

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 117

Session of  
1983

INTRODUCED BY GODSHALL, DIETZ, STEVENS, KLINGAMAN, CLYMER, BUNT,  
GAMBLE, CIMINI, AFFLERBACH, MERRY, PETRARCA, MILLER, CESSAR,  
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FEBRUARY 1, 1983

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 1, 1983

### 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," eliminating provisions for cross-filing.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Section 909 of the act of June 3, 1937 (P.L.1333,  
15 No.320), known as the Pennsylvania Election Code, amended  
16 December 22, 1971 (P.L.613, No.165), is amended to read:

17 Section 909. Petition May Consist of Several Sheets;  
18 Affidavit of Circulator.--Said nomination petition may be on one  
19 or more sheets, and different sheets must be used for signers  
20 resident in different counties. If more than one sheet is used,  
21 they shall be bound together when offered for filing if they are

1 intended to constitute one petition, and each sheet shall be  
2 numbered consecutively beginning with number one, at the foot of  
3 each page. In cases of petitions for delegate or alternate  
4 delegate to National conventions, each sheet shall contain a  
5 notation indicating the presidential candidate to whom he is  
6 committed or the term "uncommitted." Each sheet shall have  
7 appended thereto the affidavit of the circulator of each sheet,  
8 setting forth--(a) that he or she is a qualified elector duly  
9 registered and enrolled as a member of the designated party of  
10 the State, or of the political district, as the case may be,  
11 referred to in said petition[, unless said petition relates to  
12 the nomination of a judicial candidate in which event the  
13 circulator need not be a duly registered and enrolled member of  
14 the designated party]; (b) his residence, giving city, borough  
15 or township, with street and number, if any; (c) that the  
16 signers thereto signed with full knowledge of the contents of  
17 the petition; (d) that their respective residences are correctly  
18 stated therein; (e) that they all reside in the county named in  
19 the affidavit; (f) that each signed on the date set opposite his  
20 name; and (g) that, to the best of affiant's knowledge and  
21 belief, the signers are qualified electors and duly registered  
22 and enrolled members of the designated party of the State, or of  
23 the political district, as the case may be.

24 Section 2. Section 910 of the act, amended July 11, 1980  
25 (P.L.591, No.127), is amended to read:

26 Section 910. Affidavits of Candidates.--Each candidate for  
27 any State, county, city, borough, incorporated town, township,  
28 ward, school district, poor district, election district, party  
29 office, party delegate or alternate, or for the office of United  
30 States Senator or Representative in Congress, shall file with

1 his nomination petition his affidavit stating--(a) his  
2 residence, with street and number, if any, and his post-office  
3 address; (b) his election district, giving city, borough, town  
4 or township; (c) the name of the office for which he consents to  
5 be a candidate; (d) that he is eligible for such office; (e)  
6 that he will not knowingly violate any provision of this act, or  
7 of any law regulating and limiting nomination and election  
8 expenses and prohibiting corrupt practices in connection  
9 therewith; (f) [unless he is a candidate for judge of a court of  
10 record, or for the office of school director in a district where  
11 that office is elective or for the office of justice of the  
12 peace] that he is not a candidate for nomination for the same  
13 office of any party other than the one designated in such  
14 petition; (g) if he is a candidate for a delegate, or alternate  
15 delegate, member of State committee, National committee or party  
16 officer, that he is a registered and enrolled member of the  
17 designated party; (h) if he is a candidate for delegate or  
18 alternate delegate the presidential candidate to whom he is  
19 committed or the term "uncommitted"; and (i) that he is aware of  
20 the provisions of section 1626 of this act requiring pre-  
21 election and post-election reporting of campaign contributions  
22 and expenditures. In cases of petitions for delegate and  
23 alternate delegate to National conventions, the candidate's  
24 affidavit shall state that his signature to the delegate's  
25 statement, as hereinafter set forth, if such statement is signed  
26 by said candidate, was affixed to the sheet or sheets of said  
27 petition prior to the circulation of same. In the case of a  
28 candidate for nomination as President of the United States, it  
29 shall not be necessary for such candidate to file the affidavit  
30 required in this section to be filed by candidates, but the

1 post-office address of such candidate shall be stated in such  
2 nomination petition.

3 Section 3. Section 976 of the act, amended July 28, 1941  
4 (P.L.526, No.213), June 27, 1974 (P.L.413, No.146), and repealed  
5 in part April 28, 1978 (P.L.202, No.53), is amended to read:

6 Section 976. Examination of Nomination Petitions,  
7 Certificates and Papers; Return of Rejected Nomination  
8 Petitions, Certificates and Papers.--When any nomination  
9 petition, nomination certificate or nomination paper is  
10 presented in the office of the Secretary of the Commonwealth or  
11 of any county board of elections for filing within the period  
12 limited by this act, it shall be the duty of the said officer or  
13 board to examine the same. No nomination petition, nomination  
14 paper or nomination certificate shall be permitted to be filed  
15 if--(a) it contains material errors or defects apparent on the  
16 face thereof, or on the face of the appended or accompanying  
17 affidavits; or (b) it contains material alterations made after  
18 signing without the consent of the signers; or (c) it does not  
19 contain a sufficient number of signatures as required by law:  
20 Provided, however, That the Secretary of the Commonwealth or the  
21 county board of elections, although not hereby required so to  
22 do, may question the genuineness of any signature or signatures  
23 appearing thereon, and if he or it shall thereupon find that any  
24 such signature or signatures are not genuine, such signature or  
25 signatures shall be disregarded in determining whether the  
26 nomination petition, nomination paper or nomination certificate  
27 contains a sufficient number of signatures as required by law;  
28 or (d) in the case of nomination petitions, if nomination  
29 petitions have been filed for printing the name of the same  
30 person for the same office, [except the office of judge of a

1 court of record, or the office of school director in districts  
2 where that office is elective or the office of justice of the  
3 peace] upon the official ballot of more than one political  
4 party; or (e) in the case of nomination papers, if the candidate  
5 named therein has filed a nomination petition for any public  
6 office for the ensuing primary, or has been nominated for any  
7 such office by nomination papers previously filed; or (f) if the  
8 nomination petitions or papers are not accompanied by the filing  
9 fee or certified check required for said office; or (g) in the  
10 case of nomination papers, the appellation set forth therein is  
11 identical with or deceptively similar to the words used by any  
12 existing party or by any political body which has already filed  
13 nomination papers for the same office, or if the appellation set  
14 forth therein contains part of the name, or an abbreviation of  
15 the name or part of the name of an existing political party, or  
16 of a political body which has already filed nomination papers  
17 for the same office. The invalidity of any sheet of a nomination  
18 petition or nomination paper shall not affect the validity of  
19 such petition or paper if a sufficient petition or paper remains  
20 after eliminating such invalid sheet. The action of said officer  
21 or board in refusing to receive and file any such nomination  
22 petition, certificate or paper, may be reviewed by the court  
23 upon an application to compel its reception as of the date when  
24 it was presented to the office of such officer or board:

25 Provided, however, That said officer or board shall be entitled  
26 to a reasonable time in which to examine any petitions,  
27 certificates or papers, and to summon and interrogate the  
28 candidates named therein, or the persons presenting said  
29 petitions, certificates or papers, and his or their retention of  
30 same for the purpose of making such examination or interrogation

1 shall not be construed as an acceptance or filing.

2 Upon completion of any examination, if any nomination  
3 petition, certificate or paper is found to be defective, it  
4 shall forthwith be rejected and returned to the candidate or one  
5 of the candidates named therein, together with a statement of  
6 the reasons for such rejection:

7 Provided further, That no nomination petition, nomination  
8 paper or nomination certificate shall be permitted to be filed,  
9 if the political party or political body referred to therein  
10 shall be composed of a group of electors whose purposes or aims,  
11 or one of whose purposes or aims, is the establishment, control,  
12 conduct, seizure or overthrow of the Government of the  
13 Commonwealth of Pennsylvania or the United States of America by  
14 the use of force, violence, military measure or threats of one  
15 or more of the foregoing. The authority to reject such  
16 nomination petition, paper or certificate for this reason shall,  
17 when filed with the Secretary of the Commonwealth, be vested in  
18 a committee composed of the Governor, the Attorney General and  
19 the Secretary of the Commonwealth, and when filed with any  
20 county board of elections shall be vested in such board. If in  
21 such case the committee or board, as the case may be, shall  
22 conclude that the acceptance of such nomination petition, paper  
23 or certificate should be refused, it shall within two days of  
24 the filing of such nomination petition, paper or certificate fix  
25 a place and a time five days in advance for hearing the matter,  
26 and notice thereof shall be given to all parties affected  
27 thereby. At the time and place so fixed the committee or board,  
28 as the case may be, shall hear testimony, but shall not be bound  
29 by technical rules of evidence. The testimony presented shall be  
30 stenographically recorded and made a part of the record of the

1 committee or board. Within two days after such hearing the  
2 committee or board, if satisfied upon competent evidence that  
3 the said nomination petition, paper or certificate is not  
4 entitled to be accepted and filed, it shall announce its  
5 decision and immediately notify the parties affected thereby.  
6 Failure to announce decision within two days after such hearing  
7 shall be conclusive that such nomination petition, paper or  
8 certificate has been accepted and filed. The decision of said  
9 committee or board in refusing to accept and file such  
10 nomination petition, paper or certificate may be reviewed by the  
11 court upon an application to compel its reception as of the date  
12 when presented to the Secretary of the Commonwealth or such  
13 board. The application shall be made within two days of the time  
14 when such decision is announced. If the application is properly  
15 made, any judge of said court may fix a time and place for  
16 hearing the matter in dispute, of which notice shall be served  
17 with a copy of said application upon the Secretary of the  
18 Commonwealth or the county board of elections, as the case may  
19 be. At the time so fixed, the court, or any judge thereof  
20 assigned for the purpose, shall hear the case de novo. If after  
21 such hearing the said court shall find that the decision of the  
22 committee or the board was erroneous, it shall issue its mandate  
23 to the committee or board to correct its decision and to accept  
24 and file the nomination paper, petition or certificate. From any  
25 decision of the court an appeal may be taken within two days  
26 after the entry thereof. It shall be the duty of the said court  
27 to fix the hearing and to announce its decision within such  
28 period of time as will permit the Secretary of the Commonwealth  
29 or the county board of elections to permit the names of the  
30 candidates affected by the court's decision to be printed on the

1 ballot, if the court should so determine.

2 Section 4. Subsection (a) of section 993 of the act, amended  
3 June 27, 1974 (P.L.413, No.146), is amended to read:

4 Section 993. Filling of Certain Vacancies in Public Office  
5 by Means of Nomination Certificates and Nomination Papers.--(a)

6 In all cases where a vacancy shall occur for any cause in an  
7 elective public office[, including that of judge of a court of  
8 record,] at a time when such vacancy is required by the  
9 provisions of the Constitution or the laws of this Commonwealth  
10 to be filled at the ensuing election but at a time when  
11 nominations for such office cannot be made under any other  
12 provision of this act, nominations to fill such vacancies shall  
13 be made by political parties in accordance with party rules  
14 relating to the filling of vacancies by means of nomination  
15 certificates in the form prescribed in section nine hundred  
16 ninety-four of this act, and by political bodies by means of  
17 nomination papers in accordance with the provisions of sections  
18 nine hundred fifty-one, nine hundred fifty-two and nine hundred  
19 fifty-four of this act. No such nomination certificate shall  
20 nominate any person who has already been nominated by any other  
21 political party or by any political body for the same office  
22 [unless such person is a candidate for the office of judge of a  
23 court of record or the office of school director in districts  
24 where that office is elective or for the office of justice of  
25 the peace]. No such nomination papers shall nominate any person  
26 who has already been nominated by any political party or by any  
27 other political body for any office to be filled at the ensuing  
28 November election[, unless such person is a candidate for the  
29 office of judge of a court of record or the office of school  
30 director in districts where that office is elective or for the

1 office of justice of the peace].

2 \* \* \*

3 Section 5. Subsections (a) and (b) of section 998 of the  
4 act, amended June 27, 1974 (P.L.413, No.146), are amended to  
5 read:

6 Section 998. Substituted Nominations to Fill Certain  
7 Vacancies for a November Election.--(a) Any vacancy happening or  
8 existing in any party nomination made in accordance with the  
9 provisions of section nine hundred ninety-three of this act for  
10 a November election by reason of the death or withdrawal of any  
11 candidate may be filled by a substituted nomination made by such  
12 committee as is authorized by the rules of the party to make  
13 nominations in the event of vacancies on the party ticket, in  
14 the form prescribed by section nine hundred ninety-four of this  
15 act. But no substituted nomination certificate shall nominate  
16 any person who has already been nominated by any other political  
17 party or by any political body for the same office[, unless such  
18 person is a candidate for the office of judge of a court of  
19 record or for the office of school director in districts where  
20 that office is elective or for the office of justice of the  
21 peace].

22 (b) In case of the death or withdrawal of any candidate  
23 nominated by a political body for an election, the committee  
24 named in the original nomination papers may nominate a  
25 substitute in his place by filing a substituted nomination  
26 certificate in the form and manner prescribed by section nine  
27 hundred eighty of this act. In the case of a vacancy caused by  
28 the death of any candidate, said nomination certificate shall be  
29 accompanied by a death certificate properly certified. No  
30 substituted nomination certificate shall nominate any person who

1 has already been nominated by any political party or by any  
2 other political body for any office to be filled at the ensuing  
3 November election[, unless such person is a candidate for the  
4 office of judge of a court of record or for the office of school  
5 director in districts where that office is elective or for the  
6 office of justice of the peace].

7 \* \* \*

8 Section 6. Section 1004 of the act, amended December 10,  
9 1974 (P.L.835, No.280), is amended to read:

10 Section 1004. Form of Ballots; Printing Ballots; Stubs;  
11 Numbers.--From the lists furnished by the Secretary of the  
12 Commonwealth under the provisions of sections 915 and 984, and  
13 from petitions and papers filed in their office, the county  
14 election board shall print the official primary and election  
15 ballots in accordance with the provisions of this act: Provided,  
16 however, That in no event, shall the name of any person  
17 consenting to be a candidate for nomination for any one office[,  
18 except the office of judge of a court of record, or the office  
19 of school director in districts where that office is elective or  
20 the office of justice of the peace] be printed as a candidate  
21 for such office upon the official primary ballot of more than  
22 one party. All ballots for use in the same election district at  
23 any primary or election shall be alike. They shall be at least  
24 six inches long and four inches wide, and shall have a margin  
25 extending beyond any printing thereon. They shall be printed  
26 with the same kind of type (which shall not be smaller than the  
27 size known as "brevier" or "eight point body") upon white paper  
28 of uniform quality, without any impression or mark to  
29 distinguish one from another, and with sufficient thickness to  
30 prevent the printed matter from showing through. Each ballot

1 shall be attached to a stub, and all the ballots for the same  
2 election district shall be bound together in books of fifty, in  
3 such manner that each ballot may be detached from its stub and  
4 removed separately. The ballots for each party to be used at a  
5 primary shall be bound separately. The stubs of the ballots  
6 shall be consecutively numbered, and in the case of primary  
7 ballots, the number shall be preceded by an initial or  
8 abbreviation designating the party name. The number and initial  
9 or abbreviation which appears upon the stub shall also be  
10 printed in the upper right hand corner of the back of the  
11 ballot, separated from the remainder of the ballot by a diagonal  
12 perforated line so prepared that the upper right hand corner of  
13 the back of the ballot containing the number may be detached  
14 from the ballot before it is deposited in the ballot box and  
15 beside that corner shall also be printed, "Remove numbered stub  
16 immediately before depositing your ballot in ballot box."

17 Section 7. This act shall apply to all elections occurring  
18 after January 1, 1984.

19 Section 8. This act shall take effect immediately.