

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1270

Session of
1983

INTRODUCED BY SEVENTY, PISTELLA, TRELLO, DUFFY, COLAFELLA,
OLASZ, MRKONIC, SALOOM, PETRONE, PETRARCA, GAMBLE, ALDERETTE,
DAWIDA, HALUSKA, AFFLERBACH, RYBAK, CLARK, DeLUCA, TELEK,
WOZNIAK, STEIGHNER, VAN HORNE AND McMONAGLE, JUNE 27, 1983

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 14, 1984

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 nominating petitions and
12 affidavits; further providing for certain vacancies in public
13 office; further providing for vacancies in certain elections;
14 further providing for ballot forms; and providing for the
15 duties of magistrates and district justices on primary and
16 election days.

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

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

22 Section 909. Petition May Consist of Several Sheets;
23 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 in which event the
16 circulator need not be a duly registered and enrolled member of
17 the designated party]; (b) his residence, giving city, borough
18 or township, with street and number, if any; (c) that the
19 signers thereto signed with full knowledge of the contents of
20 the petition; (d) that their respective residences are correctly
21 stated therein; (e) that they all reside in the county named in
22 the affidavit; (f) that each signed on the date set opposite his
23 name; and (g) that, to the best of affiant's knowledge and
24 belief, the signers are qualified electors and duly registered
25 and enrolled members of the designated party of the State, or of
26 the political district, as the case may be.

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

29 Section 910. Affidavits of Candidates.--Each candidate for
30 any State, county, city, borough, incorporated town, township,

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

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

6 Section 3. The first paragraph of section 976 of the act,
7 amended June 27, 1974 (P.L.413, No.146) and repealed in part
8 April 28, 1978 (P.L.202, No.53), is amended to read:

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

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

1 candidates named therein, or the persons presenting said
2 petitions, certificates or papers, and his or their retention of
3 same for the purpose of making such examination or interrogation
4 shall not be construed as an acceptance or filing.

5 * * *

6 Section 4. Sections 993(a) and 998(a) and (b) of the act,
7 amended June 27, 1974 (P.L.413, No.146), are amended to read:

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 substituted nomination certificate shall nominate
17 any person who has already been nominated by any other political
18 party or by any political body for the same office[, unless such
19 person is a candidate for the office of judge of a court of
20 record or for the office of school director in districts where
21 that office is elective or for the office of justice of the
22 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 school
6 director in districts where that office is elective or for the
7 office of justice of the peace].

8 * * *

9 Section 5. 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 6. Section 1206 of the act, amended July 13, 1961
19 (P.L.603, No.303), is amended to read:

20 Section 1206. Duties of Common Pleas Court, Magistrates and
21 District Justices on Days of Primaries and Elections.--The court
22 of common pleas of each county of the Commonwealth or a judge or
23 judges thereof, shall be in continuous session at the courthouse
24 of said county, or, in judicial districts composed of more than
25 one county, at the courthouse of the county in which such judge
26 or judges reside, on the day of each primary and election from 7
27 o'clock A. M. until 10 o'clock P. M. and so long thereafter as
28 it may appear that the process of said court will be necessary
29 to secure a free, fair and correct computation and canvass of
30 the votes cast at said election. In judicial districts having

1 but one judge of the court of common pleas, such judge shall not
2 be required to be in session, as aforesaid, between the hours of
3 12 o'clock noon and 2 o'clock P. M., nor between the hours of
4 5:30 o'clock P. M. and 7 o'clock P. M. The president judge of
5 the court of common pleas IN ALL JUDICIAL DISTRICTS shall <—
6 appoint such number of magistrates or district justices as shall
7 be necessary to sit in session in their offices during the same
8 hours as the judge sits in a judicial district having but one
9 judge. During such period said court, magistrate or district
10 justice shall act as a committing magistrate for any violation
11 of the election laws; shall settle summarily controversies that
12 may arise with respect to the conduct of the election; shall
13 issue process, if necessary, to enforce and secure compliance
14 with the election laws; and shall decide such other matters
15 pertaining to the election as may be necessary to carry out the
16 intent of this act; and in counties of the third class the
17 president judge of the court of common pleas shall have power to
18 appoint additional clerks at the polling places where needed and
19 requested by the election board: Provided, That for each clerk
20 appointed from the majority political party, a clerk from the
21 minority political party must also be appointed.

22 Section 7. This act shall take effect immediately.