

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2507 Session of
1988

INTRODUCED BY STAIRS, BOWSER, NOYE, FISCHER, VROON, LASHINGER,
JOHNSON, PERZEL, SIRIANNI, TIGUE AND FOX, MAY 25, 1988

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 25, 1988

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 petitions to open ballot
12 boxes and voting machines.

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

15 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known
16 as the Pennsylvania Election Code, is amended by adding a
17 section to read:

18 Section 1702.1. Recount when Winning Margin is Less than
19 One-half Per Centum of Total Vote.--(a) If the number of votes
20 cast for the declared winning nominee or candidate in any
21 primary or election does not exceed the number of votes cast for
22 the declared defeated nominee or candidate by a margin of one-

1 half of one per centum or more of the total vote, three
2 qualified electors of any election district may file a petition
3 for a recount with the court of common pleas of the county in
4 which the election district is located. Upon receipt of such a
5 petition, the court shall, in any election district in which
6 ballots were used, open the ballot boxes and cause the entire
7 vote thereof to be correctly counted by persons designated by
8 the court and in any election district where voting machines are
9 used, shall make visible the registering counters of the voting
10 machines and without unlocking the machines against voting,
11 recanvass the vote cast therein.

12 (b) Notice of the opening of ballot boxes or recanvassing of
13 votes on voting machines shall be given in the manner prescribed
14 by sections 1701 and 1702.

15 (c) Persons filing petitions pursuant to this section shall
16 not be required to make any deposit of cash or to file any bond.
17 The expense of the recount shall be paid by the county in the
18 same manner as other primary and election expenses.

19 Section 2. Section 1703 of the act, amended May 5, 1982
20 (P.L.374, No.108), is amended to read:

21 Section 1703. Correction of Returns; Decision Not to Be
22 Final; Evidence for Prosecution.--

23 (a) (1) Any petition to open a ballot box or to recanvass
24 the votes on a voting machine pursuant to sections 1701 [and
25 1702], 1702 and 1702.1 shall be filed no later than five (5)
26 days after the completion of the computational canvassing of all
27 returns of the county by the county board. If any error or fraud
28 is found the court shall grant the interested parties an
29 additional five (5) days to file petitions requesting additional
30 ballot boxes to be opened or voting machines to be recanvassed.

1 (2) If any petition to open a ballot box or to recanvass the
2 votes on a voting machine shall have been presented, under the
3 provisions of sections 1701 [and 1702], 1702 and 1702.1 of this
4 act and the court shall discover therein any fraud or error, the
5 court shall correct, compute and certify to the county board the
6 votes justly, regardless of any fraudulent or erroneous entries
7 made by the election officers thereof, and the county board
8 shall correct accordingly any entries previously made in the
9 returns of the county being prepared by it, or which have been
10 prepared and not yet certified.

11 (b) No order or decision of the court under the provisions
12 of sections 1701 [and 1702], 1702 and 1702.1 of this act, shall
13 be deemed a final adjudication regarding the results of any
14 primary or election, so as to preclude any contest thereof under
15 the provisions of this article, and no such order or decision
16 shall affect the official returns of any election district,
17 unless a petition to open the ballot boxes or to recanvass the
18 votes on a voting machine shall have been presented before the
19 certification of the returns of the county by the county board,
20 or unless a contest shall have been instituted in the manner
21 provided by this article.

22 (c) If upon the opening of any ballot box or recanvass of
23 any voting machine under the provisions of this article, it
24 shall be found that fraud was committed in the computation of
25 the votes cast on the ballots or voting machine, or in the
26 marking of the ballots contained therein or otherwise in
27 connection with such ballots, the county board shall take such
28 steps as shall be appropriate to enable the ballot box and
29 contents thereof or voting machine to be available as evidence
30 in any prosecution which may be begun against any person or

1 persons alleged to be guilty of such fraud.

2 Section 3. This act shall take effect in 60 days.