

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1353 Session of  
2009

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PYLE, SCAVELLO, SIPTROTH, K. SMITH, J. TAYLOR AND YUDICHAK,  
APRIL 27, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 27, 2009

AN ACT

1 Providing for a Citizens Constitutional Convention on property  
2 taxes, for a referendum on the question and for the  
3 nomination and election of delegates; defining the powers and  
4 duties of the convention; providing for operation of the  
5 convention; conferring powers and imposing duties on the  
6 Governor, the Secretary of the Commonwealth, the Chief  
7 Justice of the Supreme Court, officers of the General  
8 Assembly and county election boards; providing for a  
9 referendum on the convention's report; and making an  
10 appropriation.

TABLE OF CONTENTS

11  
12 Section 1. Short title.  
13 Section 2. Definitions.  
14 Section 3. Referendum.  
15 Section 4. Convention, membership, qualifications and  
16 vacancies.  
17 Section 5. Nomination of elected delegates and withdrawals.  
18 Section 6. Elected and alternate delegates.  
19 Section 7. Vacancies.  
20 Section 8. Organization of convention and sessions.

1 Section 9. Function.  
2 Section 10. Manner of submitting proposals to electorate.  
3 Section 11. Submission to electorate.  
4 Section 12. Lobbying.  
5 Section 13. Convention open to public.  
6 Section 14. Judicial immunity.  
7 Section 15. Appropriation.  
8 Section 16. Effective date.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Citizens  
13 Constitutional Convention on Property Taxes Act.

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall  
16 have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 "Candidate." An individual seeking to become an elected  
19 delegate.

20 "Committee." The preparatory committee established under  
21 this act.

22 "Convention." The Citizens Constitutional Convention  
23 authorized by this act.

24 "County board." A county board of elections.

25 "Delegate." An elected or alternate delegate to the  
26 convention.

27 "Elected delegate." A delegate who is elected to the  
28 convention under this act.

29 "Secretary." The Secretary of the Commonwealth.

30 Section 3. Referendum.

1 (a) Question.--At the municipal election in November 2009,  
2 the following question shall be submitted to the electorate of  
3 this Commonwealth to determine its will regarding a  
4 Constitutional Convention:

5 Shall a Constitutional Convention be called in accordance  
6 with and subject to the limitations and requirements  
7 contained in the Citizens Constitutional Convention on  
8 Property Taxes Act of 2009, to prepare for submission to the  
9 electorate proposals for the revision of Article VIII of the  
10 Constitution of Pennsylvania, which deals with taxation and  
11 finance, for the purposes of reducing or eliminating property  
12 taxes?

13 (b) Election.--The secretary shall certify questions to the  
14 county boards. The election shall be conducted in accordance  
15 with the act of June 3, 1937 (P.L.1333, No.320), known as the  
16 Pennsylvania Election Code.

17 (c) Secretary.--If a majority of the electors casting votes  
18 on the question under subsection (a) vote in the affirmative,  
19 the secretary shall transmit notice of the vote to the  
20 Legislative Reference Bureau for publication as a notice in the  
21 Pennsylvania Bulletin.

22 Section 4. Convention, membership, qualifications and  
23 vacancies.

24 (a) Call.--If a majority of the electors voting upon the  
25 question set forth in section 3(a) vote in the affirmative, a  
26 convention shall be called by the Governor.

27 (b) Delegates.--The convention shall consist of three  
28 elected delegates from each senatorial district. Each elector in  
29 each senatorial district may vote for not more than two  
30 candidates. The three candidates receiving the highest number of

1 votes shall be elected delegates. The candidate receiving the  
2 fourth-highest number of votes shall be the first alternate  
3 delegate; the candidate receiving the fifth-highest number of  
4 votes shall be the second alternate delegate.

5 (c) Qualifications.--A delegate must meet the following  
6 qualifications:

7 (1) Be at least 18 years of age prior to November 3,  
8 2009.

9 (2) Have been a citizen and resident of this  
10 Commonwealth for at least four years before election.

11 (3) Have resided in and been a registered elector of the  
12 elected delegate's senatorial district for at least one year  
13 preceding election.

14 (4) Reside in the elected delegate's senatorial district  
15 during the delegate's term of service.

16 (d) Salary.--Elected delegates shall be entitled to a salary  
17 equal to the salary of a member of the General Assembly during  
18 their term of service, payable monthly.

19 (e) Expenses.--Elected delegates shall be entitled to  
20 reimbursement for the following expenses:

21 (1) Actual mileage traveled in a personal vehicle in the  
22 performance of their duties during their term of service,  
23 documented, reported and payable monthly at the applicable  
24 Federal rate, including commuting mileage.

25 (2) Actual expenses for other modes of ground  
26 transportation in the performance of their duties during  
27 their term of service, documented, reported and payable  
28 monthly, including commuting expenses.

29 (3) Actual expenses for overnight lodging required for  
30 the convenience of elected delegates traveling more than 50

1 miles from their residence in the performance of their duties  
2 during their term of service, documented, reported and  
3 payable monthly.

4 (f) Terms of service.--Terms of service for elected  
5 delegates shall commence on the date of their oath of office.  
6 Terms shall expire September 30, 2010, except for delegate  
7 members of the preparatory committee, whose terms shall expire  
8 October 31, 2010.

9 (g) Immunity.--The following shall apply:

10 (1) A delegate shall, in all cases except treason,  
11 felony, violation of oath of office and breach of the peace,  
12 be privileged from arrest during attendance and travel to and  
13 from the convention.

14 (2) A delegate shall not be questioned in any other  
15 place for any speech or debate in the convention.

16 Section 5. Nomination of elected delegates and withdrawals.

17 (a) Nomination.--Candidates for delegates to the convention  
18 shall be nominated by petition in accordance with all of the  
19 following:

20 (1) The secretary shall prescribe the form of the  
21 petition.

22 (2) A petition must be signed by at least 100 qualified  
23 electors of the candidate's senatorial district in accordance  
24 with all of the following:

25 (i) An elector may not sign more than two nomination  
26 petitions.

27 (ii) A signer must state the signer's residence,  
28 giving city, borough or township, with street and number,  
29 and that the signer is a qualified elector of the  
30 district. The signature must be dated.

1 (iii) A petition shall not be circulated prior to  
2 August 18, 2009. A signature shall not be counted unless  
3 it bears a date later than August 17, 2009.

4 (iv) A petition may be on one or more sheets.  
5 Different sheets must be used for signers residing in  
6 different counties. If more than one sheet is used, the  
7 sheets must be bound together when offered for filing if  
8 they are intended to constitute one petition, and each  
9 sheet must be numbered consecutively at the foot of each  
10 page, beginning with number one. Each sheet must have  
11 appended to it the affidavit for the individual who  
12 circulated it setting forth all of the following:

13 (A) That the individual is a qualified elector  
14 of the senatorial district named in the petition.

15 (B) The individual's residence, giving city,  
16 borough or township, with street and number.

17 (C) That the signers to the petition signed with  
18 the knowledge of the contents of the petition.

19 (D) That the residences of the signers are  
20 correctly stated.

21 (E) That each signer resides in the district  
22 named in the affidavit.

23 (F) That each signer signed on the date set  
24 forth.

25 (G) That, to the best of the affidavit's  
26 knowledge and belief, the signers are qualified  
27 electors of the district.

28 (3) A petition must be filed in the office of the  
29 secretary by 5 p.m. on September 8, 2009. A filing fee of  
30 \$100 must be paid by the candidate by certified check or

1 money order.

2 (b) Candidate's affidavit.--A candidate must file with the  
3 office of the secretary, by 5 p.m. on September 8, 2009, an  
4 affidavit stating or attesting to all of the following:

5 (1) The candidate's residence with street, number and  
6 post office address.

7 (2) That the candidate is eligible for the office of  
8 elected delegate to the convention.

9 (3) That, if elected, the candidate will faithfully  
10 observe the limitations and requirements imposed upon the  
11 convention by this act.

12 (4) That the candidate meets the qualifications set  
13 forth in section 4(c).

14 (c) Statement of financial interests.--A candidate must file  
15 copies of a statement of financial interests with the office of  
16 the secretary and the State Ethics Commission by 5 p.m. on  
17 September 8, 2009.

18 (d) Withdrawal.--A candidate may withdraw as a candidate if  
19 the candidate:

20 (1) Makes the request in writing. The request must be  
21 signed by the candidate and acknowledged before an officer  
22 empowered to administer oaths.

23 (2) Files the request in the office of the secretary by  
24 5 p.m. on September 15, 2009.

25 (e) Certification.--The secretary shall certify the names of  
26 the nominees to the county boards as provided by law no later  
27 than September 22, 2009.

28 (f) Forms.--The secretary shall provide all forms and  
29 instructions for candidates in a timely and convenient manner  
30 consistent with that used for legislative elections.

1 Section 6. Elected and alternate delegates.

2 Elections for elected delegates shall be held at the  
3 municipal election on November 3, 2009. The secretary shall  
4 forward to each county board the names of the candidates.  
5 Candidates' names shall be grouped together on the ballot,  
6 separate from the names of candidates for any other office, and  
7 subsequent to the question set forth in section 3(a). Each  
8 elector voting at the municipal election shall be entitled to  
9 vote for two candidates from the elector's senatorial district.  
10 If the question which is set forth in section 3(a) is approved  
11 by a majority of the electors casting votes:

12 (1) The three candidates receiving the highest number of  
13 votes shall be the elected delegates of that district.

14 (2) The candidate receiving the fourth-highest number of  
15 votes shall be the first alternate delegate; the candidate  
16 receiving the fifth-highest number of votes shall be the  
17 second alternate delegate.

18 (3) In the case of a tie vote, the election shall be  
19 determined in accordance with the provisions of section 1418  
20 of the act of June 3, 1937 (P.L.1333, No.320), known as the  
21 Pennsylvania Election Code.

22 (4) The county boards shall, by November 17, 2009,  
23 certify the return of the election for all delegates to the  
24 secretary.

25 (5) The secretary shall, by November 24, 2009, certify  
26 to the Governor the names of elected and alternate delegates.

27 Section 7. Vacancies.

28 (a) Candidate.--In the event of the death of a candidate  
29 prior to September 22, 2009, that candidate's name shall be  
30 removed from the ballot. In the event of the death of a



1 candidate on or after September 22, 2009, votes received by that  
2 candidate in the municipal election shall be counted and  
3 recorded, but void, and a vacancy shall exist.

4 (b) Elected delegate.--In the event of a vacancy in the  
5 office of elected delegate, the first alternate delegate from  
6 the same senatorial district shall become the elected delegate;  
7 if the first alternate is unable to serve, the second alternate  
8 delegate shall become the elected delegate, etc. If no such  
9 alternate delegate is available to fill a vacancy, the remaining  
10 elected delegates from the same district, together with the  
11 Senator from that district, shall collectively nominate a single  
12 candidate to be confirmed by a majority of the convention as  
13 soon as practicable to fill the vacancy.

14 Section 8. Organization of convention and sessions.

15 (a) Convening.--The following shall apply:

16 (1) The convention's elected delegates shall convene in  
17 the Hall of the House of Representatives on December 1, 2009,  
18 at 12 noon.

19 (2) The convention shall be called to order by the  
20 Governor.

21 (3) The secretary shall certify the returns of the  
22 elections for elected and alternate delegates and issue  
23 certificates of election.

24 (4) The Chief Justice of the Supreme Court shall, after  
25 the returns have been certified, administer the oath of  
26 office in the following form:

27 I do solemnly swear (or affirm) that I will support, obey and  
28 defend the Constitution of the United States and the  
29 Constitution of Pennsylvania, that I will abide by the  
30 limitations and requirements of the Citizens Constitutional

1 Convention on Property Taxes Act of 2009, and that I will  
2 discharge my duties with fidelity.

3 (5) Each elected delegate shall sign and swear a written  
4 version of the oath of office, provided by the secretary, to  
5 be preserved with the official journals of the convention,  
6 and other copies as needed by the secretary.

7 (b) Organization.--The following shall apply:

8 (1) The convention shall be the final judge of the  
9 qualifications of its own delegates.

10 (2) The convention shall elect from among its elected  
11 delegates a president, first vice-president, second vice-  
12 president and a secretary.

13 (3) The convention shall elect from among its elected  
14 delegates 15 members to serve on a preparatory committee with  
15 the elected officers of the convention. The committee shall  
16 also include the Majority Leader of the Senate, the Minority  
17 Leader of the Senate, the Majority Leader of the House of  
18 Representatives and the Minority Leader of the House of  
19 Representatives.

20 (4) The convention shall organize a committee on  
21 arrangement, submission and address to the people.

22 (c) Duties of preparatory committee.--The following shall  
23 apply:

24 (1) The committee shall prescribe rules for all of the  
25 following, subject to adoption by a majority of the elected  
26 delegates at the commencement of working sessions:

27 (i) Procedure.

28 (ii) Conduct of delegates, including censure,  
29 suspension or removal.

30 (2) The committee shall be authorized to do all of the

1 following, when required for the conduct of the business of  
2 the convention:

3 (i) Lease or otherwise obtain suitable meeting and  
4 office space and to purchase or lease supplies,  
5 equipment, publications and other material necessary for  
6 the work of the convention.

7 (ii) Hire or engage staff necessary for the work of  
8 the convention.

9 (iii) Initiate relevant studies through its own  
10 personnel or in cooperation with any public or private  
11 agencies.

12 (iv) Hold public hearings.

13 (v) Enter into contracts.

14 (vi) Receive from the Commonwealth agencies and  
15 political subdivisions and local agencies assistance  
16 necessary or desirable to carry out properly the powers  
17 and duties under this subsection.

18 (vii) Submit a budget and additional reports to the  
19 General Assembly in sufficient time for the General  
20 Assembly to pass any necessary appropriation act required  
21 by section 15, as needed.

22 (d) Sessions.--The following shall apply:

23 (1) The organizational session shall be adjourned no  
24 later than 5 p.m. on December 3, 2009.

25 (2) Working sessions of the convention shall commence on  
26 January 11, 2010.

27 (e) Sine die adjournment.--The convention shall adjourn sine  
28 die no later than September 14, 2010.

29 Section 9. Function.

30 (a) Scope.--The convention shall recommend to the electorate

1 three varying proposals, each designed to reduce or eliminate  
2 property taxes under Article VIII. The proposals may include  
3 replacing all or a portion of the property tax with another tax.

4 (b) Limitations.--The convention shall have the power to  
5 make recommendations to the electorate on Article VIII relating  
6 to taxation and finance. The convention may not make  
7 recommendations on any other articles.

8 (c) Reorganization.--In dealing with the subject matter  
9 under subsections (a) and (b), the convention may recommend  
10 amendment, addition, deletion, division, substitution, transfer  
11 and implementation schedules.

12 Section 10. Manner of submitting proposals to electorate.

13 (a) Convention.--The following shall apply:

14 (1) The convention shall submit to the electorate three  
15 separate proposals to reduce or eliminate property taxes  
16 along with a fourth proposal to continue without change.

17 (2) The convention shall frame the ballot question  
18 listing each proposal so that each elector may choose only  
19 one.

20 (3) If no proposal receives at least 50% of the total  
21 votes cast, the Constitution of Pennsylvania shall not be  
22 amended.

23 (b) Certification.--The changes proposed and the ballot  
24 question shall be certified by the president and secretary of  
25 the convention to the secretary by September 28, 2010.

26 Section 11. Submission to electorate.

27 (a) Secretary.--The following shall apply:

28 (1) The secretary shall publish the Constitution of  
29 Pennsylvania showing the changes proposed by the convention  
30 and any address to the people by the convention, in

convenient printed form and in convenient digital form at the earliest time practicable after certification.

(2) The secretary shall advertise the proposals and address of the convention in at least two newspapers of general circulation in every county once during the second week of October 2010 and once during the fourth week of October 2010.

(3) The secretary shall send a sufficient number of copies of the printed publication under paragraph (1) to each county board to satisfy the requirements of subsection (b).

(4) Upon request of an elector, the secretary shall send a copy of the publication under paragraph (1).

(b) County boards.--Each county board shall make the publication under subsection (a)(1) available at each polling place in a quantity equal to the number of voting booths, terminals or stations at that polling place.

(c) Election.--The following shall apply:

(1) The three proposals recommended by the convention, along with the proposal to continue without change, shall be submitted to the electors at the general election in November 2010.

(2) The proposal receiving at least 50% of the total votes cast shall be adopted. If no proposal receives at least 50% of the total votes cast, the Constitution of Pennsylvania shall not be amended.

(d) Certification.--The secretary shall certify the results of the election within three weeks of the general election in November 2010.

Section 12. Lobbying.

(a) Delegates.--The following shall apply:

1           (1) Direct lobbying of individual delegates by  
2 organizations or individuals registered as lobbyists within  
3 this Commonwealth on the effective date of this section and  
4 for the duration of the convention, other than meetings  
5 between individual electors of a senatorial district and the  
6 delegate or delegates representing the same district, shall  
7 be prohibited.

8           (2) No delegate shall accept any gift, meal, service or  
9 other benefit, or any promise of such in the future, offered  
10 by any party in an effort to influence the outcome of the  
11 convention.

12       (b) Convention.--The following shall apply:

13           (1) Lobbyists prohibited from lobbying delegates in  
14 subsection (a)(1) shall be permitted to lobby the convention  
15 as a whole by the following methods:

16               (i) Providing printed reference materials in  
17 quantities sufficient for distribution to all elected  
18 delegates, subject to any pertinent policies adopted by  
19 the convention.

20               (ii) Providing printed and oral testimony at a  
21 hearing before any committee or subcommittee of the  
22 convention, subject to any pertinent policies adopted by  
23 the convention.

24               (iii) Providing printed reference materials to  
25 committees or subcommittees of the convention in  
26 quantities sufficient for distribution to all elected  
27 delegates, subject to any pertinent policies adopted by  
28 the convention.

29           (2) The convention shall not accept, on behalf of its  
30 delegates, any gift, meal, service or other benefit, or any

1 promise of such in the future, offered by any party in an  
2 effort to influence the outcome of the convention.

3 Section 13. Convention open to public.

4 Sessions of the convention as a whole and all meetings of its  
5 committees and subcommittees shall be open to the public.

6 Section 14. Judicial immunity.

7 Provided no portion of the resultant Constitution of  
8 Pennsylvania, duly proposed by the convention and adopted by the  
9 electorate according to the provisions of this act, is found to  
10 be in violation of the Constitution of the United States, no  
11 court of this Commonwealth shall have the authority to overturn  
12 its provisions.

13 Section 15. Appropriation.

14 If the question in section 3(a) is approved by the  
15 electorate, the sum of \$20,000,000 shall be transferred from the  
16 nonlapsing leadership accounts of the General Assembly, in four  
17 equal contributions by the majority and minority caucuses of the  
18 Senate and the House of Representatives, to carry out the  
19 provisions of this act. Further sums required by the convention  
20 to perform its duties, contributed in similar fashion, shall be  
21 provided upon request by the convention in accordance with  
22 section 8(c)(2)(vii).

23 Section 16. Effective date.

24 This act shall take effect as follows:

25 (1) Section 15 of this act shall take effect upon  
26 publication of the notice under section 3(c).

27 (2) The remainder of this act shall take effect  
28 immediately.