

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 552 Session of
1991

INTRODUCED BY KUKOVICH, BELARDI, COLAIZZO, MARKOSEK, KOSINSKI,
PESCI, FAJT, BOYES, STURLA, HANNA, LEVDANSKY, BLAUM,
BELFANTI, TANGRETTI, CAPPABIANCA, MELIO, LAUGHLIN, TRELLO,
DALEY, TIGUE, ANGSTADT, KRUSZEWSKI, KREBS, BATTISTO, FREEMAN,
WILLIAMS, ROBINSON, RUDY, HARPER, COLAFELLA, CAWLEY, MURPHY,
MICHLOVIC, PISTELLA AND JAMES, MAY 13, 1991

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 13, 1991

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 for funding of certain Statewide
12 elections; limiting certain contributions; imposing powers
13 and duties on the Department of State; and providing
14 penalties.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 1633(a) of the act of June 3, 1937
18 (P.L.1333, No.320), known as the Pennsylvania Election Code,
19 amended November 26, 1978 (P.L.1313, No.318), is amended to
20 read:

21 Section 1633. Contributions or Expenditures by National
22 Banks, Corporations or Unincorporated Associations.--

1 (a) It is unlawful for any National or State bank,
2 partnership or any corporation, incorporated under the laws of
3 this or any other state or any foreign country or any
4 unincorporated association, except those corporations formed
5 primarily for political purposes or as a political committee, to
6 make a contribution or expenditure in connection with the
7 election of any candidate or for any political purpose whatever
8 except in connection with any question to be voted on by the
9 electors of this Commonwealth. Furthermore, it shall be unlawful
10 for any candidate, political committee, or other person to
11 knowingly accept or receive any contribution prohibited by this
12 section, or for any officer or any director of any corporation,
13 bank, or any unincorporated association to consent to any
14 contribution or expenditure by the corporation, bank or
15 unincorporated association, as the case may be, prohibited by
16 this section.

17 * * *

18 Section 2. The act is amended by adding an article to read:

19 ARTICLE XVI-A

20 Pennsylvania Fair Campaign Fund

21 Section 1601-A. Definitions.--As used in this article, the
22 following words have the following meanings:

23 "Department" shall mean the Department of State of the
24 Commonwealth.

25 "Fund" shall mean the Pennsylvania Fair Campaign Fund.

26 "Major political party" shall mean a political party whose
27 candidate for Governor received either the highest or second
28 highest number of votes in the preceding gubernatorial election.

29 "Secretary" means the Secretary of the Commonwealth.

30 Section 1602-A. Application of Article.--(a) The provisions

1 of this article shall be applicable to candidates for the
2 following State-wide offices who elect to apply for campaign
3 funding under this article:

4 (1) Governor.

5 (2) Lieutenant Governor.

6 (3) Attorney General.

7 (4) Auditor General.

8 (5) State Treasurer.

9 (6) Supreme Court Justice.

10 (7) Superior Court Judge.

11 (8) Commonwealth Court Judge.

12 (b) For the purposes of this article insofar as it relates
13 to funding of nominated candidates in the general election, a
14 political party's or political body's nominated candidates for
15 Governor and Lieutenant Governor shall be considered as one
16 candidacy and the provisions specifically applicable to the
17 Governor shall be applicable to such combined candidacy.

18 Section 1603-A. Administration.--The provisions of this
19 article shall be administered by the department. The department
20 may adopt such rules and regulations as may be necessary for the
21 implementation of this article.

22 Section 1604-A. Pennsylvania Fair Campaign Fund Created.--
23 There is hereby created a special restricted receipts fund in
24 the State Treasury to be known as the "Pennsylvania Fair
25 Campaign Fund." Payments shall be made into this fund pursuant
26 to section 1605-A and disbursements shall be made from the fund
27 only upon the warrant of the secretary and a warrant of the
28 State Treasurer. As much of the moneys in the fund as are
29 necessary to make payments to candidates as provided in this
30 article are appropriated from the Pennsylvania Fair Campaign

1 Fund to the Department of State on a continuing basis for the
2 purpose of such payments.

3 Section 1605-A. Allocation of Certain Tax Proceeds to
4 Fund.--Beginning with tax years commencing January 1, 1992, and
5 thereafter, each individual subject to the tax imposed by
6 Article III of the act of March 4, 1971 (P.L.6, No.2), known as
7 the "Tax Reform Code of 1971," whose tax liability for any such
8 year is two dollars and fifty cents (\$2.50) or more may
9 designate two dollars and fifty cents (\$2.50) of his or her
10 personal income taxes to be paid into the Pennsylvania Fair
11 Campaign Fund. In the case of married taxpayers filing a joint
12 return, each spouse may designate two dollars and fifty cents
13 (\$2.50) to be paid into the Pennsylvania Fair Campaign Fund if
14 their tax liability is five dollars (\$5.00) or more. All such
15 designated tax revenues shall be paid into the fund. The check-
16 off and instructions shall be prominently displayed on the first
17 page of the return form. The instructions shall readily indicate
18 that any such designations neither increase or decrease an
19 individual's tax liability.

20 Section 1606-A. Certification of Moneys in Fund.--By June 30
21 of each year, the State Treasurer shall certify to the
22 department the current balance available in the fund.

23 Section 1607-A. Qualification for Funding.--(a) Any
24 candidate for State-wide office as described in section 1602-A
25 may apply for funding under this article if such candidate meets
26 the contributory thresholds established in subsection (b) and
27 otherwise conforms to the requirements of this article. No
28 candidate shall be obligated to apply for funding hereunder and
29 if any candidate elects not to apply, the provisions of this
30 article pertaining to limits on expenditures or the use of their

1 personal funds shall be inapplicable to such person and their
2 candidacy. Any candidate electing to receive funding under this
3 article must declare his intention to do so and specify the
4 State office for which he is a candidate. Any and all committees
5 authorized to receive contributions or make expenditures for the
6 candidate who has so declared must abide by the provisions of
7 section 1613-A. Any candidate who for any reason has his name
8 withdrawn from the ballot for a State-wide election, after
9 receipt of funds under this article, shall return all moneys
10 received to the fund as well as offering back qualifying
11 contributions for that State-wide office.

12 (b) (1) In order to qualify for funding in a general
13 election, a candidate must receive subsequent to the date of the
14 primary election but prior to the date of the general election
15 qualifying contributions of the following amounts:

<u>Office</u>	<u>Qualifying Contributions Required</u>
17 <u>(i) Governor</u>	<u>\$100,000</u>
18 <u>(ii) Lieutenant Governor</u>	<u>25,000 (for primary only)</u>
19 <u>(iii) State Treasurer</u>	<u>50,000</u>
20 <u>(iv) Auditor General</u>	<u>50,000</u>
21 <u>(v) Attorney General</u>	<u>60,000</u>
22 <u>(vi) Supreme Court Justices</u>	<u>25,000</u>
23 <u>(vii) Superior Court Judges</u>	<u>25,000</u>
24 <u>(viii) Commonwealth Court Judges</u>	<u>25,000</u>

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

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

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

3 (A) Made by an individual resident of Pennsylvania.

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

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

12 (iii) Any contribution by an individual which exceeds one
13 hundred dollars (\$100.00) in the aggregate shall be deemed only
14 a one hundred dollar (\$100.00) qualifying contribution for the
15 purposes of this section and for the matching payment provisions
16 of section 1608-A.

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

23 Section 1608-A. Funding Formula.--(a) Every candidate who
24 qualifies for funding for either the primary or the general
25 election pursuant to section 1607-A shall receive matching
26 payments from the fund in the amount of two dollars and fifty
27 cents (\$2.50) for each dollar of qualifying contribution as
28 defined in section 1607-A(b)(3).

29 (b) The two dollars and fifty cents (\$2.50) for each dollar
30 of qualifying contributions provided by this section shall be

1 provided only for qualifying contributions raised which exceed
2 the threshold amounts specified in section 1607-A(b) and not to
3 those qualifying contributions which are attributable to meeting
4 such threshold amounts necessary to qualify for funding under
5 this article.

6 (c) (1) Only those qualifying contributions made during the
7 period between a declaration of candidacy and the primary
8 election shall be eligible for matching payments from the fund
9 for the primary election.

10 (2) Only those qualifying contributions made during the
11 period between the primary election and the general election
12 shall be eligible for matching payments from the fund for the
13 general election.

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

17 Section 1609-A. Limitations on Funding.--(a) Every
18 candidate who qualifies for and receives funding pursuant to the
19 formula established in section 1608-A shall be entitled to
20 receive no more than the maximum amount specified in subsection
21 (b) for the office such candidate is seeking.

22 (b) (1) The maximum amount of funding available for the
23 general election for each candidate under this article shall be
24 as follows:

<u>Office</u>	<u>Maximum Pennsylvania Fair</u> <u>Campaign Funding</u>
<u>(i) Governor</u>	<u>\$2,000,000</u>
<u>(ii) Attorney General</u>	<u>400,000</u>
<u>(iii) Auditor General, State</u>	
<u>Treasurer</u>	<u>300,000</u>

1	<u>(iv) Lieutenant Governor</u>	<u>100,000 (primary only)</u>
2	<u>(v) Supreme Court Justices</u>	<u>150,000</u>
3	<u>(vi) Superior Court Judges</u>	<u>150,000</u>
4	<u>(vii) Commonwealth Court Judges</u>	<u>150,000</u>

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

8 (c) Notwithstanding any other provisions of this article no
9 funding shall be provided to the following:

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

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

14 Section 1610-A. Time of Payments.--(a) Beginning ninety
15 (90) days prior to the relevant primary or general election, the
16 department shall make payments authorized by this article at
17 least every two (2) weeks. However, except for the final
18 payment, no payment shall be due or paid if the payment does not
19 equal at least five thousand dollars (\$5,000) in amount.

20 (b) If in the secretary's opinion insufficient funds exist
21 in the fund to provide the anticipated full funding to eligible
22 candidates in a given primary or general election, the
23 department shall distribute the available funds to qualified
24 candidates on a pro-rata basis. In determining whether
25 sufficient funds are available, the secretary shall not take
26 into consideration the needs of any subsequent primary or
27 general elections but shall base the decision solely on the
28 immediate primary or election at hand.

29 Section 1611-A. Use of funds by Candidates.--(a) Funds
30 distributed to candidates pursuant to this article may be used

1 only for the election for which they are distributed and only
2 for the purposes set forth in section 1634.1 except that no fund
3 moneys may be used:

4 (1) To transfer to other candidates or to committees of
5 other candidates or to political committees.

6 (2) To pay for expenditures incurred after the date of the
7 general election.

8 (b) Funds distributed to a candidate pursuant to this
9 article shall be placed in a single bank account. Expenditures
10 from this account shall be made only for campaign expenses
11 listed in subsection (a).

12 Section 1612-A. Expenditures.--(a) Expenditures made by a
13 candidate and his authorized committees, for all purposes and
14 from all sources, including, but not limited to, amounts of
15 funds distributed under this article, proceeds of loans, gifts,
16 contributions from any source or personal funds, subsequent to
17 the date of the primary election, but prior to the date of the
18 general election, may not exceed the amounts specified below:

<u>Office</u>	<u>Total Expenditure Limits</u>
<u>(i) Governor</u>	<u>\$4,000,000</u>
<u>(ii) Lieutenant Governor</u>	<u>200,000 (for primary only)</u>
<u>(iii) Attorney General</u>	<u>800,000</u>
<u>(iv) State Treasurer</u>	<u>600,000</u>
<u>(v) Auditor General</u>	<u>600,000</u>
<u>(vi) 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

1 primary election, may not exceed one-half of the amount
2 specified in subsection (a).

3 (c) Notwithstanding any other provision of this article, a
4 candidate who accepts public funding pursuant to the formula
5 established in section 1608-A, but whose major political party
6 opponent elects not to apply for such public funding, shall not
7 be bound by the expenditure limits specified in this section and
8 such candidate or candidates who accept public funding shall be
9 eligible to qualify for those fair campaign funds which would
10 have otherwise been available to the opponent.

11 Section 1613-A. Limitations on Certain Contributions.--(a)
12 Any candidate for the office of Justice of the Supreme Court or
13 Judge of the Superior Court or Commonwealth Court shall not
14 accept any contribution from an individual or political action
15 committee in excess of two hundred fifty dollars (\$250), except
16 that the candidate and spouse may contribute up to twenty-five
17 thousand dollars (\$25,000) for each primary, general or special
18 election. Any non-judicial candidate for a State-wide office set
19 forth under this article shall not accept contributions for each
20 primary, general or special election which exceed those
21 specified limits as follows:

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

27 (b) Aggregate contributions during the year of the election
28 by a political party committee or candidate's political
29 committee to candidates receiving funding under this article
30 shall not exceed the sum of contributions from individuals to

1 the committee, provided that whenever contributions in the
2 aggregate during the year of the election from an individual
3 exceed one thousand dollars (\$1,000), only one thousand dollars
4 (\$1,000) shall be included in that sum.

5 (c) A gift, subscription, loan, advance or deposit of money
6 or anything of value to a candidate shall be considered a
7 contribution both by the original source of the contribution and
8 by any intermediary or conduit if the intermediary or conduit
9 (1) exercises any control or any direction over the making of
10 the contribution; or (2) solicits the contribution or arranges
11 for the contribution to be made and directly or indirectly makes
12 the candidate aware of such intermediary or conduit's role in
13 soliciting or arranging the contribution for such candidate.

14 (d) For purposes of subsection (c), a contribution shall not
15 be considered to be a contribution by an intermediary or conduit
16 to the candidate if (1) the intermediary or conduit has been
17 retained by the candidate's committee for the purpose of fund-
18 raising and is reimbursed for expenses incurred in soliciting
19 contributions; (2) in the case of an individual, the candidate
20 has expressly authorized the intermediary or conduit to engage
21 in fund-raising, or the individual occupies a significant
22 position within the candidate's campaign organization; or (3) in
23 the case of a political committee, the intermediary or conduit
24 is an authorized committee of the candidate.

25 Section 1614-A. Inflation Indexing of Certain Limitations.--
26 The dollar figures contained in sections 1607-A, 1609-A and
27 1612-A shall be adjusted annually during March at a rate equal
28 to the average percentage change in the All-Urban Consumer Price
29 Index for the Pittsburgh, Philadelphia and Scranton standard
30 metropolitan statistical areas as published by the Bureau of

1 Labor Statistics of the United States Department of Labor, or
2 any successor agency, occurring in the prior calendar year. The
3 base year shall be 1990. The average shall be calculated and
4 certified by the secretary annually by adding the percentage
5 increase in each of the three areas and dividing by three. The
6 calculation and resulting new figures shall be published in the
7 Pennsylvania Bulletin during March.

8 Section 1615-A. Annual Report.--The secretary shall report
9 annually to the General Assembly and the Governor on the
10 operations of funding as provided by this article. This report
11 shall include, but not be limited to, the revenues and
12 expenditures in the fund, the amounts distributed to candidates,
13 the results of any audits performed on candidates in compliance
14 with this article and any prosecutions brought for violations of
15 this article.

16 Section 1616-A. Repayment of Borrowed Funds.--Any funds
17 borrowed by any candidate or his campaign treasurer or committee
18 for the purpose of nomination or election of the candidate shall
19 be repaid in full by the candidate prior to the date of the
20 general election in which he is a candidate for office.

21 Section 1617-A. Return of Excess Funds.--All unexpended
22 campaign funds in a candidate's and his authorized committees'
23 possession sixty (60) days after the election shall be returned
24 to the secretary for deposit in the Pennsylvania Fair Campaign
25 Fund, up to the amount of the funds which were distributed to
26 the candidate under this article.

27 Section 1618-A. Penalties.--(a) A person who violates the
28 provisions of this article and who, as a result, obtains funds
29 under this article to which he is not entitled commits a
30 misdemeanor of the first degree and upon conviction shall be

1 subject to a fine not to exceed the greater of ten thousand
2 dollars (\$10,000) or three times the amount of funds wrongfully
3 obtained, or imprisonment for up to five years or both.

4 (b) A person who violates section 1611-A or 1612-A commits a
5 misdemeanor of the first degree and upon conviction shall be
6 subject to a fine not to exceed the greater of ten thousand
7 dollars (\$10,000) or three times the amount of funds that were
8 wrongfully used or expended or to imprisonment for up to five
9 years, or to both.

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

15 Section 3. This act shall be applicable to returns of
16 taxpayers of calendar years commencing January 1, 1992, and
17 thereafter. Pennsylvania Fair Campaign funding shall be first
18 provided for candidates for Statewide office in the primary
19 election of 1994 and in each primary, municipal and general
20 election thereafter.

21 Section 4. This act shall take effect immediately.