

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1460 Session of
1997

INTRODUCED BY STERN, GEIST, SATHER, FICHTER, GIGLIOTTI, HALUSKA,
ARGALL, B. SMITH, FAIRCHILD, BROWN, WALKO, BELARDI,
HENNESSEY, MCGEEHAN, NAILOR, COLAFELLA, WAUGH, CORRIGAN,
E. Z. TAYLOR, YOUNGBLOOD, SEMMEL, SAYLOR, SAINATO, THOMAS,
BENNINGHOFF, MUNDY, ITKIN, BOSCOLA, JAMES AND ROSS,
MAY 6, 1997

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 6, 1997

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 for vacancies in election boards.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 402 of the act of June 3, 1937 (P.L.1333,
15 No.320), known as the Pennsylvania Election Code, amended May 5,
16 1982 (P.L.374, No.108), is amended to read:

17 Section 402. Qualifications of Election Officers.--
18 [Election] Except as provided in section 405(c), election
19 officers shall be qualified registered electors of the district
20 in which they are elected or appointed. No person shall be

1 qualified to serve as an election officer who shall hold, or
2 shall within two months have held, any office, appointment or
3 employment in or under the Government of the United States or of
4 this State or of any city or county or poor district, of any
5 municipal board, commission or trust in any city, save only
6 district justices, notaries public and persons in the militia
7 service of the State; nor shall any election officer be eligible
8 to any civil office to be voted for at a primary or election at
9 which he shall serve, except that of an election officer.

10 Section 2. Section 405 of the act, repealed in part April
11 28, 1978 (P.L.202, No.53) and amended June 1, 1978 (P.L.456,
12 No.58), is amended to read:

13 Section 405. Vacancies in Election Boards; Appointment;
14 Judge and Majority Inspector to Be Members of Majority Party;
15 Minority Inspector to Be Member of Minority Party.--(a)
16 Vacancies in election boards existing by reason of the
17 disqualification, removal, resignation or death of an election
18 officer, or from any other cause, occurring prior to [the day
19 of] the fifth day before any primary or election, shall, in all
20 cases, be filled by appointment, by the court of the proper
21 county, of competent persons, qualified in accordance with the
22 provisions of this act, who shall serve for the unexpired term
23 of the person whose place he is appointed to fill: Provided,
24 however, That any district election officer who, after his
25 election or appointment, changes his political affiliation,
26 shall not thereby become disqualified to serve on said election
27 board, and shall not thereby be subject to removal. In making
28 such appointments, the court shall receive and consider any
29 petitions filed by qualified electors of the district affected,
30 and shall make no appointment to fill any vacancy [occurring

1 more than five days before any primary or election,] unless
2 notice of the time at which they will make such appointment
3 shall have been posted on the polling place of such district,
4 and in the immediate vicinity thereof, at least five days prior
5 thereto. In the appointment of inspectors in any election
6 district, both shall not be of the same political party at the
7 time of said appointment, but one shall be of the party having
8 the largest number of votes and the other shall be of the party
9 having the second largest number of votes in said district at
10 the last preceding November election, as nearly as the judge or
11 judges can ascertain the fact. The judge of election shall, in
12 all cases of appointment, be of the political party having the
13 majority of votes in said district at the last preceding
14 November election, as nearly as the judge or judges can
15 ascertain the fact. Immediately upon the entry of an order of
16 court filling any vacancy on an election board, the clerk of
17 said court shall forthwith transmit a certified copy of said
18 order to the county board, giving the name and address of said
19 appointee. Notwithstanding any provisions to the contrary, in
20 counties which have adopted home rule charters or optional plans
21 and which appoint the members of the county election board under
22 section 301(b), vacancies in the county board of elections shall
23 be filled consistent with the provisions for appointment of
24 county election board members under that section.

25 (b) The first election board for any new district shall be
26 selected, by the court of the proper county, of competent
27 persons, qualified in accordance with the provisions of this
28 act, who shall serve until the next municipal election at which
29 all election officials are elected under the provisions of
30 section 401.

1 (c) Vacancies in election boards occurring at any time
2 during the five days immediately preceding any primary or
3 election or on the day of the primary or election may be filled
4 by appointment by the county board of elections from a pool of
5 competent persons who are qualified registered electors of the
6 county and who have been trained by the county to perform the
7 duties of election officers which are required by this act. Any
8 person appointed to fill a vacancy in accordance with this
9 subsection shall serve as a member of the election board on the
10 day of the primary or election only. Any election board position
11 filled in accordance with this subsection shall be deemed vacant
12 on the day immediately following the primary or election and
13 subsequently shall be filled in accordance with subsection (a).

14 Section 3. This act shall take effect in 60 days.