

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 562 Session of
2007

INTRODUCED BY PRESTON, THOMAS, BENNINGHOFF, BOYD, BRENNAN, CRUZ,
DALEY, DeLUCA, FABRIZIO, FRANKEL, GEIST, GERGELY, GODSHALL,
HARHAI, HENNESSEY, HERSHEY, JOSEPHS, KING, KIRKLAND, KOTIK,
MAHONEY, MANN, MARKOSEK, McILHATTAN, MUNDY, MYERS, NAILOR,
O'NEILL, PALLONE, PETRONE, PYLE, RAPP, SAINATO, SAYLOR,
SCAVELLO, SCHRODER, SOLOBAY, WOJNAROSKI, YOUNGBLOOD AND
SWANGER, MARCH 6, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 6, 2007

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 examination of nomination
12 petition.

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

15 Section 1. Section 976 of the act of June 3, 1937 (P.L.1333,
16 No.320), known as the Pennsylvania Election Code, amended July
17 28, 1941 (P.L.526, No.213) and February 19, 1986 (P.L.29, No.11)
18 and repealed in part April 28, 1978 (P.L.202, No.53), is amended
19 to read:

20 Section 976. Examination of Nomination Petitions,

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

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

29 Upon completion of any examination, if any nomination
30 petition, certificate or paper is found to be defective, it

1 shall forthwith be rejected and returned to the candidate or one
2 of the candidates named therein, together with a statement of
3 the reasons for such rejection:

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

1 entitled to be accepted and filed, it shall announce its
2 decision and immediately notify the parties affected thereby.
3 Failure to announce decision within two days after such hearing
4 shall be conclusive that such nomination petition, paper or
5 certificate has been accepted and filed. The decision of said
6 committee or board in refusing to accept and file such
7 nomination petition, paper or certificate may be reviewed by the
8 court upon an application to compel its reception as of the date
9 when presented to the Secretary of the Commonwealth or such
10 board. The application shall be made within two days of the time
11 when such decision is announced. If the application is properly
12 made, any judge of said court may fix a time and place for
13 hearing the matter in dispute, of which notice shall be served
14 with a copy of said application upon the Secretary of the
15 Commonwealth or the county board of elections, as the case may
16 be. At the time so fixed, the court, or any judge thereof
17 assigned for the purpose, shall hear the case de novo. If after
18 such hearing the said court shall find that the decision of the
19 committee or the board was erroneous, it shall issue its mandate
20 to the committee or board to correct its decision and to accept
21 and file the nomination paper, petition or certificate. From any
22 decision of the court an appeal may be taken within two days
23 after the entry thereof. It shall be the duty of the said court
24 to fix the hearing and to announce its decision within such
25 period of time as will permit the Secretary of the Commonwealth
26 or the county board of elections to permit the names of the
27 candidates affected by the court's decision to be printed on the
28 ballot, if the court should so determine.

29 Section 2. This act shall take effect in 60 days.