

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2093 Session of 2021

INTRODUCED BY MUSTELLO, SMITH, STAMBAUGH, ROWE, LEWIS DELROSSO, BERNSTINE, RYAN, JOZWIAK, M. MACKENZIE, HAMM, COX, R. MACKENZIE, STAATS, METCALFE, KEEFER, ROSSI, MOUL AND ZIMMERMAN, NOVEMBER 17, 2021

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 10, 2022

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," in nomination of candidates, further providing <--
12 for affidavits of candidates; IN DISTRICT ELECTION OFFICERS, <--
13 FURTHER PROVIDING FOR ELECTION OFFICERS TO BE SWORN; IN DATES
14 OF ELECTIONS AND PRIMARIES AND SPECIAL ELECTIONS, FURTHER
15 PROVIDING FOR AFFIDAVITS OF CANDIDATES; IN NOMINATION OF
16 CANDIDATES, FURTHER PROVIDING FOR PETITION MAY CONSIST OF
17 SEVERAL SHEETS AND STATEMENT OF CIRCULATOR, FOR AFFIDAVITS OF
18 CANDIDATES, FOR EXAMINATION OF NOMINATION PETITIONS,
19 CERTIFICATES AND PAPERS AND RETURN OF REJECTED NOMINATION
20 PETITIONS, CERTIFICATES AND PAPERS, FOR VACANCY IN PARTY
21 NOMINATION BY FAILURE TO PAY FILING FEE OR FOR FAILURE TO
22 FILE LOYALTY OATH, FOR AFFIDAVITS OF CANDIDATES, FOR FILLING
23 OF CERTAIN VACANCIES IN PUBLIC OFFICE BY MEANS OF NOMINATION
24 CERTIFICATES AND NOMINATION PAPERS AND FOR SUBSTITUTED
25 NOMINATIONS TO FILL CERTAIN VACANCIES FOR A NOVEMBER
26 ELECTION; IN BALLOTS, FURTHER PROVIDING FOR FORM OF BALLOTS
27 AND PRINTING BALLOTS; and replacing references to "justice of
28 the peace" with "magisterial district judge."

29 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Sections 406, 630.1, 909, 910, 976, 978.1, 981.1,  
3 993(a) and (b) and 998 (a) and (b) of the act of June 3, 1937  
4 (P.L.1333, No.320), known as the Pennsylvania Election Code, are  
5 amended to read:

6 Section 406. Election Officers to Be Sworn.--All judges,  
7 inspectors, clerks of election and machine inspectors shall,  
8 before entering upon their duties at any primary or election, be  
9 duly sworn in the presence of each other and of the watchers and  
10 overseers, if any. The judge shall first be sworn by the  
11 minority inspector or by a magistrate, alderman or [justice of  
12 the peace] magisterial district judge, and the inspectors,  
13 clerks and machine inspectors shall then be sworn by the judge.  
14 Each of them shall forthwith sign in duplicate the oath taken by  
15 him upon forms to be furnished by the county board, and the same  
16 shall be attested by the officer who administered the oath.

17 Section 630.1. Affidavits of Candidates.--Each candidate for  
18 any State, county, city, borough, incorporated town, township,  
19 school district or poor district office, or for the office of  
20 United States Senator or Representative in Congress, selected as  
21 provided in section 630 of this act, shall file with the  
22 nomination certificate an affidavit stating--(a) his residence,  
23 with street and number, if any, and his post-office address; (b)  
24 his election district, giving city, borough, town or township;  
25 (c) the name of the office for which he consents to be a  
26 candidate; (d) that he is eligible for such office; (e) that he  
27 will not knowingly violate any provision of this act, or of any  
28 law regulating and limiting election expenses and prohibiting  
29 corrupt practices in connection therewith; (f) unless he is a  
30 candidate for judge of a court of common pleas, the Philadelphia

1 Municipal Court [or for the office of school board in a district <--  
2 where that office is elective] or for the office of [justice of <--  
3 the peace] magisterial district judge, that he is not a  
4 candidate for the same office of any party or political body  
5 other than the one designated in such certificate; (g) that he  
6 is aware of the provisions of section 1626 of this act requiring  
7 election and post-election reporting of campaign contributions  
8 and expenditures; and (h) that he is not a candidate for an  
9 office which he already holds, the term of which is not set to  
10 expire in the same year as the office subject to the affidavit.

11 Section 909. Petition May Consist of Several Sheets;  
12 Statement of Circulator.--Said nomination petition may be on one  
13 or more sheets, and different sheets must be used for signers  
14 resident in different counties. If more than one sheet is used,  
15 they shall be bound together when offered for filing if they are  
16 intended to constitute one petition, and each sheet shall be  
17 numbered consecutively beginning with number one, at the foot of  
18 each page. In cases of petitions for delegate or alternate  
19 delegate to National conventions, each sheet shall contain a  
20 notation indicating the presidential candidate to whom he is  
21 committed or the term "uncommitted." Each sheet shall have  
22 appended thereto the statement of the circulator of each sheet,  
23 setting forth, subject to the penalties of 18 Pa.C.S. § 4904  
24 (relating to unsworn falsification to authorities)--(a) that he  
25 or she is a qualified elector of the Commonwealth, who is duly  
26 registered and enrolled as a member of the party designated in  
27 said petition, unless said petition relates to the nomination of  
28 a candidate for a court of common pleas, for the Philadelphia  
29 Municipal Court or for [justice of the peace] magisterial  
30 district judge, in which event the circulator need not be a duly

1 registered and enrolled member of the designated party; (b) his  
2 residence, giving city, borough or township, with street and  
3 number, if any; (c) that the signers thereto signed with full  
4 knowledge of the contents of the petition; (d) that their  
5 respective residences are correctly stated therein; (e) that  
6 they all reside in the county named in the statement; (f) that  
7 each signed on the date set opposite his name; and (g) that, to  
8 the best of the circulator's knowledge and belief, the signers  
9 are qualified electors and duly registered and enrolled members  
10 of the designated party of the State, or of the political  
11 district, as the case may be.

12 Section 910. Affidavits of Candidates.--Each candidate for  
13 any State, county, city, borough, incorporated town, township,  
14 ward, school district, poor district, election district, party  
15 office, party delegate or alternate, or for the office of United  
16 States Senator or Representative in Congress, shall file with  
17 his nomination petition his affidavit stating--(a) his  
18 residence, with street and number, if any, and his post-office  
19 address; (b) his election district, giving city, borough, town  
20 or township; (c) the name of the office for which he consents to  
21 be a candidate; (d) that he is eligible for such office; (e)  
22 that he will not knowingly violate any provision of this act, or  
23 of any law regulating and limiting nomination and election  
24 expenses and prohibiting corrupt practices in connection  
25 therewith; (f) unless he is a candidate for judge of a court of  
26 common pleas, the Philadelphia Municipal Court [or for the <--  
27 office of school director in a district where that office is  
28 elective] or for the office of [justice of the peace] <--  
29 magisterial district judge that he is not a candidate for  
30 nomination for the same office of any party other than the one

1 designated in such petition; (g) if he is a candidate for a  
2 delegate, or alternate delegate, member of State committee,  
3 National committee or party officer, that he is a registered and  
4 enrolled member of the designated party; (h) if he is a  
5 candidate for delegate or alternate delegate the presidential  
6 candidate to whom he is committed or the term "uncommitted"; (i)  
7 that he is aware of the provisions of section 1626 of this act  
8 requiring pre-election and post-election reporting of campaign  
9 contributions and expenditures; and (j) that he is not a  
10 candidate for an office which he already holds, the term of  
11 which is not set to expire in the same year as the office  
12 subject to the affidavit. In cases of petitions for delegate and  
13 alternate delegate to National conventions, the candidate's  
14 affidavit shall state that his signature to the delegate's  
15 statement, as hereinafter set forth, if such statement is signed  
16 by said candidate, was affixed to the sheet or sheets of said  
17 petition prior to the circulation of same. In the case of a  
18 candidate for nomination as President of the United States, it  
19 shall not be necessary for such candidate to file the affidavit  
20 required in this section to be filed by candidates, but the  
21 post-office address of such candidate shall be stated in such  
22 nomination petition.

23 Section 976. Examination of Nomination Petitions,  
24 Certificates and Papers; Return of Rejected Nomination  
25 Petitions, Certificates and Papers.--When any nomination  
26 petition, nomination certificate or nomination paper is  
27 presented in the office of the Secretary of the Commonwealth or  
28 of any county board of elections for filing within the period  
29 limited by this act, it shall be the duty of the said officer or  
30 board to examine the same. No nomination petition, nomination

1 paper or nomination certificate shall be permitted to be filed  
2 if--(a) it contains material errors or defects apparent on the  
3 face thereof, or on the face of the appended or accompanying  
4 affidavits; or (b) it contains material alterations made after  
5 signing without the consent of the signers; or (c) it does not  
6 contain a sufficient number of signatures as required by law;  
7 Provided, however, That the Secretary of the Commonwealth or the  
8 county board of elections, although not hereby required so to  
9 do, may question the genuineness of any signature or signatures  
10 appearing thereon, and if he or it shall thereupon find that any  
11 such signature or signatures are not genuine, such signature or  
12 signatures shall be disregarded in determining whether the  
13 nomination petition, nomination paper or nomination certificate  
14 contains a sufficient number of signatures as required by law;  
15 or (d) in the case of nomination petitions, if nomination  
16 petitions have been filed for printing the name of the same  
17 person for the same office, except the office of judge of a  
18 court of common pleas, the Philadelphia Municipal Court [or the <--  
19 office of school director in districts where that office is  
20 elective] or the office of [justice of the peace] magisterial <--  
21 district judge upon the official ballot of more than one  
22 political party; or (e) in the case of nomination papers, if the  
23 candidate named therein has filed a nomination petition for any  
24 public office for the ensuing primary, or has been nominated for  
25 any such office by nomination papers previously filed; or (f) if  
26 the nomination petitions or papers are not accompanied by the  
27 filing fee or certified check required for said office; or (g)  
28 in the case of nomination papers, the appellation set forth  
29 therein is identical with or deceptively similar to the words  
30 used by any existing party or by any political body which has

1 already filed nomination papers for the same office, or if the  
2 appellation set forth therein contains part of the name, or an  
3 abbreviation of the name or part of the name of an existing  
4 political party, or of a political body which has already filed  
5 nomination papers for the same office. The invalidity of any  
6 sheet of a nomination petition or nomination paper shall not  
7 affect the validity of such petition or paper if a sufficient  
8 petition or paper remains after eliminating such invalid sheet.  
9 The action of said officer or board in refusing to receive and  
10 file any such nomination petition, certificate or paper, may be  
11 reviewed by the court upon an application to compel its  
12 reception as of the date when it was presented to the office of  
13 such officer or board: Provided, however, That said officer or  
14 board shall be entitled to a reasonable time in which to examine  
15 any petitions, certificates or papers, and to summon and  
16 interrogate the candidates named therein, or the persons  
17 presenting said petitions, certificates or papers, and his or  
18 their retention of same for the purpose of making such  
19 examination or interrogation shall not be construed as an  
20 acceptance or filing.

21 Upon completion of any examination, if any nomination  
22 petition, certificate or paper is found to be defective, it  
23 shall forthwith be rejected and returned to the candidate or one  
24 of the candidates named therein, together with a statement of  
25 the reasons for such rejection:

26 Provided further, That no nomination petition, nomination  
27 paper or nomination certificate shall be permitted to be filed,  
28 if the political party or political body referred to therein  
29 shall be composed of a group of electors whose purposes or aims,  
30 or one of whose purposes or aims, is the establishment, control,

1 conduct, seizure or overthrow of the Government of the  
2 Commonwealth of Pennsylvania or the United States of America by  
3 the use of force, violence, military measure or threats of one  
4 or more of the foregoing. The authority to reject such  
5 nomination petition, paper or certificate for this reason shall,  
6 when filed with the Secretary of the Commonwealth, be vested in  
7 a committee composed of the Governor, the Attorney General and  
8 the Secretary of the Commonwealth, and when filed with any  
9 county board of elections shall be vested in such board. If in  
10 such case the committee or board, as the case may be, shall  
11 conclude that the acceptance of such nomination petition, paper  
12 or certificate should be refused, it shall within two days of  
13 the filing of such nomination petition, paper or certificate fix  
14 a place and a time five days in advance for hearing the matter,  
15 and notice thereof shall be given to all parties affected  
16 thereby. At the time and place so fixed the committee or board,  
17 as the case may be, shall hear testimony, but shall not be bound  
18 by technical rules of evidence. The testimony presented shall be  
19 stenographically recorded and made a part of the record of the  
20 committee or board. Within two days after such hearing the  
21 committee or board, if satisfied upon competent evidence that  
22 the said nomination petition, paper or certificate is not  
23 entitled to be accepted and filed, it shall announce its  
24 decision and immediately notify the parties affected thereby.  
25 Failure to announce decision within two days after such hearing  
26 shall be conclusive that such nomination petition, paper or  
27 certificate has been accepted and filed. The decision of said  
28 committee or board in refusing to accept and file such  
29 nomination petition, paper or certificate may be reviewed by the  
30 court upon an application to compel its reception as of the date



1 when presented to the Secretary of the Commonwealth or such  
2 board. The application shall be made within two days of the time  
3 when such decision is announced. If the application is properly  
4 made, any judge of said court may fix a time and place for  
5 hearing the matter in dispute, of which notice shall be served  
6 with a copy of said application upon the Secretary of the  
7 Commonwealth or the county board of elections, as the case may  
8 be. At the time so fixed, the court, or any judge thereof  
9 assigned for the purpose, shall hear the case de novo. If after  
10 such hearing the said court shall find that the decision of the  
11 committee or the board was erroneous, it shall issue its mandate  
12 to the committee or board to correct its decision and to accept  
13 and file the nomination paper, petition or certificate. From any  
14 decision of the court an appeal may be taken within two days  
15 after the entry thereof. It shall be the duty of the said court  
16 to fix the hearing and to announce its decision within such  
17 period of time as will permit the Secretary of the Commonwealth  
18 or the county board of elections to permit the names of the  
19 candidates affected by the court's decision to be printed on the  
20 ballot, if the court should so determine.

21 Section 978.1. Vacancy in Party Nomination by Failure to Pay  
22 Filing Fee or for Failure to File Loyalty Oath.--Every person  
23 nominated at any primary election as the candidate of any  
24 political party for any office, other than a borough, town,  
25 township, school district or poor district office, or the office  
26 of [justice of the peace] magisterial district judge, or  
27 constable, who has not paid the filing fee required by section  
28 nine hundred thirteen of this act, as amended, for the filing of  
29 a nomination petition for such office, or who has not filed the  
30 loyalty oath required by section 14, act of December 22, 1951

1 (P.L.1726), known as the "Pennsylvania Loyalty Act," as last  
2 amended June 19, 1961 (P.L.446), shall pay the amount of such  
3 fee to and file such oath with the Secretary of the  
4 Commonwealth, or the county board of elections, as the case may  
5 be, at least eighty-five (85) days previous to the day of the  
6 general or municipal election at which such candidate's name  
7 would appear on the ballot. Failure to pay such fee or file such  
8 oath within the time herein prescribed shall result in a vacancy  
9 in such party nomination. Such vacancy shall be filled in the  
10 manner hereinafter provided for the filling of such vacancies  
11 happening by reason of the death or withdrawal of any candidate.

12 Section 981.1. Affidavits of Candidates.--Each candidate for  
13 any State, county, city, borough, incorporated town, township,  
14 ward, school district, poor district or election district  
15 office, or for the office of United States Senator or  
16 Representative in Congress, selected as provided in sections 979  
17 and 980 of this act, shall file with the substituted nomination  
18 certificate an affidavit stating--(a) his residence, with street  
19 and number, if any, and his post-office address; (b) his  
20 election district, giving city, borough, town or township; (c)  
21 the name of the office for which he consents to be a candidate;  
22 (d) that he is eligible for such office; (e) that he will not  
23 knowingly violate any provision of this act, or of any law  
24 regulating and limiting election expenses and prohibiting  
25 corrupt practices in connection therewith; (f) unless he is a  
26 candidate for judge of a court of common pleas, the Philadelphia  
27 Municipal Court [or for the office of school board in a district  
28 where that office is elective] or for the office of [justice of  
29 the peace] magisterial district judge, that he is not a  
30 candidate for the same office of any party or political body

1 other than the one designated in such certificate; (g) that he  
2 is aware of the provisions of section 1626 of this act requiring  
3 election and post-election reporting of campaign contributions  
4 and expenditures; and (h) that he is not a candidate for an  
5 office which he already holds, the term of which is not set to  
6 expire in the same year as the office subject to the affidavit.

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

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

1 political party or by any other political body for any office to  
2 be filled at the ensuing November election, unless such person  
3 is a candidate for the office of judge of a court of common  
4 pleas, the Philadelphia Municipal Court [or for the office of <--  
5 school director in districts where that office is elective] or <--  
6 for the office of [justice of the peace] magisterial district  
7 judge.

8 (b) Said nomination certificates and nomination papers for  
9 State public offices and judges of courts of records shall be  
10 filed in the office of the Secretary of the Commonwealth at  
11 least fifty (50) days prior to a general or municipal election,  
12 as the case may be. Nomination certificates and nomination  
13 papers for public offices in counties, cities, boroughs, towns,  
14 townships, wards and school districts and for the offices of  
15 aldermen and [justices of the peace] magisterial district judges  
16 shall be filed in the office of the county board of elections at  
17 least fifty (50) days prior to a municipal election.

18 \* \* \*

19 Section 998. Substituted Nominations to Fill Certain  
20 Vacancies for a November Election.--(a) Any vacancy happening  
21 or existing in any party nomination made in accordance with the  
22 provisions of section nine hundred ninety-three of this act for  
23 a November election by reason of the death or withdrawal of any  
24 candidate may be filled by a substituted nomination made by such  
25 committee as is authorized by the rules of the party to make  
26 nominations in the event of vacancies on the party ticket, in  
27 the form prescribed by section nine hundred ninety-four of this  
28 act. But no substituted nomination certificate shall nominate  
29 any person who has already been nominated by any other political  
30 party or by any political body for the same office, unless such

1 person is a candidate for the office of judge of a court of  
2 common pleas, the Philadelphia Municipal Court [or for the <--  
3 office of school director in districts where that office is  
4 elective] or for the office of [justice of the peace] <--  
5 magisterial district judge.

6 (b) In case of the death or withdrawal of any candidate  
7 nominated by a political body for an election, the committee  
8 named in the original nomination papers may nominate a  
9 substitute in his place by filing a substituted nomination  
10 certificate in the form and manner prescribed by section nine  
11 hundred eighty of this act. In the case of a vacancy caused by  
12 the death of any candidate, said nomination certificate shall be  
13 accompanied by a death certificate properly certified. No  
14 substituted nomination certificate shall nominate any person who  
15 has already been nominated by any political party or by any  
16 other political body for any office to be filled at the ensuing  
17 November election, unless such person is a candidate for the  
18 office of judge of a court of common pleas, the Philadelphia  
19 Municipal Court [or for the office of school director in <--  
20 districts where that office is elective] or for the office of <--  
21 [justice of the peace] magisterial district judge.

22 \* \* \*

23 Section 2. Section 1004 of the act, amended March 27, 2020  
24 (P.L.41, No.12), is amended to read:

25 Section 1004. Form of Ballots; Printing Ballots.--From the  
26 lists furnished by the Secretary of the Commonwealth under the  
27 provisions of sections 915 and 984, and from petitions and  
28 papers filed in their office, the county election board shall  
29 print the official primary and election ballots in accordance  
30 with the provisions of this act: Provided, however, That in no

1 event, shall the name of any person consenting to be a candidate  
2 for nomination for any one office, except the office of judge of  
3 a court of common pleas, the Philadelphia Municipal Court [or <--  
4 the office of school director in districts where that office is  
5 elective] or the office of [justice of the peace] magisterial <--  
6 district judge be printed as a candidate for such office upon  
7 the official primary ballot of more than one party. All ballots  
8 for use in the same election district at any primary or election  
9 shall be alike.

10 Section 3. Section 1405 of the act is amended to read:

11 Section 1405. Manner of Computing Irregular Ballots.--The  
12 county board, in computing the votes cast at any primary or  
13 election, shall compute and certify votes cast on irregular  
14 ballots exactly as such names were written, stamped or deposited  
15 in or on receptacles for that purpose, and as they have been so  
16 returned by the election officers. In districts in which paper  
17 ballots or ballot cards are electronically tabulated, stickers  
18 or labels may not be used to mark ballots. A vote cast by means  
19 of a sticker or label affixed to a ballot or ballot card shall  
20 be void and may not be counted. In the primary the Secretary of  
21 the Commonwealth shall not certify the votes cast on irregular  
22 ballots for any person for a National office including that of  
23 the President of the United States, United States Senator and  
24 Representative in Congress; or for any State office including  
25 that of Governor and Lieutenant Governor, Auditor General, State  
26 Treasurer, Senator and Representative in the General Assembly,  
27 justices and judges of courts of record or for any party office  
28 including that of delegate or alternate delegate to National  
29 conventions and member of State committee unless the total  
30 number of votes cast for said person is equal to or greater than

1 the number of signatures required on a nomination petition for  
2 the particular office. In the primary the county board shall not  
3 certify the votes cast on irregular ballots for any person for a  
4 [justice of the peace] magisterial district judge, constable,  
5 National, State, county, city, borough, town, township, ward,  
6 school district, election or local party office unless the total  
7 number of votes cast for said person is equal to or greater than  
8 the number of signatures required on a nomination petition for  
9 the particular office.

10 Section 4. This act shall take effect in 60 days.