

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 140 Session of 2021

INTRODUCED BY BROWNE, MENSCH, YAW, J. WARD, LANGERHOLC,
SCAVELLO, BAKER, KEARNEY, COSTA AND FONTANA, JANUARY 28, 2021

REFERRED TO STATE GOVERNMENT, JANUARY 28, 2021

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 primary and election expenses, further
12 providing for reporting by candidate and political committees
13 and other persons, for late contributions and independent
14 expenditures, for oath of compliance, perjury,
15 disqualification from office and commercial use, for residual
16 funds and for place of filing, providing for manner of filing
17 and for inability to file reports or statements
18 electronically by deadline and further providing for late
19 filing fee and certificate of filing, for additional powers
20 and duties of the Secretary of the Commonwealth and for
21 reports by business entities and publication by Secretary of
22 the Commonwealth.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Section 1626(a) and (h) of the act of June 3,
26 1937 (P.L.1333, No.320), known as the Pennsylvania Election
27 Code, are amended and the section is amended by adding a
28 subsection to read:

1 Section 1626. Reporting by Candidate and Political
2 Committees and other Persons.--

3 (a) Each treasurer of a political committee and each
4 candidate for election to public office shall file with the
5 appropriate supervisor reports of receipts and expenditures on
6 forms, designed by the Secretary of the Commonwealth, if the
7 amount received or expended or liabilities incurred shall exceed
8 the sum of two hundred fifty dollars (\$250). Should such an
9 amount not exceed two hundred fifty dollars (\$250), then the
10 candidate or the treasurer of the committee shall file a [sworn]
11 statement to that effect with the appropriate supervisor rather
12 than the report required by this section.

13 * * *

14 (h) All reports or statements required to be filed pursuant
15 to this section shall be filed pursuant to [section 1630]
16 sections 1629 and 1631.1. All reports and statements required by
17 this section shall cover the campaign activity of a candidate
18 only from the last prior report or statement.

19 * * *

20 (k) (1) All reports or statements required to be filed with
21 the Secretary of the Commonwealth shall be filed electronically
22 using the electronic filing system developed by the Secretary of
23 the Commonwealth that is consistent with the purposes of this
24 subsection. A report or statement submitted electronically must:
25 (i) require an electronic signature from the treasurer or
26 assistant treasurer at the time of the filing of the report or
27 statement. In addition, a report filed by a political committee,
28 authorized by a candidate and created solely for the purpose of
29 influencing an election on behalf of that candidate must be
30 signed, using an electronic signature, stating that, to the best

1 of the candidate's knowledge, the political committee has not
2 violated a provision of this act; and

3 (ii) be made subject to the penalties of 18 Pa.C.S. § 4904
4 (relating to unsworn falsification to authorities).

5 (2) (i) A candidate or political committee not able to file
6 electronically the report or statement required by this
7 subsection shall request an exemption from the Secretary of the
8 Commonwealth. The candidate or political committee upon approval
9 of the Secretary of the Commonwealth shall file reports and
10 statements on forms developed by the Secretary of the
11 Commonwealth.

12 (ii) In order to request an exemption for electronic
13 submissions or reports or statements, the candidate or political
14 committee must demonstrate technological hardship. As used in
15 this subclause, the term "technological hardship" means a lack
16 of computer or Internet access or a disability that prevents
17 electronic filing.

18 Section 2. Sections 1628, 1629 heading, (a) and (b), 1630
19 and 1631(1) of the act are amended to read:

20 Section 1628. Late Contributions and Independent
21 Expenditures.--Any candidate or political committee, authorized
22 by a candidate and created solely for the purpose of influencing
23 an election on behalf of that candidate, which receives any
24 contribution or pledge of five hundred dollars (\$500) or more,
25 and any person making an independent expenditure, as defined by
26 this act, of five hundred dollars (\$500) or more after the final
27 pre-election report has been deemed completed shall report such
28 contribution, pledge or expenditure to the appropriate
29 supervisor. Such report shall be sent by the candidate, chairman
30 or treasurer of the political committee within twenty-four (24)

1 hours of receipt of the contribution. It shall be the duty of
2 the supervisor to confirm the substance of such report. [The
3 report shall be made by telegram, mailgram, overnight mail or
4 facsimile transmission. Any] The reports filed with the
5 Secretary of the Commonwealth shall be filed electronically in
6 accordance with section 1631.1. If the candidate or political
7 committee is not required to file electronically, the report
8 shall be filed by facsimile, electronic mail or overnight mail
9 courier service. Except for reports required to be filed
10 electronically, a candidate in his own behalf, or chairman,
11 treasurer or candidate [in] on behalf of the political committee
12 may also comply with this section by appearing personally before
13 such supervisor and reporting such late contributions or
14 pledges.

15 Section 1629. [Oath of Compliance] Unsworn Falsification;
16 Perjury; Disqualification from Office; Commercial Use.--

17 [(a) Each report shall be subscribed and sworn to by the
18 individual submitting the report. In addition, any report filed
19 by a political committee, authorized by a candidate and created
20 solely for the purpose of influencing an election on behalf of
21 that candidate, must be accompanied by an affidavit from that
22 candidate which provides that, to the best of the candidate's
23 knowledge, the political committee has not violated any
24 provision of this act.]

25 (b) Any wilfully false, fraudulent or misleading statement
26 or entry made by any candidate or treasurer in any statement or
27 report [under oath] as required by this article, shall
28 constitute the crime of [perjury] unsworn falsification to
29 authorities, and be punishable as such according to the laws of
30 this Commonwealth.

1 * * *

2 Section 1630. Residual Funds.--

3 (a) In the event that a candidate or political committee
4 terminates its financial activity as such, then the disbursement
5 of any residual funds remaining in such an account shall be made
6 in the following manner:

7 (1) any such funds may be used for any expenditure as
8 defined by this article; [and]

9 (2) may be returned, pro rata, to the contributors by the
10 candidate or treasurer of the political committee[. A final
11 report must be made by the next January 31 in accordance with
12 section 1627.]; or

13 (3) may be donated to a nonprofit organization.

14 (b) A final report must be made by the next January 31 in
15 accordance with section 1627.

16 (c) For purposes of this section:

17 (1) "Affiliated" means serving as an officer of, on the
18 board of directors of, as a paid employee of or a contractor of
19 a nonprofit organization.

20 (2) "Family member" means a spouse or child.

21 (3) "Nonprofit organization" means an organization that is
22 qualified by the Internal Revenue Service as meeting the
23 requirements of section 501(c)(3) of the Internal Revenue Code
24 of 1986 (Public Law 99-514, 26 U.S.C. 501(c)(3)) organized under
25 the laws of this Commonwealth and is not affiliated with a
26 candidate or the chairman or treasurer of a political committee,
27 including a family member of the candidate, chairman or
28 treasurer.

29 Section 1631. Place of Filing.--

30 Any statement or report required by this article to be filed,

1 shall be done in the following manner:

2 (1) (i) Any candidate, individual, or committee required to
3 file a report concerning any candidate shall file that statement
4 or report in the office of the supervisor with whom the
5 candidate filed a nomination paper, nomination certificate,
6 nomination petitions or with the supervisor with whom the
7 candidate would have filed such if he had sought nomination in
8 that manner.

9 [(ii) All candidates and political committees, authorized by
10 candidates and created solely for the purpose of influencing the
11 election of such candidates, who must file reports with the
12 Secretary of the Commonwealth, shall also file copies of their
13 reports in the county in which the candidate resides.]

14 (ii) All candidates and political committees, authorized by
15 candidates and created solely for the purpose of influencing the
16 election of such candidates, who must file reports with the
17 Secretary of the Commonwealth as required by this subsection,
18 must only file reports electronically with the Secretary of the
19 Commonwealth.

20 * * *

21 Section 3. The act is amended by adding sections to read:

22 Section 1631.1. Manner of Filing.--

23 (a) All reports and statements required to be filed with the
24 Secretary of the Commonwealth pursuant to sections 1626, 1627,
25 1628 and 1641 shall be filed with the Secretary of the
26 Commonwealth using the electronic filing system developed by the
27 Secretary of the Commonwealth.

28 (b) A report or statement filed electronically shall:

29 (1) be made subject to the penalties of 18 Pa.C.S. § 4904
30 (relating to unsworn falsification to authorities);

1 (2) include the electronic signature of the treasurer or
2 assistant treasurer of the political committee serving at the
3 time of the filing of the report or statement; and

4 (3) for a report or statement filed by a candidate or a
5 candidate's political committee, include the electronic
6 signature of the candidate, stating that, to the best of the
7 candidate's knowledge, the political committee has not violated
8 a provision of this act.

9 (c) (1) A principal may authorize another person to prepare
10 the contents of the report or statement, including entry of data
11 into the electronic filing system as required under subsection
12 (a).

13 (2) Each principal authorizing another to act under clause
14 (1) must:

15 (i) review the contents of the report or statement prepared
16 under clause (1); and

17 (ii) file with the electronic filing system the approval of
18 the contents of the report or statement and verification of its
19 accuracy, in accordance with subsection (b). The approval shall
20 be transmitted personally by the principal and not on the
21 principal's behalf by any other person.

22 (3) No report or statement shall be considered complete or
23 filed until all necessary approvals and verifications shall have
24 been submitted by each principal required to file.

25 (4) As used in this subsection, "principal" shall mean any
26 person required to file any report or statement electronically
27 with the Secretary of the Commonwealth in accordance with this
28 section.

29 Section 1631.2. Inability to File Reports or Statements
30 Electronically by Deadline.--

1 (a) All reports or statements filed with the Secretary of
2 the Commonwealth under section 1631.1 are subject to the
3 following:

4 (1) If a candidate or political committee cannot file a
5 report or statement on the day the report or statement is due
6 because of the unavailability of the Department of State's
7 electronic filing system at the time the candidate or political
8 committee attempts to file the report or statement, the
9 principal shall immediately notify the Department of State in a
10 manner designated by the Secretary of the Commonwealth. If the
11 Internet website is unavailable and the candidate or political
12 committee has notified the department, the candidate or
13 political committee shall have until 11:59 o'clock P.M. on the
14 next day following the deadline to file the report or statement
15 electronically and the principal shall file a statement
16 affirming that the principal was unable to file the report or
17 statement on time because of the unavailability of the
18 Department of State's electronic filing system at the time the
19 principal attempted to file the report or statement on the day
20 the report or statement was due. The affirmation statement shall
21 be due at the same time as the statement or report filed under
22 this subsection. The report or statement shall not be considered
23 filed until the affirmation statement is filed.

24 (2) If a candidate or political committee is unable to file
25 as required under clause (1) because the Department of State's
26 electronic filing system remains unavailable, the principal
27 shall notify the Department of State each day a report or
28 statement cannot be filed due to the unavailability of the
29 Department of State's electronic filing system. The candidate or
30 political committee shall have until 11:59 o'clock P.M. on the

1 next day to electronically file the report or statement or
2 notify the Department of State a second time of the
3 inaccessibility of the department's electronic filing system.
4 The principal shall file a statement affirming that the
5 principal was unable to file the report or statement on time
6 because of the unavailability of the Department of State's
7 electronic filing system. The affirmation statement shall be
8 due at the same time as the statement or report filed under this
9 subsection. The report or statement shall not be considered
10 filed until the affirmation statement is filed.

11 (b) The Department of State may provide for an alternative
12 method of electronic filing if the department's electronic
13 filing system remains unavailable.

14 (c) For cause shown, the Secretary of the Commonwealth may
15 waive late filing fees for reports or statements filed after the
16 deadline but which are the subject of notifications as
17 prescribed by this section.

18 (d) As used in this section, "unavailability of the
19 Department of State's electronic filing system" shall mean a
20 failure of the system within the Department of State's technical
21 environment that does not allow access to the system by an
22 individual. The term does not include:

23 (1) a network issue between the user's computer and the
24 Department of State's environment; or

25 (2) a failure of any part of the user's computer or internal
26 network.

27 Section 4. Section 1632(a) of the act is amended and the
28 section is amended by adding a subsection to read:

29 Section 1632. Late Filing Fee; Certificate of Filing.--

30 (a) A late filing fee for each report or statement of

1 expenditures and contributions required to be filed with the
2 county board of elections which is not filed within the
3 prescribed period shall be imposed as follows. Such fee shall be
4 ten dollars (\$10) for each day or part of a day excluding
5 Saturdays, Sundays and holidays that a report or statement is
6 overdue. An additional fee of ten dollars (\$10) is due for each
7 of the first six (6) days that a report or statement is overdue.
8 The maximum fee payable with respect to a single report or
9 statement is two hundred fifty dollars (\$250). [A supervisor]
10 The county board of elections shall receive an overdue report or
11 statement even if any late filing fee due has not been paid but
12 the report or statement shall not be considered filed until all
13 fees have been paid upon the receipt by the [supervisor] county
14 board of elections of an overdue report. No further late filing
15 fees shall be incurred notwithstanding the fact that the report
16 or statement is not considered filed. The late filing fee is the
17 personal liability of the candidate or treasurer of a political
18 committee and cannot be paid from contributions to the candidate
19 or committee, nor may such fee be considered an expenditure. A
20 report or statement of expenditures and contributions shall be
21 deemed to have been filed within the prescribed time if the
22 letter transmitting the report or statement which is received by
23 the [supervisor] county board of elections is transmitted by
24 first class mail and is postmarked by the United States Postal
25 Service on the day prior to the final day on which the report or
26 statement is to be received: Provided, That this sentence shall
27 not be applicable to the reporting requirements contained in
28 section 1628.

29 (a.1) For reports or statements required to be
30 electronically filed with the Secretary of the Commonwealth, the

1 penalty for each report or statement that is not filed within
2 the prescribed period shall be fifty dollars (\$50) a day for the
3 first six (6) days the report or statement is late and one
4 hundred dollars (\$100) a day for day seven (7) and each day
5 thereafter. The maximum penalty for late reports or statements
6 is two thousand dollars (\$2,000) for each required filing. The
7 late filing fee shall be the personal responsibility of the
8 candidate or treasurer of a political committee and cannot be
9 paid from contributions to the candidate or committee nor may
10 the fee be considered an expenditure. The Secretary of the
11 Commonwealth shall receive an overdue report or statement
12 notwithstanding whether a late filing fee due has not been paid.
13 A report or statement shall not be considered filed until all
14 fees have been paid upon the receipt by the Secretary of the
15 Commonwealth of an overdue report or statement.

16 * * *

17 Section 5. Sections 1640 and 1641(a) of the act are amended
18 to read:

19 Section 1640. Additional Powers and Duties of the Secretary
20 of the Commonwealth.--The Secretary of the Commonwealth shall
21 have the following additional powers and duties:

22 (1) To serve as the State clearing house for information
23 concerning the administration of this act.

24 (2) To prescribe suitable rules and regulations to carry out
25 the provisions of this act.

26 (3) To develop the prescribed forms required by the
27 provisions of this article for the making of the reports and
28 statements required to be filed with the supervisor.

29 (4) To prepare a manual setting forth recommended uniform
30 methods of bookkeeping and reporting which shall be furnished by

1 the supervisor to the person required to file such reports and
2 statements as required by this article.

3 (5) To examine the contributions to State legislative and
4 Statewide candidates and publish a list of all those political
5 committees who have contributed to candidates and who have
6 failed to file reports as required by this act within six (6)
7 days of their failure to comply.

8 (6) To maintain a searchable computer database and
9 electronic reporting system that contains the information
10 necessary for the proper administration of this article,
11 including information on contributions and expenditures by all
12 candidates and all political committees and distribution of
13 money, and including public access through the Internet. The
14 database must be designed with an emergency recovery system to
15 ensure that campaign expense records are not lost in the case of
16 an emergency, natural disaster or other event that could cause
17 the system to malfunction.

18 (7) To establish a training program on the electronic
19 reporting system and make it available to a candidate or
20 political committee.

21 (8) To ensure all information contained in a statement or
22 report filed, that is not on the electronic reporting system, be
23 entered into the electronic reporting system as soon as
24 practicable but no later than four (4) business days after its
25 receipt by the Secretary of the Commonwealth.

26 (9) The Department of State shall issue to the registrant an
27 electronic receipt that includes a confirmation number and the
28 date and time of filing.

29 Section 1641. Reports by Business Entities; Publication by
30 Secretary of the Commonwealth.--

1 (a) Any business entity including but not limited to a
2 corporation, company, association, partnership or sole
3 proprietorship, which has been awarded non-bid contracts from
4 the Commonwealth or its political subdivisions during the
5 preceding calendar year, shall report electronically in
6 accordance with section 1631.1 by February 15 of each year to
7 the Secretary of the Commonwealth an itemized list of all
8 political contributions known to the business entity by virtue
9 of the knowledge possessed by every officer, director,
10 associate, partner, limited partner or individual owner that has
11 been made by:

12 (1) any officer, director, associate, partner, limited
13 partner, individual owner or members of their immediate family
14 when the contributions exceed an aggregate of one thousand
15 dollars (\$1,000) by any individual during the preceding year; or

16 (2) any employe or members of his immediate family whose
17 political contribution exceeded one thousand dollars (\$1,000)
18 during the preceding year.

19 For the purposes of this subsection, "immediate family" means a
20 person's spouse and any unemancipated child.

21 * * *

22 Section 6. The Secretary of the Commonwealth shall transmit
23 notice to the Legislative Reference Bureau for publication in
24 the Pennsylvania Bulletin when the electronic filing system
25 developed by the Secretary of the Commonwealth is available for
26 use.

27 Section 7. This act shall take effect as follows:

28 (1) The following provisions shall take effect
29 immediately:

30 (i) This section.

1 (ii) Section 6 of this act.

2 (2) The remainder of this act shall take effect 120 days
3 after publication in the Pennsylvania Bulletin of the notice
4 under section 6 of this act.