

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,
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STABACK, MICHLOVIC, MURPHY AND VAN HORNE, JUNE 5, 1985

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 5, 1986

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 Fair Campaign
12 funding of certain Statewide judicial elections; limiting
13 certain contributions; imposing powers and duties on the
14 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:

20 ARTICLE XVI-A

21 Pennsylvania Fair Campaign Funding

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

this article shall be applicable to candidates for the following
State-wide offices who elect to apply for Pennsylvania Fair
Campaign funding hereunder:

(1) Supreme Court Justice.

(2) Superior Court Judge.

(3) Commonwealth Court Judge.

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

Section 1603-A. Pennsylvania Fair Campaign Fund Created.--
There is hereby created a special restricted receipts fund in
the State Treasury to be known as the "Pennsylvania Fair
Campaign Fund." Payments shall be made into said fund pursuant
to section 1604-A and disbursements shall be made from said fund
only upon the warrant of the Secretary of the Commonwealth and a
warrant of the State Treasurer. As much of the moneys in the
Pennsylvania Fair Campaign Fund as are necessary to make
payments to candidates as provided in this article are
appropriated from said fund to the Department of State for the
purpose of such payments.

Section 1604-A. Allocation of Certain Tax Proceeds to
Pennsylvania Fair Campaign Fund.--Beginning with tax years
commencing January 1, ~~1985~~ 1986, and thereafter, each individual <—
subject to the tax imposed by Article III of the act of March 4,
1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"
whose tax liability for any such year is one dollar and fifty
cents (\$1.50) or more may designate one dollar and fifty cents
(\$1.50) of his or her personal income taxes to be paid into the

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

Section 1605-A. Certification of Moneys in Pennsylvania Fair Campaign Fund.--By June 30 of each year, the State Treasurer shall certify to the secretary the current balance available in the Pennsylvania Fair Campaign Fund.

Section 1606-A. Qualification for Pennsylvania Fair Campaign Funding.--(a) Any candidate for State-wide judicial office as described in section 1601-A may apply for Pennsylvania Fair Campaign funding under this article if such candidate meets the contributory thresholds established in subsection (b) and otherwise conforms to the requirements of this article. No candidate shall be obligated to apply for funding hereunder and if any candidate elects not to apply, the provisions of this article shall be inapplicable to such person and their candidacy. Any candidate electing to receive Pennsylvania Fair Campaign funding must declare his intention to do so and specify the State office for which he is a candidate. Any and all committees authorized to receive contributions or make expenditures for the candidate who has so declared must abide by the provisions of section 1612-A. Any candidate who for any reason has his name withdrawn from the ballot for a State-wide judicial election, after receipt of Pennsylvania Fair Campaign

1 funds, shall return all moneys received to the fund as well as
2 offering back qualifying contributions for that State-wide
3 judicial office.

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

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

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

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

21 (A) Made by an individual resident of Pennsylvania OR BY A <—
22 POLITICAL ACTION COMMITTEE, AS DEFINED IN SECTION 1621(L), WHOSE
23 ADDRESS IS IN PENNSYLVANIA.

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

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

1 market value of the goods or services received.

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

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

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

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

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

1 for the primary election.

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

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

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

<u>Office</u>	<u>Maximum Pennsylvania</u> <u>Fair Campaign Funding</u>
17 <u>(i) Supreme Court Justices</u>	<u>\$100,000</u>
18 <u>(ii) Superior Court Judges</u>	<u>100,000</u>
19 <u>(iii) Commonwealth Court Judges</u>	<u>100,000</u>

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

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

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

28 (2) Candidates in the primary election who are unopposed for
29 the nomination with the exception of those candidates who are
30 running in a judicial retention election.

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

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

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

20 Section 1610-A. Use of Pennsylvania Fair Campaign Funds by
21 Candidates.--(a) Pennsylvania Fair Campaign funds distributed
22 to candidates pursuant to this article may be used only for the
23 election for which they are distributed and only for the
24 purposes set forth in section 1634.1, except that no fund moneys
25 may be used:

26 (1) To transfer to other candidates or to committees of
27 other candidates, but this prohibition shall not apply to funds
28 transferred to committees of major political parties.

29 (2) To pay for expenditures incurred after the date of the
30 general election.

(b) Pennsylvania Fair Campaign funds distributed to a candidate pursuant to this article shall be placed in a single bank account. Expenditures from this account shall be made only for campaign expenses listed in subsection (a).

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

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

(c) Notwithstanding any other provision of this article, a candidate who accepts public funding pursuant to the formula established in section 1607-A, but whose major political party opponent elects not to apply for such public funding, shall not be bound by the expenditure limits specified in this section.

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

<u>Contributor</u>	<u>Limit</u>
(1) Individual	\$500
(2) Candidate and spouse	25,000
(3) Political action committee	
as defined in section 1621(1)	500

~~(4) Partnerships~~

~~—500~~

(1) CANDIDATE AND SPOUSE, UP TO TWENTY-FIVE THOUSAND DOLLARS
(\$25,000).

(2) INDIVIDUAL, UP TO TWO HUNDRED FIFTY DOLLARS (\$250).

(3) PARTNERSHIPS, UP TO TWO HUNDRED FIFTY DOLLARS (\$250).

(4) POLITICAL ACTION COMMITTEES AS DEFINED IN SECTION
1621(L), NO MORE THAN TWO HUNDRED FIFTY DOLLARS (\$250) PER
POLITICAL ACTION COMMITTEE OR NO MORE THAN A TOTAL AMOUNT BASED
UPON FIFTY CENTS (50¢) PER CONTRIBUTING MEMBER OF THE POLITICAL
ACTION COMMITTEE, WHICHEVER AMOUNT IS HIGHER; THE MEMBERSHIP OF
THE POLITICAL ACTION COMMITTEE TO BE BASED UPON THE NUMBER OF
CONTRIBUTING MEMBERS IN THE IMMEDIATELY PRECEDING CALENDAR YEAR:
PROVIDED, HOWEVER, THAT A CONTRIBUTION BASED UPON A TOTAL AMOUNT
OF FIFTY CENTS (50¢) PER CONTRIBUTING MEMBER OF THE POLITICAL
ACTION COMMITTEE CANNOT EXCEED FIVE THOUSAND DOLLARS (\$5,000).

(b) Aggregate contributions during the year of the election
by a political party committee or candidate's political
committee to candidates receiving Pennsylvania Fair Campaign
funds shall not exceed the sum of contributions from individuals
to the committee, provided that whenever contributions in the
aggregate during the year of the election from an individual
exceed one thousand dollars (\$1,000), only one thousand dollars
(\$1,000) shall be included in that sum.

Section 1613-A. Inflation Indexing of Certain Limitations.--
The dollar figures contained in sections 1606-A, 1608-A and
1611-A shall be adjusted annually during March at a rate equal
to the average percentage change in the All-Urban Consumer Price
Index for the Pittsburgh, Philadelphia and Scranton standard
metropolitan statistical areas as published by the Bureau of
Labor Statistics of the United States Department of Labor, or

1 any successor agency, occurring in the prior calendar year. The
2 base year shall be 1984. The average shall be calculated and
3 certified by the secretary annually by adding the percentage
4 increase in each of the three areas and dividing by three. The
5 calculation and resulting new figures shall be published in the
6 Pennsylvania Bulletin during March.

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

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

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

29 (b) A person who violates section 1610-A or 1611-A of this
30 act shall be guilty of a misdemeanor of the first degree and

1 upon conviction shall be subject to a fine not to exceed the
2 greater of ten thousand (\$10,000) or three times the amount of
3 funds that were wrongfully used or expended or to imprisonment
4 for up to five years, or to both such fine and imprisonment.

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

11 Section 2. This act shall be applicable to returns of
12 taxpayers of calendar years commencing January 1, ~~1985~~ 1986, and <—
13 thereafter. Pennsylvania Fair Campaign funding shall be first
14 provided for candidates for Statewide judicial office in the
15 ~~primary election in April of 1986~~ GENERAL ELECTION OF NOVEMBER <—
16 1987 and in each primary, municipal and general election
17 thereafter.

18 Section 3. This act shall take effect immediately.