

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2287 Session of  
2003

INTRODUCED BY CALTAGIRONE, HASAY, BASTIAN, BIANCUCCI, BOYD,  
COSTA, DeLUCA, DENLINGER, FABRIZIO, GANNON, GODSHALL,  
GOODMAN, HARRIS, HORSEY, KELLER, KIRKLAND, MANN, McILHATTAN,  
NAILOR, PALLONE, PISTELLA, RUBLEY, SATHER, SCRIMENTI, SURRA,  
TANGRETTI, WASHINGTON, YOUNGBLOOD, CRUZ, PRESTON AND THOMAS,  
DECEMBER 23, 2003

REFERRED TO COMMITTEE ON STATE GOVERNMENT, DECEMBER 23, 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 nominations.

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

14 Section 1. Section 951(e) of the act of June 3, 1937  
15 (P.L.1333, No.320), known as the Pennsylvania Election Code,  
16 amended February 13, 1998 (P.L.72, No.18), is amended to read:

17 Section 951. Nominations by Political Bodies.--\* \* \*

18 (e) There shall be appended to each nomination paper offered  
19 for filing an affidavit of each candidate nominated therein,  
20 stating--(1) the election district in which he resides; (2) the

1 name of the office for which he consents to be a candidate; (3)  
2 that he is eligible for such office; (4) that he will not  
3 knowingly violate any provision of this act, or of any law  
4 regulating and limiting election expenses, and prohibiting  
5 corrupt practices in connection therewith; (5) that his name has  
6 not been presented as a candidate by nomination petitions for  
7 any public office to be voted for at the [ensuing] primary  
8 election in the year in which the nomination paper is being  
9 filed, nor has he been nominated by any other nomination papers  
10 filed for any such office; (6) that in the case where he is a  
11 candidate for election at a general or municipal election, he  
12 was not a registered and enrolled member of a party thirty (30)  
13 days before the primary held prior to the general or municipal  
14 election in that same year; (7) that, in the case where he is a  
15 candidate for election at a special election, he is not a  
16 registered and enrolled member of a party.

17 Section 2. Section 976 of the act, amended July 28, 1941  
18 (P.L.526, No.213) and February 19, 1986 (P.L.29, No.11) and  
19 repealed in part April 28, 1978 (P.L.202, No.53), is amended to  
20 read:

21 Section 976. Examination of Nomination Petitions,  
22 Certificates and Papers; Return of Rejected Nomination  
23 Petitions, Certificates and Papers.--When any nomination  
24 petition, nomination certificate or nomination paper is  
25 presented in the office of the Secretary of the Commonwealth or  
26 of any county board of elections for filing within the period  
27 limited by this act, it shall be the duty of the said officer or  
28 board to examine the same. No nomination petition, nomination  
29 paper or nomination certificate shall be permitted to be filed  
30 if--(a) it contains material errors or defects apparent on the

1 face thereof, or on the face of the appended or accompanying  
2 affidavits; or (b) it contains material alterations made after  
3 signing without the consent of the signers; or (c) it does not  
4 contain a sufficient number of signatures as required by law;  
5 Provided, however, That the Secretary of the Commonwealth or the  
6 county board of elections, although not hereby required so to  
7 do, may question the genuineness of any signature or signatures  
8 appearing thereon, and if he or it shall thereupon find that any  
9 such signature or signatures are not genuine, such signature or  
10 signatures shall be disregarded in determining whether the  
11 nomination petition, nomination paper or nomination certificate  
12 contains a sufficient number of signatures as required by law;  
13 or (d) in the case of nomination petitions, if nomination  
14 petitions have been filed for printing the name of the same  
15 person for the same office, except the office of judge of a  
16 court of common pleas, the Philadelphia Municipal Court or the  
17 Traffic Court of Philadelphia, or the office of school director  
18 in districts where that office is elective or the office of  
19 justice of the peace upon the official ballot of more than one  
20 political party; or (e) in the case of nomination papers, if the  
21 candidate named therein has filed a nomination petition for any  
22 public office for the [ensuing] primary election in the year in  
23 which the nomination paper is being filed, or has been nominated  
24 for any such office by nomination papers previously filed; or  
25 (f) if the nomination petitions or papers are not accompanied by  
26 the filing fee or certified check required for said office; or  
27 (g) in the case of nomination papers, the appellation set forth  
28 therein is identical with or deceptively similar to the words  
29 used by any existing party or by any political body which has  
30 already filed nomination papers for the same office, or if the

1   appellation set forth therein contains part of the name, or an  
2   abbreviation of the name or part of the name of an existing  
3   political party, or of a political body which has already filed  
4   nomination papers for the same office. The invalidity of any  
5   sheet of a nomination petition or nomination paper shall not  
6   affect the validity of such petition or paper if a sufficient  
7   petition or paper remains after eliminating such invalid sheet.  
8   The action of said officer or board in refusing to receive and  
9   file any such nomination petition, certificate or paper, may be  
10  reviewed by the court upon an application to compel its  
11  reception as of the date when it was presented to the office of  
12  such officer or board: Provided, however, That said officer or  
13  board shall be entitled to a reasonable time in which to examine  
14  any petitions, certificates or papers, and to summon and  
15  interrogate the candidates named therein, or the persons  
16  presenting said petitions, certificates or papers, and his or  
17  their retention of same for the purpose of making such  
18  examination or interrogation shall not be construed as an  
19  acceptance or filing.

20       Upon completion of any examination, if any nomination  
21  petition, certificate or paper is found to be defective, it  
22  shall forthwith be rejected and returned to the candidate or one  
23  of the candidates named therein, together with a statement of  
24  the reasons for such rejection:

25       Provided further, That no nomination petition, nomination  
26  paper or nomination certificate shall be permitted to be filed,  
27  if the political party or political body referred to therein  
28  shall be composed of a group of electors whose purposes or aims,  
29  or one of whose purposes or aims, is the establishment, control,  
30  conduct, seizure or overthrow of the Government of the

1 Commonwealth of Pennsylvania or the United States of America by  
2 the use of force, violence, military measure or threats of one  
3 or more of the foregoing. The authority to reject such  
4 nomination petition, paper or certificate for this reason shall,  
5 when filed with the Secretary of the Commonwealth, be vested in  
6 a committee composed of the Governor, the Attorney General and  
7 the Secretary of the Commonwealth, and when filed with any  
8 county board of elections shall be vested in such board. If in  
9 such case the committee or board, as the case may be, shall  
10 conclude that the acceptance of such nomination petition, paper  
11 or certificate should be refused, it shall within two days of  
12 the filing of such nomination petition, paper or certificate fix  
13 a place and a time five days in advance for hearing the matter,  
14 and notice thereof shall be given to all parties affected  
15 thereby. At the time and place so fixed the committee or board,  
16 as the case may be, shall hear testimony, but shall not be bound  
17 by technical rules of evidence. The testimony presented shall be  
18 stenographically recorded and made a part of the record of the  
19 committee or board. Within two days after such hearing the  
20 committee or board, if satisfied upon competent evidence that  
21 the said nomination petition, paper or certificate is not  
22 entitled to be accepted and filed, it shall announce its  
23 decision and immediately notify the parties affected thereby.  
24 Failure to announce decision within two days after such hearing  
25 shall be conclusive that such nomination petition, paper or  
26 certificate has been accepted and filed. The decision of said  
27 committee or board in refusing to accept and file such  
28 nomination petition, paper or certificate may be reviewed by the  
29 court upon an application to compel its reception as of the date  
30 when presented to the Secretary of the Commonwealth or such

1 board. The application shall be made within two days of the time  
2 when such decision is announced. If the application is properly  
3 made, any judge of said court may fix a time and place for  
4 hearing the matter in dispute, of which notice shall be served  
5 with a copy of said application upon the Secretary of the  
6 Commonwealth or the county board of elections, as the case may  
7 be. At the time so fixed, the court, or any judge thereof  
8 assigned for the purpose, shall hear the case de novo. If after  
9 such hearing the said court shall find that the decision of the  
10 committee or the board was erroneous, it shall issue its mandate  
11 to the committee or board to correct its decision and to accept  
12 and file the nomination paper, petition or certificate. From any  
13 decision of the court an appeal may be taken [within two days]  
14 after the entry thereof. It shall be the duty of the said court  
15 to fix the hearing and to announce its decision within such  
16 period of time as will permit the Secretary of the Commonwealth  
17 or the county board of elections to permit the names of the  
18 candidates affected by the court's decision to be printed on the  
19 ballot, if the court should so determine.

20 Section 3. This act shall take effect in 60 days.