



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 422

PRINTERS NO. 1600

PRIME SPONSOR: Vogel

COST / (SAVINGS)

FUND	FY 2019/20	FY 2020/21
General Fund	See "Fiscal Impact"	See "Fiscal Impact"
County Funds	See "Fiscal Impact"	See "Fiscal Impact"

SUMMARY: Makes additional changes to Act 77 of 2019 relating to absentee ballots and mail-in ballots; to create the Pennsylvania Election Law Advisory Board; and establish emergency provisions relating to the 2020 General Primary Election (postpones the primary scheduled for April 28, 2020 to June 2, 2020). The changes relating to pre-canvassing, canvassing and the eligibility of qualifications of mail-in electors apply to elections occurring on or after June 2, 2020. The changes relating to spoilage of ballots and the Advisory Board apply to elections held on or after November 2, 2020. Changes to the formatting requirements for ballots and envelopes will only apply to ballots or envelopes purchased, printed or acquired prior to the effective date of the act. The remainder of this legislation would take effect immediately.

ANALYSIS: The legislation amends the Election Code (Code) by amending sections relating to absentee and mail-in ballots, changing the 2020 Primary Election date, providing for the consolidation of polling places for the 2020 Primary Election and establishing the Pennsylvania Election Law Advisory Board.

The following items are the more pertinent changes within the legislation:

- **Definitions for Canvass and Pre-Canvass:** Explains the difference between "canvass" and "pre-canvass."
- **Qualified Mail-In Elector:** Clarifies that a "qualified mail-in elector" may be any qualified elector but does not include a person specifically prohibited from being a qualified absentee elector.
- **Voter Registration Application:**
 - Establishes that an applicant shall be deemed a registered elector of the county immediately upon acceptance of the voter registration application by the commission.

- If the applicant presents the application in person, the commission shall immediately examine and make a determination on whether to accept or reject it. If accepted, the commission will process the application.
- **Permanently Disabled Absentee Ballot List File and Permanent Mail-In Ballot List:**
 - Clarifies that a qualified registered elector who is unable due to illness or physical disability to attend his polling place may at any time request to be placed on the permanently disabled absentee ballot list file (with appropriate certification from their physician).
 - The transfer of a qualified registered elector on a permanently disabled absentee ballot list from one county to another county shall only be permitted upon the request of the qualified registered elector.
 - Eligible mail-in electors may at any time request to be placed on the permanent mail-in ballot list.
 - The transfer of a qualified registered elector on a permanent mail-in voting list from one county to another shall only be permitted upon the request of the qualified registered elector.
 - For voters on the lists, absentee ballot applications and mail-in ballot applications shall be mailed by the first Monday in February each year or within 48 hours of receipt of the request, whichever is later.
- **Spoilage to Avoid Duplicate Voting:**
 - Both the application for absentee and vote by mail ballots as well as the absentee and vote by mail ballots will state that an elector who applies for either ballot will not be eligible to vote at the polling place on election day unless the elector brings the elector's absentee ballot or vote by mail ballot (and the applicable declaration envelope) to the polling place, remits the ballot to the judge of elections to be spoiled and signs a statement subject to the penalties of 18 Pa.C.S. Section 4904 (relating to unsworn falsification to authorities) to the same effect.
- **Challenges:**
 - Challenges to applications for absentee ballots and vote by mail ballots can only be made on the grounds that the applicant was not a qualified elector.
 - These challenges must be made to the county board of elections prior to 5:00 pm on the Friday prior to the election or during the pre-canvassing of an elector's absentee or mail-in ballot, whichever is earlier.
 - This is provided that a challenge to an application for an absentee ballot shall not be permitted on the grounds that the elector used an application for an absentee ballot instead of an application for a mail-in ballot or vice versa.
- **Pre-Canvassing Process:**
 - With respect to the canvassing of official absentee ballots and mail-in ballots, the county board of elections shall meet at least once to pre-canvass all ballots received prior to the pre-canvass meeting.
 - The county board of elections may begin to pre-canvass beginning at 7:00 am on Election Day.

- The county board of elections must provide at least 48 hours notice of any pre-canvass meeting on its publicly accessible Internet website. One authorized representative of each candidate and one representative from each political party shall be permitted to remain in the room in which the absentee and mail-in ballots are pre-canvassed.
- No person observing, attending, or participating in a pre-canvass meeting may disclose the results of any portion of any pre-canvass meeting prior to the close of the polls.
- **Canvassing Process:**
 - The county board of elections shall meet no later than the close of the polls on the day of the election to begin canvassing absentee ballots and mail-in ballots received following the final pre-canvass meeting and any ballots received prior to the completion of the final pre-canvas meeting, but not included in the pre-canvass process.
 - The meeting shall continue until all absentee and mail-in ballots received prior to the close of the polls have been canvassed.
 - The county board of elections shall not record or publish any votes reflected on the ballots prior to the close of the polls.
 - The canvass shall continue through the 8th day following the election for valid military-overseas ballots timely received.
 - A county board of elections shall provide at least 48 hours notice of a canvass meeting on its publicly accessible Internet website. One authorized representative of each candidate and one representative from each political party shall be permitted to remain in the room in which the absentee and mail-in ballots are canvassed.
 - No person observing, attending, or participating in a canvass meeting may disclose the results of any portion of any canvass meeting prior to the close of the polls.
- **List of Pre-Canvassed or Canvassed Electors:** upon proper inspection and identification of ballots, the county board of elections shall provide a list of the names of electors whose absentee ballots or mail-in ballots are to be pre-canvassed or canvassed.
- **Counting of Absentee and Mail-In Ballots:** all absentee and mail-in ballots which have not been challenged shall be counted and included in the returns as follows:
 - The county board of elections shall open the envelope of every unchallenged elector in such a manner as to not destroy the declaration.
 - Any text, mark or symbol which reveals the identity of the elector, the elector's political affiliation or the elector's candidate preference shall cause the envelopes and the ballots to be set aside and declared void.
 - The county board of elections shall then break the seal of the envelope, remove the ballots and count, compute and tally the votes.
 - Following the close of the polls, the county board shall record and publish the votes reflected on the ballots.

- Ballots received whose applications have been challenged and ballots which have been challenged shall be placed unopened in a secure container. The time for the hearing shall not be later than seven days after the deadline for all challenges to be filed.
- **Public Records:** the county board of elections shall compile the records listed and make the records publicly available upon request within forty-eight hours of the request.
- **Penalties:** clarifies multiple conflicting penalties for violations of provisions relating to both absentee and mail-in ballots. Such violations will be third degree misdemeanor with a maximum fine of \$2,500 and two years in prison.

Elimination of outdated, obsolete or overly prescriptive provisions

- Removes overly prescriptive requirements for font size, font color, envelope color and other formatting requirements for absentee and mail-in ballots, and paper ballots. Where standard formatting is needed, allows the Secretary of the Commonwealth to establish such requirements as necessary.
- Repeals requirement that county boards of election physically post-election results at each polling place by 5:00pm on the second day after an election.
- Eliminates references to temporary registration cards, which are no longer used.

Pennsylvania Election Law Advisory Board

- Creates the Pennsylvania Election Law Advisory Board within the Joint State Government Commission to study the Code and identify statutory language to repeal, modify or update; collaborate with other agencies and political subdivisions of the Commonwealth to study election-related issues; study the development of new election technology and voting machines; evaluate and make recommendations on improving the electoral process in Pennsylvania and implementing best practices identified to ensure the integrity and efficiency of the electoral process;
- Members of the Board include:
 - The Secretary of State;
 - The President Pro Tempore of the Senate;
 - The Minority Leader of the Senate;
 - The Speaker of the House of Representatives;
 - The Minority Leader of the House of Representatives; and
 - One member from each congressional district of which no more than half may be from the same political party, appointed by the Governor and confirmed by the Senate, and which shall include members who represent: groups advocating for individuals with disabilities, groups advocating for voting rights; and county commissioners or election officials.
- Members shall be reimbursed for reasonable expenses.

Creates a new Article XVIII-B which creates emergency provisions for the 2020 General Primary Election. Under this Article, the following applies only to the 2020 General Primary Election:

- **Election Officers:** An election officer must be a qualified registered elector of the county in which the polling place is located. An election officer shall not be required to be a qualified registered elector in the election district in which the election officer is appointed.
- **Polling place**
 - **Consolidation of polling places:** a county board of elections may, not less than 20 days prior to the election, select and designate as the polling place for an election district, any public or private building situated in another election district within the county, notwithstanding if the building is located in an election district which is not immediately adjacent to the boundary of the election district for which the building is to be a polling place. A polling place may be selected and designated without the approval of the court. Two or more polling places may be consolidated except that consolidation may not result in more than a 60% reduction of polling place locations in the county, except for necessitous circumstances and as approved by the Department of State. Two or more polling places may be located in the same building. A polling place must be directly accessible by a public street or thoroughfare.
- **Posting**
 - A county board of elections shall, not less than 15 days prior to the election, post in a conspicuous place at the office of the county board of elections, a list of each place at which the election is to be held in the election district of the county. The list shall be available for inspection and posted on the county's publicly accessible Internet website.
- **Permissible polling place locations**
 - Malt or brewed beverages and liquors may be served in a building where a polling place is located during the hours that the polling place is open, except that an election may not be held in a room where malt or brewed beverages and liquors are dispensed.
 - A polling place must be accessible from an outside entrance that does not require passageway through the room where malt or brewed beverages or liquors are dispensed.
- **General primary election**
 - **Time:** the date of the general primary election shall occur throughout this Commonwealth on June 2, 2020.
 - **Calculation:** Dates or deadlines that depend on or are contingent on the date of the general primary election shall be calculated based on the June 2, 2020 date, except for those relating to nomination of candidates. The sixth Tuesday pre-primary cycle 1 campaign finance report shall be due on March 17, 2020.
 - **Nonapplicability:** does not apply to the nominating petition process.

- **Ballots:** A ballot for the 2020 general primary election which has been purchased, printed or acquired prior to the effective date of this section and shows an election date of April 28, 2020 shall not be deemed invalid because of the date.
- This article shall expire on July 3, 2020.
- **Repeals.** The repeals of provisions of 25 Pa.C.S. § 1328 (c)(4) and (5) are necessary to effectuate the provisions of this act.

FISCAL IMPACT: It is presumed that the Joint State Government Commission could fulfill its duties under this legislation utilizing existing funding. Act 1A of 2019 appropriated \$1.7 million for the Commission for the 2019-20 fiscal year.

Allowing for the consolidation of county polling places would allow counties to save on their election expenses if they are able to reduce rents on polling places and reduce the number of election workers in June of 2020. Any estimate of such savings is indeterminable at this point as it would be at the discretion of each county to consolidate such polling places.

The remainder of this legislation would have no adverse fiscal impact on Commonwealth or county funds.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: March 24, 2020

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.