

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 846

Session of  
1981

INTRODUCED BY JUBELIRER, TILGHMAN AND O'CONNELL, JUNE 2, 1981

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 20, 1982

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," FURTHER PROVIDING FOR THE QUALIFICATIONS OF <—  
12 ELECTION OFFICERS, PROVIDING FOR THE COMPENSATION OF ELECTION  
13 OFFICERS, providing for the appropriation of funds to meet  
14 the EXPENSES OF SPECIAL ELECTIONS AND THE expense of <—  
15 publishing constitutional amendments in accordance with  
16 Article XI of the Constitution of Pennsylvania, EXTENDING THE <—  
17 TIME FOR PETITIONS TO OPEN BALLOT BOXES OR VOTING MACHINES IN  
18 CASES OF ERROR OR FRAUD AND MAKING A REPEAL.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 ~~Section 1. The act of June 3, 1937 (P.L.1333, No.320), known~~ <—  
22 ~~as the "Pennsylvania Election Code," is amended by adding a~~  
23 ~~section to read:~~

24 SECTION 1. SUBSECTION (A) OF SECTION 305, ACT OF JUNE 3, <—

1 1937 (P.L.1333, NO.320), KNOWN AS THE "PENNSYLVANIA ELECTION  
2 CODE," AMENDED DECEMBER 27, 1965 (P.L.1226, NO.500), IS AMENDED  
3 TO READ:

4 SECTION 305. EXPENSES OF COUNTY BOARDS AND OF PRIMARIES AND  
5 ELECTIONS TO BE PAID BY COUNTY; EXPENSES OF SPECIAL ELECTIONS;  
6 BOARDS TO BE PROVIDED WITH OFFICES.--

7 (A) THE COUNTY COMMISSIONERS OR OTHER APPROPRIATING  
8 AUTHORITIES OF THE COUNTY SHALL APPROPRIATE ANNUALLY, AND FROM  
9 TIME TO TIME, TO THE COUNTY BOARD OF ELECTIONS OF SUCH COUNTY,  
10 THE FUNDS THAT SHALL BE NECESSARY FOR THE MAINTENANCE AND  
11 OPERATION OF THE BOARD AND FOR THE CONDUCT OF PRIMARIES AND  
12 ELECTIONS IN SUCH COUNTY, INCLUDING THE PAYMENT OF THE  
13 COMPENSATION OF THE EMPLOYES OF THE BOARD, CUSTODIANS, ELECTION  
14 OFFICERS, AND OTHER ASSISTANTS AND EMPLOYES HEREIN PROVIDED FOR,  
15 AND THE FEES OF WITNESSES AS HEREIN PROVIDED; FOR THE PURCHASE  
16 OR PRINTING, UNDER CONTRACTS MADE BY THE BOARD, OF ALL BALLOTS  
17 AND OTHER PRIMARY AND ELECTION SUPPLIES REQUIRED BY THIS ACT, OR  
18 WHICH THE BOARD SHALL CONSIDER NECESSARY TO CARRY OUT THE  
19 PROVISIONS OF THIS ACT; FOR THE PURCHASE, UNDER CONTRACTS MADE  
20 BY THE BOARD, AND MAINTENANCE, OF VOTING MACHINES, WHEN ADOPTED  
21 AS HEREIN PROVIDED, AND OF ALL OTHER PRIMARY AND ELECTION  
22 EQUIPMENT REQUIRED BY THIS ACT, OR WHICH THE BOARD SHALL  
23 CONSIDER NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ACT; FOR  
24 THE PUBLICATION OF NOTICES AUTHORIZED BY THIS ACT, UNDER  
25 CONTRACTS MADE BY THE BOARD, AND FOR ALL OTHER NECESSARY  
26 EXPENSES HEREUNDER: PROVIDED, HOWEVER, THAT BONDS OR OTHER  
27 EVIDENCES OF INDEBTEDNESS, PAYABLE NOT LATER THAN THIRTY YEARS  
28 FROM THEIR DATES OF ISSUANCE, MAY BE ISSUED BY THE COUNTY  
29 COMMISSIONERS OR OTHER APPROPRIATING AUTHORITIES OF THE COUNTY  
30 IN ACCORDANCE WITH THE PROVISIONS OF LAW RELATING TO THE

1 INCREASE OF INDEBTEDNESS OF SUCH COUNTY, TO MEET ALL OR ANY PART  
2 OF THE COST OF VOTING MACHINES.

3 1. THE COUNTY SHALL BE LIABLE FOR THE EXPENSES OF HOLDING  
4 SPECIAL ELECTIONS FOR ANY CITY, BOROUGH, TOWNSHIP, SCHOOL  
5 DISTRICT OR OTHER MUNICIPALITY OR INCORPORATED DISTRICT  
6 CONTAINED THEREIN, WHICH IS HELD ON THE DAY OF ANY GENERAL,  
7 MUNICIPAL OR PRIMARY ELECTION, AND ON ANY SPECIAL QUESTION WHICH  
8 IS REQUIRED BY LAW TO BE, OR WHICH IS, AT THE DISCRETION OF THE  
9 COUNTY BOARD, AS HEREINAFTER PROVIDED, PRINTED ON THE REGULAR  
10 BALLOT AFTER THE LIST OF THE CANDIDATES, OR ON THE SAME VOTING  
11 MACHINE AS THE LIST OF CANDIDATES.

12 2. ANY CITY, BOROUGH, TOWNSHIP, SCHOOL DISTRICT OR OTHER  
13 MUNICIPALITY OR INCORPORATED DISTRICT CONTAINED IN ANY COUNTY,  
14 HOLDING A SPECIAL ELECTION, AS AUTHORIZED BY LAW, ON THE  
15 QUESTION OF INCREASE OF INDEBTEDNESS OR ANY OTHER QUESTION TO BE  
16 VOTED ON BY THE ELECTORS OF SUCH SUBDIVISION, WHICH SPECIAL  
17 ELECTION IS HELD ON THE DAY OF ANY GENERAL, MUNICIPAL OR PRIMARY  
18 ELECTION AND WHICH IS REQUIRED BY LAW TO BE CONDUCTED OR AT THE  
19 DISCRETION OF THE COUNTY BOARD, AS HEREINAFTER PROVIDED, IS  
20 CONDUCTED BY SPECIAL BALLOTS FOR SUCH QUESTION, SHALL BE LIABLE  
21 TO THE COUNTY FOR THE EXPENSES NECESSARILY INCURRED IN THE  
22 PRINTING OF SUCH SPECIAL BALLOTS.

23 3. IF ANY OTHER DAY THAN THE DAY OF ANY GENERAL, MUNICIPAL OR  
24 PRIMARY ELECTION BE FIXED BY THE CORPORATE AUTHORITIES OF ANY  
25 MUNICIPALITY, SCHOOL DISTRICT OR INCORPORATED DISTRICT FOR THE  
26 HOLDING OF A SPECIAL ELECTION ON THE QUESTION OF INCREASE OF  
27 INDEBTEDNESS OR ANY OTHER QUESTION, AS AUTHORIZED BY LAW, SUCH  
28 MUNICIPALITY, SCHOOL DISTRICT OR INCORPORATED DISTRICT SHALL BE  
29 LIABLE FOR AND PAY THE ENTIRE EXPENSE OF HOLDING SUCH ELECTION,  
30 INCLUDING THE COST OF PRINTING BALLOTS AND SUPPLIES, PAY OF

1 ELECTION OFFICERS, THE RENTAL OF POLLING PLACES, AND THE COST OF  
2 CANVASSING AND COMPUTING THE VOTES CAST.

3 4. THE DEPARTMENT OF STATE SHALL REIMBURSE COUNTY BOARDS OF  
4 ELECTION FOR THOSE ADDITIONAL COSTS INCURRED BY THE COUNTY FOR  
5 ANY SPECIAL ELECTION HELD TO FILL A VACANCY IN THE PENNSYLVANIA  
6 GENERAL ASSEMBLY. ONLY THOSE COSTS WHICH ARE ATTRIBUTABLE SOLELY  
7 TO THE SPECIAL ELECTION SHALL BE REIMBURSED. REIMBURSEMENT SHALL  
8 NOT BE DENIED BECAUSE THE SPECIAL ELECTION IS HELD ON THE SAME  
9 DAY AS A GENERAL, MUNICIPAL OR PRIMARY ELECTION IF THE COUNTY  
10 CAN SHOW THAT ADDITIONAL COSTS WERE INCURRED ATTRIBUTABLE SOLELY  
11 TO THE SPECIAL ELECTION. THE GOVERNOR MAY, FROM TIME TO TIME,  
12 ALLOCATE TO THE DEPARTMENT OF STATE AS MUCH MONEY FROM THE  
13 GENERAL FUND AS HE DEEMS NECESSARY TO PERMIT THE DEPARTMENT TO  
14 REIMBURSE THE COUNTIES FOR COSTS INCURRED IN THE SPECIAL  
15 ELECTIONS.

16 \* \* \*

17 SECTION 2. SECTION 402 OF THE ACT IS AMENDED TO READ:

18 SECTION 402. QUALIFICATIONS OF ELECTION OFFICERS.--ELECTION  
19 OFFICERS SHALL BE QUALIFIED REGISTERED ELECTORS OF THE DISTRICT  
20 IN WHICH THEY ARE ELECTED OR APPOINTED. NO PERSON SHALL BE  
21 QUALIFIED TO SERVE AS AN ELECTION OFFICER WHO SHALL HOLD, OR  
22 SHALL WITHIN TWO MONTHS HAVE HELD, ANY OFFICE, APPOINTMENT OR  
23 EMPLOYMENT IN OR UNDER THE GOVERNMENT OF THE UNITED STATES OR OF  
24 THIS STATE OR OF ANY CITY[, COUNTY, BOROUGH, TOWNSHIP,  
25 INCORPORATED TOWN, SCHOOL DISTRICT,] OR COUNTY OR POOR DISTRICT,  
26 OF ANY MUNICIPAL BOARD, COMMISSION OR TRUST IN ANY CITY, SAVE  
27 ONLY [JUSTICES OF THE PEACE AND ALDERMEN,] DISTRICT JUSTICES,  
28 NOTARIES PUBLIC AND PERSONS IN THE MILITIA SERVICE OF THE STATE;  
29 NOR SHALL ANY ELECTION OFFICER BE ELIGIBLE TO ANY CIVIL OFFICE  
30 TO BE VOTED FOR AT A PRIMARY OR ELECTION AT WHICH HE SHALL

SERVE, EXCEPT THAT OF AN ELECTION OFFICER.

SECTION 3. SECTION 412 OF THE ACT IS REPEALED.

SECTION 4. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

SECTION 412.1. COMPENSATION OF ELECTION OFFICERS.--(A) IN ALL COUNTIES, THE COMPENSATION OF JUDGES, INSPECTORS, CLERKS AND MACHINE INSPECTORS SHALL BE FIXED BY THE COUNTY BOARD OF ELECTIONS OF THE COUNTY AT NOT LESS THAN THE FOLLOWING: JUDGE OF ELECTIONS, FORTY-FIVE DOLLARS (\$45.00); INSPECTORS AND CLERKS, FORTY DOLLARS (\$40.00); AND MACHINE OPERATORS, FORTY DOLLARS (\$40.00); AND NOT MORE THAN THE FOLLOWING: JUDGE OF ELECTIONS, SEVENTY DOLLARS (\$70.00); INSPECTORS AND CLERKS, SIXTY-FIVE DOLLARS (65.00) AND MACHINE OPERATORS SIXTY-FIVE DOLLARS (\$65.00); FOR EACH PRIMARY AND ELECTION. THE COUNTY BOARD OF ELECTIONS MAY, IN ITS DISCRETION, ESTABLISH DIFFERENT PER DIEM RATES WITHIN THE ABOVE MENTIONED MINIMA AND MAXIMA BASED ON THE NUMBER OF VOTES CAST FOR THE FOLLOWING GROUPS: 150 VOTES OR LESS, 151 TO 300 VOTES, 301 TO 500 VOTES, 501 TO 750 VOTES, 751 AND OVER.

(B) FOR TRANSMITTING RETURNS OF PRIMARIES AND ELECTIONS AND THE BALLOT BOX OR BOXES, ALL JUDGES OF ELECTIONS SHALL EACH BE ENTITLED TO RECEIVE THE ADDITIONAL SUM OF SIX DOLLARS (\$6.00).

(C) IN COUNTIES OF THE SECOND THROUGH EIGHTH CLASSES, THE COUNTY BOARD OF ELECTIONS MAY REQUIRE THE MINORITY INSPECTOR OF ELECTIONS TO ACCOMPANY THE JUDGE OF ELECTIONS IN TRANSMITTING RETURNS OF PRIMARIES AND ELECTIONS, IN WHICH CASE THE MINORITY INSPECTOR OF ELECTIONS SHALL BE ENTITLED TO RECEIVE THE ADDITIONAL SUM OF SIX DOLLARS (\$6.00).

(D) THE PERSON FURNISHING TRANSPORTATION TO THE JUDGE OF ELECTION AND THE MINORITY INSPECTOR IN TRANSMITTING RETURNS AND BALLOT BOXES, SHALL BE ENTITLED TO A MINIMUM OF TWENTY CENTS

1 (.20¢) PER MILE CIRCULAR FROM THE POLLING PLACE TO THE COUNTY  
2 COURTHOUSE. THE NAME OF SUCH PERSON SHALL APPEAR ON THE VOUCHER  
3 OF THE JUDGE OF ELECTION AND ONLY ONE PERSON SHALL RECEIVE  
4 MILEAGE COMPENSATION.

5 (E) WHEN A PRIMARY AND SPECIAL ELECTION OR A SPECIAL AND  
6 GENERAL OR MUNICIPAL ELECTION TAKE PLACE ON THE SAME DAY, THEY  
7 SHALL BE CONSTRUED AS ONE ELECTION FOR THE PURPOSE OF RECEIVING  
8 COMPENSATION.

9 Section 1201.2. Publishing Constitutional Amendments.--In  
10 accordance with the requirements of section 1 of Article XI of  
11 the Constitution of Pennsylvania, the Secretary of the  
12 Commonwealth shall cause to have published in the manner  
13 prescribed all proposed amendments to the Constitution of  
14 Pennsylvania. As much of the money, from time to time, in the  
15 General Fund as shall be deemed necessary by the Governor is  
16 hereby appropriated to the Department of State to pay the costs  
17 of such publications.

18 SECTION 5. SUBSECTION (A) OF SECTION 1703 OF THE ACT IS <—  
19 AMENDED TO READ:

20 SECTION 1703. CORRECTION OF RETURNS; DECISION NOT TO BE  
21 FINAL; EVIDENCE FOR PROSECUTION.--

22 (A) (1) ANY PETITION TO OPEN A BALLOT BOX OR TO RECANVASS  
23 THE VOTES ON A VOTING MACHINE PURSUANT TO SECTIONS 1701 AND 1702  
24 SHALL BE FILED NO LATER THAN FIVE (5) DAYS AFTER THE COMPLETION  
25 OF THE COMPUTATIONAL CANVASSING OF ALL RETURNS OF THE COUNTY BY  
26 THE COUNTY BOARD. IF ANY ERROR OR FRAUD IS FOUND THE COURT SHALL  
27 GRANT THE INTERESTED PARTIES AN ADDITIONAL FIVE (5) DAYS TO FILE  
28 PETITIONS REQUESTING ADDITIONAL BALLOT BOXES TO BE OPENED OR  
29 VOTING MACHINES TO BE RECANVASSED. (2) IF ANY PETITION TO OPEN A  
30 BALLOT BOX OR TO RECANVASS THE VOTES ON A VOTING MACHINE SHALL

1 HAVE BEEN PRESENTED, UNDER THE PROVISIONS OF SECTIONS 1701 AND  
2 1702 OF THIS ACT[, BEFORE THE CERTIFICATION OF ALL THE RETURNS  
3 OF THE COUNTY, AND, IN NO EVENT, LATER THAN FIVE (5) DAYS AFTER  
4 THE COMPLETION OF THE COMPUTATION AND CANVASSING OF ALL THE  
5 RETURNS OF THE COUNTY BY THE COUNTY BOARD,] AND THE COURT SHALL  
6 DISCOVER THEREIN ANY FRAUD OR ERROR, THE COURT SHALL CORRECT,  
7 COMPUTE AND CERTIFY TO THE COUNTY BOARD THE VOTES JUSTLY,  
8 REGARDLESS OF ANY FRAUDULENT OR ERRONEOUS ENTRIES MADE BY THE  
9 ELECTION OFFICERS THEREOF, AND THE COUNTY BOARD SHALL CORRECT  
10 ACCORDINGLY ANY ENTRIES PREVIOUSLY MADE IN THE RETURNS OF THE  
11 COUNTY BEING PREPARED BY IT, OR WHICH HAVE BEEN PREPARED AND NOT  
12 YET CERTIFIED.

13 \* \* \*

14 ~~Section 2. This act shall take effect immediately.~~ <—

15 SECTION 6. SECTION 803.1, ACT OF APRIL 9, 1929 (P.L.177, <—  
16 NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," IS  
17 REPEALED.

18 SECTION 7. THE AMENDMENTS AFFECTING SECTIONS 412 AND 412.1  
19 SHALL TAKE EFFECT IN 60 DAYS AND THE REMAINING PROVISIONS OF  
20 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.