

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 403

Session of
1979

INTRODUCED BY POTT, GRIECO, KLINGAMAN, KUKOVICH, ZITTERMAN,
MOEHLMANN, LETTERMAN, FISCHER, KNEPPER, COCHRAN, KOLTER,
VROON, REED, STAIRS, HOFFEL, BURNS, ZWIKL, SIEMINSKI, ALDEN,
CALTAGIRONE, MILANOVICH, M. R. CLARK, MILLER, PRATT, PYLES
AND DAWIDA, FEBRUARY 20, 1979

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 21, 1979

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," changing the dates for the Municipal and General
12 primaries and making related changes.

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

15 Section 1. Section 603, act of June 3, 1937 (P.L.1333,
16 No.320), known as the "Pennsylvania Election Code," amended
17 December 22, 1971 (P.L.613, No.165), is amended to read:

18 Section 603. General Primary; Candidates to Be Nominated and
19 Party Officers to Be Elected.--There shall be a General primary
20 preceding each general election which shall be held on the
21 [third Tuesday of May] second Tuesday of September in all even-

1 numbered years, except in years when such date would immediately
2 follow Labor Day in which case the General primary shall be held
3 on the preceding Tuesday, and except in the year of the
4 nomination of a President of the United States, in which year
5 the General primary shall be held on the fourth Tuesday of
6 April. Candidates for all offices to be filled at the ensuing
7 general election shall be nominated at the General primary. The
8 vote for candidates for the office of President of the United
9 States, as provided for by this act, shall be cast at the
10 General primary.

11 Section 2. Section 604 of the act amended January 14, 1952
12 (1951 P.L.1937, No.540), is amended to read:

13 Section 604. Municipal Primary; Officers to be Nominated.--
14 There shall be a Municipal primary preceding each municipal
15 election which shall be held on the [third Tuesday of May]
16 second Tuesday of September in all odd-numbered years except in
17 years when such date would immediately follow Labor Day in which
18 case the Municipal primary shall be held on the preceding
19 Tuesday. Candidates for all offices to be filled at the ensuing
20 municipal election shall be nominated at the Municipal primary.

21 Section 3. Sections 978 and 978.1 of the act amended August
22 13, 1963 (P.L.707, No.379) and section 978.1 repealed in part
23 April 28, 1978 (No.53), are amended to read:

24 Section 978. Withdrawal of Nominated Candidates.--Any person
25 who has been nominated by any political party or political body,
26 in accordance with the provisions of this act, as a candidate
27 for the office of presidential elector, United States Senator,
28 Representative in Congress or for any State office, including
29 that of senator, representative and judge of court of record,
30 may withdraw his name from nomination by request in writing,

1 signed by him and acknowledged before an officer qualified to
2 take acknowledgement of deeds, and filed in the office of the
3 Secretary of the Commonwealth. Any person who has been similarly
4 nominated as a candidate for any other office may withdraw his
5 name from nomination by similar request, filed with the county
6 board of elections of the proper county. Such written
7 withdrawals shall be filed with the Secretary of the
8 Commonwealth or the county board of elections, as the case may
9 be, at least [eighty-five (85)] thirty-five (35) days previous
10 to the day of the general or municipal election. Such
11 withdrawals to be effective must be received in the office of
12 the Secretary of the Commonwealth not later than five (5)
13 o'clock P. M. on the last day for filing same, and in the office
14 of any county board of elections not later than the ordinary
15 closing hour of said office on the last day for filing same. No
16 name so withdrawn shall be printed upon the ballot or ballot
17 labels. No candidate may withdraw any withdrawal notice already
18 received and filed, and thereby reinstate his nomination.

19 Section 978.1. Vacancy in Party Nomination by Failure to Pay
20 Filing Fee or for Failure to File Loyalty Oath.--Every person
21 nominated at any primary election as the candidate of any
22 political party for any office, other than a borough, town,
23 township, school district or poor district office, or the office
24 of justice of the peace, or constable, who has not paid the
25 filing fee required by section nine hundred thirteen of this
26 act, as amended, for the filing of a nomination petition for
27 such office, or who has not filed the loyalty oath required by
28 section 14, act of December 22, 1951 (P.L.1726), known as the
29 "Pennsylvania Loyalty Act," as last amended June 19, 1961
30 (P.L.446), shall pay the amount of such fee to and file such

1 oath with the Secretary of the Commonwealth, or the county board
2 of elections, as the case may be, at least [eighty-five (85)]
3 thirty-five (35) days previous to the day of the general or
4 municipal election at which such candidate's name would appear
5 on the ballot. Failure to pay such fee or file such oath within
6 the time herein prescribed shall result in a vacancy in such
7 party nomination. Such vacancy shall be filled in the manner
8 hereinafter provided for the filling of such vacancies happening
9 by reason of the death or withdrawal of any candidate.

10 Section 4. Section 978.3 of the act added January 16, 1974
11 (P.L.5, No.2), is amended to read:

12 Section 978.3. Vacancy Due to Revocation of Declaration of
13 Candidacy for Retention.--In the event a justice or a judge had
14 filed a declaration of candidacy for retention under the
15 provisions of section 15 of the Constitution of the Commonwealth
16 of Pennsylvania and thereafter, but after the thirteenth Tuesday
17 preceding the primary election and prior to [sixty (60)] forty
18 (40) days preceding the municipal election revoked the
19 declaration by notifying the Secretary of the Commonwealth in
20 writing of the same, nomination to fill such vacancy shall be
21 made in accordance with section 993 of this act.

22 Section 5. Subsection (a) of section 981 and subsection (b)
23 of section 993 of the act, amended August 13, 1963 (P.L.707,
24 No.379), are amended to read:

25 Section 981. Time for Filing Substituted Nomination
26 Certificates.--(a) Substituted nomination certificates to fill
27 vacancies caused by the withdrawal of candidates nominated at
28 primaries or by nomination papers shall be filed with the
29 Secretary of the Commonwealth or proper county board of
30 elections, as the case may be, at least [seventy-five (75)]

1 thirty (30) days before the day of the general or municipal
2 election: Provided, however, That no substituted nomination
3 certificate by a political body may be filed until after the
4 primary election.

5 * * *

6 Section 993. Filling of Certain Vacancies in Public Office
7 by Means of Nomination Certificates and Nomination Papers.--

8 * * *

9 (b) Said nomination certificates and nomination papers for
10 State public offices and judges of courts of records shall be
11 filed in the office of the Secretary of the Commonwealth at
12 least [fifty (50)] thirty (30) days prior to a general or
13 municipal election, as the case may be. Nomination certificates
14 and nomination papers for public offices in counties, cities,
15 boroughs, towns, townships, wards and school districts and for
16 the offices of aldermen and justices of the peace shall be filed
17 in the office of the county board of elections at least [fifty
18 (50)] thirty (30) days prior to a municipal election.

19 * * *

20 Section 6. Section 1756 of the act is amended to read:

21 Section 1756. Petition; Time of Filing; Amendment.--The
22 commencement of proceedings in the case of contests of the
23 second, third, fourth and fifth classes shall be by petition,
24 which shall be made and filed, as herein required, within
25 [twenty] fifteen days after the day of the primary or election,
26 as the case may be. The petition shall concisely set forth the
27 cause of complaint, showing wherein it is claimed that the
28 primary or election is illegal, and after filing may be amended
29 with leave of court, so as to include additional specifications
30 of complaint. After any such amendment, a reasonable time shall

1 be given to the other party to answer.

2 Section 7. This act shall take effect January 1, 1981 and

3 shall be applicable to all elections held thereafter.