

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 771 Session of
2003

INTRODUCED BY STABACK, BAKER, BARD, BEBKO-JONES, BELFANTI,
CAWLEY, CORRIGAN, COY, FAIRCHILD, FREEMAN, GRUCELA, HALUSKA,
HARHAI, HENNESSEY, HORSEY, HUTCHINSON, JAMES, JOSEPHS,
LAUGHLIN, LEACH, LEDERER, MANDERINO, MANN, MCGEEHAN,
MCILHATTAN, MUNDY, NAILOR, PALLONE, PHILLIPS, ROBERTS,
SAINATO, SANTONI, SCRIMENTI, SOLOBAY, TANGRETTI, TIGUE,
WANSACZ, WASHINGTON, WOJNAROSKI, YEWIC AND YOUNGBLOOD,
MARCH 10, 2003

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 10, 2003

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 date of application for
12 absentee ballot and for canvassing of official absentee
13 ballots.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 1302.1 of the act of June 3, 1937
17 (P.L.1333, No.320), known as the Pennsylvania Election Code,
18 amended February 13, 1998 (P.L.72, No.18), is amended to read:

19 Section 1302.1. Date of Application for Absentee Ballot.--

20 (a) (1) Applications for absentee ballots unless otherwise

1 specified in clause (2) or (3) shall be received in the office
2 of the county board of elections not earlier than fifty (50)
3 days before the primary or election and not later than five
4 o'clock P.M. of the first Tuesday prior to the day of any
5 primary or election[: Provided, however, That in].

6 (2) In the event any elector otherwise qualified who is so
7 physically disabled or ill on or before the first Tuesday prior
8 to any primary or election that he is unable to file his
9 application or who becomes physically disabled or ill after the
10 first Tuesday prior to any primary or election and is unable to
11 appear at his polling place [or any elector otherwise qualified]
12 shall be entitled to an absentee ballot at any time prior to
13 five o'clock P.M. on the Monday immediately preceding any
14 primary or election upon execution of an Emergency Application
15 in such form prescribed by the Secretary of the Commonwealth.

16 (3) Any other elector otherwise qualified who because of the
17 conduct of his business, duties or occupation will necessarily
18 be absent from the municipality of his residence on the day of
19 the primary or election, which fact was not and could not
20 reasonably be known to said elector on or before the first
21 Tuesday prior to any primary or election, shall be entitled to
22 an absentee ballot at any time prior to five o'clock P.M. on the
23 first Friday preceding any primary or election upon execution of
24 an Emergency Application in such form prescribed by the
25 Secretary of the Commonwealth.

26 (b) (1) In the case of an elector who is physically
27 disabled or ill on or before the first Tuesday prior to a
28 primary or election or becomes physically disabled or ill after
29 the first Tuesday prior to a primary or election, such Emergency
30 Application shall contain a supporting affidavit from his

1 attending physician stating that due to physical disability or
2 illness said elector was unable to apply for an absentee ballot
3 on or before the first Tuesday prior to the primary or election
4 or became physically disabled or ill after that period.

5 (2) Notwithstanding the limitations contained in clause (2)
6 of subsection (a) and in clause (1) of this subsection, the
7 court of common pleas may, upon petition of a qualified elector
8 who becomes physically disabled or ill after the application
9 deadlines in clause (2) of subsection (a) and accompanied by an
10 affidavit of the attending physician of such elector stating
11 that the elector's disability or illness arose after the
12 deadlines in clause (2) of subsection (a), order the county
13 board of elections to permit such elector to vote by absentee
14 ballot on the date of the election and to immediately issue the
15 appropriate absentee ballot to such elector. Any petition filed
16 with the court under this clause shall be in lieu of and contain
17 the same information received for an application and affidavit
18 for an absentee ballot. Any absentee ballot cast under the
19 provisions of this clause shall not be subject to sections
20 1302.2 and 1306 and shall be tallied at the county board of
21 elections and the votes added to the appropriate election
22 district or precinct at the time of the official ballot count.
23 The court shall post a list of all persons who are permitted to
24 vote under this clause.

25 (c) In the case of an elector who is necessarily absent
26 because of the conduct of his business, duties or occupation
27 under the unforeseen circumstances specified in this subsection,
28 such Emergency Application shall contain a supporting affidavit
29 from such elector stating that because of the conduct of his
30 business, duties or occupation said elector will necessarily be

1 absent from the municipality of his residence on the day of the
2 primary or election which fact was not and could not reasonably
3 be known to said elector on or before the first Tuesday prior to
4 the primary or election.

5 Section 2. Section 1308(a) of the act, amended December 11,
6 1968 (P.L.1183, No.375), is amended to read:

7 Section 1308. Canvassing of Official Absentee Ballots.--

8 (a) [The] (1) Except as provided in clause (3), the county
9 boards of election, upon receipt of official absentee ballots in
10 such envelopes, shall safely keep the same in sealed or locked
11 containers until they distribute same to the appropriate local
12 election districts in a manner prescribed by the Secretary of
13 the Commonwealth.

14 [The] (2) Except as provided in clause (3), the county board
15 of elections shall then distribute the absentee ballots,
16 unopened, to the absentee voter's respective election district
17 concurrently with the distribution of the other election
18 supplies. Absentee ballots shall be canvassed immediately and
19 continuously without interruption until completed after the
20 close of the polls on the day of the election in each election
21 district. The results of the canvass of the absentee ballots
22 shall then be included in and returned to the county board with
23 the returns of that district. No absentee ballot shall be
24 counted which is received in the office of the county board of
25 election later than five o'clock P. M. on the Friday immediately
26 preceding the primary or November election.

27 (3) Any absentee ballot cast under the provisions of clause
28 (2) of subsection (b) of section 1302.1 shall be safely kept in
29 a sealed or locked container until the absentee ballots are
30 counted at the time of the official ballot count.

1 * * *

2 Section 3. This act shall take effect immediately.