

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**

**No. 1307** Session of  
2007

INTRODUCED BY CALTAGIRONE, BELFANTI, BOYD, CARROLL, GEIST,  
GODSHALL, GRUCELA, HERSHEY, M. KELLER, KIRKLAND, LEACH,  
MCILHATTAN, R. MILLER, NAILOR, M. O'BRIEN, O'NEILL, PALLONE,  
SIPTROTH, STERN, TANGRETTI, YOUNGBLOOD, GIBBONS AND HORNAMAN,  
MAY 18, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 18, 2007

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 May 12, 2006 (P.L.178, No.45), 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  
21 name of the office for which he consents to be a candidate; (3)

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

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21 repealed in part April 28, 1978 (P.L.202, No.53), is amended to  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

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

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

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

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

27 Provided further, That no nomination petition, nomination  
28 paper or nomination certificate shall be permitted to be filed,  
29 if the political party or political body referred to therein  
30 shall be composed of a group of electors whose purposes or aims,

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

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

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