

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1660 Session of
1999

INTRODUCED BY STETLER, PLATTS AND STURLA, JUNE 14, 1999

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 14, 1999

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 county boards of elections.

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

14 Section 1. Section 301 of the act of June 3, 1937 (P.L.1333,
15 No.320), known as the Pennsylvania Election Code, amended July
16 21, 1979 (P.L.189, No.63) and June 10, 1982 (P.L.458, No.135),
17 is amended to read:

18 Section 301. County Boards of Elections; Membership.--

19 (a) There shall be a county board of elections in and for
20 each county of this Commonwealth, which shall have jurisdiction
21 over the conduct of primaries and elections in such county, in
22 accordance with the provisions of this act.

1 (b) [In] Except as noted in subsection (d), in each county
2 of the Commonwealth, the county board of elections shall consist
3 of the county commissioners of such county ex officio, or any
4 officials or board who are performing or may perform the duties
5 of the county commissioners, who shall serve without additional
6 compensation as such. Except in counties of the first class, in
7 counties which have adopted home rule charters or optional plans
8 the board of elections shall consist of the members of the
9 county body which performs legislative functions unless the
10 county charter or optional plan provides for the appointment of
11 the board of elections. In either case, there shall be minority
12 representation on the board. The county body which performs
13 legislative functions shall in the case where the board does not
14 contain minority representation appoint such representation from
15 a list submitted by the county chairman of the minority party.

16 (c) [Whenever a member of the board of county commissioners
17 is a candidate for nomination or election to any public office,
18 the President Judge of the Court of Common Pleas shall appoint a
19 judge or an elector of the county to serve in his stead.]

20 Whenever there appears on the ballot a question relating to the
21 adoption of a Home Rule Charter for the county or amendments to
22 an existing county Home Rule Charter, the President Judge of the
23 Court of Common Pleas shall appoint judges or electors of the
24 county to serve in the stead of the county commissioners.

25 Appointees who are not currently elected office holders shall
26 receive compensation for such service as determined by the
27 salary board plus mileage as specified by the county for
28 expenses incurred when performing election board business.

29 (d) Each county of this Commonwealth has the option of
30 establishing, by ordinance, a separate county board of elections

1 comprised of seven members. The President Judge of the Court of
2 Common Pleas shall appoint the members of the board. Two of the
3 members appointed must be registered independent or nonpartisan.
4 One of the members appointed must be registered with a third
5 party as defined by section 801. Two of the members appointed
6 must be registered with the Democratic Party. Two of the members
7 appointed must be registered with the Republican Party. The
8 terms of office will be four years, except for one Democratic,
9 one Republican and one independent or nonpartisan member, each
10 of whom will be initially appointed to a two-year term after
11 which the terms of office for those three positions will also
12 become four years. No member of a county board of elections
13 shall hold any publicly elected or appointed office or any
14 office in any political party or be a paid employe of the
15 Federal or State government or any political subdivision of this
16 Commonwealth. Members of county boards of elections shall serve
17 without pay, but shall receive reimbursement for expenses or
18 mileage accrued in completing any and all tasks associated with
19 their service. Counties of the first class or counties that have
20 adopted home rule charters or optional plans on the effective
21 date of this subsection providing for the appointment of the
22 board of elections may follow their charters or optional plans
23 for membership or other requirements of such board of elections
24 or may elect to follow provisions in this section.

25 (e) Whenever a member of the county board of elections
26 becomes a candidate for nomination or election to any public
27 office or accepts any governmental or party office, that member
28 must immediately resign from the board of elections and the
29 President Judge of the Court of Common Pleas shall appoint a
30 replacement to fulfill the term of office. The President Judge

of the Court of Common Pleas also shall make appointments to fill any vacancies that arise in the board of elections.

(f) Not later than ninety days before a primary election, a member of a county board of elections must sign an oath declaring that he will not be a candidate that year for public office. If a member of a county board of elections plans to run for public office at any time during a calendar year, he must sign a statement ninety days before a primary election and immediately direct it to the President Judge of the Court of Common Pleas declaring his intention to run for public office that year. At that time of signing the statement declaring intent to run for office, the member is considered a candidate for nomination or election to any public office. A member of a county board of elections cannot become a candidate if he does not sign and direct a statement to the President Judge of the Court of Common Pleas ninety days before a primary election.

(g) A member of a county board of elections shall be required to recuse himself or be removed by the President Judge of the Court of Common Pleas and replaced by an appointment by the President Judge of the Court of Common Pleas:

(1) from a matter in which the member has a personal bias or prejudice;

(2) where the member has personal knowledge of disputed evidentiary facts concerning a proceeding;

(3) from a matter which involves a person with whom the member has a direct involvement, personally or financially;

(4) from a matter which involves a person with whom the member is involved in a court case; or

(5) if any circumstances exist which would create an appearance of impropriety.

1 (h) A member of a county board of elections shall be deemed
2 to have a direct personal involvement with his or her spouse or
3 a person with the third degree of relationship to either of them
4 or the spouse of such a person.

5 (i) A member of a county board of elections has a direct
6 financial involvement with a person who owns a part of, or is
7 employed by, a business with which the member has been
8 associated within two years immediately preceding the time a
9 matter comes before the county board of elections if the
10 financial involvement was of more than a de minimis nature.

11 (j) (1) Members or employees of a county board of elections
12 may not actively participate in or contribute to a political
13 campaign or a political action committee supporting candidates
14 for elections which are under supervision of the county board of
15 elections by whom they are employed or hold an office or
16 actively participate in a political party to further a
17 candidacy.

18 (2) For purposes of this subsection, "active participation
19 in a campaign or a political party" includes attempting to
20 assist a candidate or nominee to obtain public office beyond the
21 normal office functions, soliciting support or information,
22 distributing campaign materials or advertisements, fundraising,
23 publicly supporting a candidate, participating in an organized
24 effort for the purpose of helping a candidate or nominee or
25 attending a fundraiser or dinner on behalf of a candidate. For
26 purposes of this subsection, "holding office in a political
27 party" includes serving as chair, vice chair, secretary,
28 treasurer or as a committee chair in any political party or a
29 member of any county party's executive committee; serving as a
30 member of a party's national, State or local committee.

1 (3) All complaints or other information that members or
2 staff of a county board of elections are actively participating
3 in or contributing to a political campaign, a political action
4 committee or are holding an office or actively participating in
5 a political party to further a candidacy must be directed to the
6 President Judge of the Court of Common Pleas. The President
7 Judge of the Court of Common Pleas must have all complaints
8 investigated. The President Judge of the Court of Common Pleas
9 must remove any member of a board of elections found to have
10 violated this section and must publicly recommend specific
11 action to be taken against any employees of a county board of
12 elections found to have violated this section.

13 (4) This subsection shall not be construed to abridge the
14 right of an employee or a member of a county board of elections
15 to vote or attend a debate, speech or similar event that is held
16 primarily for the purpose of communicating a candidate's
17 platform or position on issues of public concern.

18 Section 2. Section 303 of the act is amended to read:

19 Section 303. Decisions by Majority Vote; Employees.--

20 (a) All actions of a county board shall be decided by a
21 majority vote of all the members, except as may be otherwise
22 provided herein.

23 (b) Each county board may appoint a chief clerk, who shall
24 have authority to administer oaths and to sign vouchers, and
25 such other employees and assistants as, from time to time, the
26 board may deem necessary to carry out the provisions of this
27 act. [The county board may appoint the chief clerk and other
28 employees of the county commissioners to act as such for the
29 county board of elections without any additional compensation as
30 such.]

1 Section 3. The addition of section 301(d) and (e) of the act
2 shall apply at the start of the election cycle next beginning
3 after the effective date of this act.

4 Section 4. This act shall take effect as follows:

5 (1) Section 301(f), (g), (h), (i) and (j) of the act
6 shall take effect in 60 days.

7 (2) The remainder of this act shall take effect
8 immediately.