

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1379 Session of 1985

INTRODUCED BY KUKOVICH, PICCOLA, ITKIN, SWEET, BELFANTI, DeWEESE, FREEMAN, AFFLERBACH, DAWIDA, PISTELLA, DALEY, J. L. WRIGHT, MANMILLER, LEVDANSKY, LASHINGER, GREENWOOD, STABACK, MICHLOVIC, MURPHY AND VAN HORNE, JUNE 5, 1985

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 13, 1985

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," providing limited Pennsylvania Clean FAIR ←
12 Campaign funding of certain Statewide judicial elections;
13 limiting certain contributions; imposing powers and duties on
14 the Department of State; and providing penalties.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known
18 as the Pennsylvania Election Code, is amended by adding an
19 article to read:

ARTICLE XVI-A

Pennsylvania Clean FAIR Campaign Funding ←

22 Section 1601-A. Application of Article.--The provisions of

1 this article shall be applicable to candidates for the following
2 State-wide offices who elect to apply for Pennsylvania Clean <—
3 FAIR Campaign funding hereunder: <—

- 4 (1) Supreme Court Justice.
- 5 (2) Superior Court Judge.
- 6 (3) Commonwealth Court Judge.

7 Section 1602-A. Administration.--The provisions of this
8 article shall be administered by the Secretary of the
9 Commonwealth hereinafter referred to as the secretary. The
10 secretary may adopt such rules and regulations as may be
11 necessary for the implementation of this article.

12 Section 1603-A. Pennsylvania Clean FAIR Campaign Fund <—
13 Created.--There is hereby created a special restricted receipts
14 fund in the State Treasury to be known as the "Pennsylvania
15 Clean FAIR Campaign Fund." Payments shall be made into said fund <—
16 pursuant to section 1604-A and disbursements shall be made from
17 said fund only upon the warrant of the Secretary of the
18 Commonwealth and a warrant of the State Treasurer. As much of
19 the moneys in the Pennsylvania Clean FAIR Campaign Fund as are <—
20 necessary to make payments to candidates as provided in this
21 article are appropriated from said fund to the Department of
22 State for the purpose of such payments.

23 Section 1604-A. Allocation of Certain Tax Proceeds to
24 Pennsylvania Clean FAIR Campaign Fund.--Beginning with tax years <—
25 commencing January 1, 1985, and thereafter, each individual
26 subject to the tax imposed by Article III of the act of March 4,
27 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"
28 whose tax liability for any such year is one dollar and fifty
29 cents (\$1.50) or more may designate one dollar and fifty cents
30 (\$1.50) of his or her personal income taxes to be paid into the

1 Pennsylvania Clean FAIR Campaign Fund. In the case of married <—
2 taxpayers filing a joint return, each spouse may designate one
3 dollar and fifty cents (\$1.50) to be paid into said fund if
4 their tax liability is three dollars (\$3.00) or more. All such
5 designated tax revenues shall be paid into the Pennsylvania
6 Clean FAIR Campaign Fund. The check-off and instructions shall <—
7 be prominently displayed on the first page of the return form.
8 The instructions shall readily indicate that any such
9 designations neither increase or decrease an individual's tax
10 liability.

11 Section 1605-A. Certification of Moneys in Pennsylvania
12 Clean FAIR Campaign Fund.--By June 30 of each year, the State <—
13 Treasurer shall certify to the secretary the current balance
14 available in the Pennsylvania Clean FAIR Campaign Fund. <—

15 Section 1606-A. Qualification for Pennsylvania Clean FAIR <—
16 Campaign Funding.--(a) Any candidate for State-wide judicial
17 office as described in section 1601-A may apply for Pennsylvania
18 Clean FAIR Campaign funding under this article if such candidate <—
19 meets the contributory thresholds established in subsection (b)
20 and otherwise conforms to the requirements of this article. No
21 candidate shall be obligated to apply for funding hereunder and
22 if any candidate elects not to apply, the provisions of this
23 article shall be inapplicable to such person and their
24 candidacy. Any candidate electing to receive Pennsylvania Clean <—
25 FAIR Campaign funding must declare his intention to do so and <—
26 specify the State office for which he is a candidate. Any and
27 all committees authorized to receive contributions or make
28 expenditures for the candidate who has so declared must abide by
29 the provisions of section 1612-A. Any candidate who for any
30 reason has his name withdrawn from the ballot for a State-wide

1 judicial election, after receipt of Pennsylvania Clean FAIR <—
2 Campaign funds, shall return all moneys received to the fund as
3 well as offering back qualifying contributions for that State-
4 wide judicial office.

5 (b) (1) In order to qualify for Pennsylvania Clean FAIR <—
6 Campaign funding in the general election, a candidate must
7 receive subsequent to the date of the primary election but prior
8 to the date of the general election qualifying contributions of
9 the following amounts:

<u>Office</u>	<u>Qualifying Contributions Required</u>
11 <u>(i) Supreme Court Justices</u>	<u>\$25,000</u>
12 <u>(ii) Superior Court Judges</u>	<u>25,000</u>
13 <u>(iii) Commonwealth Court Judges</u>	<u>25,000</u>

14 (2) In order to qualify for Pennsylvania Clean FAIR Campaign <—
15 funding in the primary election, a candidate must receive prior
16 to the date of the primary election, but subsequent to the
17 immediately preceding general election, one-half of the amount
18 specified in clause (1) for the appropriate office.

19 (3) (i) The term "qualifying contribution" shall include
20 any contribution, as defined in section 1621(b), which has all
21 of the following characteristics:

22 (A) Made by an individual resident of Pennsylvania.

23 (B) Made by a written instrument which indicates the
24 contributor's full name and mailing residence and is not
25 intended to be returned to the contributor or transferred to
26 another political committee or candidate.

27 (ii) If a contributor receives goods or services of value in
28 return for his contribution, the qualifying contribution shall
29 be calculated as the original contribution, minus the fair
30 market value of the goods or services received.

1 (iii) Any contribution by an individual which exceeds one
2 hundred dollars (\$100.00) in the aggregate shall be deemed only
3 a one hundred dollar (\$100.00) qualifying contribution for the
4 purposes of this section and for the matching payment provisions
5 of section 1607-A.

6 (c) The secretary shall select an auditor pursuant to the
7 provisions of section 1635(a). Each candidate who elects to
8 apply for Pennsylvania Clean FAIR Campaign funding shall provide ←
9 evidence that such candidate has raised the qualifying
10 contributions required by this section which evidence shall be
11 verified and certified as correct to the secretary by the
12 auditor selected hereunder.

13 Section 1607-A. Pennsylvania Clean FAIR Campaign Funding ←
14 Formula.--(a) Every candidate who qualifies for Pennsylvania
15 Clean FAIR Campaign funding for either the primary or the ←
16 general election pursuant to section 1606-A shall receive
17 matching payments from said fund in the amount of two dollars
18 and fifty cents (\$2.50) for each dollar of qualifying
19 contribution as defined in section 1606-A(b)(3).

20 (b) The two dollars and fifty cents (\$2.50) for each dollar
21 of qualifying contributions provided by this section shall be
22 provided only for qualifying contributions raised which exceed
23 the threshold amounts specified in section 1606-A(b) and not to
24 those qualifying contributions which are attributable to meeting
25 such threshold amounts necessary to qualify for Pennsylvania
26 Clean FAIR Campaign funding. ←

27 (c) (1) Only those qualifying contributions made during the
28 period between a declaration of candidacy and the primary
29 election shall be eligible for matching payments from said fund
30 for the primary election.

1 (2) Only those qualifying contributions made during the
2 period between the primary election and the general election
3 shall be eligible for matching payments from said fund for the
4 general election.

5 Section 1608-A. Limitations on Pennsylvania Clean FAIR <—
6 Campaign Funding.--(a) Every candidate who qualifies for and
7 receives Pennsylvania Clean FAIR Campaign funding pursuant to <—
8 the formula established in section 1607-A shall be entitled to
9 receive no more than the maximum amount specified in subsection
10 (b) for the office such candidate is seeking.

11 (b) (1) The maximum amount of Pennsylvania Clean FAIR <—
12 Campaign funding available for the general election for each
13 candidate under this article shall be as follows:

14 <u>Office</u>	<u>Maximum Pennsylvania Clean</u>	<—
	<u>FAIR Campaign Funding</u>	<—
16 <u>(i) Supreme Court Justices</u>	<u>\$100,000</u>	
17 <u>(ii) Superior Court Judges</u>	<u>100,000</u>	
18 <u>(iii) Commonwealth Court Judges</u>	<u>100,000</u>	

19 (2) The maximum amount of Pennsylvania Clean FAIR Campaign <—
20 funding available for the primary election for each candidate
21 under this article shall be one-half the appropriate figure in
22 clause (1).

23 (c) Notwithstanding any other provisions of this article no
24 Pennsylvania Clean FAIR Campaign funding shall be provided to <—
25 the following:

26 (1) Candidates in the general election who have been
27 nominated by both major political parties.

28 ~~(2) Candidates who are running in a judicial retention~~ <—
29 ~~election.~~

30 ~~(3) (2) Candidates in the primary election who are unopposed~~ <—

1 for the nomination WITH THE EXCEPTION OF THOSE CANDIDATES WHO <—
2 ARE RUNNING IN A JUDICIAL RETENTION ELECTION.

3 (d) As used in this article, "major political party" shall
4 mean a political party whose candidate for Governor received
5 either the highest or second highest number of votes in the
6 preceding gubernatorial election.

7 Section 1609-A. Time of Payments.--(a) Beginning ninety
8 (90) days prior to the relevant primary or general election, the
9 secretary shall make payments authorized by this article at
10 least every two (2) weeks. However, except for the final
11 payment, no payment shall be due or paid if the payment does not
12 equal at least five thousand dollars (\$5,000) in amount.

13 (b) If in the secretary's opinion insufficient funds exist
14 in the Pennsylvania Clean FAIR Campaign Fund to provide the <—
15 anticipated full funding to eligible candidates in a given
16 primary or general election, the secretary shall distribute the
17 available funds to qualified candidates on a pro-rata basis. In
18 determining whether sufficient funds are available, the
19 secretary shall not take into consideration the needs of any
20 subsequent primary or general elections but shall base the
21 decision solely on the immediate primary or election at hand.

22 Section 1610-A. Use of Pennsylvania Clean FAIR Campaign <—
23 Funds by Candidates.--(a) Pennsylvania Clean FAIR Campaign <—
24 funds distributed to candidates pursuant to this article may be
25 used only for the election for which they are distributed and
26 only for the following purposes: <—

- 27 (1) Radio and television time.
28 (2) Billboard rental.
29 (3) Newspaper advertising.
30 (4) Production costs of advertising.

1 ~~(5) Printing and mailing of campaign literature.~~

2 ~~(6) Legal and accounting.~~

3 ~~(7) Telephone expenses.~~

4 ~~(8) Campaign office rental.~~

5 ~~(9) Travel expenses.~~

6 PURPOSES SET FORTH IN SECTION 1634.1 EXCEPT THAT NO FUND MONEYS <—
7 MAY BE USED:

8 (1) TO TRANSFER OTHER CANDIDATES OR TO COMMITTEES OF OTHER
9 CANDIDATES, BUT THIS PROHIBITION SHALL NOT APPLY TO FUNDS
10 TRANSFERRED TO COMMITTEES OF MAJOR POLITICAL PARTIES.

11 (2) TO PAY FOR EXPENDITURES INCURRED AFTER THE DATE OF THE
12 GENERAL ELECTION.

13 (b) Pennsylvania Clean FAIR Campaign funds distributed to a <—
14 candidate pursuant to this article shall be placed in a single
15 bank account. Expenditures from this account shall be made only
16 for campaign expenses listed in subsection (a).

17 Section 1611-A. Expenditures.--(a) Expenditures made by a
18 candidate and his authorized committees, for all purposes and
19 from all sources, including, but not limited to, amounts of
20 Pennsylvania Clean FAIR Campaign funds distributed under this <—
21 article, proceeds of loans, gifts, contributions from any source
22 or personal funds, subsequent to the date of the primary
23 election, but prior to the date of the general election, may not
24 exceed three hundred thousand dollars (\$300,000).

25 (b) Expenditures made by a candidate and his authorized
26 committees, subsequent to January 1 but prior to the date of the
27 primary election, may not exceed one-half of the amount
28 specified in subsection (a).

29 (c) Notwithstanding any other provision of this article, a
30 candidate who accepts public funding pursuant to the formula

1 established in section 1607-A, but whose major political party
2 opponent elects not to apply for such public funding, shall not
3 be bound by the expenditure limits specified in this section.

4 Section 1612-A. Limitations on Certain Contributions.--(a)
5 Any candidate for a State-wide judicial office shall not accept
6 contributions for each primary, general or special election
7 exceeds those specified limits as follows:

8	<u>Contributor</u>	<u>Limit</u>	
9	<u>(1) Individual</u>	<u>\$1,000 \$500</u>	<—
10	<u>(2) Candidate and spouse</u>	<u>25,000</u>	
11	<u>(3) Political action committee</u>		
12	<u>as defined in section 1621(1)</u>	<u>1,000 500</u>	<—
13	<u>(4) Partnerships</u>	<u>1,000 500</u>	<—

14 (b) Aggregate contributions during the year of the election
15 by a political party committee or candidate's political
16 committee to candidates receiving Pennsylvania Clean FAIR <—
17 Campaign funds shall not exceed the sum of contributions from
18 individuals to the committee, provided that whenever
19 contributions in the aggregate during the year of the election
20 from an individual exceed one thousand dollars (\$1,000), only
21 one thousand dollars (\$1,000) shall be included in that sum.

22 Section 1613-A. Inflation Indexing of Certain Limitations.--
23 The dollar figures contained in sections 1606-A, 1608-A and
24 1611-A shall be adjusted annually during March at a rate equal
25 to the average percentage change in the All-Urban Consumer Price
26 Index for the Pittsburgh, Philadelphia and Scranton standard
27 metropolitan statistical areas as published by the Bureau of
28 Labor Statistics of the United States Department of Labor, or
29 any successor agency, occurring in the prior calendar year. The
30 base year shall be 1984. The average shall be calculated and

1 certified by the secretary annually by adding the percentage
2 increase in each of the three areas and dividing by three. The
3 calculation and resulting new figures shall be published in the
4 Pennsylvania Bulletin during March.

5 Section 1614-A. Annual Report.--The secretary shall report
6 annually to the General Assembly and the Governor on the
7 operations of Pennsylvania Clean FAIR Campaign funds as provided <—
8 by this article. Such report shall include, but not be limited
9 to, the revenues and expenditures in the fund, the amounts
10 distributed to candidates, the results of any audits performed
11 on candidates in compliance with the provisions of this article
12 and any prosecutions brought for violations of this article.

13 Section 1615-A. Return of Excess Funds.--All unexpended
14 campaign funds in a candidate's and his authorized committees'
15 possession sixty (60) days after the election shall be returned
16 to the secretary for deposit in the Pennsylvania Clean FAIR <—
17 Campaign Fund, up to the amount of the funds which were
18 distributed to the candidate under this article.

19 Section 1616-A. Penalties.--(a) A person who violates the
20 provisions of this act and who, as a result, obtains
21 Pennsylvania Clean FAIR Campaign funds to which he is not <—
22 entitled shall be guilty of a misdemeanor of the first degree
23 and upon conviction shall be subject to a fine not to exceed the
24 greater of ten thousand dollars (\$10,000) or three times the
25 amount of funds wrongfully obtained, or imprisonment for up to
26 five years or both such fine and imprisonment.

27 (b) A person who violates section 1610-A or 1611-A of this
28 act shall be guilty of a misdemeanor of the first degree and
29 upon conviction shall be subject to a fine not to exceed the
30 greater of ten thousand (\$10,000) or three times the amount of

1 funds that were wrongfully used or expended or to imprisonment
2 for up to five years, or to both such fine and imprisonment.

3 (c) Except as provided in subsections (a) and (b) of this
4 section, a person who violates any provision of this act shall
5 be guilty of a misdemeanor of the third degree and upon
6 conviction shall be subject to a fine of not more than one
7 thousand dollars (\$1,000) or imprisonment for up to one year or
8 both.

9 Section 2. This act shall be applicable to returns of
10 taxpayers of calendar years commencing January 1, 1985, and
11 thereafter. Pennsylvania ~~Clean~~ FAIR Campaign funding shall be ←
12 first provided for candidates for Statewide judicial office in
13 the primary election in April of 1986 and in each primary,
14 municipal and general election thereafter.

15 Section 3. This act shall take effect immediately.