INTRODUCED BY SCARNATI AND CORMAN, AUGUST 24, 2020

REFERRED TO STATE GOVERNMENT, AUGUST 24, 2020

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," in county boards of elections, further providing for watchers or attorneys at sessions of county board and candidates may be present; in district election officers, further providing for qualifications of election officers and for appointment of watchers; in voting by qualified absentee electors, further providing for applications for official absentee ballots, for date of application for absentee ballot, for official absentee voters ballots and for voting by absentee electors; and, in voting by qualified mail-in electors, further providing for applications for official mail-in ballots, for date of application for mail-in ballot, for official mail-in elector ballots, for delivering or mailing ballots and for voting by mail-in electors.

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

Section 1. Sections 310(a), 402(a) and 417(b) of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, are amended to read:

Section 310. Watchers or Attorneys at Sessions of County
Board; Candidates May Be Present.--

(a) Any party or political body or body of citizens which now is, or hereafter may be, entitled to have watchers at any registration, primary or election, shall also be entitled to appoint watchers who are qualified electors of the county, or attorneys, to represent such party or political body or body of citizens at any public session or sessions of the county board of elections, and at any computation and canvassing of returns of any primary or election and recount of ballots or recanvass of voting machines under the provisions of this act. Such watchers or attorneys may exercise the same rights as watchers at registration and polling places, but the number who may be present at any one time may be limited by the county board to not more than three for each party, political body or body of citizens.

* * *

Section 402. Qualifications of Election Officers.--(a) Except as provided in subsection (b), election officers shall be qualified registered electors of the district in which they are elected or appointed. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the Government of the United States or of this State or of any city or county or poor district, of any municipal board, commission or trust in any city, save only district justices, notaries public and persons in the militia service of the State; nor shall any election officer be eligible to any civil office.
to be voted for at a primary or election at which he shall
serve, except that of an election officer.

* * *

Section 417. Appointment of Watchers.--

* * *

(b) Each watcher so appointed must be a qualified registered
elector [of the county in which the election district for which
the watcher was appointed is located]. Each watcher so appointed
shall be authorized to serve in the election district for which
the watcher was appointed and, when the watcher is not serving
in the election district for which the watcher was appointed, in
any other election district [in the county in which the watcher
is a qualified registered elector]: Provided, That only one
watcher for each candidate at primaries, or for each party or
political body at general, municipal or special elections, shall
be present in the polling place at any one time from the time
that the election officers meet prior to the opening of the
polls under section 1208 until the time that the counting of
votes is complete and the district register and voting check
list is locked and sealed, and all watchers in the room shall
remain outside the enclosed space. It shall not be a requirement
that a watcher be a resident of the election district for which
the watcher is appointed. After the close of the polls and while
the ballots are being counted or voting machine canvassed, all
the watchers shall be permitted to be in the polling place
outside the enclosed space. Each watcher shall be provided with
a certificate from the county board of elections, stating his
name and the name of the candidate, party or political body he
represents. Watchers shall be required to show their
certificates when requested to do so. Watchers allowed in the
polling place under the provisions of this act, shall be permitted to keep a list of voters and shall be entitled to challenge any person making application to vote and to require proof of his qualifications, as provided by this act. During those intervals when voters are not present in the polling place either voting or waiting to vote, the judge of elections shall permit watchers, upon request, to inspect the voting check list and either of the two numbered lists of voters maintained by the county board: Provided, That the watcher shall not mark upon or alter these official election records. The judge of elections shall supervise or delegate the inspection of any requested documents.

* * *

Section 2. Section 1302(i)(1) of the act, amended March 27, 2020 (P.L.41, No.12), is amended and the subsection is amended by adding paragraphs to read:

Section 1302. Applications for Official Absentee Ballots.--*

(i) (1) Application for official absentee ballots shall be on physical and electronic forms prescribed by the Secretary of the Commonwealth.

(1.1) The application shall state that an elector who applies for an absentee ballot pursuant to section 1301 shall not be eligible to vote at a polling place on election day [unless the elector brings the elector's absentee ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect. Such physical]
except by provisional ballot. The application shall also state
that an elector may personally deliver an absentee ballot and
the envelope containing the declaration of the elector to the
judge of elections of the elector's election district at the
elector's polling place during the hours that the polling place
is open on election day, to a location at the county courthouse
designated by the county board of elections or to the permanent
offices of the county board of elections and to no other
location.
(1.2) Physical application forms shall be made freely
available to the public at county board of elections, municipal
buildings and at such other locations designated by the
secretary. [Such electronic]
(1.3) Electronic application forms shall be made freely
available to the public through publicly accessible means.
(1.4) No written application or personal request shall be
necessary to receive or access the application forms.
(1.5) Copies and records of all completed physical and
electronic applications for official absentee ballots shall be
retained by the county board of elections.
* * *
Section 3. Section 1302.1(a) and (a.3)(1) and (2) of the
act, amended October 31, 2019 (P.L.552, No.77), are amended to
read:
Section 1302.1. Date of Application for Absentee Ballot.--
(a) Except as provided in subsection (a.3), applications for
absentee ballots shall be received in the office of the county
board of elections not earlier than fifty (50) days before the
primary or election, except that if a county board of elections
determines that it would be appropriate to its operational
needs, any applications for absentee ballots received more than fifty (50) days before the primary or election may be processed before that time. Applications for absentee ballots shall be processed if received not later than five o'clock P.M. of the [first Tuesday] fifteenth day prior to the day of any primary or election.

(a.3) (1) The following categories of electors may apply for an absentee ballot under this subsection, if otherwise qualified:

(i) An elector whose physical disability or illness prevented the elector from applying for an absentee ballot before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election.

(ii) An elector who, because of the elector's business, duties or occupation, was unable to apply for an absentee ballot before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election.

(iii) An elector who becomes so physically disabled or ill after five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election that the elector is unable to appear at the polling place on the day of the primary or election.

(iv) An elector who, because of the conduct of the elector's business, duties or occupation, will necessarily be absent from the elector's municipality of residence on the day of the primary or election, which fact was not and could not reasonably be known to the elector on or before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election.

(2) An elector described in paragraph (1) may submit an
application for an absentee ballot at any time up until the time of the closing of the polls on the day of the primary or election. The application shall include a declaration describing the circumstances that prevented the elector from applying for an absentee ballot before five o'clock P.M. on the [first Tuesday] fifteenth day prior to the day of the primary or election or that prevent the elector from appearing at the polling place on the day of the primary or election, and the elector's qualifications under paragraph (1). The declaration shall be made subject to the provisions of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

* * *

Section 4. Sections 1303(e) and 1306(a) introductory paragraph and (b)(3) of the act, amended March 27, 2020 (P.L.41, No.12), are amended to read:

Section 1303. Official Absentee Voters Ballots.--* * *

(e) The official absentee voter ballot shall state [that an elector who receives an absentee ballot pursuant to section 1301 and whose voted ballot is not timely received by the commission and who, on election day, is capable of voting at the appropriate polling place may only vote on election day by provisional ballot unless the elector brings the elector's absentee ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect.] as follows:

(1) That a voter may return the ballot on or before election day to the permanent offices of the county board of elections by
mail or in person, in person to a location at the county
courthouse designated by the board of elections or, if not
returned prior to election day, in person to the judge of
elections at the elector's election district at the elector's
polling place on election day during polling hours and to no
other location. The Secretary of the Commonwealth shall
prescribe the text and the manner by which the notice under this
subsection shall be printed on a ballot and shall require the
following statement:

This ballot may be personally returned by an elector to the
elector's polling place on election day, or in person on or
before election day to a location at the county courthouse
designated by the county board of elections, or by mail or in
person to the permanent offices of the county board of
elections and to no other location.

The notice shall also require electors to personally return
ballots.

(2) That an elector who receives an absentee ballot pursuant
to section 1301 and whose voted ballot is not timely received as
set forth in subsection (e)(1) and who, on election day, is
capable of voting at the appropriate polling place may only vote
on election day by provisional ballot.

Section 1306. Voting by Absentee Electors.--(a) Except as
provided in paragraphs (2) and (3), at any time after receiving
an official absentee ballot, but on or before eight o'clock P.M.
the day of the primary or election, the elector shall, in
secret, proceed to mark the ballot only in black lead pencil,
indelible pencil or blue, black or blue-black ink, in fountain
pen or ball point pen, and then fold the ballot, enclose and
securely seal the same in the envelope on which is printed,
stamped or endorsed "Official Election Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election at the permanent offices of the county board of elections, to a location at the county courthouse designated by the county board of elections or to the judge of elections at the elector's polling place and to no other location.

* * *

(b) * * *

(3) Notwithstanding paragraph (2), an elector who requests an absentee ballot and who is not shown on the district register as having voted the ballot may vote on election day may:

(i) Vote by provisional ballot at the polling place. [if the elector remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and the elector signs a statement subject to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) in substantially the following form:

I hereby declare that I am a qualified registered elector who has obtained an absentee ballot or mail-in ballot. I further declare that I have not cast my absentee ballot or mail-in ballot, and that instead I remitted my absentee ballot or mail-in ballot and the envelope containing the declaration of
the elector to the judge of elections at my polling place to be spoiled and therefore request that my absentee ballot or mail-in ballot be voided.

(Date)

(Signature of Elector)................(Address of Elector)

(Local Judge of Elections)

(ii) Personally deliver the completed absentee ballot and the envelope containing the declaration of the elector to the judge of elections of the elector's election district at the elector's polling place during polling hours, to a location at the county courthouse designated by the county board of elections or to the permanent offices of the county board of elections and to no other location.

* * *

Section 5. Section 1308(f), (g)(1.1), (2) and (3) of the act, amended October 31, 2019 (P.L.552, No.77) and March 27, 2020 (P.L.41, No.12), are amended, subsection (g) is amended by adding a paragraph and the section is amended by adding a subsection to read:

Section 1308. Canvassing of Official Absentee Ballots and Mail-in Ballots.--* * *

(a.1) A judge of elections shall deliver all completed absentee ballots and mail-in ballots to the county board of elections by two o'clock A.M. on the day following the election.

* * *

(f) Any person challenging an application for an absentee ballot, an absentee ballot, an application for a mail-in ballot or a mail-in ballot for any of the reasons provided in this act shall deposit the sum of ten dollars ($10.00) in cash with the county board, which sum shall only be refunded if the challenge
is sustained or if the challenge is withdrawn within five (5)
days after the primary or election. If the challenge is
dismissed by any lawful order then the deposit shall be
forfeited. The county board shall deposit all deposit money in
the general fund of the county.

Notice of the requirements of subsection (b) of section 1306
shall be printed on the envelope for the absentee ballot or
mail-in ballot.

(g) * * *

(1.1) The county board of elections shall meet [no earlier
than seven o'clock A.M. on election day] at least once before
election day at the county courthouse or the offices of the
county board of elections to pre-canvass all ballots received
prior to the meeting.

(1.2) A county board of elections that meets to pre-canvass
absentee ballots and mail-in ballots may begin the tasks
described in paragraph (4)(i), (ii) and (iii) after eight
o'clock A.M. the Saturday before the election and continuing
through election day for any absentee ballots or mail-in ballots
received prior to eleven fifty-nine P.M. on the day prior to
election day. A county board of elections shall provide at least
forty-eight hours' notice of a pre-canvass meeting by publicly
posting a notice of a pre-canvass meeting on its publicly
accessible Internet website. [One] The authorized representative
of each candidate in an election, the county chairperson of each
political party or a designee and one representative from each
political party shall be permitted to remain in the room in
which the absentee ballots and mail-in ballots are pre-
canvassed. The proceedings of the pre-canvassing shall be
recorded and made available upon request and the individuals

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allowed to watch the pre-canvasing shall have a clear line of sight to view the proceedings. No person observing, attending or participating in a pre-canvas meeting may disclose the results of any portion of any pre-canvas meeting prior to the close of the polls.

(2) The county board of elections shall meet no earlier than the close of polls on the day of the election at the county courthouse or the offices of the county board of elections and no later than the third day following the election to begin canvassing absentee ballots and mail-in ballots not included in the pre-canvas meeting. The meeting under this paragraph shall continue until all absentee ballots 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 process shall continue through the eighth day following the election for valid military-overseas ballots timely received under 25 Pa.C.S. § 3511 (relating to receipt of voted ballot). A county board of elections shall provide at least forty-eight hours' notice of a canvass meeting by publicly posting a notice on its publicly accessible Internet website. One authorized representative of each candidate in an election, the county chairperson of each political party or a designee and one representative from each political party shall be permitted to remain in the room in which the absentee ballots and mail-in ballots are canvassed. The proceedings of the canvassing shall be recorded and made available upon request and the individuals allowed to watch the canvassing shall have a clear line of sight to view the proceedings.

(3) When the county board meets to pre-canvas or canvass
absentee ballots and mail-in ballots under paragraphs (1), (1.1), (1.2) and (2), the board shall examine the declaration on the envelope of each ballot not set aside under subsection (d) and shall compare the information thereon with that contained in the "Registered Absentee and Mail-in Voters File," the absentee voters' list and/or the "Military Veterans and Emergency Civilians Absentee Voters File," whichever is applicable. If the county board has verified the proof of identification as required under this act and is satisfied that the declaration is sufficient and the information contained in the "Registered Absentee and Mail-in Voters File," the absentee voters' list and/or the "Military Veterans and Emergency Civilians Absentee Voters File" verifies his right to vote, the county board shall provide a list of the names of electors whose absentee ballots or mail-in ballots are to be pre-canvassed or canvassed. For absentee ballots or mail-in ballots which the county board is not satisfied that proof of identification has been provided due to any inability to match the signature present on the ballot to the signature on file, the county board shall:

(i) Notify the elector by mail, e-mail, telephone or text message that the signature on the elector's ballot does not match the elector's signature in the registration books.

(ii) Direct the elector to appear before, or to provide an electronic, facsimile or paper copy to, the county board of elections within six (6) calendar days with:

(A) proof of identification and an executed affirmation affirming, under penalty of perjury, that the elector is the same individual who personally remitted the absentee ballot or mail-in ballot; or

(B) an executed affirmation affirming, under penalty of
perjury, that the elector is the same individual who personally remitted the absentee ballot or mail-in ballot and that the elector is indigent and unable to obtain proof of identification without the payment of a fee.

(iii) Notify the elector that the absentee ballot or mail-in ballot may not be counted if the elector fails to comply with subparagraph (ii).

* * *

Section 6. Section 1302-D(f) of the act, amended March 27, 2020 (P.L.41, No.12), is amended to read:

Section 1302-D. Applications for official mail-in ballots.

* * *

(f) Form.--The following shall apply:

(1) Application for an official mail-in ballot shall be on physical and electronic forms prescribed by the Secretary of the Commonwealth.

(2) The application shall state that a voter who applies for a mail-in ballot under section 1301-D shall not be eligible to vote at a polling place on election day [unless the elector brings the elector's mail-in ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect.] except by provisional ballot. The application shall also state that an elector may personally deliver a mail-in ballot and the envelope containing the declaration of the elector to the judge of elections of the elector's election district at the elector's polling place during the hours that the polling
place is open on election day, to a location at the county
courthouse designated by the county board of elections or to
the permanent offices of the county board of elections and to
no other location.

(3) The physical application forms shall be made freely
available to the public at county board of elections,
municipal buildings and at other locations designated by the
Secretary of the Commonwealth.

(4) The electronic application forms shall be made
freely available to the public through publicly accessible
means.

(5) No written application or personal request shall be
necessary to receive or access the application forms.

(6) Copies and records of all completed physical and
electronic applications for official mail-in ballots shall be
retained by the county board of elections.

* * *

Section 7. Section 1302.1-D(a) of the act, added October 31,
2019 (P.L.552, No.77), is amended to read:

Section 1302.1-D. Date of application for mail-in ballot.

(a) General rule.--Applications for mail-in ballots shall be
received in the office of the county board of elections not
earlier than 50 days before the primary or election, except that
if a county board of elections determines that it would be
appropriate to the county board of elections' operational needs,
any applications for mail-in ballots received more than 50 days
before the primary or election may be processed before that
time. Applications for mail-in ballots shall be processed if
received not later than five o'clock P.M. of the [first Tuesday]
fifteenth day prior to the day of any primary or election.
Section 8. Sections 1303-D(e), 1305-D and 1306-D(a) and (b) (3) of the act, amended March 27, 2020 (P.L.41, No.12), are amended to read:

Section 1303-D. Official mail-in elector ballots.

(e) Notice.--The official mail-in voter ballot shall state [that] as follows:

(1) That a voter who receives a mail-in ballot under section 1301-D may return the ballot on or before election day to the permanent offices of the county board of elections by mail or in person, in person to a location at the county courthouse designated by the county board of elections or, if not returned prior to election day, in person to the judge of elections at the elector's polling place on election day during polling hours and to no other location. The Secretary of the Commonwealth shall prescribe the text and the manner by which the notice under this subsection shall be printed on a ballot and shall require the following statement:

This ballot may be personally returned by an elector to the elector's polling place on election day, in person on or before election day to a location at the county courthouse designated by the county board of elections, or by mail or in person to the permanent offices of the county board of elections and to no other location.

The notice shall also require electors to personally return ballots.

(2) That an elector who receives a mail-in ballot under section 1301-D and whose voted mail-in ballot is not timely
received as set forth under paragraph (1) and who on election day is capable of voting at the appropriate polling place may only vote on election day by provisional ballot [unless the elector brings the elector's mail-in ballot to the elector's polling place, remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and signs a statement subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) to the same effect].

Section 1305-D. Delivering or mailing ballots.

The county board of elections, upon receipt and approval of an application filed by a qualified elector under section 1301-D, shall commence to deliver or mail official mail-in ballots as soon as a ballot is certified and the ballots are available. While any proceeding is pending in a Federal or State court which would affect the contents of any ballot, the county board of elections may await a resolution of that proceeding but in any event, shall commence to deliver or mail official mail-in ballots not later than the [second] fourth Tuesday prior to the primary or election. For applicants whose proof of identification was not provided with the application or could not be verified by the board, the board shall send the notice required under section 1302.2-D(c) with the mail-in ballot. As additional applications are received and approved, the board shall deliver or mail official mail-in ballots to the additional electors within 48 hours.

Section 1306-D. Voting by mail-in electors.

(a) General rule.--At any time after receiving an official mail-in ballot, but on or before eight o'clock P.M. the day of the primary or election, the mail-in elector shall, in secret,
proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Election Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election at the permanent offices of the county board of elections, to a location at the county courthouse designated by the county board of elections or to the judge of elections at the elector's polling place and to no other location.

* * *

(b) Eligibility.--

* * *

(3) Notwithstanding paragraph (2), an elector who requests a mail-in ballot and who is not shown on the district register as having voted the ballot [may vote at the polling place if the elector remits the ballot and the envelope containing the declaration of the elector to the judge of elections to be spoiled and the elector signs a statement subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) which shall be in substantially the following form:

I hereby declare that I am a qualified registered elector
who has obtained an absentee ballot or mail-in ballot. I
further declare that I have not cast my absentee ballot or
mail-in ballot, and that instead I remitted my absentee
ballot or mail-in ballot to the judge of elections at my
polling place to be spoiled and therefore request that my
absentee ballot or mail-in ballot be voided.

(Date)

(Signature of Elector)...........(Address of Elector)

(Local Judge of Elections)] on election day may:

  (i) Vote by provisional ballot at the polling place.

  (ii) Personally deliver the completed mail-in ballot

and the envelope containing the declaration of the
elektor to the judge of elections of the elector's
election district at the elector's polling place during
polling hours, to a location at the county courthouse
designated by the county board of elections or to the
permanent offices of the county board of elections and to
no other location.

* * *

Section 10. This act shall take effect immediately.