

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1937 Session of
2005

INTRODUCED BY CALTAGIRONE, BENNINGHOFF, DeLUCA, FICHTER, GABIG,
GEORGE, GODSHALL, HARPER, LEH, LEVDANSKY, R. MILLER,
S. MILLER, SANTONI AND SIPTROTH, SEPTEMBER 12, 2005

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 12, 2005

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," eliminating cross-filing by candidates.

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

14 Section 1. Section 630.1 of the act of June 3, 1937
15 (P.L.1333, No.320), known as the Pennsylvania Election Code,
16 amended February 13, 1998 (P.L.72, No.18), is amended to read:

17 Section 630.1. Affidavits of Candidates.--Each candidate for
18 any State, county, city, borough, incorporated town, township,
19 school district or poor district office, or for the office of
20 United States Senator or Representative in Congress, selected as
21 provided in section 630 of this act, shall file with the
22 nomination certificate an affidavit stating--(a) his residence,

1 with street and number, if any, and his post-office address; (b)
2 his election district, giving city, borough, town or township;
3 (c) the name of the office for which he consents to be a
4 candidate; (d) that he is eligible for such office; (e) that he
5 will not knowingly violate any provision of this act, or of any
6 law regulating and limiting election expenses and prohibiting
7 corrupt practices in connection therewith; (f) [unless he is a
8 candidate for judge of a court of common pleas, the Philadelphia
9 Municipal Court or the Traffic Court of Philadelphia, or for the
10 office of school board in a district where that office is
11 elective or for the office of justice of the peace,] that he is
12 not a candidate for the same office of any party or political
13 body other than the one designated in such certificate; and (g)
14 that he is aware of the provisions of section 1626 of this act
15 requiring election and post-election reporting of campaign
16 contributions and expenditures.

17 Section 2. Section 909 of the act, amended February 19, 1986
18 (P.L.29, No.11), is amended to read:

19 Section 909. Petition May Consist of Several Sheets;
20 Affidavit of Circulator.--Said nomination petition may be on one
21 or more sheets, and different sheets must be used for signers
22 resident in different counties. If more than one sheet is used,
23 they shall be bound together when offered for filing if they are
24 intended to constitute one petition, and each sheet shall be
25 numbered consecutively beginning with number one, at the foot of
26 each page. In cases of petitions for delegate or alternate
27 delegate to National conventions, each sheet shall contain a
28 notation indicating the presidential candidate to whom he is
29 committed or the term "uncommitted." Each sheet shall have
30 appended thereto the affidavit of the circulator of each sheet,

1 setting forth--(a) that he or she is a qualified elector duly
2 registered and enrolled as a member of the designated party of
3 the State, or of the political district, as the case may be,
4 referred to in said petition[, unless said petition relates to
5 the nomination of a candidate for a court of common pleas, for
6 the Philadelphia Municipal Court or for the Traffic Court of
7 Philadelphia or for justice of the peace, in which event the
8 circulator need not be a duly registered and enrolled member of
9 the designated party]; (b) his residence, giving city, borough
10 or township, with street and number, if any; (c) that the
11 signers thereto signed with full knowledge of the contents of
12 the petition; (d) that their respective residences are correctly
13 stated therein; (e) that they all reside in the county named in
14 the affidavit; (f) that each signed on the date set opposite his
15 name; and (g) that, to the best of affiant's knowledge and
16 belief, the signers are qualified electors and duly registered
17 and enrolled members of the designated party of the State, or of
18 the political district, as the case may be.

19 Section 3. Section 910 of the act, amended February 13, 1998
20 (P.L.72, No.18), is amended to read:

21 Section 910. Affidavits of Candidates.--Each candidate for
22 any State, county, city, borough, incorporated town, township,
23 ward, school district, poor district, election district, party
24 office, party delegate or alternate, or for the office of United
25 States Senator or Representative in Congress, shall file with
26 his nomination petition his affidavit stating--(a) his
27 residence, with street and number, if any, and his post-office
28 address; (b) his election district, giving city, borough, town
29 or township; (c) the name of the office for which he consents to
30 be a candidate; (d) that he is eligible for such office; (e)

1 that he will not knowingly violate any provision of this act, or
2 of any law regulating and limiting nomination and election
3 expenses and prohibiting corrupt practices in connection
4 therewith; (f) [unless he is a candidate for judge of a court of
5 common pleas, the Philadelphia Municipal Court or the Traffic
6 Court of Philadelphia, or for the office of school director in a
7 district where that office is elective or for the office of
8 justice of the peace] that he is not a candidate for nomination
9 for the same office of any party other than the one designated
10 in such petition; (g) if he is a candidate for a delegate, or
11 alternate delegate, member of State committee, National
12 committee or party officer, that he is a registered and enrolled
13 member of the designated party; (h) if he is a candidate for
14 delegate or alternate delegate the presidential candidate to
15 whom he is committed or the term "uncommitted"; and (i) that he
16 is aware of the provisions of section 1626 of this act requiring
17 pre-election and post-election reporting of campaign
18 contributions and expenditures. In cases of petitions for
19 delegate and alternate delegate to National conventions, the
20 candidate's affidavit shall state that his signature to the
21 delegate's statement, as hereinafter set forth, if such
22 statement is signed by said candidate, was affixed to the sheet
23 or sheets of said petition prior to the circulation of same. In
24 the case of a candidate for nomination as President of the
25 United States, it shall not be necessary for such candidate to
26 file the affidavit required in this section to be filed by
27 candidates, but the post-office address of such candidate shall
28 be stated in such nomination petition.

29 Section 4. Section 976 of the act, amended July 28, 1941
30 (P.L.526, No. 213) and February 19, 1986 (P.L.29, No.11) and

1 repealed in part April 28, 1978 (P.L.202, No.53), is amended to
2 read:

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

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

1 Upon completion of any examination, if any nomination
2 petition, certificate or paper is found to be defective, it
3 shall forthwith be rejected and returned to the candidate or one
4 of the candidates named therein, together with a statement of
5 the reasons for such rejection:

6 Provided further, That no nomination petition, nomination
7 paper or nomination certificate shall be permitted to be filed,
8 if the political party or political body referred to therein
9 shall be composed of a group of electors whose purposes or aims,
10 or one of whose purposes or aims, is the establishment, control,
11 conduct, seizure or overthrow of the Government of the
12 Commonwealth of Pennsylvania or the United States of America by
13 the use of force, violence, military measure or threats of one
14 or more of the foregoing. The authority to reject such
15 nomination petition, paper or certificate for this reason shall,
16 when filed with the Secretary of the Commonwealth, be vested in
17 a committee composed of the Governor, the Attorney General and
18 the Secretary of the Commonwealth, and when filed with any
19 county board of elections shall be vested in such board. If in
20 such case the committee or board, as the case may be, shall
21 conclude that the acceptance of such nomination petition, paper
22 or certificate should be refused, it shall within two days of
23 the filing of such nomination petition, paper or certificate fix
24 a place and a time five days in advance for hearing the matter,
25 and notice thereof shall be given to all parties affected
26 thereby. At the time and place so fixed the committee or board,
27 as the case may be, shall hear testimony, but shall not be bound
28 by technical rules of evidence. The testimony presented shall be
29 stenographically recorded and made a part of the record of the
30 committee or board. Within two days after such hearing the

1 committee or board, if satisfied upon competent evidence that
2 the said nomination petition, paper or certificate is not
3 entitled to be accepted and filed, it shall announce its
4 decision and immediately notify the parties affected thereby.
5 Failure to announce decision within two days after such hearing
6 shall be conclusive that such nomination petition, paper or
7 certificate has been accepted and filed. The decision of said
8 committee or board in refusing to accept and file such
9 nomination petition, paper or certificate may be reviewed by the
10 court upon an application to compel its reception as of the date
11 when presented to the Secretary of the Commonwealth or such
12 board. The application shall be made within two days of the time
13 when such decision is announced. If the application is properly
14 made, any judge of said court may fix a time and place for
15 hearing the matter in dispute, of which notice shall be served
16 with a copy of said application upon the Secretary of the
17 Commonwealth or the county board of elections, as the case may
18 be. At the time so fixed, the court, or any judge thereof
19 assigned for the purpose, shall hear the case de novo. If after
20 such hearing the said court shall find that the decision of the
21 committee or the board was erroneous, it shall issue its mandate
22 to the committee or board to correct its decision and to accept
23 and file the nomination paper, petition or certificate. From any
24 decision of the court an appeal may be taken within two days
25 after the entry thereof. It shall be the duty of the said court
26 to fix the hearing and to announce its decision within such
27 period of time as will permit the Secretary of the Commonwealth
28 or the county board of elections to permit the names of the
29 candidates affected by the court's decision to be printed on the
30 ballot, if the court should so determine.

1 Section 5. Section 981.1 of the act, amended February 13,
2 1998 (P.L.72, No.18), is amended to read:

3 Section 981.1. Affidavits of Candidates.--Each candidate for
4 any State, county, city, borough, incorporated town, township,
5 ward, school district, poor district or election district
6 office, or for the office of United States Senator or
7 Representative in Congress, selected as provided in sections 979
8 and 980 of this act, shall file with the substituted nomination
9 certificate an affidavit stating--(a) his residence, with street
10 and number, if any, and his post-office address; (b) his
11 election district, giving city, borough, town or township; (c)
12 the name of the office for which he consents to be a candidate;
13 (d) that he is eligible for such office; (e) that he will not
14 knowingly violate any provision of this act, or of any law
15 regulating and limiting election expenses and prohibiting
16 corrupt practices in connection therewith; (f) [unless he is a
17 candidate for judge of a court of common pleas, the Philadelphia
18 Municipal Court or the Traffic Court of Philadelphia, or for the
19 office of school board in a district where that office is
20 elective or for the office of justice of the peace,] that he is
21 not a candidate for the same office of any party or political
22 body other than the one designated in such certificate; and (g)
23 that he is aware of the provisions of section 1626 of this act
24 requiring election and post-election reporting of campaign
25 contributions and expenditures.

26 Section 6. Sections 993(a), 998(a) and (b) and 1004 of the
27 act, amended February 19, 1986 (P.L.29, No.11), are amended to
28 read:

29 Section 993. Filling of Certain Vacancies in Public Office
30 by Means of Nomination Certificates and Nomination Papers.--(a)

1 In all cases where a vacancy shall occur for any cause in an
2 elective public office, including that of judge of a court of
3 record, at a time when such vacancy is required by the
4 provisions of the Constitution or the laws of this Commonwealth
5 to be filled at the ensuing election but at a time when
6 nominations for such office cannot be made under any other
7 provision of this act, nominations to fill such vacancies shall
8 be made by political parties in accordance with party rules
9 relating to the filling of vacancies by means of nomination
10 certificates in the form prescribed in section nine hundred
11 ninety-four of this act, and by political bodies by means of
12 nomination papers in accordance with the provisions of sections
13 nine hundred fifty-one, nine hundred fifty-two and nine hundred
14 fifty-four of this act. No such nomination certificate shall
15 nominate any person who has already been nominated by any other
16 political party or by any political body for the same office
17 [unless such person is a candidate for the office of judge of a
18 court of common pleas, the Philadelphia Municipal Court or the
19 Traffic Court of Philadelphia, or for the office of school
20 director in districts where that office is elective or for the
21 office of justice of the peace]. No such nomination papers shall
22 nominate any person who has already been nominated by any
23 political party or by any other political body for any office to
24 be filled at the ensuing November election[, unless such person
25 is a candidate for the office of judge of a court of common
26 pleas, the Philadelphia Municipal Court or the Traffic Court of
27 Philadelphia, or for the office of school director in districts
28 where that office is elective or for the office of justice of
29 the peace].

30 * * *

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

18 (b) In case of the death or withdrawal of any candidate
19 nominated by a political body for an election, the committee
20 named in the original nomination papers may nominate a
21 substitute in his place by filing a substituted nomination
22 certificate in the form and manner prescribed by section nine
23 hundred eighty of this act. In the case of a vacancy caused by
24 the death of any candidate, said nomination certificate shall be
25 accompanied by a death certificate properly certified. No
26 substituted nomination certificate shall nominate any person who
27 has already been nominated by any political party or by any
28 other political body for any office to be filled at the ensuing
29 November election[, unless such person is a candidate for the
30 office of judge of a court of common pleas, the Philadelphia

1 Municipal Court or the Traffic Court of Philadelphia, or for the
2 office of school director in districts where that office is
3 elective or for the office of justice of the peace].

4 * * *

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

1 ballots for each party to be used at a primary shall be bound
2 separately. The stubs of the ballots shall be consecutively
3 numbered, and in the case of primary ballots, the number shall
4 be preceded by an initial or abbreviation designating the party
5 name. The number and initial or abbreviation which appears upon
6 the stub shall also be printed in the upper right hand corner of
7 the back of the ballot, separated from the remainder of the
8 ballot by a diagonal perforated line so prepared that the upper
9 right hand corner of the back of the ballot containing the
10 number may be detached from the ballot before it is deposited in
11 the ballot box and beside that corner shall also be printed,
12 "Remove numbered stub immediately before depositing your ballot
13 in ballot box."

14 Section 7. This act shall take effect immediately.