

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 856 Session of
1989

INTRODUCED BY KUKOVICH, DeWEESE, BOYES, KOSINSKI, LEVDANSKY,
PRESSMANN, ROBINSON, REBER, BORTNER, TIGUE, MORRIS, PETRARCA,
MAIALE, JOSEPHS, GODSHALL, MELIO, LINTON, FREEMAN, NAHILL,
BELARDI, BLAUM, CAWLEY AND TANGRETTI, APRIL 3, 1989

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 3, 1989

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 primary ballots and the
12 arrangement of the names on ballots; providing limited
13 Pennsylvania Fair Campaign funding of certain Statewide
14 elections; limiting certain contributions; imposing powers
15 and duties on the Department of State; and providing
16 penalties.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 1002(b) of the act of June 3, 1937
20 (P.L.1333, No.320), known as the Pennsylvania Election Code,
21 amended December 2, 1976 (P.L.1221, No.269), is amended to read:

22 Section 1002. Form of Official Primary Ballot.--* * *

23 (b) On the back of each ballot shall be printed in prominent
24 type the words "OFFICIAL PRIMARY BALLOT OFPARTY FOR"

1 followed by the designation of the election district for which
2 it is prepared, the date of the primary and the facsimile
3 signatures of the members of the county board of elections.
4 [The] Except in the case of candidates for State-wide judicial
5 office, the names of candidates shall [in all cases] be arranged
6 under the title of the office for which they are candidates, and
7 be printed thereunder in the order determined by the casting of
8 lots as provided by this act. The names of all candidates for a
9 State-wide judicial office shall be arranged in a group under
10 the title of that office and shall be rotated from one
11 senatorial district to another, except on absentee ballots. On
12 absentee ballots, the names of all candidates for State-wide
13 judicial office shall be arranged in a group under the title of
14 that office and shall be so alternated that each name shall
15 appear, insofar as may be reasonably possible, substantially an
16 equal number of times at the beginning, at the end and at each
17 intermediate place, if any, of the group in which such name
18 belongs. Under the title of such offices where more than one
19 candidate is to be voted for, shall be printed "Vote for not
20 more than" (the blank space to indicate the number of
21 candidates to be voted for the particular office.) At the right
22 of the name of each candidate there shall be a square of
23 sufficient size for the convenient insertion of a cross (x) or
24 check (/) mark. There shall be left at the end of the list of
25 candidates for each office (or under the title of the office
26 itself in case there be no candidates who have filed nomination
27 petitions therefor) as many blank spaces as there are persons to
28 be voted for, for such office, in which space the elector may
29 insert the name of any person whose name is not printed on the
30 ballot as a candidate for such office. [Opposite or under the

1 name of each candidate, except candidates for the office of
2 President of the United States and candidates for delegate or
3 alternate delegate to a National Party Convention, who is to be
4 voted for by the electors of more than one county, shall be
5 printed the name of the county in which such candidate resides;
6 and opposite or under the name of each candidate except
7 candidates for delegate or alternate delegate to a National
8 Party Convention who is to be voted for by the electors of an
9 entire county or any congressional, senatorial or representative
10 district within the county, shall be printed the name of the
11 city, borough, township or ward, as the case may be, in which
12 such candidate resides.]

13 * * *

14 Section 2. The heading and subsection (a) of section 1633
15 of the act, amended November 26, 1978 (P.L.1313, No.318), are
16 amended to read:

17 Section 1633. Contributions or Expenditures by National
18 Banks, Partnerships, Corporations or Unincorporated
19 Associations.--

20 (a) It is unlawful for any National or State bank,
21 partnership or any corporation, incorporated under the laws of
22 this or any other state or any foreign country or any
23 unincorporated association, except those corporations formed
24 primarily for political purposes or as a political committee, to
25 make a contribution or expenditure in connection with the
26 election of any candidate or for any political purpose whatever
27 except in connection with any question to be voted on by the
28 electors of this Commonwealth. Furthermore, it shall be unlawful
29 for any candidate, political committee, or other person to
30 knowingly accept or receive any contribution prohibited by this

1 section, or for any officer or any director of any corporation,
2 partnership, bank, or any unincorporated association to consent
3 to any contribution or expenditure by the corporation,
4 partnership, bank or unincorporated association, as the case may
5 be, prohibited by this section.

6 * * *

7 Section 3. The act is amended by adding an article to read:

8 ARTICLE XVI-A

9 Campaign Cost Control

10 Section 1601-A. Application of Article.--The provisions of
11 this article shall be applicable to candidates for the following
12 State-wide offices and candidates for retention election to
13 those offices who elect to apply for Pennsylvania Fair Campaign
14 funding hereunder:

15 (1) Supreme Court Justice.

16 (2) Superior Court Judge.

17 (3) Commonwealth Court Judge.

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

23 Section 1603-A. Pennsylvania Fair Campaign Fund Created.--
24 There is hereby created a special restricted receipts fund in
25 the State Treasury to be known as the "Pennsylvania Fair
26 Campaign Fund." Payments shall be made into said fund pursuant
27 to section 1604-A and disbursements shall be made from said fund
28 only upon the warrant of the Secretary of the Commonwealth and a
29 warrant of the State Treasurer. As much of the moneys in the
30 Pennsylvania Fair Campaign Fund as are necessary to make

1 payments to candidates as provided in this article are
2 appropriated from the Pennsylvania Fair Campaign Fund to the
3 Department of State for the purpose of such payments.

4 Section 1604-A. Allocation of Certain Tax Proceeds to
5 Pennsylvania Fair Campaign Fund.--Beginning with tax years
6 commencing January 1, 1989, and thereafter, each individual
7 subject to the tax imposed by Article III of the act of March 4,
8 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"
9 whose tax liability for any such year is one dollar (\$1.00) or
10 more may designate one dollar (\$1.00) of his or her personal
11 income taxes to be paid into the Pennsylvania Fair Campaign
12 Fund. In the case of married taxpayers filing a joint return,
13 each spouse may designate one dollar (\$1.00) to be paid into the
14 Pennsylvania Fair Campaign Fund if their tax liability is two
15 dollars (\$2.00) or more. All such designated tax revenues shall
16 be paid into the Pennsylvania Fair Campaign Fund. The check-off
17 and instructions shall be prominently displayed on the first
18 page of the return form. The instructions shall readily indicate
19 that any such designations neither increase or decrease an
20 individual's tax liability.

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

25 Section 1606-A. Qualification for Pennsylvania Fair Campaign
26 Funding.--(a) Any candidate for State-wide office as described
27 in section 1601-A may apply for Pennsylvania Fair Campaign
28 funding under this article if such candidate meets the
29 contributory thresholds established in subsection (b) and
30 otherwise conforms to the requirements of this article. No

1 candidate shall be obligated to apply for funding hereunder and
2 if any candidate elects not to apply, the provisions of this
3 article pertaining to limits on expenditures or the use of their
4 personal funds shall be inapplicable to such person and their
5 candidacy. Any candidate electing to receive Pennsylvania Fair
6 Campaign funding must declare his intention to do so and specify
7 the State office for which he is a candidate. Any and all
8 committees authorized to receive contributions or make
9 expenditures for the candidate who has so declared must abide by
10 the provisions of section 1612-A. Any candidate who for any
11 reason has his name withdrawn from the ballot for a State-wide
12 election, after receipt of Pennsylvania Fair Campaign funds,
13 shall return all moneys received to the Pennsylvania Fair
14 Campaign Fund as well as offering back qualifying contributions
15 for that State-wide office.

16 (b) (1) In order to qualify for Pennsylvania Fair Campaign
17 funding in the general election, a candidate must receive,
18 subsequent to the date of the primary election but prior to the
19 date of the general election, qualifying contributions of the
20 following amounts:

21	<u>Office</u>	<u>Qualifying Contributions Required</u>
22	<u>(i) Supreme Court Justices</u>	<u>\$25,000</u>
23	<u>(ii) Superior Court Judges</u>	<u>25,000</u>
24	<u>(iii) Commonwealth Court Judges</u>	<u>25,000</u>

25 (2) In order to qualify for Pennsylvania Fair Campaign
26 funding in the primary election, a candidate must receive prior
27 to the date of the primary election, but subsequent to the
28 immediately preceding general election, one-half of the amount
29 specified in clause (1) for the appropriate office.

30 (3) (i) The term "qualifying contribution" shall include

any contribution, as defined in section 1621(b), which has all of the following characteristics:

(A) Made by an individual resident of Pennsylvania.

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

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

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

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

Section 1607-A. Pennsylvania Fair Campaign Funding Formula.--(a) Every candidate who qualifies for Pennsylvania Fair Campaign funding for either the primary or the general election pursuant to section 1606-A shall receive matching payments from the Pennsylvania Fair Campaign Fund in the amount of one dollar (\$1.00) for each dollar of qualifying contribution as defined in section 1606-A(b)(3).

1 (b) The one dollar (\$1.00) for each dollar of qualifying
2 contributions provided by this section shall be provided only
3 for qualifying contributions raised which exceed the threshold
4 amounts specified in section 1606-A(b) and not to those
5 qualifying contributions which are attributable to meeting such
6 threshold amounts necessary to qualify for Pennsylvania Fair
7 Campaign funding.

8 (c) (1) Only those qualifying contributions made during the
9 period between a declaration of candidacy and the primary
10 election shall be eligible for matching payments from the
11 Pennsylvania Fair Campaign Fund for the primary election.

12 (2) Only those qualifying contributions made during the
13 period between the primary election and the general election
14 shall be eligible for matching payments from the Pennsylvania
15 Fair Campaign Fund for the general election.

16 (d) Matching funds shall not be provided for any qualifying
17 contribution unless the reporting requirements of section
18 1626(b) are satisfied.

19 Section 1608-A. Limitations on Pennsylvania Fair Campaign
20 Funding.--(a) Every candidate who qualifies for and receives
21 Pennsylvania Fair Campaign funding pursuant to the formula
22 established in section 1607-A shall be entitled to receive no
23 more than the maximum amount specified in subsection (b) for the
24 office such candidate is seeking.

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

<u>Office</u>	<u>Maximum Pennsylvania Fair</u> <u>Campaign Funding</u>
<u>(i) Supreme Court Justices</u>	<u>\$150,000</u>

(ii) Superior Court Judges 150,000

(iii) Commonwealth Court Judges 150,000

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

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

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

(2) Candidates in the primary election who are unopposed for the nomination.

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

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

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

1 decision solely on the immediate primary or election at hand.

2 Section 1610-A. Use of Pennsylvania Fair Campaign Funds by
3 Candidates.--(a) Pennsylvania Fair Campaign funds distributed
4 to candidates pursuant to this article may be used only for the
5 election for which they are distributed and only for the
6 purposes set forth in section 1634.1 except that no fund moneys
7 may be used:

8 (1) To transfer to other candidates or to committees of
9 other candidates or to political committees.

10 (2) To pay for expenditures incurred after the date of the
11 general election.

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

16 Section 1611-A. Expenditures.--(a) Expenditures made by a
17 candidate and his authorized committees, for all purposes and
18 from all sources, including, but not limited to, amounts of
19 Pennsylvania Fair Campaign funds distributed under this article,
20 proceeds of loans, gifts, contributions from any source or
21 personal funds, subsequent to the date of the primary election,
22 but prior to the date of the general election, may not exceed
23 the amounts specified below:

<u>Office</u>	<u>Total Expenditure Limits</u>
<u>Justices and Judges</u>	
<u>of the Supreme Court,</u>	
<u>Superior Court and</u>	
<u>Commonwealth Court.</u>	<u>\$300,000</u>

29 (b) Expenditures made by a candidate and his authorized
30 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 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 and such candidate or candidates who accept public funding shall be eligible to qualify for those fair campaign funds which would have otherwise been available to the opponent.

Section 1612-A. Limitations on Certain Contributions.--(a) Any candidate for State-wide office, as described in section 1601-A, shall not accept any contribution from an individual or political action committee in excess of two hundred fifty dollars (\$250), except that the candidate and spouse may contribute up to twenty-five thousand dollars (\$25,000) for each primary, general or special election.

(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 funding 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 two hundred fifty dollars (\$250), only two hundred fifty dollars (\$250) shall be included in that sum.

(c) A gift, subscription, loan, advance or deposit of money or anything of value to a candidate shall be considered a contribution both by the original source of the contribution and by any intermediary or conduit if the intermediary or conduit (1) exercises any control or any direction over the making of

1 the contribution; or (2) solicits the contribution or arranges
2 for the contribution to be made and directly or indirectly makes
3 the candidate aware of such intermediary or conduit's role in
4 soliciting or arranging the contribution for such candidate.

5 (d) For purposes of subsection (c), a contribution shall not
6 be considered to be a contribution by an intermediary or conduit
7 to the candidate if (1) the intermediary or conduit has been
8 retained by the candidate's committee for the purpose of fund-
9 raising and is reimbursed for expenses incurred in soliciting
10 contributions; (2) in the case of an individual, the candidate
11 has expressly authorized the intermediary or conduit to engage
12 in fund-raising, or the individual occupies a significant
13 position within the candidate's campaign organization; or (3) in
14 the case of a political committee, the intermediary or conduit
15 is an authorized committee of the candidate.

16 Section 1613-A. Inflation Indexing of Certain Limitations.--
17 The dollar figures contained in sections 1606-A, 1608-A and
18 1611-A shall be adjusted annually during March at a rate equal
19 to the average percentage change in the All-Urban Consumer Price
20 Index for the Pittsburgh, Philadelphia and Scranton standard
21 metropolitan statistical areas as published by the Bureau of
22 Labor Statistics of the United States Department of Labor, or
23 any successor agency, occurring in the prior calendar year. The
24 base year shall be 1988. The average shall be calculated and
25 certified by the secretary annually by adding the percentage
26 increase in each of the three areas and dividing by three. The
27 calculation and resulting new figures shall be published in the
28 Pennsylvania Bulletin during March.

29 Section 1614-A. Annual Report.--The secretary shall report
30 annually to the General Assembly and the Governor on the

1 operations of Pennsylvania Fair Campaign funding as provided by
2 this article. Such report shall include, but not be limited to,
3 the revenues and expenditures in the Pennsylvania Fair Campaign
4 Fund, the amounts distributed to candidates, the results of any
5 audits performed on candidates in compliance with the provisions
6 of this article and any prosecutions brought for violations of
7 this article.

8 Section 1615-A. Repayment of Borrowed Funds.--Any funds
9 borrowed by any candidate or his campaign treasurer or committee
10 for the purpose of nomination or election of the candidate shall
11 be repaid in full by the candidate prior to the date of the
12 general election in which he is a candidate for office.

13 Section 1616-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 Fair Campaign
17 Fund, up to the amount of the funds which were distributed to
18 the candidate under this article.

19 Section 1617-A. Penalties.--(a) A person who violates the
20 provisions of this act and who, as a result, obtains
21 Pennsylvania Fair Campaign funds to which he is not entitled
22 commits a misdemeanor of the first degree and, upon conviction,
23 shall be subject to a fine not to exceed the greater of ten
24 thousand dollars (\$10,000) or three times the amount of funds
25 wrongfully obtained, or to imprisonment for up to five years, or
26 both.

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

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

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

8 Section 4. This act shall be applicable to returns of
9 taxpayers of calendar years commencing January 1, 1989, and
10 thereafter. Pennsylvania Fair Campaign funding shall be first
11 provided for candidates for Statewide judicial office in the
12 primary election of 1990 and in each primary, municipal and
13 general election thereafter.

14 Section 5. This act shall take effect immediately.