of influencing the  
11 election of such candidates, who must file reports with the  
12 Secretary of the Commonwealth, shall also file copies of their  
13 reports in the county in which the candidate resides.]

14 (iii) All candidates and political committees, authorized by  
15 candidates and created solely for the purpose of influencing the  
16 election of such candidates, who must file reports with the  
17 Secretary of the Commonwealth as required by this subsection,  
18 must only file reports electronically with the Secretary of the  
19 Commonwealth.

20 \* \* \*

21 Section 3. The act is amended by adding sections to read:

22 Section 1631.1. Manner of Filing.--

23 (a) All reports and statements required to be filed with the  
24 Secretary of the Commonwealth pursuant to sections 1626, 1627,  
25 1628 and 1641 shall be filed with the Secretary of the  
26 Commonwealth using the electronic filing system developed by the  
27 Secretary of the Commonwealth.

28 (b) A report or statement filed electronically shall:

29 (1) be made subject to the penalties of 18 Pa.C.S. § 4904  
30 (relating to unsworn falsification to authorities);

1 (2) include the electronic signature of the treasurer or  
2 assistant treasurer of the political committee serving at the  
3 time of the filing of the report or statement; and

4 (3) for a report or statement filed by a candidate or a  
5 candidate's political committee, include the electronic  
6 signature of the candidate, stating that, to the best of the  
7 candidate's knowledge, the political committee has not violated  
8 a provision of this act.

9 (c) (1) A principal may authorize another person to prepare  
10 the contents of the report or statement, including entry of data  
11 into the electronic filing system as required under subsection  
12 (a).

13 (2) Each principal authorizing another to act under clause  
14 (1) must:

15 (i) review the contents of the report or statement prepared  
16 under clause (1); and

17 (ii) file with the electronic filing system the approval of  
18 the contents of the report or statement and verification of its  
19 accuracy, in accordance with subsection (b). The approval shall  
20 be transmitted personally by the principal and not on the  
21 principal's behalf by any other person.

22 (3) No report or statement shall be considered complete or  
23 filed until all necessary approvals and verifications shall have  
24 been submitted by each principal required to file.

25 (4) As used in this subsection, "principal" shall mean any  
26 person required to file any report or statement electronically  
27 with the Secretary of the Commonwealth in accordance with this  
28 section.

29 Section 1631.2. Inability to File Reports or Statements  
30 Electronically by Deadline.--

1 (a) All reports or statements filed with the Secretary of  
2 the Commonwealth under section 1631.1 are subject to the  
3 following:

4 (1) If a candidate or political committee cannot file a  
5 report or statement on the day the report or statement is due  
6 because of the unavailability of the Department of State's  
7 electronic filing system at the time the candidate or political  
8 committee attempts to file the report or statement, the  
9 principal shall immediately notify the Department of State in a  
10 manner designated by the Secretary of the Commonwealth. If the  
11 Internet website is unavailable and the candidate or political  
12 committee has notified the department, the candidate or  
13 political committee shall have until 11:59 o'clock P.M. on the  
14 next day following the deadline to file the report or statement  
15 electronically and the principal shall file a statement  
16 affirming that the principal was unable to file the report or  
17 statement on time because of the unavailability of the  
18 Department of State's electronic filing system at the time the  
19 principal attempted to file the report or statement on the day  
20 the report or statement was due. The affirmation statement shall  
21 be due at the same time as the statement or report filed under  
22 this subsection. The report or statement shall not be considered  
23 filed until the affirmation statement is filed.

24 (2) If a candidate or political committee is unable to file  
25 as required under clause (1) because the Department of State's  
26 electronic filing system remains unavailable, the principal  
27 shall notify the Department of State each day a report or  
28 statement cannot be filed due to the unavailability of the  
29 Department of State's electronic filing system. The candidate or  
30 political committee shall have until 11:59 o'clock P.M. on the

1 next day to electronically file the report or statement or  
2 notify the Department of State a second time of the  
3 inaccessibility of the department's electronic filing system.  
4 The principal shall file a statement affirming that the  
5 principal was unable to file the report or statement on time  
6 because of the unavailability of the Department of State's  
7 electronic filing system. The affirmation statement shall be  
8 due at the same time as the statement or report filed under this  
9 subsection. The report or statement shall not be considered  
10 filed until the affirmation statement is filed.

11 (b) The Department of State may provide for an alternative  
12 method of electronic filing if the department's electronic  
13 filing system remains unavailable.

14 (c) For cause shown, the Secretary of the Commonwealth may  
15 waive late filing fees for reports or statements filed after the  
16 deadline but which are the subject of notifications as  
17 prescribed by this section.

18 (d) As used in this section, the term "unavailability of the  
19 Department of State's electronic filing system" shall mean a  
20 failure of the system within the Department of State's technical  
21 environment that does not allow access to the system by an  
22 individual. The term does not include:

23 (1) a network issue between the user's computer and the  
24 Department of State's environment; or

25 (2) a failure of any part of the user's computer or internal  
26 network.

27 Section 4. Section 1632(a) of the act is amended and the  
28 section is amended by adding a subsection to read:

29 Section 1632. Late Filing Fee; Certificate of Filing.--

30 (a) A late filing fee for each report or statement of

1 expenditures and contributions required to be filed with the  
2 county board of elections which is not filed within the  
3 prescribed period shall be imposed as follows. Such fee shall be  
4 ten dollars (\$10) for each day or part of a day excluding  
5 Saturdays, Sundays and holidays that a report or statement is  
6 overdue. An additional fee of ten dollars (\$10) is due for each  
7 of the first six (6) days that a report or statement is overdue.  
8 The maximum fee payable with respect to a single report or  
9 statement is two hundred fifty dollars (\$250). [A supervisor]  
10 The county board of elections shall receive an overdue report or  
11 statement even if any late filing fee due has not been paid but  
12 the report or statement shall not be considered filed until all  
13 fees have been paid upon the receipt by the [supervisor] county  
14 board of elections of an overdue report. No further late filing  
15 fees shall be incurred notwithstanding the fact that the report  
16 or statement is not considered filed. The late filing fee is the  
17 personal liability of the candidate or treasurer of a political  
18 committee and cannot be paid from contributions to the candidate  
19 or committee, nor may such fee be considered an expenditure. A  
20 report or statement of expenditures and contributions shall be  
21 deemed to have been filed within the prescribed time if the  
22 letter transmitting the report or statement which is received by  
23 the [supervisor] county board of elections is transmitted by  
24 first class mail and is postmarked by the United States Postal  
25 Service on the day prior to the final day on which the report or  
26 statement is to be received: Provided, That this sentence shall  
27 not be applicable to the reporting requirements contained in  
28 section 1628.

29 (a.1) For reports or statements required to be  
30 electronically filed with the Secretary of the Commonwealth, the

1 penalty for each report or statement that is not filed within  
2 the prescribed period shall be fifty dollars (\$50) a day for the  
3 first six (6) days the report or statement is late and one  
4 hundred dollars (\$100) a day for day seven (7) and each day  
5 thereafter. The maximum penalty for late reports or statements  
6 is two thousand dollars (\$2,000) for each required filing. The  
7 late filing fee shall be the personal responsibility of the  
8 candidate or treasurer of a political committee and cannot be  
9 paid from contributions to the candidate or committee nor may  
10 the fee be considered an expenditure. The Secretary of the  
11 Commonwealth shall receive an overdue report or statement  
12 notwithstanding whether a late filing fee due has not been paid.  
13 A report or statement shall not be considered filed until all  
14 fees have been paid upon the receipt by the Secretary of the  
15 Commonwealth of an overdue report or statement.

16 \* \* \*

17 Section 5. Sections 1640 and 1641(a) of the act are amended  
18 to read:

19 Section 1640. Additional Powers and Duties of the Secretary  
20 of the Commonwealth.--The Secretary of the Commonwealth shall  
21 have the following additional powers and duties:

22 (1) To serve as the State clearing house for information  
23 concerning the administration of this act.

24 (2) To prescribe suitable rules and regulations to carry out  
25 the provisions of this act.

26 (3) To develop the prescribed forms required by the  
27 provisions of this article for the making of the reports and  
28 statements required to be filed with the supervisor.

29 (4) To prepare a manual setting forth recommended uniform  
30 methods of bookkeeping and reporting which shall be furnished by

1 the supervisor to the person required to file such reports and  
2 statements as required by this article.

3 (5) To examine the contributions to State legislative and  
4 Statewide candidates and publish a list of all those political  
5 committees who have contributed to candidates and who have  
6 failed to file reports as required by this act within six (6)  
7 days of their failure to comply.

8 (6) To maintain a searchable computer database and  
9 electronic reporting system that contains the information  
10 necessary for the proper administration of this article,  
11 including information on contributions and expenditures by all  
12 candidates and all political committees and distribution of  
13 money, and including public access through the Internet. The  
14 database must be designed with an emergency recovery system to  
15 ensure that campaign expense records are not lost in the case of  
16 an emergency, natural disaster or other event that could cause  
17 the system to malfunction.

18 (7) To establish a training program on the electronic  
19 reporting system and make it available to a candidate or  
20 political committee.

21 (8) To ensure all information contained in a statement or  
22 report filed, that is not on the electronic reporting system, be  
23 entered into the electronic reporting system as soon as  
24 practicable but no later than four (4) business days after its  
25 receipt by the Secretary of the Commonwealth.

26 (9) The Department of State shall issue to the registrant an  
27 electronic receipt that includes a confirmation number and the  
28 date and time of filing.

29 Section 1641. Reports by Business Entities; Publication by  
30 Secretary of the Commonwealth.--

1 (a) Any business entity including but not limited to a  
2 corporation, company, association, partnership or sole  
3 proprietorship, which has been awarded non-bid contracts from  
4 the Commonwealth or its political subdivisions during the  
5 preceding calendar year, shall report electronically in  
6 accordance with section 1631.1 by February 15 of each year to  
7 the Secretary of the Commonwealth an itemized list of all  
8 political contributions known to the business entity by virtue  
9 of the knowledge possessed by every officer, director,  
10 associate, partner, limited partner or individual owner that has  
11 been made by:

12 (1) any officer, director, associate, partner, limited  
13 partner, individual owner or members of their immediate family  
14 when the contributions exceed an aggregate of one thousand  
15 dollars (\$1,000) by any individual during the preceding year; or

16 (2) any employe or members of his immediate family whose  
17 political contribution exceeded one thousand dollars (\$1,000)  
18 during the preceding year.

19 For the purposes of this subsection, "immediate family" means  
20 a person's spouse and any unemancipated child.

21 \* \* \*

22 Section 6. The Secretary of the Commonwealth shall transmit  
23 notice to the Legislative Reference Bureau for publication in  
24 the Pennsylvania Bulletin when the electronic filing system  
25 developed by the Secretary of the Commonwealth is available for  
26 use.

27 Section 7. This act shall take effect as follows:

28 (1) The following provisions shall take effect  
29 immediately:

30 (i) This section.

1                   (ii) Section 6 of this act.

2                   (2) The remainder of this act shall take effect 120 days  
3 after publication in the Pennsylvania Bulletin of the notice  
4 under section 6 of this act.