

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1379

Session of
1985

INTRODUCED BY KUKOVICH, PICCOLA, ITKIN, SWEET, BELFANTI,
DeWEESE, FREEMAN, AFFLERBACH, DAWIDA, PISTELLA, DALEY,
J. L. WRIGHT, MANMILLER, LEVDANSKY, LASHINGER, GREENWOOD,
STABACK, MICHLOVIC, MURPHY AND VAN HORNE, JUNE 5, 1985

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 10, 1986

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," providing limited Pennsylvania Fair Campaign
12 funding of certain Statewide judicial elections; limiting
13 certain contributions; imposing powers and duties on the
14 Department of State; and providing penalties.

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

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

20 ARTICLE XVI-A

21 Pennsylvania Fair Campaign Funding

22 Section 1601-A. Application of Article.--The provisions of

this article shall be applicable to candidates for the following
State-wide offices: ~~who elect to apply for Pennsylvania Fair~~
~~Campaign funding hereunder:~~

(1) Supreme Court Justice.

(2) Superior Court Judge.

(3) Commonwealth Court Judge.

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

Section 1603-A. Pennsylvania Fair Campaign Fund Created.--
There is hereby created a special restricted receipts fund in
the State Treasury to be known as the "Pennsylvania Fair
Campaign Fund." Payments shall be made into said fund pursuant
to section 1604-A and disbursements shall be made from said fund
only upon the warrant of the Secretary of the Commonwealth and a
warrant of the State Treasurer. As much of the moneys in the
Pennsylvania Fair Campaign Fund as are necessary to make
payments to candidates as provided in this article are
appropriated from said fund to the Department of State for the
purpose of such payments.

Section 1604-A. Allocation of Certain Tax Proceeds to
Pennsylvania Fair Campaign Fund.--Beginning with tax years
commencing January 1, 1986, and thereafter, each individual
subject to the tax imposed by Article III of the act of March 4,
1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"
~~whose tax liability for any such year is one dollar and fifty~~
~~cents (\$1.50) or more may designate one dollar and fifty cents~~
~~(\$1.50) of his or her personal income taxes to be paid into the~~

~~Pennsylvania Fair Campaign Fund. In the case of married taxpayers filing a joint return, each spouse may designate one dollar and fifty cents (\$1.50) to be paid into said fund if their tax liability is three dollars (\$3.00) or more. All such~~
MAY DESIGNATE THAT ONE DOLLAR AND FIFTY CENTS (\$1.50) BE ADDED
TO HIS OR HER PERSONAL INCOME TAX LIABILITY AND BE PAID INTO THE
PENNSYLVANIA FAIR CAMPAIGN FUND. IN THE CASE OF MARRIED
TAXPAYERS FILING A JOINT RETURN, EACH SPOUSE MAY DESIGNATE THAT
ONE DOLLAR AND FIFTY CENTS (\$1.50) BE ADDED TO THEIR PERSONAL
INCOME TAX LIABILITY AND BE PAID INTO SAID FUND. A TAXPAYER WHO
DESIGNATES PAYMENT UNDER THIS SECTION SHALL ADD THE REQUIRED
AMOUNT TO THE PAYMENT DUE THE COMMONWEALTH OR SUBTRACT THE
REQUIRED AMOUNT FROM THE REFUND DUE THE TAXPAYER, AS
APPROPRIATE. ALL SUCH designated tax revenues shall be paid into
the Pennsylvania Fair Campaign Fund. The check-off and
instructions shall be prominently displayed on the first page of
the return form. The instructions shall readily indicate that
any such designations neither increase or decrease an
individual's tax liability.

Section 1605-A. Certification of Moneys in Pennsylvania Fair
Campaign Fund.--By June 30 of each year, the State Treasurer
shall certify to the secretary the current balance available in
the Pennsylvania Fair Campaign Fund.

Section 1606-A. Qualification for Pennsylvania Fair Campaign
Funding.--(a) Any candidate for State-wide judicial office as
described in section 1601-A may apply for Pennsylvania Fair
Campaign funding under this article if such candidate meets the
contributory thresholds established in subsection (b) and
otherwise conforms to the requirements of this article. No
candidate shall be obligated to apply for funding hereunder and

1 if any candidate elects not to apply, ONLY the provisions of <—
2 this article PERTAINING TO LIMITS ON CONTRIBUTIONS, AS SET FORTH <—
3 IN SECTION 1612-A(A) shall be ~~inapplicable~~ APPLICABLE to such <—
4 person and their candidacy. Any candidate electing to receive
5 Pennsylvania Fair Campaign funding must declare his intention to
6 do so and specify the State office for which he is a candidate.
7 Any and all committees authorized to receive contributions or
8 make expenditures for the candidate who has so declared must
9 abide by the provisions of ~~section 1612-A~~ THIS ARTICLE, UNLESS <—
10 OTHERWISE SPECIFIED HEREIN. Any candidate who for any reason has
11 his name withdrawn from the ballot for a State-wide judicial
12 election, after receipt of Pennsylvania Fair Campaign funds,
13 shall return all moneys received to the fund as well as offering
14 back qualifying contributions for that State-wide judicial
15 office.

16 (b) (1) In order to qualify for Pennsylvania Fair Campaign
17 funding in the general election, a candidate must receive
18 subsequent to the date of the primary election but prior to the
19 date of the general election qualifying contributions of the
20 following amounts:

<u>Office</u>	<u>Qualifying Contributions Required</u>
<u>(i) Supreme Court Justices</u>	<u>\$25,000</u>
<u>(ii) Superior Court Judges</u>	<u>25,000</u>
<u>(iii) Commonwealth Court Judges</u>	<u>25,000</u>

25 (2) In order to qualify for Pennsylvania Fair Campaign
26 funding in the primary election, a candidate must receive prior
27 to the date of the primary election, but subsequent to the
28 immediately preceding general election, one-half of the amount
29 specified in clause (1) for the appropriate office.

30 (3) (i) The term "qualifying contribution" shall include

any contribution, as defined in section 1621(b), which has all of the following characteristics:

(A) Made by an individual resident of Pennsylvania or by a political action committee, as defined in section 1621(l), whose address is in Pennsylvania.

(B) Made by a written instrument which indicates the contributor's full name and mailing residence and is not intended to be returned to the contributor or transferred to another political committee or candidate.

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

(iii) Any contribution which exceeds one hundred dollars (\$100.00) in the aggregate shall be deemed only a one hundred dollar (\$100.00) qualifying contribution for the purposes of this section and for the matching payment provisions of section 1607-A.

(c) The secretary shall select an auditor pursuant to the provisions of section 1635(a). Each candidate who elects to apply for Pennsylvania Fair Campaign funding shall provide evidence that such candidate has raised the qualifying contributions required by this section which evidence shall be verified and certified as correct to the secretary by the auditor selected hereunder.

Section 1607-A. Pennsylvania Fair Campaign Funding Formula.--(a) Every candidate who qualifies for Pennsylvania Fair Campaign funding for either the primary or the general election pursuant to section 1606-A shall receive matching payments from said fund in the amount of two dollars and fifty

1 cents (\$2.50) for each dollar of qualifying contribution as
2 defined in section 1606-A(b)(3).

3 (b) The two dollars and fifty cents (\$2.50) for each dollar
4 of qualifying contributions provided by this section shall be
5 provided only for qualifying contributions raised which exceed
6 the threshold amounts specified in section 1606-A(b) and not to
7 those qualifying contributions which are attributable to meeting
8 such threshold amounts necessary to qualify for Pennsylvania
9 Fair Campaign funding.

10 (c) (1) Only those qualifying contributions made during the
11 period between a declaration of candidacy and the primary
12 election shall be eligible for matching payments from said fund
13 for the primary election.

14 (2) Only those qualifying contributions made during the
15 period between the primary election and the general election
16 shall be eligible for matching payments from said fund for the
17 general election.

18 Section 1608-A. Limitations on Pennsylvania Fair Campaign
19 Funding.--(a) Every candidate who qualifies for and receives
20 Pennsylvania Fair Campaign funding pursuant to the formula
21 established in section 1607-A shall be entitled to receive no
22 more than the maximum amount specified in subsection (b) for the
23 office such candidate is seeking.

24 (b) (1) The maximum amount of Pennsylvania Fair Campaign
25 funding available for the general election for each candidate
26 under this article shall be as follows:

<u>Office</u>	<u>Maximum Pennsylvania</u> <u>Fair Campaign Funding</u>
<u>(i) Supreme Court Justices</u>	<u>\$100,000</u>
<u>(ii) Superior Court Judges</u>	<u>100,000</u>

(iii) Commonwealth Court Judges 100,000

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

(c) Notwithstanding any other provisions of this article, no Pennsylvania Fair Campaign funding shall be provided to the following:

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

(2) Candidates in the primary election who are unopposed for the nomination with the exception of those candidates who are running in a judicial retention election.

(d) As used in this article, "major political party" shall mean a political party whose candidate for Governor received either the highest or second highest number of votes in the preceding gubernatorial election.

Section 1609-A. Time of Payments.--(a) Beginning ninety (90) days prior to the relevant primary or general election, the secretary shall make payments authorized by this article at least every two (2) weeks. However, except for the final payment, no payment shall be due or paid if the payment does not equal at least five thousand dollars (\$5,000) in amount.

(b) If in the secretary's opinion insufficient funds exist in the Pennsylvania Fair Campaign Fund to provide the anticipated full funding to eligible candidates in a given primary or general election, the secretary shall distribute the available funds to qualified candidates on a pro-rata basis. In determining whether sufficient funds are available, the secretary shall not take into consideration the needs of any subsequent primary or general elections but shall base the

decision solely on the immediate primary or election at hand.

Section 1610-A. Use of Pennsylvania Fair Campaign Funds by Candidates.--(a) Pennsylvania Fair Campaign funds distributed to candidates pursuant to this article may be used only for the election for which they are distributed and only for the purposes set forth in section 1634.1, except that no fund moneys may be used:

(1) To transfer to other candidates or to committees of other candidates, but this prohibition shall not apply to funds transferred to committees of major political parties.

(2) To pay for expenditures incurred after the date of the general election.

(b) Pennsylvania Fair Campaign funds distributed to a candidate pursuant to this article shall be placed in a single bank account. Expenditures from this account shall be made only for campaign expenses listed in subsection (a).

Section 1611-A. Expenditures.--(a) Expenditures made by a candidate WHO ACCEPTS PENNSYLVANIA FAIR CAMPAIGN FUNDING and his authorized committees, for all purposes and from all sources, including, but not limited to, amounts of Pennsylvania Fair Campaign funds distributed under this article, proceeds of loans, gifts, contributions from any source or personal funds, subsequent to the date of the primary election, but prior to the date of the general election, may not exceed three hundred thousand dollars (\$300,000).

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

(c) Notwithstanding any other provision of this article, a

1 candidate who accepts public funding pursuant to the formula
2 established in section 1607-A, but whose major political party
3 opponent elects not to apply for such public funding, shall not
4 be bound by the expenditure limits specified in this section.

5 Section 1612-A. Limitations on Certain Contributions.--(a)

6 Any candidate for a State-wide judicial office WHO APPLIES FOR <—
7 AND RECEIVES PUBLIC FUNDING shall not accept contributions for
8 each primary, general or special election which exceed those
9 specified limits as follows:

10 ~~(1) Candidate and spouse, up to twenty five thousand dollars~~ <—
11 ~~(\$25,000).~~

12 ~~(2) (1) Individual, up to two hundred fifty dollars (\$250)~~ <—
13 ~~ONE THOUSAND DOLLARS (\$1,000).~~ <—

14 ~~(3) (2) Partnerships, up to two hundred fifty dollars (\$250)~~ <—
15 ~~ONE THOUSAND DOLLARS (\$1,000).~~ <—

16 ~~(4) (3) Political action committees as defined in section~~ <—
17 ~~1621(1), no more than two hundred fifty dollars (\$250) per~~ <—
18 ~~political action committee or no more than a total amount based~~
19 ~~upon fifty cents (50¢) per contributing member of the political~~
20 ~~action committee, whichever amount is higher; the membership of~~
21 ~~the political action committee to be based upon the number of~~
22 ~~contributing members in the immediately preceding calendar year:~~
23 ~~Provided, however, That a contribution based upon a total amount~~
24 ~~of fifty cents (50¢) per contributing member of the political~~
25 ~~action committee cannot exceed five thousand dollars (\$5,000) UP~~ <—
26 ~~TO ONE THOUSAND DOLLARS (\$1,000).~~

27 (B) ANY CANDIDATE FOR A STATE-WIDE JUDICIAL OFFICE WHO
28 ACCEPTS PENNSYLVANIA FAIR CAMPAIGN FUNDING MAY NOT SPEND OVER
29 TWENTY-FIVE THOUSAND DOLLARS (\$25,000) OF HIS OWN AND HIS
30 SPOUSE'S PERSONAL FUNDS FOR EACH PRIMARY, GENERAL OR SPECIAL

1 ELECTION. IF SUCH CANDIDATE DOES NOT ACCEPT PENNSYLVANIA FAIR
2 CAMPAIGN FUNDING, THIS LIMIT SHALL NOT APPLY.

3 ~~(b)~~ (C) Aggregate contributions during the year of the <—
4 election by a political party committee or candidate's political
5 committee to candidates receiving Pennsylvania Fair Campaign
6 funds shall not exceed the sum of contributions from individuals
7 to the committee, provided that whenever contributions in the
8 aggregate during the year of the election from an individual
9 exceed one thousand dollars (\$1,000), only one thousand dollars
10 (\$1,000) shall be included in that sum.

11 Section 1613-A. Inflation Indexing of Certain Limitations.--
12 The dollar figures contained in sections 1606-A, 1608-A and
13 1611-A shall be adjusted annually during March at a rate equal
14 to the average percentage change in the All-Urban Consumer Price
15 Index for the Pittsburgh, Philadelphia and Scranton standard
16 metropolitan statistical areas as published by the Bureau of
17 Labor Statistics of the United States Department of Labor, or
18 any successor agency, occurring in the prior calendar year. The
19 base year shall be 1984. The average shall be calculated and
20 certified by the secretary annually by adding the percentage
21 increase in each of the three areas and dividing by three. The
22 calculation and resulting new figures shall be published in the
23 Pennsylvania Bulletin during March.

24 Section 1614-A. Annual Report.--The secretary shall report
25 annually to the General Assembly and the Governor on the
26 operations of Pennsylvania Fair Campaign funds as provided by
27 this article. Such report shall include, but not be limited to,
28 the revenues and expenditures in the fund, the amounts
29 distributed to candidates, the results of any audits performed
30 on candidates in compliance with the provisions of this article

1 and any prosecutions brought for violations of this article.

2 Section 1615-A. Return of Excess Funds.--All unexpended
3 campaign funds in a candidate's and his authorized committees'
4 possession sixty (60) days after the election shall be returned
5 to the secretary for deposit in the Pennsylvania Fair Campaign
6 Fund, up to the amount of the funds which were distributed to
7 the candidate under this article.

8 Section 1616-A. Penalties.--(a) A person who violates the
9 provisions of this act and who, as a result, obtains
10 Pennsylvania Fair Campaign funds to which he is not entitled
11 shall be guilty of a misdemeanor of the first degree and upon
12 conviction shall be subject to a fine not to exceed the greater
13 of ten thousand dollars (\$10,000) or three times the amount of
14 funds wrongfully obtained, or imprisonment for up to five years
15 or both such fine and imprisonment.

16 (b) A person who violates section 1610-A or 1611-A of this
17 act shall be guilty of a misdemeanor of the first degree and
18 upon conviction shall be subject to a fine not to exceed the
19 greater of ten thousand (\$10,000) or three times the amount of
20 funds that were wrongfully used or expended or to imprisonment
21 for up to five years, or to both such fine and imprisonment.

22 (c) Except as provided in subsections (a) and (b) of this
23 section, a person who violates any provision of this act shall
24 be guilty of a misdemeanor of the third degree and upon
25 conviction shall be subject to a fine of not more than one
26 thousand dollars (\$1,000) or imprisonment for up to one year or
27 both.

28 Section 2. This act shall be applicable to returns of
29 taxpayers of calendar years commencing January 1, 1986, and
30 thereafter. Pennsylvania Fair Campaign funding shall be first

1 provided for candidates for Statewide judicial office in the
2 general election of November 1987 and in each primary, municipal
3 and general election thereafter.

4 Section 3. This act shall take effect immediately.