

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1450 Session of
1987

INTRODUCED BY KUKOVICH, DeWEESE, KOSINSKI, HAGARTY AND BORTNER,
JUNE 3, 1987

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 3, 1987

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 primary ballots and the
12 arrangement of the names on ballots; providing limited
13 Pennsylvania Fair Campaign funding of certain Statewide
14 elections; limiting certain contributions; imposing powers
15 and duties on the Department of State; and providing
16 penalties.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 1002(b) of the act of June 3, 1937
20 (P.L.1333, No.320), known as the Pennsylvania Election Code,
21 amended December 2, 1976 (P.L.1221, No.269), is amended to read:

22 Section 1002. Form of Official Primary Ballot.--* * *

23 (b) On the back of each ballot shall be printed in prominent
24 type the words "OFFICIAL PRIMARY BALLOT OFPARTY FOR"

1 followed by the designation of the election district for which
2 it is prepared, the date of the primary and the facsimile
3 signatures of the members of the county board of elections. The
4 names of candidates shall in all cases be arranged under the
5 title of the office for which they are candidates, and be
6 printed thereunder in the order determined by the casting of
7 lots as provided by this act. Under the title of such offices
8 where more than one candidate is to be voted for, shall be
9 printed "Vote for not more than" (the blank space to
10 indicate the number of candidates to be voted for the particular
11 office.) At the right of the name of each candidate there shall
12 be a square of sufficient size for the convenient insertion of a
13 cross (x) or check () mark. There shall be left at the end of
14 the list of candidates for each office (or under the title of
15 the office itself in case there be no candidates who have filed
16 nomination petitions therefor) as many blank spaces as there are
17 persons to be voted for, for such office, in which space the
18 elector may insert the name of any person whose name is not
19 printed on the ballot as a candidate for such office. Opposite
20 or under the name of each candidate, except candidates for the
21 office of President of the United States, candidates for
22 Statewide judicial office and candidates for delegate or
23 alternate delegate to a National Party Convention, who is to be
24 voted for by the electors of more than one county, shall be
25 printed the name of the county in which such candidate resides;
26 and opposite or under the name of each candidate except
27 candidates for delegate or alternate delegate to a National
28 Party Convention who is to be voted for by the electors of an
29 entire county or any congressional, senatorial or representative
30 district within the county, shall be printed the name of the

1 city, borough, township or ward, as the case may be, in which
2 such candidate resides.

3 * * *

4 Section 2. Section 1004 of the act, amended February 19,
5 1986 (P.L.29, No.11), is amended to read:

6 Section 1004. Form of Ballots; Printing Ballots; Stubs;
7 Numbers.--From the lists furnished by the Secretary of the
8 Commonwealth under the provisions of sections 915 and 984, and
9 from petitions and papers filed in their office, the county
10 election board shall print the official primary and election
11 ballots in accordance with the provisions of this act: Provided,
12 however, That in no event, shall the name of any person
13 consenting to be a candidate for nomination for any one office,
14 except the office of judge of a court of common pleas, the
15 Philadelphia Municipal Court or the Traffic Court of
16 Philadelphia, or the office of school director in districts
17 where that office is elective or the office of justice of the
18 peace be printed as a candidate for such office upon the
19 official primary ballot of more than one party. All ballots for
20 use in the same election district at any primary or election
21 shall be alike. They shall be at least six inches long and four
22 inches wide, and shall have a margin extending beyond any
23 printing thereon. They shall be printed with the same kind of
24 type (which shall not be smaller than the size known as
25 "brevier" or "eight point body") upon white paper of uniform
26 quality, without any impression or mark to distinguish one from
27 another, and with sufficient thickness to prevent the printed
28 matter from showing through. Each ballot shall be attached to a
29 stub, and all the ballots for the same election district shall
30 be bound together in books of fifty, in such manner that each

1 ballot may be detached from its stub and removed separately. The
2 ballots for each party to be used at a primary shall be bound
3 separately. The stubs of the ballots shall be consecutively
4 numbered, and in the case of primary ballots, the number shall
5 be preceded by an initial or abbreviation designating the party
6 name. The number and initial or abbreviation which appears upon
7 the stub shall also be printed in the upper right hand corner of
8 the back of the ballot, separated from the remainder of the
9 ballot by a diagonal perforated line so prepared that the upper
10 right hand corner of the back of the ballot containing the
11 number may be detached from the ballot before it is deposited in
12 the ballot box and beside that corner shall also be printed,
13 "Remove numbered stub immediately before depositing your ballot
14 in ballot box." The names of all candidates for an office shall
15 be arranged in a group under the title of that office and shall
16 be rotated from one precinct to another, except on absentee
17 ballots. On absentee ballots, the names of all candidates for an
18 office shall be arranged in a group under the title of that
19 office and shall be so alternated that each name shall appear,
20 insofar as may be reasonably possible, substantially an equal
21 number of times at the beginning, at the end and at each
22 intermediate place, if any, of the group in which such name
23 belongs.

24 Section 3. Section 1633(a) of the act, amended November 26,
25 1978 (P.L.1313, No.318), is amended to read:

26 Section 1633. Contributions or Expenditures by National
27 Banks, Corporations or Unincorporated Associations.--

28 (a) It is unlawful for any National or State bank,
29 partnership or any corporation, incorporated under the laws of
30 this or any other state or any foreign country or any

1 unincorporated association, except those corporations formed
2 primarily for political purposes or as a political committee, to
3 make a contribution or expenditure in connection with the
4 election of any candidate or for any political purpose whatever
5 except in connection with any question to be voted on by the
6 electors of this Commonwealth. Furthermore, it shall be unlawful
7 for any candidate, political committee, or other person to
8 knowingly accept or receive any contribution prohibited by this
9 section, or for any officer or any director of any corporation,
10 bank, or any unincorporated association to consent to any
11 contribution or expenditure by the corporation, bank or
12 unincorporated association, as the case may be, prohibited by
13 this section.

14 * * *

15 Section 4. The act is amended by adding an article to read:

16 ARTICLE XVI-A

17 Campaign Cost Control

18 Section 1601-A. Application of Article.--(a) The provisions
19 of this article shall be applicable to candidates for the
20 following State-wide offices who elect to apply for Pennsylvania
21 Fair Campaign funding hereunder:

22 (1) Supreme Court Justice.

23 (2) Superior Court Judge.

24 (3) Commonwealth Court Judge.

25 (b) For the purposes of this article, insofar as it relates
26 to Pennsylvania Fair Campaign funding of nominated candidates in
27 the general election, a political party's or political body's
28 nominated candidates for Governor and Lieutenant Governor shall
29 be considered as one candidacy and the provisions specifically
30 applicable to the Governor shall be applicable to such combined

1 candidacy.

2 Section 1602-A. Administration.--The provisions of this
3 article shall be administered by the Secretary of the
4 Commonwealth hereinafter referred to as the secretary. The
5 secretary may adopt such rules and regulations as may be
6 necessary for the implementation of this article.

7 Section 1603-A. Pennsylvania Fair Campaign Fund Created.--
8 There is hereby created a special restricted receipts fund in
9 the State Treasury to be known as the "Pennsylvania Fair
10 Campaign Fund." Payments shall be made into said fund pursuant
11 to section 1604-A and disbursements shall be made from said fund
12 only upon the warrant of the Secretary of the Commonwealth and a
13 warrant of the State Treasurer. As much of the moneys in the
14 Pennsylvania Fair Campaign Fund as are necessary to make
15 payments to candidates as provided in this article are
16 appropriated from the Pennsylvania Fair Campaign Fund to the
17 Department of State for the purpose of such payments.

18 Section 1604-A. Allocation of Certain Tax Proceeds to
19 Pennsylvania Fair Campaign Fund.--Beginning with tax years
20 commencing January 1, 1987, and thereafter, each individual
21 subject to the tax imposed by Article III of the act of March 4,
22 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"
23 whose tax liability for any such year is two dollars and fifty
24 cents (\$2.50) or more may designate two dollars and fifty cents
25 (\$2.50) of his or her personal income taxes to be paid into the
26 Pennsylvania Fair Campaign Fund. In the case of married
27 taxpayers filing a joint return, each spouse may designate two
28 dollars and fifty cents (\$2.50) to be paid into the Pennsylvania
29 Fair Campaign Fund if their tax liability is five dollars
30 (\$5.00) or more. All such designated tax revenues shall be paid

1 into the Pennsylvania Fair Campaign Fund. The check-off and
2 instructions shall be prominently displayed on the first page of
3 the return form. The instructions shall readily indicate that
4 any such designations neither increase or decrease an
5 individual's tax liability.

6 Section 1605-A. Certification of Moneys in Pennsylvania Fair
7 Campaign Fund.--By June 30 of each year, the State Treasurer
8 shall certify to the secretary the current balance available in
9 the Pennsylvania Fair Campaign Fund.

10 Section 1606-A. Qualification for Pennsylvania Fair Campaign
11 Funding.--(a) Any candidate for State-wide office as described
12 in section 1601-A may apply for Pennsylvania Fair Campaign
13 funding under this article if such candidate meets the
14 contributory thresholds established in subsection (b) and
15 otherwise conforms to the requirements of this article. No
16 candidate shall be obligated to apply for funding hereunder and
17 if any candidate elects not to apply, the provisions of this
18 article pertaining to limits on expenditures or the use of their
19 personal funds shall be inapplicable to such person and their
20 candidacy. Any candidate electing to receive Pennsylvania Fair
21 Campaign funding must declare his intention to do so and specify
22 the State office for which he is a candidate. Any and all
23 committees authorized to receive contributions or make
24 expenditures for the candidate who has so declared must abide by
25 the provisions of section 1612-A. Any candidate who for any
26 reason has his name withdrawn from the ballot for a State-wide
27 election, after receipt of Pennsylvania Fair Campaign funds,
28 shall return all moneys received to the Pennsylvania Fair
29 Campaign Fund as well as offering back qualifying contributions
30 for that State-wide office.

(b) (1) In order to qualify for Pennsylvania Fair Campaign funding in the general election, a candidate must receive, subsequent to the date of the primary election but prior to the date of the general election, qualifying contributions of the following amounts:

<u>Office</u>	<u>Qualifying Contributions Required</u>
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<u>(i) Supreme Court Justices</u>	<u>\$25,000</u>
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<u>(ii) Superior Court Judges</u>	<u>25,000</u>
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<u>(iii) Commonwealth Court Judges</u>	<u>25,000</u>
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(2) In order to qualify for Pennsylvania Fair Campaign funding in the primary election, a candidate must receive prior to the date of the primary election, but subsequent to the immediately preceding general election, one-half of the amount specified in clause (1) for the appropriate office.

(3) (i) The term "qualifying contribution" shall include any contribution, as defined in section 1621(b), which has all of the following characteristics:

(A) Made by an individual resident of Pennsylvania.

(B) Made by a written instrument which indicates the contributor's full name and mailing residence and is not intended to be returned to the contributor or transferred to another political committee or candidate.

(ii) If a contributor receives goods or services of value in return for his contribution, the qualifying contribution shall be calculated as the original contribution, minus the fair market value of the goods or services received.

(iii) Any contribution by an individual which exceeds one hundred dollars (\$100.00) in the aggregate shall be deemed only a one hundred dollar (\$100.00) qualifying contribution for the purposes of this section and for the matching payment provisions

1 of section 1607-A.

2 (c) The secretary shall select an auditor pursuant to the
3 provisions of section 1635(a). Each candidate who elects to
4 apply for Pennsylvania Fair Campaign funding shall provide
5 evidence that such candidate has raised the qualifying
6 contributions required by this section which evidence shall be
7 verified and certified as correct to the secretary by the
8 auditor selected hereunder.

9 Section 1607-A. Pennsylvania Fair Campaign Funding
10 Formula.--(a) Every candidate who qualifies for Pennsylvania
11 Fair Campaign funding for either the primary or the general
12 election pursuant to section 1606-A shall receive matching
13 payments from the Pennsylvania Fair Campaign Fund in the amount
14 of one dollar (\$1.00) for each dollar of qualifying contribution
15 as defined in section 1606-A(b)(3).

16 (b) The one dollar (\$1.00) for each dollar of qualifying
17 contributions provided by this section shall be provided only
18 for qualifying contributions raised which exceed the threshold
19 amounts specified in section 1606-A(b) and not to those
20 qualifying contributions which are attributable to meeting such
21 threshold amounts necessary to qualify for Pennsylvania Fair
22 Campaign funding.

23 (c) (1) Only those qualifying contributions made during the
24 period between a declaration of candidacy and the primary
25 election shall be eligible for matching payments from the
26 Pennsylvania Fair Campaign Fund for the primary election.

27 (2) Only those qualifying contributions made during the
28 period between the primary election and the general election
29 shall be eligible for matching payments from the Pennsylvania
30 Fair Campaign Fund for the general election.

(d) Matching funds shall not be provided for any qualifying contribution unless the reporting requirements of section 1626(b) are satisfied.

Section 1608-A. Limitations on Pennsylvania Fair Campaign Funding.--(a) Every candidate who qualifies for and receives Pennsylvania Fair Campaign funding pursuant to the formula established in section 1607-A shall be entitled to receive no more than the maximum amount specified in subsection (b) for the office such candidate is seeking.

(b) (1) The maximum amount of Pennsylvania Fair Campaign funding available for the general election for each candidate under this article shall be as follows:

<u>Office</u>	<u>Maximum Pennsylvania Fair Campaign Funding</u>
<u>(i) Supreme Court Justices</u>	<u>\$150,000</u>
<u>(ii) Superior Court Judges</u>	<u>150,000</u>
<u>(iii) Commonwealth Court Judges</u>	<u>150,000</u>

(2) The maximum amount of Pennsylvania Fair Campaign funding available for the primary election for each candidate under this article shall be one-half the appropriate figure in clause (1).

(c) Notwithstanding any other provisions of this article no Pennsylvania Fair Campaign funding shall be provided to the following:

(1) Candidates in the general election who have been nominated by both major political parties.

(2) Candidates in the primary election who are unopposed for the nomination.

(d) As used in this article, "major political party" shall mean a political party whose candidate for Governor received either the highest or second highest number of votes in the

1 preceding gubernatorial election.

2 Section 1609-A. Time of Payments.--(a) Beginning ninety
3 (90) days prior to the relevant primary or general election, the
4 secretary shall make payments authorized by this article at
5 least every two (2) weeks. However, except for the final
6 payment, no payment shall be due or paid if the payment does not
7 equal at least five thousand dollars (\$5,000) in amount.

8 (b) If in the secretary's opinion insufficient funds exist
9 in the Pennsylvania Fair Campaign Fund to provide the
10 anticipated full funding to eligible candidates in a given
11 primary or general election, the secretary shall distribute the
12 available funds to qualified candidates on a pro-rata basis. In
13 determining whether sufficient funds are available, the
14 secretary shall not take into consideration the needs of any
15 subsequent primary or general elections but shall base the
16 decision solely on the immediate primary or election at hand.

17 Section 1610-A. Use of Pennsylvania Fair Campaign Funds by
18 Candidates.--(a) Pennsylvania Fair Campaign funds distributed
19 to candidates pursuant to this article may be used only for the
20 election for which they are distributed and only for the
21 purposes set forth in section 1634.1 except that no fund moneys
22 may be used:

23 (1) To transfer to other candidates or to committees of
24 other candidates or to political committees.

25 (2) To pay for expenditures incurred after the date of the
26 general election.

27 (b) Pennsylvania Fair Campaign funds distributed to a
28 candidate pursuant to this article shall be placed in a single
29 bank account. Expenditures from this account shall be made only
30 for campaign expenses listed in subsection (a).

1 Section 1611-A. Expenditures.--(a) Expenditures made by a
2 candidate and his authorized committees, for all purposes and
3 from all sources, including, but not limited to, amounts of
4 Pennsylvania Fair Campaign funds distributed under this article,
5 proceeds of loans, gifts, contributions from any source or
6 personal funds, subsequent to the date of the primary election,
7 but prior to the date of the general election, may not exceed
8 the amounts specified below:

<u>Office</u>	<u>Total Expenditure Limits</u>
<u>Justices and Judges</u>	
<u>of the Supreme Court,</u>	
<u>Superior Court and</u>	
<u>Commonwealth Court.</u>	<u>\$300,000</u>

14 (b) Expenditures made by a candidate and his authorized
15 committees, subsequent to January 1 but prior to the date of the
16 primary election, may not exceed one-half of the amount
17 specified in subsection (a).

18 (c) Notwithstanding any other provision of this article, a
19 candidate who accepts public funding pursuant to the formula
20 established in 1607-A, but whose major political party opponent
21 elects not to apply for such public funding, shall not be bound
22 by the expenditure limits specified in this section and such
23 candidate or candidates who accept public funding shall be
24 eligible to qualify for those fair campaign funds which would
25 have otherwise been available to the opponent.

26 Section 1612-A. Limitations on Certain Contributions.--(a)
27 Any candidate for the office of Justice of the Supreme Court or
28 Judge of the Superior Court or Commonwealth Court shall not
29 accept any contribution from an individual or political action
30 committee in excess of two hundred fifty dollars (\$250), except

1 that the candidate and spouse may contribute up to twenty-five
2 thousand dollars (\$25,000) for each primary, general or special
3 election. Any non-judicial candidate for a State-wide office set
4 forth under this article shall not accept contributions for each
5 primary, general or special election which exceed those
6 specified limits as follows:

<u>Contributor</u>	<u>Limit</u>
<u>(1) Individual</u>	<u>\$1,000</u>
<u>(2) Candidate and spouse</u>	<u>25,000</u>
<u>(3) Political action committee</u>	
<u>as defined in section 1621(1)</u>	<u>1,000</u>

12 (b) Aggregate contributions during the year of the election
13 by a political party committee or candidate's political
14 committee to candidates receiving Pennsylvania Fair Campaign
15 funding shall not exceed the sum of contributions from
16 individuals to the committee, provided that whenever
17 contributions in the aggregate during the year of the election
18 from an individual exceed one thousand dollars (\$1,000), only
19 one thousand dollars (\$1,000) shall be included in that sum.

20 (c) A gift, subscription, loan, advance or deposit of money
21 or anything of value to a candidate shall be considered a
22 contribution both by the original source of the contribution and
23 by any intermediary or conduit if the intermediary or conduit
24 (1) exercises any control or any direction over the making of
25 the contribution; or (2) solicits the contribution or arranges
26 for the contribution to be made and directly or indirectly makes
27 the candidate aware of such intermediary or conduit's role in
28 soliciting or arranging the contribution for such candidate.

29 (d) For purposes of subsection (c), a contribution shall not
30 be considered to be a contribution by an intermediary or conduit

1 to the candidate if (1) the intermediary or conduit has been
2 retained by the candidate's committee for the purpose of fund-
3 raising and is reimbursed for expenses incurred in soliciting
4 contributions; (2) in the case of an individual, the candidate
5 has expressly authorized the intermediary or conduit to engage
6 in fund-raising, or the individual occupies a significant
7 position within the candidate's campaign organization; or (3) in
8 the case of a political committee, the intermediary or conduit
9 is an authorized committee of the candidate.

10 Section 1613-A. Inflation Indexing of Certain Limitations.--
11 The dollar figures contained in sections 1606-A, 1608-A and
12 1611-A shall be adjusted annually during March at a rate equal
13 to the average percentage change in the All-Urban Consumer Price
14 Index for the Pittsburgh, Philadelphia and Scranton standard
15 metropolitan statistical areas as published by the Bureau of
16 Labor Statistics of the United States Department of Labor, or
17 any successor agency, occurring in the prior calendar year. The
18 base year shall be 1986. The average shall be calculated and
19 certified by the secretary annually by adding the percentage
20 increase in each of the three areas and dividing by three. The
21 calculation and resulting new figures shall be published in the
22 Pennsylvania Bulletin during March.

23 Section 1614-A. Annual Report.--The secretary shall report
24 annually to the General Assembly and the Governor on the
25 operations of Pennsylvania Fair Campaign funding as provided by
26 this article. Such report shall include, but not be limited to,
27 the revenues and expenditures in the Pennsylvania Fair Campaign
28 Fund, the amounts distributed to candidates, the results of any
29 audits performed on candidates in compliance with the provisions
30 of this article and any prosecutions brought for violations of

1 this article.

2 Section 1615-A. Repayment of Borrowed Funds.--Any funds
3 borrowed by any candidate or his campaign treasurer or committee
4 for the purpose of nomination or election of the candidate shall
5 be repaid in full by the candidate prior to the date of the
6 general election in which he is a candidate for office.

7 Section 1616-A. Return of Excess Funds.--All unexpended
8 campaign funds in a candidate's and his authorized committees'
9 possession sixty (60) days after the election shall be returned
10 to the secretary for deposit in the Pennsylvania Fair Campaign
11 Fund, up to the amount of the funds which were distributed to
12 the candidate under this article.

13 Section 1617-A. Penalties.--(a) A person who violates the
14 provisions of this act and who, as a result, obtains
15 Pennsylvania Fair Campaign funds to which he is not entitled
16 commits a misdemeanor of the first degree and, upon conviction,
17 shall be subject to a fine not to exceed the greater of ten
18 thousand dollars (\$10,000) or three times the amount of funds
19 wrongfully obtained, or to imprisonment for up to five years, or
20 both.

21 (b) A person who violates section 1610-A or 1611-A of this
22 act commits a misdemeanor of the first degree and, upon
23 conviction, shall be subject to a fine not to exceed the greater
24 of ten thousand dollars (\$10,000) or three times the amount of
25 funds that were wrongfully used or expended or imprisonment for
26 up to five years, or both.

27 (c) Except as provided in subsections (a) and (b) of this
28 section, a person who violates any provision of this act commits
29 a misdemeanor of the third degree and, upon conviction, shall be
30 subject to a fine of not more than one thousand dollars (\$1,000)

1 or to imprisonment for up to one year, or both.

2 Section 5. This act shall be applicable to returns of
3 taxpayers of calendar years commencing January 1, 1987, and
4 thereafter. Pennsylvania Fair Campaign funding shall be first
5 provided for candidates for Statewide office in the primary
6 election of 1988 and in each primary, municipal and general
7 election thereafter.

8 Section 6. This act shall take effect immediately.