

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2032 Session of
1978

INTRODUCED BY GREENLEAF, JANUARY 31, 1978

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 31, 1978

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," further providing for the recanvass of a vote.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Subsection (e) of section 1404, act of June 3,
15 1937 (P.L.1333, No.320), known as the "Pennsylvania Election
16 Code," is amended to read:

17 Section 1404. Computation of Returns by County Board;
18 Certification; Issuance of Certificates of Election.--

19 * * *

20 (e) Provision for Recanvass of Vote.--(1) Whenever it shall
21 appear that there is a discrepancy in the returns of any
22 election district, or, upon petition of three voters of any
23 district, verified by affidavit, that an error, although not

1 apparent on the face of the returns, has been committed therein,
2 or of its own motion, the county board shall at any time prior
3 to the completion of the computation of all of the returns for
4 the county, summon the election officers of the district, and
5 said officers, in the presence of said board, shall make a
6 record of the number of the seal upon the voting machine, and
7 the number on the protective counter or other device; shall make
8 visible the registering counters of such machine, and, without
9 unlocking the machine against voting, shall recanvass the vote
10 cast thereon. Before making such recanvass, the said board shall
11 give notice in writing to the proper custodian of voting
12 machines, and to each candidate, and to the county chairman of
13 each party or political body, affected by the canvass, and each
14 such candidate may be present in person, or by attorney, and
15 each of such parties, or bodies, may send two representatives to
16 be present at such recanvass. If, upon such recanvass, it shall
17 be found that the original canvass of the returns has been
18 correctly made from the machine, and that the discrepancy still
19 remains unaccounted for, [the said board,] the election board,
20 together with two members of the return board, one representing
21 each major party, with the assistance of the custodian, in the
22 presence of the election officers and the authorized candidates
23 and representatives, shall unlock the voting and counting
24 mechanism of the machine, and shall proceed thoroughly to
25 examine and test the machine to determine and reveal the true
26 cause or causes, if any, of the discrepancy in returns from such
27 machine. Each counter shall be reset at zero (000) before it is
28 tested, after which it shall be operated at least one hundred
29 times. After the completion of such examination and test, the
30 custodian shall then and there prepare a statement, in writing,

1 giving in detail the result of the examination and test, and
2 such statement shall be witnessed by the persons present, and
3 shall be filed with the said board. If, upon such recanvass it
4 shall appear that the original canvass of the returns by the
5 election officers was incorrect, the said returns and all papers
6 being prepared by the said board shall be corrected accordingly:
7 (2) Provided, however, That in the case of returns from any
8 election district wherein the election was held by the use of a
9 voting machine equipped with mechanism for printing paper proof
10 sheets, said proof sheets, if mutually consistent, shall be
11 deemed to be the primary evidence of the result of the election
12 and to be prima facie accurate, and there shall not be
13 considered to be any discrepancy or error in the returns from
14 any such district, such as to require a recanvass of the vote,
15 if all available proof sheets, from the voting machine used
16 therein, identified to the satisfaction of the return board and
17 shown to its satisfaction to have been produced from proper
18 custody, shall be mutually consistent, and, if the general and
19 duplicate returns, or either of them, from said district shall
20 not correspond with said proof sheets, they, and all other
21 papers being prepared by said return board, shall be corrected
22 so as to correspond with the same, in the absence of allegation
23 of specific fraud or error, proved to the satisfaction of the
24 return board by the weight of the evidence, and only in such
25 case shall the vote of said election district be recanvassed
26 under the provisions of this section.

27 * * *

28 Section 2. This act shall take effect in 60 days.