
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1860

Session of
1981

INTRODUCED BY LIVENGOD, NOYE, IRVIS, D. R. WRIGHT, VROON,
PRATT, DUFFY, JOHNSON, VAN HORNE, SWAIM, RASCO, PETRARCA,
BELFANTI, PISTELLA, LUCYK, LETTERMAN AND GAMBLE, OCTOBER 5,
1981

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 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," further providing for audit expenses and for
12 attorney's fees in certain criminal prosecutions.

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

15 Section 1. Subsections (a) and (b) of section 1636 and
16 section 1637, act of June 3, 1937 (P.L.1333, No.320), known as
17 the "Pennsylvania Election Code," added October 4, 1978
18 (P.L.893, No.171), are amended to read:

19 Section 1636. Audit of Expense Accounts.--

20 (a) Within ninety (90) days after the last day for filing
21 any report and affidavit required by this act, any five (5)
22 electors of the Commonwealth or of the political subdivision may

1 present a petition to the court of common pleas of the county in
2 which is situated the office where such original report has been
3 filed or with the Commonwealth Court in the case of original
4 report filed with the Secretary of the Commonwealth for an audit
5 of such report. Thereupon the court shall direct the officer or
6 board with whom such report has been filed to certify the same
7 to the court for audit and [may, in its discretion,] shall
8 require security to be entered for costs to be given by the
9 petitioners. The court may, in its discretion, appoint an
10 auditor to audit such report, but the fees of such auditor shall
11 be a reasonable sum per day for each day actually engaged. The
12 court or auditor shall fix a day as early as may be convenient
13 for the audit, at which time the person by whom such report has
14 been filed shall be required to be present in person to vouch
15 his report and to answer on oath or affirmation all such
16 relevant questions concerning the same, as may be put to him by
17 the petitioners or their counsel. The auditor shall issue
18 subpoenas to all parties whom the petitioners or the filer of
19 the report may require, to give evidence concerning such report,
20 and he shall determine, subject to exception, all questions as
21 to the admissibility of evidence, and shall file a copy of the
22 evidence with his findings. If upon the audit, the court shall
23 decide that the report was false in any substantial manner, or
24 that any expenses have been incurred in contravention of this
25 act, the costs of said audit shall be paid by the filer of the
26 report, otherwise the court shall [make such order as to payment
27 of costs as shall be just in the circumstances] order the
28 petitioners to pay the audit costs and any legal fees incurred
29 by the filer of the report.

30 (b) If the court shall decide upon the audit that any

1 person, whether a candidate or not, has wilfully accepted
2 contributions or incurred expense or has expended or disbursed
3 money in contravention of this act, or has otherwise violated
4 any of the provisions of this act, it shall certify its decision
5 to the appropriate prosecutorial officer and it shall thereupon
6 be the duty of such officer to institute criminal proceedings as
7 he or she shall deem necessary.

8 * * *

9 Section 1637. Proceedings Against Candidates Violating
10 Provisions Relating to Contributions and Expenditures.--(a) If
11 any candidate, who has been nominated or elected, is found by
12 any court of this Commonwealth in criminal proceedings to have
13 wilfully accepted any contributions or made any expenditures in
14 contravention of this act, either directly or through the
15 treasurer of any committee authorized by section 1623 or through
16 any other person with his knowledge or consent, whether
17 expressly or not, that fact shall be certified by the court to
18 the Attorney General. In the case of a candidate for nomination
19 the Attorney General shall make a motion to the proper court to
20 remove the candidate's name from the ballot. In the case of an
21 elected candidate the Attorney General shall file in the proper
22 court a suggestion for a writ of quo warranto against such
23 candidate. If upon the hearing of such motion or writ, it shall
24 be determined that such candidate has wilfully accepted any
25 contribution, or made any expenditure in contravention of this
26 act, either directly or through the treasurer of any committee
27 authorized by section 1623 to pay or incur primary or election
28 expenses in furtherance of his candidacy or through any other
29 person with his knowledge and consent, whether expressly
30 authorized or not, judgment of ouster from nomination, in the

1 case of a candidate for nomination where the judgment is entered
2 prior to the subsequent election, or judgment of ouster from
3 office in the case of a candidate for election or in the case of
4 a candidate for nomination who has been subsequently elected to
5 the office for which he was nominated, shall be entered against
6 him. However, in the case of a candidate elected to the office
7 of Senator or Representative in the General Assembly, the
8 decision of the court shall be certified to the President of the
9 Senate or to the Speaker of the House of Representatives, as the
10 case may be.

11 (b) If it shall be determined that any candidate, charged
12 pursuant to subsection (a), has not wilfully accepted any
13 contribution or made any expenditure in contravention of this
14 act, all costs incurred by such candidate in preparing a defense
15 to the criminal proceedings shall be paid by the petitioners who
16 filed the petition pursuant to section 1636.

17 Section 2. This act shall take effect immediately and shall
18 be retroactive to January 1, 1981.