

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 976 Session of 2023

INTRODUCED BY M. BROWN, FLICK, GUENST, HANBIDGE, N. NELSON, ROZZI, SAPPEY, SMITH, SOLOMON, GAYDOS, FRIEL AND BOROWSKI, APRIL 24, 2023

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 17, 2023

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," in preliminary provisions, further providing for
12 definitions; in qualifications of electors, further providing
13 for qualifications of electors at primaries; in party
14 organization, further providing for only enrolled electors to
15 vote at primaries or hold party offices; in nomination of
16 candidates, further providing for candidates to be nominated
17 and party officers to be elected at primaries and providing
18 for procedure for unenrolled electors to cast primary
19 ballots; and, in preparation for and conduct of primaries and <--
20 elections, further providing for manner of applying to vote,
21 persons entitled to vote, voter's certificates, entries to be
22 made in district register, numbered lists of voters and
23 challenges-; IN VOTING BY QUALIFIED ABSENTEE ELECTORS, <--
24 FURTHER PROVIDING FOR APPLICATIONS FOR OFFICIAL ABSENTEE
25 BALLOTS; IN VOTING BY QUALIFIED MAIL-IN ELECTORS, FURTHER
26 PROVIDING FOR APPLICATIONS FOR OFFICIAL MAIL-IN BALLOTS; IN
27 RETURNS OF PRIMARIES AND ELECTIONS, FURTHER PROVIDING FOR
28 COMPUTATION OF RETURNS BY COUNTY BOARD, CERTIFICATION AND
29 ISSUANCE OF CERTIFICATES OF ELECTION; AND, IN PENALTIES,
30 FURTHER PROVIDING FOR ELECTION OFFICERS REFUSING TO PERMIT
31 ELECTOR TO VOTE IN PROPER PARTY AT PRIMARIES AND REPEALING
32 PROVISIONS RELATING TO ELECTOR VOTING BALLOT OF WRONG PARTY

1 AT PRIMARY.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Section 102 of the act of June 3, 1937 (P.L.1333,
5 No.320), known as the Pennsylvania Election Code, is amended by
6 adding a definition to read:

7 Section 102. Definitions.--The following words, when used in
8 this act, shall have the following meanings, unless otherwise
9 clearly apparent from the context:

10 * * *

11 (z.7) The words "unenrolled elector" shall mean a person who
12 is registered to vote within an election district but not
13 enrolled as a member of a political party.

14 Section 2. Sections 702, 802 and 902 of the act are amended
15 to read:

16 Section 702. Qualifications of Electors at Primaries.--(a)
17 The qualifications of electors entitled to vote at primaries
18 shall be the same as the qualifications of electors entitled to
19 vote at elections within the election district where the primary
20 is held[, provided that no elector who is not registered and
21 enrolled as a member of a political party, in accordance with
22 the provisions of this act, shall be permitted to vote the
23 ballot of such party or any other party ballot at any primary].

24 (b) Unenrolled electors shall be permitted to vote in
25 primary elections FOR THE NOMINATIONS FOR CANDIDATES FOR PUBLIC <--
26 OFFICE in accordance with the procedures specified in section
27 902.1, 1231, 1302 AND 1302-D. <--

28 Section 802. Only Enrolled Electors to [Vote at Primaries
29 or] Hold Party Offices OR VOTE FOR PARTY OFFICE.--No person who <--
30 is not registered and enrolled as a member of a political party

1 shall be entitled to [vote at any primary of such party or to]
2 be elected or serve as OR VOTE FOR a party officer, or a member <--
3 or officer of any party committee, or delegate or alternate
4 delegate to any party convention.

5 Section 902. Candidates to Be Nominated and Party Officers
6 to Be Elected at Primaries.--All candidates of political
7 parties, as defined in section 801 of this act, for the offices
8 of United States Senator, Representative in Congress and for all
9 other elective public offices within this State, except that of
10 presidential electors, shall be nominated, and party delegates
11 and alternate delegates, committeemen and officers who, under
12 the provisions of Article VIII of this act or under the party
13 rules, are required to be elected by the party electors, shall
14 be elected at primaries held in accordance with the provisions
15 of this act, except as otherwise provided in this act. In the
16 years when candidates for the office of President of the United
17 States are to be nominated, every registered and enrolled member
18 of a political party and unenrolled elector under section 902.1
19 shall have the opportunity at the Spring primary in such years
20 to vote [his] a preference for one person to be the candidate of
21 [his] a political party for President.

22 Section 3. The act is amended by adding a section to read:

23 Section 902.1. Procedure for Unenrolled Electors to Cast
24 Primary Ballots.--Upon confirming an unenrolled elector's status
25 as a registered elector, the elections officer shall ask the
26 unenrolled elector in which political party's primary the
27 unenrolled elector desires to vote, and the elections officer
28 upon reply shall record the unenrolled elector's selection upon
29 the unenrolled elector's certificate and for the purpose of that
30 ballot only shall be deemed enrolled in that party. THE <--

1 UNENROLLED ELECTOR'S CERTIFICATE SHALL BE A FORM PRESCRIBED BY
2 THE SECRETARY OF THE COMMONWEALTH.

3 ~~Section 4. Section 1210(d) of the act is amended to read:~~ <--

4 SECTION 4. SECTIONS 1210(D), 1302(B) AND (B.1), 1302-D(B), <--

5 1404(B) AND 1824 OF THE ACT ARE AMENDED TO READ:

6 Section 1210. Manner of Applying to Vote; Persons Entitled
7 to Vote; Voter's Certificates; Entries to Be Made in District
8 Register; Numbered Lists of Voters; Challenges.--* * *

9 (d) No person, except a qualified elector who is in actual
10 military or naval service under a requisition of the President
11 of the United States or by the authority of this Commonwealth,
12 and who votes under the provisions of Article XIII of this act,
13 shall be entitled or permitted to vote at any primary or
14 election at any polling place outside the election district in
15 which [he] the qualified elector resides, nor shall [he] the
16 qualified elector be permitted to vote in the election district
17 in which [he] the qualified elector resides, unless [he] the
18 qualified elector has been personally registered as an elector
19 and [his] the qualified elector's registration card appears in
20 the district register of such election district, except by order
21 of the court of common pleas as provided in this act, and any
22 person, although personally registered as an elector, may be
23 challenged by any qualified elector, election officer, overseer,
24 or watcher at any primary or election as to [his] the qualified
25 elector's identity, as to [his] the qualified elector's
26 continued residence in the election district or as to any
27 alleged violation of the provisions of section 1210 of this act,
28 and if challenged as to identity or residence, [he] the
29 qualified elector shall produce at least one qualified elector
30 of the election district as a witness, who shall make affidavit

1 of [his] the qualified elector's identity or continued residence
2 in the election district: Provided, however, That no person
3 shall be entitled to vote as a member of a party at any primary,
4 unless [he] the person is:

5 (1) registered and enrolled as a member of such party upon
6 the district register, which enrollment shall be conclusive as
7 to [his] party membership and shall not be subject to challenge
8 on the day of the primary[.]; or

9 (2) an unenrolled elector, in which case the person may vote
10 for the candidates of the party of the unenrolled elector's
11 choice in accordance with the procedures specified in section
12 902.1. The unenrolled elector's choice of party at one primary
13 election shall not preclude the unenrolled elector from choosing
14 a different party in a subsequent primary election.

15 * * *

16 ~~Section 5. This act shall take effect immediately.~~ <--

17 SECTION 1302. APPLICATIONS FOR OFFICIAL ABSENTEE BALLOTS.--* <--

18 * * *

19 (B) AN APPLICATION FOR A QUALIFIED ELECTOR UNDER SUBSECTION
20 (A) SHALL CONTAIN THE FOLLOWING INFORMATION: HOME RESIDENCE AT
21 THE TIME OF ENTRANCE INTO ACTUAL MILITARY SERVICE OR FEDERAL
22 EMPLOYMENT, LENGTH OF TIME A CITIZEN, LENGTH OF RESIDENCE IN
23 PENNSYLVANIA, DATE OF BIRTH, LENGTH OF TIME A RESIDENT OF VOTING
24 DISTRICT, VOTING DISTRICT IF KNOWN, PARTY CHOICE IN CASE OF
25 PRIMARY, NAME AND, FOR A MILITARY ELECTOR, HIS STATESIDE
26 MILITARY ADDRESS, FPO OR APO NUMBER AND SERIAL NUMBER. ANY
27 ELECTOR OTHER THAN A MILITARY ELECTOR SHALL IN ADDITION SPECIFY
28 THE NATURE OF HIS EMPLOYMENT, THE ADDRESS TO WHICH BALLOT IS TO
29 BE SENT, RELATIONSHIP WHERE NECESSARY, AND SUCH OTHER
30 INFORMATION AS MAY BE DETERMINED AND PRESCRIBED BY THE SECRETARY

1 OF THE COMMONWEALTH. UNENROLLED ELECTORS WHO WISH TO VOTE IN A
2 PRIMARY SHALL SPECIFY WHICH POLITICAL PARTY'S BALLOT THEY ARE
3 SEEKING. UPON CONFIRMING AN UNENROLLED ELECTOR'S STATUS AS A
4 REGISTERED ELECTOR, THE COUNTY BOARD SHALL RECORD AND PROCESS
5 THE APPLICATION ACCORDINGLY. WHEN SUCH APPLICATION IS RECEIVED
6 BY THE SECRETARY OF THE COMMONWEALTH IT SHALL BE FORWARDED TO
7 THE PROPER COUNTY BOARD OF ELECTION.

8 (B.1) AN APPLICATION FOR A QUALIFIED ELECTOR OTHER THAN
9 UNDER SUBSECTION (A) SHALL CONTAIN THE FOLLOWING INFORMATION:
10 DATE OF BIRTH, LENGTH OF TIME A RESIDENT OF VOTING DISTRICT,
11 VOTING DISTRICT IF KNOWN, PARTY CHOICE IN CASE OF PRIMARY AND
12 NAME. THE ELECTOR SHALL IN ADDITION SPECIFY THE NATURE OF HIS OR
13 HER EMPLOYMENT, THE ADDRESS TO WHICH BALLOT IS TO BE SENT,
14 RELATIONSHIP WHERE NECESSARY, AND OTHER INFORMATION AS MAY BE
15 DETERMINED AND PRESCRIBED BY THE SECRETARY OF THE COMMONWEALTH.
16 UNENROLLED ELECTORS WHO WISH TO VOTE IN A PRIMARY SHALL SPECIFY
17 WHICH POLITICAL PARTY'S BALLOT THEY ARE SEEKING. UPON CONFIRMING
18 AN UNENROLLED ELECTOR'S STATUS AS A REGISTERED ELECTOR, THE
19 COUNTY BOARD SHALL RECORD AND PROCESS THE APPLICATION
20 ACCORDINGLY. WHEN THE APPLICATION IS RECEIVED BY THE SECRETARY
21 OF THE COMMONWEALTH IT SHALL BE FORWARDED TO THE PROPER COUNTY
22 BOARD OF ELECTION.

23 * * *

24 SECTION 1302-D. APPLICATIONS FOR OFFICIAL MAIL-IN BALLOTS.

25 * * *

26 (B) CONTENT.--THE FOLLOWING SHALL APPLY:

27 (1) THE QUALIFIED ELECTOR'S APPLICATION SHALL CONTAIN
28 THE FOLLOWING INFORMATION:

29 (I) DATE OF BIRTH.

30 (II) LENGTH OF TIME A RESIDENT OF VOTING DISTRICT.

1 (III) VOTING DISTRICT, IF KNOWN.

2 (IV) PARTY CHOICE IN CASE OF PRIMARY.

3 (V) NAME.

4 (2) A QUALIFIED ELECTOR SHALL, IN ADDITION, SPECIFY THE
5 ADDRESS TO WHICH THE BALLOT IS TO BE SENT, THE RELATIONSHIP
6 WHERE NECESSARY AND OTHER INFORMATION AS MAY BE DETERMINED BY
7 THE SECRETARY OF THE COMMONWEALTH.

8 (3) WHEN AN APPLICATION IS RECEIVED BY THE SECRETARY OF
9 THE COMMONWEALTH IT SHALL BE FORWARDED TO THE PROPER COUNTY
10 BOARD OF ELECTION.

11 (4) UNENROLLED ELECTORS WHO WISH TO VOTE IN A PRIMARY
12 SHALL SPECIFY WHICH POLITICAL PARTY'S BALLOT THEY ARE
13 SEEKING. UPON CONFIRMING AN UNENROLLED ELECTOR'S STATUS AS A
14 REGISTERED ELECTOR, THE COUNTY BOARD SHALL RECORD AND PROCESS
15 THE APPLICATION ACCORDINGLY.

16 * * *

17 SECTION 1404. COMPUTATION OF RETURNS BY COUNTY BOARD;
18 CERTIFICATION; ISSUANCE OF CERTIFICATES OF ELECTION.--

19 * * *

20 (B) IT SHALL BE THE DUTY OF EACH BOARD OF REGISTRATION
21 COMMISSIONERS IN EACH COUNTY, BEFORE THE TIME FIXED FOR THE
22 COUNTY BOARD TO CONVENE FOR PURPOSE OF COMPUTING AND CANVASSING
23 RETURNS OF ANY PRIMARY OR ELECTION, TO CERTIFY TO SAID COUNTY
24 BOARD THE TOTAL REGISTRATION OF EACH ELECTION DISTRICT WITHIN
25 ITS JURISDICTION, AND THE ENROLLMENT OF EACH DISTRICT BY
26 POLITICAL PARTIES AT PRIMARIES. THE COUNTY BOARD, BEFORE
27 COMPUTING THE VOTES CAST IN ANY ELECTION DISTRICT, SHALL COMPARE
28 SAID REGISTRATION AND ENROLLMENT FIGURES WITH THE CERTIFICATES
29 RETURNED BY THE ELECTION OFFICERS SHOWING THE NUMBER OF PERSONS
30 WHO VOTED IN EACH DISTRICT OR THE NUMBER OF BALLOTS CAST. IF,

1 UPON CONSIDERATION BY SAID RETURN BOARD OF THE RETURNS BEFORE IT
2 FROM ANY ELECTION DISTRICT AND THE CERTIFICATES AFORESAID, IT
3 SHALL APPEAR THAT THE TOTAL VOTE RETURNED FOR ANY CANDIDATE OR
4 CANDIDATES FOR THE SAME OFFICE OR NOMINATION OR ON ANY QUESTION
5 EXCEEDS THE NUMBER OF REGISTERED OR ENROLLED ELECTORS IN SAID
6 ELECTION DISTRICT OR EXCEEDS THE TOTAL NUMBER OF PERSONS WHO
7 VOTED IN SAID ELECTION DISTRICT OR THE TOTAL NUMBER OF BALLOTS
8 CAST THEREIN, [OR, IF IT SHALL APPEAR THAT THE TOTAL NUMBER OF
9 PARTISAN VOTES RETURNED FOR ANY CANDIDATE OR CANDIDATES FOR THE
10 SAME OFFICE OR NOMINATION AT ANY PRIMARY EXCEEDS THE NUMBER OF
11 ELECTORS REGISTERED OR ENROLLED IN SAID DISTRICT AS MEMBERS OF
12 THAT POLITICAL PARTY, OR EXCEEDS THE TOTAL NUMBER OF PERSONS
13 BELONGING TO THAT PARTY WHO VOTED IN SAID DISTRICT OR THE TOTAL
14 NUMBER OF BALLOTS OF THAT PARTY CAST THEREIN, IN ANY SUCH CASE,]
15 SUCH EXCESS SHALL BE DEEMED A DISCREPANCY AND PALPABLE ERROR,
16 AND SHALL BE INVESTIGATED BY THE RETURN BOARD, AND NO VOTES
17 SHALL BE RECORDED FROM SUCH DISTRICT UNTIL SUCH INVESTIGATION
18 SHALL BE HAD, AND SUCH EXCESS SHALL AUTHORIZE-- (A) THE SUMMONING
19 OF THE ELECTION OFFICERS, OVERSEERS, MACHINE INSPECTORS, AND
20 CLERKS TO APPEAR FORTHWITH WITH ANY ELECTION PAPERS IN THEIR
21 POSSESSION; (B) THE PRODUCTION OF THE BALLOT BOX BEFORE THE
22 RETURN BOARD, AND THE EXAMINATION AND SCRUTINY OF ALL OF ITS
23 CONTENTS, AND ALL OF THE REGISTRATION AND ELECTION DOCUMENTS
24 WHATEVER, RELATING TO SAID DISTRICT, IN THE PRESENCE OF
25 REPRESENTATIVES OF EACH PARTY AND CANDIDATE INTERESTED WHO ARE
26 ATTENDING THE CANVASS OF SUCH VOTES; AND THE RECOUNT OF THE
27 BALLOTS CONTAINED IN SAID BALLOT BOX, EITHER GENERALLY OR
28 RESPECTING THE PARTICULAR OFFICE, NOMINATION, OR QUESTION AS TO
29 WHICH THE EXCESS EXISTS, IN THE DISCRETION OF THE RETURN BOARD;
30 (C) THE CORRECTION OF THE RETURNS IN ACCORDANCE WITH THE RESULT

1 OF SAID RECOUNT; (D) IN THE DISCRETION OF THE RETURN BOARD, THE
2 EXCLUSION OF THE POLL OF THAT DISTRICT, EITHER AS TO ALL
3 OFFICES, CANDIDATES, QUESTIONS, AND PARTIES, OR AS TO ANY
4 PARTICULAR OFFICES, CANDIDATES, QUESTIONS, OR PARTIES AS TO
5 WHICH SAID EXCESS EXISTS, IF THE BALLOT BOX BE FOUND TO CONTAIN
6 MORE BALLOTS THAN THERE ARE ELECTORS REGISTERED OR ENROLLED IN
7 SAID ELECTION DISTRICT, OR MORE BALLOTS OF ONE PARTY THAN THERE
8 ARE ELECTORS REGISTERED OR ENROLLED IN SAID DISTRICT AS MEMBERS
9 OF THAT PARTY, OR MORE BALLOTS THAN THE NUMBER OF VOTERS WHO
10 VOTED AT SAID ELECTION, OR MORE BALLOTS OF ONE PARTY THAN THE
11 NUMBER OF VOTERS OF THAT PARTY WHO VOTED AT SAID ELECTION; (E) A
12 REPORT OF THE FACTS OF THE CASE TO THE DISTRICT ATTORNEY WHERE
13 SUCH ACTION APPEARS TO BE WARRANTED.

14 * * *

15 SECTION 1824. ELECTION OFFICERS REFUSING TO PERMIT ELECTOR
16 TO VOTE IN PROPER PARTY AT PRIMARIES.--ANY JUDGE, INSPECTOR OR
17 CLERK OF ELECTION WHO REFUSES TO PERMIT AN ELECTOR AT ANY
18 PRIMARY AT WHICH BALLOTS ARE USED TO RECEIVE THE BALLOT OF THE
19 PARTY WITH WHICH HE IS [ENROLLED] ENTITLED TO VOTE, OR WHO GIVES
20 TO ANY SUCH ELECTOR THE BALLOT OF ANY PARTY IN WHICH HE IS NOT
21 [ENROLLED] ENTITLED TO VOTE, OR ANY JUDGE, OR INSPECTOR OF
22 ELECTION, OR MACHINE INSPECTOR WHO, AT ANY PRIMARY AT WHICH
23 VOTING MACHINES ARE USED, ADJUSTS ANY VOTING MACHINE ABOUT TO BE
24 USED BY AN ELECTOR SO AS NOT TO PERMIT HIM TO VOTE FOR THE
25 CANDIDATES OF THE PARTY IN WHICH HE IS [ENROLLED] ENTITLED TO
26 VOTE, OR SO AS TO PERMIT HIM TO VOTE FOR THE CANDIDATES OF ANY
27 PARTY IN WHICH HE IS NOT [ENROLLED] ENTITLED TO VOTE, SHALL BE
28 GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE, AND, UPON
29 CONVICTION THEREOF, SHALL BE SENTENCED TO PAY A FINE NOT
30 EXCEEDING TEN THOUSAND (\$10,000) DOLLARS, OR TO UNDERGO AN

1 IMPRISONMENT OF NOT MORE THAN FIVE (5) YEARS, OR BOTH, IN THE
2 DISCRETION OF THE COURT.

3 SECTION 5. SECTION 1834 OF THE ACT IS REPEALED:

4 [SECTION 1834. ELECTOR VOTING BALLOT OF WRONG PARTY AT
5 PRIMARY.--ANY ELECTOR WHO SHALL WILFULLY VOTE AT ANY PRIMARY THE
6 BALLOT OF A PARTY IN WHICH HE IS NOT ENROLLED, IN VIOLATION OF
7 THE PROVISIONS OF THIS ACT, SHALL BE GUILTY OF A MISDEMEANOR OF
8 THE SECOND DEGREE, AND, UPON CONVICTION THEREOF, SHALL BE
9 SENTENCED TO PAY A FINE NOT EXCEEDING FIVE THOUSAND (\$5,000)
10 DOLLARS, OR TO UNDERGO AN IMPRISONMENT OF NOT MORE THAN TWO (2)
11 YEARS, OR BOTH, IN THE DISCRETION OF THE COURT.]

12 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.