

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 766 Session of 1997

INTRODUCED BY GREENLEAF, KUKOVICH, COSTA AND O'PAKE,  
APRIL 1, 1997

REFERRED TO STATE GOVERNMENT, APRIL 1, 1997

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 limited public funding of judicial  
 12 Statewide elections; limiting certain contributions; imposing  
 13 powers and duties on the Department of State; imposing  
 14 penalties; and making a repeal.

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

17 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known  
 18 as the Pennsylvania Election Code, is amended by adding an  
 19 article to read:

ARTICLE XVI-A

State-wide Public Judicial Election Financing

22 Section 1601-A. Application of Article.--The provisions of  
 23 this article shall be applicable to candidates for the following

1 State-wide offices who elect to apply for public funding under  
2 this article:

3 (1) Supreme Court Justice.

4 (2) Superior Court Judge.

5 (3) Commonwealth Court Judge.

6 Section 1602-A. Administration.--The provisions of this  
7 article shall be administered by the Secretary of the  
8 Commonwealth. The secretary may adopt such rules and regulations  
9 as may be necessary for the implementation of this article.

10 Section 1603-A. Public Judicial Election Financing Fund  
11 Created.--There is hereby created a special restricted receipts  
12 fund in the State Treasury to be known as the Public Judicial  
13 Election Financing Fund. Payments shall be made into the fund  
14 under section 1604-A and disbursements shall be made from the  
15 fund only upon the warrant of the Secretary of the Commonwealth  
16 and a warrant of the State Treasurer. As much of the moneys in  
17 the fund as are necessary to make payments to candidates as  
18 provided in this article are appropriated from the fund to the  
19 Department of State for the purpose of making the payments.

20 Section 1604-A. Allocation of Certain Tax Proceeds to  
21 Fund.--Beginning with tax years commencing January 1, 1998, and  
22 thereafter, each individual subject to the tax imposed by  
23 Article III of the act of March 4, 1971 (P.L.6, No.2), known as  
24 the "Tax Reform Code of 1971," whose tax liability for any year  
25 is one dollar and fifty cents (\$1.50) or more may designate one  
26 dollar and fifty cents (\$1.50) of his personal income taxes to  
27 be paid into the Public Judicial Election Financing Fund. In the  
28 case of married taxpayers filing a joint return, each spouse may  
29 designate one dollar and fifty cents (\$1.50) to be paid into the  
30 fund if their tax liability is three dollars (\$3.00) or more.

1 All tax revenues designated under this section shall be paid  
2 into the fund. The checkoff and instructions shall be  
3 prominently displayed on the first page of the return form. The  
4 instructions shall readily indicate that any designations under  
5 this section neither increase nor decrease an individual's tax  
6 liability.

7 Section 1605-A. Certification of Moneys in Public Judicial  
8 Election Financing Fund.--By June 30 of each year, the State  
9 Treasurer shall certify to the secretary the current balance  
10 available in the Public Judicial Election Financing Fund.

11 Section 1606-A. Qualification for Public Funding.--(a) Any  
12 candidate for a State-wide judicial office, as described in  
13 section 1601-A, may apply for public funding under this article  
14 if the candidate meets the contributory thresholds established  
15 in subsection (b) and otherwise conforms to the requirements of  
16 this article. No candidate shall be obligated to apply for  
17 funding under this article and if any candidate elects not to  
18 apply, the provisions of this article shall be inapplicable to  
19 the person and the person's candidacy. Any candidate electing to  
20 receive public funding must declare an intention to do so and  
21 specify the State judicial office for which he is a candidate.  
22 Any and all committees authorized to receive contributions or  
23 make expenditures for the candidate who has so declared must  
24 abide by the provisions of section 1612-A. Any candidate who for  
25 any reason has his name withdrawn from the ballot for a State-  
26 wide judicial election, after receipt of public funds, shall  
27 return all moneys received to the fund and shall offer to return  
28 all qualifying contributions for that State-wide judicial  
29 office.

30 (b) (1) In order to qualify for public funding in the

1 general election, a candidate must receive, subsequent to the  
2 date of the primary election but prior to the date of the  
3 general election, qualifying contributions of the following  
4 amounts:

5	<u>Office</u>	<u>Qualifying Contributions Required</u>
6	<u>(i) Supreme Court Justice</u>	<u>\$25,000.00</u>
7	<u>(ii) Superior Court Judge</u>	<u>20,000.00</u>
8	<u>(iii) Commonwealth Court Judge</u>	<u>15,000.00</u>

9 (2) In order to qualify for public funding in the primary  
10 election, a candidate must receive, prior to the date of the  
11 primary election but subsequent to the immediately preceding  
12 general election, one-half of the amount specified in clause (1)  
13 for the appropriate office.

14 (3) (i) The term "qualifying contribution" shall include  
15 any contribution, as defined in section 1621(b), which has all  
16 of the following characteristics:

17 (A) The contribution was made by an individual who is a  
18 resident of Pennsylvania.

19 (B) The contribution was made by a written instrument which  
20 indicates the contributor's full name and mailing residence and  
21 is not intended to be returned to the contributor or transferred  
22 to another political committee or candidate.

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

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

1 of section 1607-A.

2 (c) The secretary shall select an auditor under the  
3 provisions of section 1635(a). Each candidate who elects to  
4 apply for public funding shall provide evidence that the  
5 candidate has raised the qualifying contributions required by  
6 this section, which evidence shall be verified and certified as  
7 correct to the secretary by the auditor selected by the  
8 secretary.

9 Section 1607-A. Public Funding Formula.--(a) Every  
10 candidate who qualifies for public funding for either the  
11 primary or the general election pursuant to section 1606-A shall  
12 receive matching payments from the fund in the amount of one  
13 dollar and fifty cents (\$1.50) for each dollar of qualifying  
14 contribution as defined in section 1606-A(b)(3).

15 (b) The one dollar and fifty cents (\$1.50) for each dollar  
16 of qualifying contributions authorized by this section shall be  
17 provided only for qualifying contributions raised which exceed  
18 the threshold amounts specified in section 1606-A(b) and not for  
19 those qualifying contributions which are attributable to meeting  
20 the threshold amounts necessary to qualify for public funding.

21 (c) (1) Only those qualifying contributions made during the  
22 period between a declaration of candidacy and the primary  
23 election shall be eligible for matching payments from the fund  
24 for the primary election.

25 (2) Only those qualifying contributions made during the  
26 period between the primary election and the general election  
27 shall be eligible for matching payments from the fund for the  
28 general election.

29 Section 1608-A. Limitations on Public Funding.--(a) Every  
30 candidate who qualifies for and receives public funding under

1 the formula established in section 1607-A shall be entitled to  
2 receive no more than the maximum amount specified in subsection  
3 (b) for the office the candidate is seeking.

4 (b) (1) The maximum amount of public funding available for  
5 the general election for each candidate under this article shall  
6 be as follows:

7	<u>Office</u>	<u>Maximum Public Funding</u>
8	<u>(i) Supreme Court Justice</u>	<u>\$100,000.00</u>
9	<u>(ii) Superior Court Judge</u>	<u>75,000.00</u>
10	<u>(iii) Commonwealth Court Judge</u>	<u>50,000.00</u>

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

14 (c) Notwithstanding any other provisions of this article,  
15 public funding shall not be provided to the following:

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

18 (2) Candidates who are running in a judicial retention  
19 election.

20 (3) Candidates in the primary election who are unopposed for  
21 the nomination.

22 (d) As used in this article:

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

26 "Secretary" shall mean the Secretary of the Commonwealth.

27 "Unopposed candidate" shall mean any candidate who is the  
28 only candidate for election to an office who reaches the  
29 qualifying contribution threshold prescribed in section 1606-  
30 A(b).

1       Section 1609-A. Time of Payments.--(a) Beginning ninety  
2 (90) days prior to the relevant primary or general election, the  
3 secretary shall make payments authorized by this article at  
4 least every two (2) weeks. However, except for the final  
5 payment, no payment shall be due or paid if the amount of the  
6 payment does not equal at least five thousand dollars  
7 (\$5,000.00).

8       (b) If, in the secretary's opinion, insufficient funds exist  
9 in the Public Judicial Election Financing Fund to provide  
10 anticipated full funding to eligible candidates in a given  
11 primary or general election, the secretary shall distribute the  
12 available funds to qualified candidates on a pro rata basis. In  
13 determining whether sufficient funds are available, the  
14 secretary shall not take into consideration the needs of any  
15 subsequent primary or general election, but shall base the  
16 decision solely on the immediate primary or general election at  
17 hand.

18       Section 1610-A. Use of Public Funds by Candidates.--(a)  
19 Public funds distributed to candidates under this article may be  
20 used only for the election for which they are distributed and  
21 only for the following:

- 22       (1) Radio and television time.
- 23       (2) Billboard rental.
- 24       (3) Newspaper advertising.
- 25       (4) Production costs of advertising.
- 26       (5) Printing and mailing of campaign literature.
- 27       (6) Legal and accounting fees.
- 28       (7) Telephone expenses.
- 29       (8) Campaign office rental.
- 30       (9) Travel expenses.

1 (b) Public funds distributed to a candidate under this  
2 article shall be placed in a single bank account. Expenditures  
3 from this account shall be made only for campaign expenses  
4 listed in subsection (a).

5 Section 1611-A. Expenditures.--(a) Expenditures made by a  
6 candidate and the candidate's authorized committees, for all  
7 purposes and from all sources, including, but not limited to,  
8 amounts of public funds distributed under this article, proceeds  
9 of loans, gifts, contributions from any source or personal  
10 funds, subsequent to the date of the primary election, but prior  
11 to the date of the general election, may not exceed three  
12 hundred thousand dollars (\$300,000.00).

13 (b) Expenditures made by a candidate and the candidate's  
14 authorized committees, subsequent to January 1 but prior to the  
15 date of the primary election, may not exceed one-half of the  
16 amount specified in subsection (a).

17 Section 1612-A. Limitations on Certain Contributions.--(a)  
18 Any candidate who applies for and receives public financing  
19 under this article shall not accept contributions for the  
20 election for which the public funds were provided which exceed  
21 the following limits:

<u>Contributor</u>	<u>Limit</u>
23 <u>(1) Individual</u>	<u>\$2,500.00</u>
24 <u>(2) Candidate and spouse</u>	<u>25,000.00</u>
25 <u>(3) Political action committee</u>	
26 <u>as defined in section 1621(1)</u>	<u>2,500.00</u>
27 <u>(4) Partnerships</u>	<u>2,500.00</u>

28 (b) Aggregate contributions during the year of the election  
29 by a political party committee or candidate's political  
30 committee to candidates receiving public financing shall not

1 exceed the sum of contributions from individuals to the  
2 committee, provided that whenever, during the year of the  
3 election, contributions from an individual exceed one thousand  
4 dollars (\$1,000.00) in the aggregate, only one thousand dollars  
5 (\$1,000.00) shall be included in that sum.

6 Section 1613-A. Inflation Indexing of Certain Limitations.--  
7 The dollar figures contained in sections 1606-A, 1608-A and  
8 1612-A shall be adjusted annually during March at a rate equal  
9 to the average percentage change in the All-Urban Consumer Price  
10 Index for the Pittsburgh, Philadelphia and Scranton standard  
11 metropolitan statistical areas as published by the Bureau of  
12 Labor Statistics of the United States Department of Labor, or  
13 any successor agency, occurring in the prior calendar year. The  
14 base year shall be 1997. The average shall be calculated and  
15 certified by the secretary annually by adding the percentage  
16 increase in each of the three (3) areas and dividing by three  
17 (3). The calculation and resulting new figures shall be  
18 published in the Pennsylvania Bulletin during March.

19 Section 1614-A. Annual Report.--The secretary shall report  
20 annually to the General Assembly and the Governor on the  
21 operations of public judicial campaign financing as provided by  
22 this article. The report shall include, but not be limited to,  
23 the revenues and expenditures in the Public Judicial Election  
24 Financing Fund, the amounts distributed to candidates, the  
25 results of any audits performed in accordance with the  
26 provisions of this article and any prosecutions brought for  
27 violations of this article.

28 Section 1615-A. Return of Excess Funds.--All unexpended  
29 campaign funds in the possession of a candidate and the  
30 candidate's authorized committees sixty (60) days after the

1 election, up to the amount of the funds which were distributed  
2 to the candidate under this article, shall be returned to the  
3 secretary for deposit in the Public Judicial Election Financing  
4 Fund.

5 Section 1616-A. Penalties.--(a) A person who violates the  
6 provisions of this article and who, as a result, obtains public  
7 funds to which the person is not entitled commits a misdemeanor  
8 of the first degree and shall, upon conviction, be sentenced to  
9 pay a fine not to exceed the greater of ten thousand dollars  
10 (\$10,000.00) or three (3) times the amount of funds wrongfully  
11 obtained, or imprisonment for up to five (5) years, or both.

12 (b) A person who violates section 1610-A or 1611-A of this  
13 act commits a misdemeanor of the first degree and shall, upon  
14 conviction, be sentenced to pay a fine not to exceed the greater  
15 of ten thousand (\$10,000.00) or three (3) times the amount of  
16 funds that were wrongfully used or expended, or to imprisonment  
17 for up to five (5) years, or both.

18 (c) Except as provided in subsections (a) and (b) of this  
19 section, a person who violates any provision of this act commits  
20 a misdemeanor of the third degree and shall, upon conviction, be  
21 sentenced to pay a fine of not more than one thousand dollars  
22 (\$1,000.00) or imprisonment for up to one (1) year, or both.

23 Section 2. Section 12 of the act of June 23, 1982 (P.L.597,  
24 No.170), known as the Wild Resource Conservation Act, is  
25 repealed insofar as it is inconsistent with this act.

26 Section 3. This act shall apply to returns of taxpayers  
27 filed in calendar years commencing January 1, 1998, and  
28 thereafter. Public funding shall be first provided for  
29 candidates for Statewide office in the primary election in 1999  
30 and in each primary, municipal and general election thereafter.

1 Section 4. This act shall take effect immediately.