

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 376

Session of
1981

INTRODUCED BY W. D. HUTCHINSON, CLARK, NOYE, DIETZ, MRKONIC,
JACKSON, COLE, McINTYRE, KLINGAMAN, PITTS, MADIGAN, RASCO,
PRATT, COCHRAN, LEVI, D. R. WRIGHT, MOWERY, MACKOWSKI,
GAMBLE, W. W. FOSTER, ARTY, RITTER, PICCOLA, CESSAR, WILSON,
E. Z. TAYLOR, HEISER, BOWSER, PETERSON, HOFFEL, GLADECK,
HONAMAN, VROON, PUNT, SMITH, LEVIN, ALDEN, CUNNINGHAM,
CLYMER AND FRYER, FEBRUARY 3, 1981

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, MAY 5, 1981

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," removing cross-filing by candidates for the
12 office of judges AND school board directors. ~~or justices of~~ <—
13 ~~the peace.~~

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

16 Section 1. Section 909, act of June 3, 1937 (P.L.1333,
17 No.320), known as the "Pennsylvania Election Code," amended
18 December 22, 1971 (P.L.613, No.165), is amended to read:

19 Section 909. Petition May Consist of Several Sheets;
20 Affidavit of Circulator.--Said nomination petition may be on one

1 or more sheets, and different sheets must be used for signers
2 resident in different counties. If more than one sheet is used,
3 they shall be bound together when offered for filing if they are
4 intended to constitute one petition, and each sheet shall be
5 numbered consecutively beginning with number one, at the foot of
6 each page. In cases of petitions for delegate or alternate
7 delegate to National conventions, each sheet shall contain a
8 notation indicating the presidential candidate to whom he is
9 committed or the term "uncommitted." Each sheet shall have
10 appended thereto the affidavit of the circulator of each sheet,
11 setting forth--(a) that he or she is a qualified elector duly
12 registered and enrolled as a member of the designated party of
13 the State, or of the political district, as the case may be,
14 referred to in said petition†, unless said petition relates to <—
15 the nomination of a [judicial candidate] DISTRICT JUSTICE in <—
16 which event the circulator need not be a duly registered and
17 enrolled member of the designated party†; (b) his residence, <—
18 giving city, borough or township, with street and number, if
19 any; (c) that the signers thereto signed with full knowledge of
20 the contents of the petition; (d) that their respective
21 residences are correctly stated therein; (e) that they all
22 reside in the county named in the affidavit; (f) that each
23 signed on the date set opposite his name; and (g) that, to the
24 best of affiant's knowledge and belief, the signers are
25 qualified electors and duly registered and enrolled members of
26 the designated party of the State, or of the political district,
27 as the case may be.

28 Section 2. Section 910 of the act, amended July 11, 1980
29 (P.L.591, No.127), is amended to read:

30 Section 910. Affidavits of Candidates.--Each candidate for

1 any State, county, city, borough, incorporated town, township,
2 ward, school district, poor district, election district, party
3 office, party delegate or alternate, or for the office of United
4 States Senator or Representative in Congress, shall file with
5 his nomination petition his affidavit stating--(a) his
6 residence, with street and number, if any, and his post-office
7 address; (b) his election district, giving city, borough, town
8 or township; (c) the name of the office for which he consents to
9 be a candidate; (d) that he is eligible for such office; (e)
10 that he will not knowingly violate any provision of this act, or
11 of any law regulating and limiting nomination and election
12 expenses and prohibiting corrupt practices in connection
13 therewith; (f) ~~unless he is a candidate for [judge of a court~~ <—
14 ~~of record, or for the office of school director in a district~~
15 ~~where that office is elective or for]~~ the office of justice of <—
16 the peace ~~that he is not a candidate for nomination for the~~ <—
17 same office of any party other than the one designated in such
18 petition; (g) if he is a candidate for a delegate, or alternate
19 delegate, member of State committee, National committee or party
20 officer, that he is a registered and enrolled member of the
21 designated party; (h) if he is a candidate for delegate or
22 alternate delegate the presidential candidate to whom he is
23 committed or the term "uncommitted"; and (i) that he is aware of
24 the provisions of section 1626 of this act requiring pre-
25 election and post-election reporting of campaign contributions
26 and expenditures. In cases of petitions for delegate and
27 alternate delegate to National conventions, the candidate's
28 affidavit shall state that his signature to the delegate's
29 statement, as hereinafter set forth, if such statement is signed
30 by said candidate, was affixed to the sheet or sheets of said

1 petition prior to the circulation of same. In the case of a
2 candidate for nomination as President of the United States, it
3 shall not be necessary for such candidate to file the affidavit
4 required in this section to be filed by candidates, but the
5 post-office address of such candidate shall be stated in such
6 nomination petition.

7 Section 3. The first paragraph of section 976, subsection
8 (a) of section 993, subsections (a) and (b) of section 998 of
9 the act, amended June 27, 1974 (P.L.413, No.146), are amended to
10 read:

11 Section 976. Examination of Nomination Petitions,
12 Certificates and Papers; Return of Rejected Nomination
13 Petitions, Certificates and Papers.--When any nomination
14 petition, nomination certificate or nomination paper is
15 presented in the office of the Secretary of the Commonwealth or
16 of any county board of elections for filing within the period
17 limited by this act, it shall be the duty of the said officer or
18 board to examine the same. No nomination petition, nomination
19 paper or nomination certificate shall be permitted to be filed
20 if--(a) it contains material errors or defects apparent on the
21 face thereof, or on the face of the appended or accompanying
22 affidavits; or (b) it contains material alterations made after
23 signing without the consent of the signers; or (c) it does not
24 contain a sufficient number of signatures as required by law;
25 Provided, however, That the Secretary of the Commonwealth or the
26 county board of elections, although not hereby required so to
27 do, may question the genuineness of any signature or signatures
28 appearing thereon, and if he or it shall thereupon find that any
29 such signature or signatures are not genuine, such signature or
30 signatures shall be disregarded in determining whether the

1 nomination petition, nomination paper or nomination certificate
2 contains a sufficient number of signatures as required by law;
3 or (d) in the case of nomination petitions, if nomination
4 petitions have been filed for printing the name of the same
5 person for the same office, ~~except~~ the office of [judge of a
6 court of record, or the office of school director in districts
7 where that office is elective or the office of] justice of the
8 peace~~;~~ upon the official ballot of more than one political
9 party; or (e) in the case of nomination papers, if the candidate
10 named therein has filed a nomination petition for any public
11 office for the ensuing primary, or has been nominated for any
12 such office by nomination papers previously filed; or (f) if the
13 nomination petitions or papers are not accompanied by the filing
14 fee or certified check required for said office; or (g) in the
15 case of nomination papers, the appellation set forth therein is
16 identical with or deceptively similar to the words used by any
17 existing party or by any political body which has already filed
18 nomination papers for the same office, or if the appellation set
19 forth therein contains part of the name, or an abbreviation of
20 the name or part of the name of an existing political party, or
21 of a political body which has already filed nomination papers
22 for the same office. The invalidity of any sheet of a nomination
23 petition or nomination paper shall not affect the validity of
24 such petition or paper if a sufficient petition or paper remains
25 after eliminating such invalid sheet. The action of said officer
26 or board in refusing to receive and file any such nomination
27 petition, certificate or paper, may be reviewed by the court
28 upon an application to compel its reception as of the date when
29 it was presented to the office of such officer or board:
30 Provided, however, That said officer or board shall be entitled

<—

<—

<—

1 to a reasonable time in which to examine any petitions,
2 certificates or papers, and to summon and interrogate the
3 candidates named therein, or the persons presenting said
4 petitions, certificates or papers, and his or their retention of
5 same for the purpose of making such examination or interrogation
6 shall not be construed as an acceptance or filing.

7 * * *

8 Section 993. Filling of Certain Vacancies in Public Office
9 by Means of Nomination Certificates and Nomination Papers.--(a)
10 In all cases where a vacancy shall occur for any cause in an
11 elective public office, including that of judge of a court of
12 record, at a time when such vacancy is required by the
13 provisions of the Constitution or the laws of this Commonwealth
14 to be filled at the ensuing election but at a time when
15 nominations for such office cannot be made under any other
16 provision of this act, nominations to fill such vacancies shall
17 be made by political parties in accordance with party rules
18 relating to the filling of vacancies by means of nomination
19 certificates in the form prescribed in section nine hundred
20 ninety-four of this act, and by political bodies by means of
21 nomination papers in accordance with the provisions of sections
22 nine hundred fifty-one, nine hundred fifty-two and nine hundred
23 fifty-four of this act. No such nomination certificate shall
24 nominate any person who has already been nominated by any other
25 political party or by any political body for the same office
26 ~~unless such person is a candidate for the office of [judge of a~~ <—
27 ~~court of record or the office of school director in districts~~
28 ~~where that office is elective or for the office of] justice of~~ <—
29 ~~the peace].~~ No such nomination papers shall nominate any person <—
30 who has already been nominated by any political party or by any

1 other political body for any office to be filled at the ensuing
2 November election[, unless such person is a candidate for the
3 office of judge of a court of record or the office of school
4 director in districts where that office is elective or for the
5 office of justice of the peace].

6 * * *

7 Section 998. Substituted Nominations to Fill Certain
8 Vacancies for a November Election.--(a) Any vacancy happening
9 or existing in any party nomination made in accordance with the
10 provisions of section nine hundred ninety-three of this act for
11 a November election by reason of the death or withdrawal of any
12 candidate may be filled by a substituted nomination made by such
13 committee as is authorized by the rules of the party to make
14 nominations in the event of vacancies on the party ticket, in
15 the form prescribed by section nine hundred ninety-four of this
16 act. [But no] No substituted nomination certificate shall
17 nominate any person who has already been nominated by any other
18 political party or by any political body for the same office~~†~~, <—
19 unless such person is a candidate for the office of [judge of a <—
20 court of record or for the office of school director in
21 districts where that office is elective or for the office of] <—
22 justice of the peace~~†~~. <—

23 (b) In case of the death or withdrawal of any candidate
24 nominated by a political body for an election, the committee
25 named in the original nomination papers may nominate a
26 substitute in his place by filing a substituted nomination
27 certificate in the form and manner prescribed by section nine
28 hundred eighty of this act. In the case of a vacancy caused by
29 the death of any candidate, said nomination certificate shall be
30 accompanied by a death certificate properly certified. No

1 substituted nomination certificate shall nominate any person who
2 has already been nominated by any political party or by any
3 other political body for any office to be filled at the ensuing
4 November election†, unless such person is a candidate for the <—
5 office of [judge of a court of record or for the office of <—
6 school director in districts where that office is elective or
7 for the office of] justice of the peace†. <—

8 * * *

9 Section 4. Section 1004 of the act, amended December 10,
10 1974 (P.L.835, No.280), is amended to read:

11 Section 1004. Form of Ballots; Printing Ballots; Stubs;
12 Numbers.--From the lists furnished by the Secretary of the
13 Commonwealth under the provisions of sections 915 and 984, and
14 from petitions and papers filed in their office, the county
15 election board shall print the official primary and election
16 ballots in accordance with the provisions of this act: Provided,
17 however, That in no event, shall the name of any person
18 consenting to be a candidate for nomination for any one office†, <—
19 except the office of [judge of a court of record, or the office <—
20 of school director in districts where that office is elective or
21 the office of] justice of the peace† be printed as a candidate <—
22 for such office upon the official primary ballot of more than
23 one party. All ballots for use in the same election district at
24 any primary or election shall be alike. They shall be at least
25 six inches long and four inches wide, and shall have a margin
26 extending beyond any printing thereon. They shall be printed
27 with the same kind of type (which shall not be smaller than the
28 size known as "brevier" or "eight point body") upon white paper
29 of uniform quality, without any impression or mark to
30 distinguish one from another, and with sufficient thickness to

1 prevent the printed matter from showing through. Each ballot
2 shall be attached to a stub, and all the ballots for the same
3 election district shall be bound together in books of fifty, in
4 such manner that each ballot may be detached from its stub and
5 removed separately. The ballots for each party to be used at a
6 primary shall be bound separately. The stubs of the ballots
7 shall be consecutively numbered, and in the case of primary
8 ballots, the number shall be preceded by an initial or
9 abbreviation designating the party name. The number and initial
10 or abbreviation which appears upon the stub shall also be
11 printed in the upper right hand corner of the back of the
12 ballot, separated from the remainder of the ballot by a diagonal
13 perforated line so prepared that the upper right hand corner of
14 the back of the ballot containing the number may be detached
15 from the ballot before it is deposited in the ballot box and
16 beside that corner shall also be printed, "Remove numbered stub
17 immediately before depositing your ballot in ballot box."

18 Section 5. This act shall take effect January 1, 1982.