

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 104**      Session of  
1997

INTRODUCED BY HOLL, JANUARY 21, 1997

REFERRED TO STATE GOVERNMENT, JANUARY 21, 1997

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 editorial and related changes.

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

15 Section 1. Section 603 of the act of June 3, 1937 (P.L.1333,  
 16 No.320), known as the Pennsylvania Election Code, amended  
 17 October 12, 1990 (P.L.534, No.131), is amended to read:

18 Section 603. General Primary; Candidates to Be Nominated and  
 19 Party Officers to Be Elected.--(a) There shall be a General  
 20 primary preceding each general election which shall be held on  
 21 the [third Tuesday of May] second Tuesday after the first Monday  
 22 of September in all even-numbered years, except in the year of

1 the nomination of a President of the United States, in which  
2 year the General primary shall be held on the fourth Tuesday of  
3 April. Candidates for all offices to be filled at the ensuing  
4 general election shall be nominated at the General primary. The  
5 vote for candidates for the office of President of the United  
6 States, as provided for by this act, shall be cast at the  
7 General primary.

8 (b.1) Notwithstanding subsection (a), the General primary  
9 for 1994 shall be held on May 10, 1994.

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

12 Section 604. Municipal Primary; Officers to be Nominated.--  
13 There shall be a Municipal primary preceding each municipal  
14 election which shall be held on the [third Tuesday of May]  
15 second Tuesday after the first Monday of September in all odd-  
16 numbered years. Candidates for all offices to be filled at the  
17 ensuing municipal election shall be nominated at the Municipal  
18 primary.

19 Section 3. Section 978(a) of the act, amended July 11, 1980  
20 (P.L.591, No.127), is amended to read:

21 Section 978. Withdrawal of Nominated Candidates.--(a) Any  
22 person who has been nominated by any political party in  
23 accordance with the provisions of this act, as a candidate for  
24 the office of presidential elector, United States Senator,  
25 Representative in Congress or for any State office, including  
26 that of senator, representative and judge of court of record,  
27 may withdraw his name from nomination by request in writing,  
28 signed by him and acknowledged before an officer qualified to  
29 take [acknowledgement] acknowledgment of deeds, and filed in the  
30 office of the Secretary of the Commonwealth. Any person who has

1 been similarly nominated as a candidate for any other office may  
2 withdraw his name from nomination by similar request, filed with  
3 the county board of elections of the proper county. Such written  
4 withdrawals shall be filed with the Secretary of the  
5 Commonwealth or the county board of elections, as the case may  
6 be, at least [eighty-five (85)] thirty (30) days previous to the  
7 day of the general or municipal election. Such withdrawals to be  
8 effective must be received in the office of the Secretary of the  
9 Commonwealth not later than five (5) o'clock P. M. on the last  
10 day for filing same, and in the office of any county board of  
11 elections not later than the ordinary closing hour of said  
12 office on the last day for filing same. No name so withdrawn  
13 shall be printed upon the ballot or ballot labels. No candidate  
14 may withdraw any withdrawal notice already received and filed,  
15 and thereby reinstate his nomination.

16 \* \* \*

17 Section 4. Section 978.1 of the act, amended August 13, 1963  
18 (P.L.707, No.379) and repealed in part April 28, 1978 (P.L.202,  
19 No.53), is amended to read:

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

1 (P.L.446), shall pay the amount of such fee to and file such  
2 oath with the Secretary of the Commonwealth, or the county board  
3 of elections, as the case may be, at least [eighty-five (85)]  
4 thirty (30) days previous to the day of the general or municipal  
5 election at which such candidate's name would appear on the  
6 ballot. Failure to pay such fee or file such oath within the  
7 time herein prescribed shall result in a vacancy in such party  
8 nomination. Such vacancy shall be filled in the manner  
9 hereinafter provided for the filling of such vacancies happening  
10 by reason of the death or withdrawal of any candidate.

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

13 Section 978.3. Vacancy Due to Revocation of Declaration of  
14 Candidacy for Retention.--In the event a justice or a judge had  
15 filed a declaration of candidacy for retention under the  
16 provisions of section 15 of the Constitution of the Commonwealth  
17 of Pennsylvania and thereafter, but after the thirteenth Tuesday  
18 preceding the primary election and prior to [sixty (60)] thirty-  
19 five (35) days preceding the municipal election revoked the  
20 declaration by notifying the Secretary of the Commonwealth in  
21 writing of the same, nomination to fill such vacancy shall be  
22 made in accordance with section 993 of this act.

23 Section 6. Sections 981(a) and 993(b) of the act, amended  
24 August 13, 1963 (P.L.707, 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 twenty-five (25) 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)] twenty-five (25) 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)] twenty-five (25) days prior to a municipal election.

19 \* \* \*

20 Section 7. 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] ten (10) 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 8. This act shall take effect January 1, 1997.