

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1761 Session of
2009

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PAYNE, SCAVELLO, SIPTROTH, SWANGER, TURZAI, VULAKOVICH AND
WAGNER, JUNE 23, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 23, 2009

AN ACT

1 Providing for a constitutional convention with limited powers,
2 for a referendum on the question and for the selection,
3 nomination and election of delegates; defining the powers and
4 duties of the convention; providing for its operation;
5 conferring powers and imposing duties on the Governor, the
6 Secretary of the Commonwealth, officers of the General
7 Assembly and county election boards; providing for a
8 referendum on the convention's report; and making an
9 appropriation.

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the
12 Constitutional Convention Act.

13 Section 2. Definitions.

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

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

19 "Committee." The Preparatory Committee established in
20 section 8.

21 "Convention." The constitutional convention authorized by
22 this act.

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

24 "Delegate." A delegate to the convention. The term includes
25 an elected delegate and an ex officio delegate.

26 "Elected delegate." A delegate who is elected to the
27 convention under section 4(b)(1).

28 "Ex officio delegate." A delegate to the convention under
29 section 4(b)(2).

30 "Secretary." The Secretary of the Commonwealth.

1 Section 3. Referendum.

2 (a) Question.--At the general election in November 2009, the
3 following question shall be submitted to the electorate of this
4 Commonwealth to determine its will regarding a constitutional
5 convention with limited powers:

6 Shall a constitutional convention be called in accordance
7 with and subject to the limitations and requirements
8 contained in the Constitutional Convention Act, to prepare
9 for submission to the electorate proposals for the revision
10 of the following provisions of the Constitution of
11 Pennsylvania as provided in section 10 of the Constitutional
12 Convention Act: section 10 of Article I; sections 8 and 16 of
13 Article II; sections 14, 15, 18, 26 and 27 of Article III;
14 Article V; section 12 of Article VIII; Article IX and section
15 17 of Schedule No. 1?

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

20 (c) Secretary.--If a majority of the electors voting on the
21 question under subsection (a) vote in the affirmative, the
22 secretary shall transmit notice of the vote to the Legislative
23 Reference Bureau for publication as a notice in the Pennsylvania
24 Bulletin.

25 Section 4. Convention; membership; qualifications; vacancies.

26 (a) Call.--If a majority of the electors voting upon the
27 question under section 3(a) vote in the affirmative, a
28 convention shall be called by the Governor.

29 (b) Delegates.--The convention shall consist of the
30 following delegates:

1 (1) Three delegates shall be elected from each
2 senatorial district. Each elector in each senatorial district
3 may vote for not more than two candidates. The three
4 candidates receiving the highest number of votes shall be
5 elected delegates.

6 (2) The following shall be ex officio delegates and
7 shall have the powers of elected delegates:

8 (i) The Lieutenant Governor.

9 (ii) The President pro tempore of the Senate.

10 (iii) The Majority Leader of the Senate.

11 (iv) The Majority Whip of the Senate.

12 (v) The Minority Leader of the Senate.

13 (vi) The Minority Whip of the Senate.

14 (vii) The Minority Caucus Chairman of the Senate.

15 (viii) The Speaker of the House of Representatives.

16 (ix) The Majority Leader of the House of
17 Representatives.

18 (x) The Majority Whip of the House of
19 Representatives.

20 (xi) The Minority Leader of the House of
21 Representatives.

22 (xii) The Minority Whip of the House of
23 Representatives.

24 (xiii) The Minority Caucus Chairman of the House of
25 Representatives.

26 (c) Qualifications.--An elected delegate must meet the
27 following qualifications:

28 (1) Be at least 18 years of age.

29 (2) Have been a citizen of the United States and
30 resident of this Commonwealth for at least four years before

1 election.

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

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

7 (d) Expenses.--Elected delegates shall be entitled to
8 reimbursement for reasonable expenses incurred in the
9 performance of their duties.

10 Section 5. Nomination of elected delegates; withdrawals.

11 (a) Political parties.--The county committee of each
12 political party in each senatorial district shall collectively
13 nominate two candidates in accordance with party rules and the
14 names of the nominees submitted to the secretary. The secretary
15 shall certify the names of the nominees to the county board as
16 provided by law not later than September 29, 2010.

17 (b) Political bodies.--Subject to the limitations upon the
18 number in this act applicable to political parties, candidates
19 may also be nominated by political bodies by petition in
20 accordance with the following:

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

23 (2) A petition must be signed by at least 500 qualified
24 electors of the senatorial district in accordance with the
25 following:

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

28 (ii) A signer must state occupation and residence,
29 giving city, borough or township, with street and number,
30 and that the signer is a qualified elector of the

1 district. The signature must be dated.

2 (iii) A petition may not be circulated prior to
3 August 25, 2010. A signature shall not be counted unless
4 it bears a date later than August 24, 2010.

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

14 (A) that the individual is a qualified elector
15 of the senatorial district named in the petition;

16 (B) the individual's residence, giving city,
17 borough or township, with street and number;

18 (C) that the signers to the petition signed with
19 knowledge of the contents of the petition;

20 (D) that the residences of the signers are
21 correctly stated;

22 (E) that each signer resides in the district
23 named in the affidavit;

24 (F) that each signer signed on the date set
25 forth; and

26 (G) that, to the best of the affiant's knowledge
27 and belief, the signers are qualified electors of the
28 district.

29 (3) A petition must be filed in the office of the
30 secretary by September 15, 2010. A filing fee of \$100 must be

1 paid by the candidate by certified check or money order.

2 (c) Candidate's affidavit.--A candidate must file with the
3 secretary an affidavit stating all of the following:

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

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

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

11 (4) That the candidate meets the qualifications under
12 section 4(c).

13 (d) Withdrawal.--A candidate may withdraw as a candidate as
14 follows:

15 (1) Make a request in writing. The request must be
16 signed by the candidate and acknowledged before an officer
17 empowered to administer oaths.

18 (2) File the request in the office of the secretary by 5
19 p.m. on September 24, 2010.

20 Section 6. Elected delegates.

21 Elections for elected delegates shall be held at the general
22 election in November 2009. The secretary shall forward to each
23 county board the names of the candidates. Each elector voting at
24 the municipal election shall be entitled to vote for two
25 candidates from the elector's senatorial district. The three
26 candidates receiving the highest number of votes in each
27 district shall be the elected delegates of that district. In the
28 case of a tie vote, the election shall be determined in
29 accordance with the provisions of section 1418 of the act of
30 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania

1 Election Code. The county board shall, by November 16, 2010,
2 certify the return to the secretary. The secretary shall, by
3 November 23, 2010, certify to the Governor the names of the
4 elected delegates.

5 Section 7. Vacancies.

6 (a) Candidate.--In the event of the death or withdrawal of a
7 candidate occurring prior to October 1, 2010, a substitute
8 nomination shall be made under section 5.

9 (b) Elected delegate.--In the event of a vacancy in the
10 office of the elected delegate, a successor shall be elected as
11 follows:

12 (1) If the elected delegate was nominated under section
13 5(a), the remaining delegates of that political party shall
14 elect a successor who meets the qualifications under section
15 4(c). The secretary shall prescribe appropriate time
16 limitations.

17 (2) If the elected delegate member was nominated under
18 section 5(b), all of the remaining delegates shall elect a
19 successor meeting the qualifications under section 4(c).

20 Section 8. Preparatory Committee.

21 (a) Membership.--Ex officio delegates shall constitute the
22 Preparatory Committee to make arrangements for the convention.

23 (b) Meeting organization.--Upon certification by the
24 secretary of the results of the referendum election under
25 section 3, the committee shall have the following powers and
26 duties:

27 (1) To lease or otherwise obtain suitable meeting and
28 office space and to purchase or lease supplies, equipment,
29 publications and other materials necessary for the work of
30 the convention.

1 (2) To hire or engage staff necessary for the
2 preparatory work of the convention.

3 (3) To initiate relevant studies through its own
4 personnel or in cooperation with any public or private
5 agencies.

6 (4) To hold public hearings.

7 (5) To enter into contracts.

8 (6) To receive from Commonwealth agencies and political
9 subdivisions and local agencies assistance necessary or
10 desirable to carry out properly the powers and duties under
11 this subsection.

12 (7) To submit a budget for the convention to the General
13 Assembly in sufficient time for the General Assembly to pass
14 the necessary appropriation acts.

15 (8) To do other acts necessary to carry out the powers
16 and duties under this subsection.

17 Section 9. Organization of convention.

18 (a) Convening.--

19 (1) The convention shall convene in the Hall of the
20 House of Representatives on December 1, 2010, at 12 noon.

21 (2) The convention shall be called to order by the
22 Governor.

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

26 (4) The Chief Justice of the Supreme Court or a designee
27 of the Chief Justice shall then administer the oath of office
28 in the following form:

29 I do solemnly swear (or affirm) that I will support, obey
30 and defend the Constitution of the United States and the

1 Constitution of Pennsylvania, and that I will discharge the
2 duties of my office with fidelity.

3 (b) Organization.--

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

6 (2) The convention shall organize by electing from among
7 its delegates a president, secretary and other officers.

8 (3) The convention shall prescribe rules for:

9 (i) procedure; and

10 (ii) conduct of its delegates, including censure,
11 suspension or removal.

12 (c) Immunity.--

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

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

19 (d) Sine die adjournment.--The convention shall adjourn sine
20 die on February 28, 2011.

21 Section 10. Function.

22 (a) Scope.--The convention has the power, by a vote of a
23 majority of delegates, to make recommendations to the electorate
24 on the following subjects only:

25 (1) Section 10 of Article I of the Constitution of
26 Pennsylvania, pertaining to the taking of private property
27 for a public purpose.

28 (2) Section 8 of Article II of the Constitution of
29 Pennsylvania, pertaining to compensation of members of the
30 General Assembly.

1 (3) Section 16 of Article II of the Constitution of
2 Pennsylvania, pertaining to number of legislative districts.

3 (4) Sections 14 and 15 of Article III of the
4 Constitution of Pennsylvania, pertaining to public education.

5 (5) Section 18 of Article III of the Constitution of
6 Pennsylvania, pertaining to limitations on the recovery of
7 noneconomic damages for injuries resulting in death or for
8 injuries to persons or property.

9 (6) Sections 26 and 27 of Article III of the
10 Constitution of Pennsylvania, pertaining to compensation of
11 public officers.

12 (7) Section 10(c) of Article V of the Constitution of
13 Pennsylvania, pertaining to the power of the Supreme Court to
14 make rules governing the practice of law.

15 (8) Section 13(b) of Article V of the Constitution of
16 Pennsylvania, limited to the filling of vacancies in the
17 office of judge of the court of common pleas and justices of
18 the peace.

19 (9) Section 15 of Article V of the Constitution of
20 Pennsylvania, pertaining to judicial compensation.

21 (10) Article V of the Constitution of Pennsylvania,
22 pertaining to the appointment and qualifications of judges of
23 courts of the Commonwealth and magisterial district justices
24 and terms of appellate judges.

25 (11) Section 12 of Article VIII of the Constitution of
26 Pennsylvania, allowing for statutory limitations on annual
27 increases in government spending.

28 (12) Article IX of the Constitution of Pennsylvania,
29 limited to provisions for consolidation of municipalities and
30 school districts by local referendum.

1 (13) Section 17 of Schedule No. 1 of the Constitution of
2 Pennsylvania, pertaining to judicial compensation.

3 (b) Limitations.--The convention shall not consider or
4 include in its recommendations any of the following:

5 (1) A proposal which clearly permits or prohibits the
6 imposition of a graduated income tax by the Commonwealth or
7 any of its political subdivisions. Section 1 of Article VIII
8 of the Constitution of Pennsylvania providing that: "All
9 taxes shall be uniform, upon the same class of subjects,
10 within the territorial limits of the authority levying the
11 tax, and shall be levied and collected under general laws."
12 shall not be modified, altered or changed in any respect
13 whatsoever.

14 (2) Section 11 of Article VIII of the Constitution of
15 Pennsylvania pertaining to the Motor License Fund.

16 (c) Reorganization.--In dealing with the subject matter
17 under subsection (a), the convention may recommend amendment,
18 deletion, transfer or continuation without change.

19 Section 11. Manner of submitting proposals to electorate.

20 (a) Convention.--

21 (1) The recommendations of the convention shall be
22 submitted to the electorate as determined by the convention.

23 (2) The convention shall frame the ballot questions.

24 (b) Certification.--The changes proposed and the ballot
25 questions shall be certified by the president and secretary of
26 the convention to the secretary by February 28, 2011.

27 Section 12. Submission to electorate.

28 (a) Secretary.--

29 (1) The secretary shall advertise the proposals of the
30 convention in at least two newspapers of general circulation

1 in every county once during the last week in March 2011.

2 (2) The secretary shall publish the Constitution of
3 Pennsylvania showing the changes proposed by the convention
4 in convenient form.

5 (3) The secretary shall send ten copies of the
6 publication under paragraph (2) to each county board.

7 (4) Upon request of an elector, the secretary shall send
8 a copy of the publication under paragraph (2).

9 (b) County boards.--A county board shall make the
10 publication under subsection (a)(4) available at each polling
11 place.

12 (c) Election.--

13 (1) The recommendations of the convention shall be
14 submitted to the electors for their approval or rejection at
15 the primary election of 2011.

16 (2) A majority vote of the electors voting in the
17 election is necessary for the adoption of the recommendations
18 of the convention.

19 (d) Certification.--The secretary shall certify the results
20 of the election.

21 Section 13. Lobbying.

22 The provisions of 65 Pa.C.S. Ch. 13A (relating to lobbying
23 disclosure) apply to the convention.

24 Section 14. Convention open to public.

25 Sessions of the convention as a whole shall be open to the
26 public.

27 Section 15. Appropriation.

28 The sum of \$1,000,000, or as much thereof as may be
29 necessary, is hereby appropriated to the Preparatory Committee
30 for the fiscal year July 1, 2009, to June 30, 2010, to carry out

1 the provisions of this act.

2 Section 16. Effective date.

3 This act shall take effect as follows:

4 (1) Section 15 shall take effect upon publication of the
5 notice under section 3(c).

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