



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 1300

PRINTERS NO. 1869

PRIME SPONSOR: Grove

### COST / (SAVINGS)

FUND	FY 2020/21	FY 2021/22
General Fund	\$0	See "Fiscal Impact"
County Funds	\$0	See "Fiscal Impact"

**SUMMARY:** Makes comprehensive changes to the Pennsylvania Election Code, as well as related repeals to Title 25. This legislation would take effect immediately.

**ANALYSIS:** This legislation amends the Pennsylvania Election Code to enact comprehensive reforms and related repeals. Major changes include:

- Expanded voter rights, protections, and access to voting;
- Enhanced election integrity safeguards;
- Administrative and financial relief to counties;
- Updated timeline for the conduct of elections;
- Reforms to ensure uniformity in election administration;
- Requirements for extensive result-confirming and election administration audits;
- Rigorous accessibility requirements;
- More stringent election machine certification and testing;
- Transparency and best practices in the administration of elections;
- Additional powers and duties of the Secretary of the Commonwealth;
- Additional powers and duties of the County Boards of Elections.

**Expanded Voter Rights, Protections, and Access:** The legislation modernizes the Pennsylvania Election Code to provide registered electors in Pennsylvania more opportunity to vote and greater rights and protections in casting ballots, including:

- The establishment of a Voter's Bill of Rights, a Senior Voter's Bill of Rights, and a Disabled Voter's Bill of Rights. These must be posted at each polling place. Both Seniors (70 and older) and disabled voters have the right to move to the front of the line upon arrival at a polling place. Disabled voters have the right to have their ballot brought to them at their car by a judge of elections from each party, as well as to bring a service animal into a polling place, and to have all polling places in the Commonwealth be accessible.
- Sets a standard that no voter in Pennsylvania should wait longer than 30 minutes to cast his vote; Counties are required to review any polling place where voters waited longer than 30 minutes to cast a ballot and to identify and enact plans to alleviate any such waiting time for future elections.

- Early voting would be established beginning in the 2025 primary election, to allow counties sufficient time to prepare and to provide three elections prior to a midterm general election and seven elections prior to a presidential general election, in order to most effectively refine and improve the process prior to the highest turnout. Early voting centers would be required in all counties and could be open from 7 a.m. to 8 p.m. on the second Friday prior to an election until the first Wednesday prior to an election. Each early voting center must be continually secured, monitored by staff, and monitored by video recording. Early voting centers must be located in certain government-owned buildings with sufficient security. Counties would be required to publish the total number of electors having cast a ballot each day, including a list of each individual elector.
- Supervised absentee voting is established in certain assisted living and nursing home facilities, upon the request of the administrators of that facility. This process provides bipartisan safeguards to protect the integrity of each elector's vote.
- Establishes a curing process for mail-in or absentee ballots with certain curable errors, including an inability to match the signature with the signature of record, the lack of a signature or a date. Any curing must be completed prior to the close of polls on Election Day. In addition, ballots with incurable errors including the lack of a secrecy envelope or identifying information written on a secrecy envelope requires notice to the elector from a county.
- Amends the requirement for the sufficient number of ballots at each polling place at 50% of registered voters in a primary and 100% of registered voters in a general election, less the number who have requested mail-in or absentee ballots.

**Enhanced Election Integrity Safeguards:** The legislation would enact additional safeguards to reinforce election integrity and uniformity across the Commonwealth. These include:

#### An Enhanced Identification Requirement

All voters would be required to show identification at the polling place. In addition to the many forms of identification currently provided for in statute, eligible forms of identification would newly include the voter's registration card issued by their county board of elections or an ID issued by the Secretary of the Commonwealth at no cost to an elector who requests one. An elector without any form of ID could sign an affidavit affirming his identity and warning of the penalties for perjury provided for in the act, then proceed to vote normally.

#### A More Secure Mail-in and Absentee Voting System

Applicants for a mail-in or absentee ballot would be required to provide at least two of: the last four digits of their Social Security number, their Pennsylvania driver's license number, and their voter registration number. An application must be submitted for each election in which a voter wants to receive a mail-in or absentee ballot, except for permanent absentee status. A mail-in ballot may only be sent, by mail, to voters at their registered address. For an absentee ballot sent to any address other than the registered address, a notice must also be sent to the registered address. Any ballot returned as undeliverable triggers an investigation into the correctness of the elector's registration.

Additional security requirements are established for the return of mail-in or absentee ballots.

Regulations are established for ballot return locations to include a fixed location, staffing by bipartisan judges of elections, meeting all requirements of a polling place, identity verification, video recording, and nightly securing of ballots. If two such inspectors of elections are unavailable to appear at a ballot return location on any particular day, a county shall not operate the ballot return location. Ballot return locations are limited to one for each 100,000 residents of a county. The county board of election office may serve as a ballot return location. No reimbursement shall be provided by the Department or the State Treasury for the costs that a county incurs in operating ballot return locations.

Signature verification for ballots is strengthened to require the use of AI-assistance in matching signatures, and reiterate the requirement that a county be satisfied that a signature on a ballot matches the signature of record prior to accepting any ballot. Additionally, a tracking system would be required to be developed and maintained by the Secretary.

#### A Verified List of All Voters Participating in an Election

Counties must create and submit, along with certification of an election, a list of each elector in a county who participated in an election, including the method by which the elector voted. If a discrepancy exists between the number of electors recorded as having voted in an election and the number of ballots canvassed; an investigation must be made to resolve such discrepancy prior to certification of results.

#### Meaningful Access for Election Observers

The legislation ensures meaningful access for observers at any pre-canvassing or canvassing meeting, requiring that they be able to easily read the text on any ballot or envelope at any point in the process. A county must designate an official to respond to issues reported by observers, and the Department must establish a process for observers to report any concerns, with a report required by the Department after each election. Pre-canvassing and canvassing activities must also be recorded and the recording made available after the close of polls.

#### Enhanced Voter Registration Safeguards

The legislation makes certain changes to the registration provisions previously contained in Title 25 Chapter 13. These changes provide for online voter registration, the elimination of any third-party voter registration program or software, and stronger requirements for counties to verify the eligibility of an applicant prior to accepting any registration application.

#### Independent Prosecutor for Each Election

The Attorney General would be required to appoint, at least 45 days prior to an election, an independent prosecutor to review election complaints received by the Department and any county. The independent prosecutor shall publish a report following each election including the total number of complaints filed, a summary of how each complaint was investigated, and recommendations for reducing future complaints.

#### Increased Penalties for Violation of the Election Code

All penalties for violations of the election code are doubled, and an additional specific violation is provided for unlawful collection of ballots.

**Administrative and Financial Relief to Counties:** The legislation would provide relief to counties by improving the workability of the elections process, standardizing rules and procedures, including:

- Enhancing the ability of counties to recruit election officers by increasing the compensation provided, with half of the cost of payments reimbursed by the Department.
- Adjustment of timelines to ensure mail-in and absentee ballot are timely mailed, returned, and pre-canvassed prior to Election Day.
- The reimbursement of 50% of the costs of operating the mail-in and early-voting elections, as well as reimbursing the purchase of e-pollbooks and voter registration identifications required under this act; except that all reimbursements would be withheld for any county with a deficiency identified by the Bureau of Election Audits or in violation of any provision of the Act.
- Automatic reimbursement of 50% of the cost of purchasing election machines in the event that the machines previously used by a county are decertified.

**Updated Timelines for Elections Administration:** The legislation substantially changes the timelines on which counties would conduct elections:

- The deadline to register to vote would be 30 days prior to an election.
- The deadline to request a mail-in or absentee ballot would be 15 days prior to an election.
- Ballot return locations could be established only during the 7 days immediately prior to an election, when timely return of a ballot through mail becomes less reliable.
- Early voting would be established in the 2025 municipal election and would be available for 6 days from the second Friday prior to an election until the first Wednesday prior.
- Pre-canvassing of mail-in and absentee ballots would be required, at least twice in the five days prior to an election between 7:00 AM and 11:00 PM and on Election Day.
- Final canvassing meetings for all mail-in and absentee ballots shall begin at the closing of the polls on election day. Meetings must continue until all ballots have been canvassed.
- In order to provide more time for additional post-election reviews, the deadline for county certification of election results would be delayed until the fourth Friday after an election, from its current deadline on the third Monday after an election.
- Requires that the Secretary certify statewide results within three days of receiving certified results from all counties.

**Reforms to Ensure Uniformity in Election Administration:** The legislation would ensure compliance with the Pennsylvania Constitution's requirement of uniformity in election law across the Commonwealth, removing inconsistencies or ambiguities and setting clear standards for subjects including:

- The publishing, by December 31 of each odd-numbered year, a binding manual of election rules and regulations which must be followed by all counties. This change would minimize last minute guidance and confusion experienced in prior elections.
- The Election Law Advisory Board would be required to adopt rules prescribing minimum standards for nonpartisan voter education, in addition to establishing standards for annual training requirements for all county election officials, poll workers, and judges of elections. Counties would be required to report issues to the Board to be used in updating these standards.

- Security and location standards for any satellite election office established by a county.
- No private donations for the administration of elections could be accepted by a county, and if accepted by the Secretary must be distributed evenly across the Commonwealth.

**Election Audit Requirements:** The legislation would establish the Bureau of Election Audits within the Office of the Auditor General. It would additionally require the performance of audits including both result-confirming audits and process audits of election administration in the Commonwealth. These include:

**Result Confirming Audits**

- A ballot comparison or ballot polling risk limiting audit of each election, except an election which is uncontested or where a county's election machines purchased prior to this act are incompatible with such audit.
- An audit of election machine logs.
- An audit of returned absentee and mail-in ballots in each county, including a comparison of retained outer envelopes, secrecy envelopes, and the total number of absentee and mail-in ballots canvassed.
- An audit comparing each canvassed paper ballot in each county with the number of votes recorded.
- An audit of the pre-election testing.
- Any other audit deemed necessary by the Bureau of Election Audits to ensure public trust in the outcome of each election.

**Election Administration Process Audits**

- An audit of each county election office in the Commonwealth.
- An audit of the Department of State's election equipment certification process.
- An audit of the SURE system, including an audit of the accuracy of the list of registered electors.
- An audit of the Department of State's administration of elections.
- Any other audit deemed necessary to ensure public trust in the election administration in this Commonwealth.

Result confirming audits would be required for each election, except an election which is uncontested or in which a full recount of an election is undertaken. Each process audit would be required at least once every five years.

The Bureau would be required to publicly post audit methodologies as well as results of each audit conducted. It would additionally monitor corrective action plans developed by audited entities.

**Rigorous Accessibility Requirements:** The legislation would establish modern and rigorous accessibility requirements, including ensuring that all polling places in the Commonwealth be accessible, that accessible voting machines be certified by the Secretary and at least one provided to each polling place. Disabled voters would be permitted to move to the front of the line upon arrival at a polling place, or to have their ballot brought out to them in their car.

**More Stringent Election Machine Certification and Testing:** Election machine certification requirements are extended to all devices used in the casting, processing, or tabulation of ballots or in the recording of electors. This includes but is not limited to ballot sorters, envelope extractors, ballot scanners, and electronic pollbooks. In addition, the legislation would require that certified equipment be manufactured in the United States and sold by a vendor with a primary place of business within the United States.

New requirements for machine certification would only apply to machines newly examined or approved after 2024, so that machines recently purchased by counties would not become unusable. The legislation clarifies that no machines purchased by a county prior to 2024 shall be decertified on the basis of noncompliance.

Counties would be required to publicly test all election machines prior to each election, with records of such tests retained and made available for audits or public inspection. The Secretary would also be required to examine and approve at least two accessible voting machines for use by disabled voters.

This legislation also establishes a disclosure requirement for all vendors of election machines to notify the Department of any known defect. It provides for penalties for vendors and the pause of purchase or use of any machine known to have a defect.

**Transparency and Best Practices in Administration of Elections:** The legislation would require additional transparency standards and the adoption of a number of best practices in the conduct of elections, including:

- The completion of a report similar to the one required by Act 35 of 2020 after each election in the Commonwealth.
- Additional transparency requirements for the Department of Transportation in the operation of the 'Motor Voter' registration programs.
- Public inspection, with safeguards, of all ballots cast in any election, including the creation of a digital record of all ballots beginning with the 2023 primary election.

The legislation would also require that the Department and each county maintain a standardized and enhanced election return website, providing all of the following information:

- The total number of ballots voted in this Commonwealth, in each county, and in each voting district.
- The total number of ballots voted by electors by each voting method.
- The votes recorded for each candidate or question, in each voting district, county, and the sum for the Commonwealth, including the number of votes received by each candidate or question by each voting method.
- The percentage of voting districts having reported results.
- The total number of registered electors, and the percentage of registered electors who are recorded as having voted in each voting district, each county, and in the Commonwealth.
- The total number of mail-in and absentee ballots sent by each county and the sum for this Commonwealth.
- The total number of overseas and military ballots mailed.

The election return website would additionally be required to make all this information available through an interactive map, able to be viewed for each election district, county, and this Commonwealth. Disclosure must be made at any time that data previously posted to results website are corrected, deleted, or otherwise updated except for the inclusion of additional results.

**Additional Powers and Duties of the Secretary of the Commonwealth:** The legislation establishes additional powers and duties of the Secretary including:

- A deadline by which the Secretary must certify the results of an election, within three days of the receipt of returns from all counties.
- A restriction that the Secretary may only perform duties relating to elections as authorized by the Election Code and Title 25.
- A duty to obtain and maintain uniformity in the interpretation and implementation of election laws.
- A duty to provide uniform standards for the proper, accurate, and uniform implementation of voter registration laws and records.
- A duty to actively seek out and collect the data and statistics necessary to knowledgeably scrutinize the effectiveness of election laws.
- A duty to provide technical assistance to election directors.
- A duty to maintain a voter hotline for the reporting of any known or suspected election fraud or intimidation or duress of poll workers, judges of elections, election officials or election observers and to provide election fraud education to the public.
- A duty to provide to any registered voter upon request, a free photo identification card which may be used to comply with voter ID requirements.
- To submit to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin by December 31 of each odd-numbered year the official instructions and procedures manual prescribed by the Election Law Advisory Board.
- The duty to receive any private donations intended to contribute to election administration or voter education, and to distribute all such funds as well as public funds used for voter education equally across the Commonwealth based upon the most recent estimate of citizen voting age population. A distribution of private funds must be approved by the Election Law Advisory Board.
- To maintain a publicly available internet website using a .gov domain name, and which complies with accessibility standards including screen reading software.
- To retain and make available any communications relating to election administration sent between the department and at least three county election directors.
- To develop a uniform application for registered electors to update their signature of record or to provide a medical doctor's assessment of signature inconsistency due to medical condition.
- To cooperate with an independent prosecutor appointed by the Attorney General for each election cycle to review election complaints received by the Secretary and the county boards.
- To publish on the Department's website a list of registered electors in each county and statewide at least five days prior to an election.
- To create and publish the list of all registered electors participating in an election, prior to certification of results.

- To seek a record of all deaths among residents of the Commonwealth and to compare the records with electors in the SURE System, notifying counties of any match.
- To fully participate in the Electronic Registration Information Center (ERIC) and to utilize all available information through that system and the National Change of Address system to ensure the accuracy of the SURE System.
- To receive from counties a monthly report of any newly registered elector who was previously registered in another state and to notify the chief elections administrator in that state of the elector's registration in this Commonwealth.
- To create and maintain a mail-in and absentee ballot tracking system.
- To develop and offer the training prescribed by the Election Law Advisory Board under section 1302-E, and to make such training available free of charge to any individual required to complete the training.
- To provide for electronic voting by disabled voters and investigate the use and viability of new electronic voting methods.

**Additional Powers and Duties of County Boards of Election:** The legislation establishes additional powers and duties of the county boards of elections, including:

- To maintain a publicly accessible internet website using a .gov domain name, and meeting accessibility standards including compatibility with screen reading software.
- To decline any private donation or contribution for the purposes of operating elections, employing staff or selecting and equipping a polling place, or for use in voter education.
- To provide to each registered elector in a county, within one year of the effective date of the act, a durable voter registration card including a copy of the elector's signature and a scannable identification code.
- To capture and store signatures submitted by an elector for use in matching an elector signature in voting.
- To implement minimum voter education standards established by the Election Law Advisory Board, and to report to the Election Law Advisory Board by December 31 of each general election year a detailed description of the voter education program.
- To purchase electronic poll books for use as the district register in each election district within one year of the effective date. For elections held within one year of the effective date of this section, paper district register cards may still be utilized by any county. After the purchase of electronic poll books, paper district register cards may be retained for use in the event of an unforeseen issue in using electronic poll books at an election.
- To provide each election district with at least one accessible voting machine approved by the Secretary.
- To publish at each polling place the three voter bills of rights established by this act, and to provide copies during the process of supervised voting.
- To review any polling place where voters waited longer than 30 minutes to cast a ballot and to identify and enact plans to alleviate any such waiting time for future elections.
- For counties with a population of fewer than 100,000 at the time of the most recent census, to collaborate with other counties to share resources or property required for the administration of voting by absentee and mail-in electors.

- To seek a record of all deaths among residents of the county each month, compare the records with the list of registered electors, and to immediately remove those who are found to match. The commission must notify the elector by mail of its action.
- To enter into an agreement with the Unified Judicial System of Pennsylvania to receive a record of any county resident who claims ineligibility to serve as a juror due to non-citizenship, and to investigate the registration status of any such person registered to vote.

**Qualifications of Election Officers:** The legislation provides that election officers shall be qualified registered electors 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.

**Special Legislative Standing and Severability:** The legislation provides special legislative standing for each chamber of the General Assembly to intervene in proceedings alleging that a portion of the act is unconstitutional. Additionally, the provisions of this legislation are deemed to be non-severable.

**FISCAL IMPACT:** Below are the estimated Commonwealth costs as a result of this legislation:

**HB 1300, PN 1869 Fiscal Analysis:**

Projected State Fiscal Impact	Note	Projected Cost	Projected Quantity	Total Projected Costs
Electronic Poll Books <sup>1</sup>	One-time	\$2,000	9,235	\$18,470,000
Durable Registration Cards <sup>2</sup>	One-time	\$3	8,758,199	\$26,274,597
Ballot Processing Machines <sup>3</sup>	One-time	\$500,000	60	\$30,000,000
Photo ID Equipment for Voting Purposes	One-time	\$3,000,000	1	\$3,000,000
Voter Hotline	One-time	\$500,000	1	\$500,000
Signature Application	One-time	\$1,500,000	1	\$1,500,000
<b>Total One-Time Costs</b>				<b>\$79,744,597</b>
Bureau of Election Audits	Recurring	\$3,100,000	1	\$3,100,000
Actual Photo ID for Voting Purposes (Free) <sup>4</sup>	Recurring	\$10	10,000	\$100,000
50% Reimbursement of County Election Average Expenses	Recurring	\$100,000	67	\$6,700,000
Reimburse Counties for the Cost of Annual Training	Recurring	\$30,000	67	\$2,010,000
<b>Total Recurring Costs</b>				<b>\$11,910,000</b>
<b>Total Projected State Impact for 2021-22</b>				<b>\$91,654,597</b>

Notes:

1. Estimate assumes 9,235 polling locations and average price of \$2,000/poll book.
2. Voter registration figures as of 6/14/21.
3. Assumes 7 largest counties already have this equipment.
4. Costs are expected to be minimal as # of licensed drivers (9.025M voters) exceed # of registered voters (8.758M).

This legislation would likely have no adverse fiscal impact on county funds. Some of the provisions that would save counties monies include:

- The Commonwealth covering 50% of the costs for district election officer per diem and mileage expenses.
- Allocating any private donations to all counties through the Commonwealth.

Some of the provisions that could increase costs to counties include:

- Signature capture of a voter registration.
- Additional days for the pre-canvassing of ballots.

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**DATE:** June 22, 2021

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