

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2723 Session of
2008

INTRODUCED BY SCHRODER, SWANGER, McILVAINE SMITH, BEAR, BOYD,
CLYMER, CUTLER, KORTZ, McILHATTAN, MILNE, ROAE, ROCK AND
SCAVELLO, JULY 23, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 23, 2008

AN ACT

1 Providing for a Citizens Constitutional Convention, for a
2 referendum on the question and for the nomination and
3 election of delegates; defining the powers and duties of the
4 convention; providing for operation of the convention;
5 conferring powers and imposing duties on the Governor, the
6 Secretary of the Commonwealth, the Chief Justice of the
7 Supreme Court, officers of the General Assembly and county
8 election boards; providing for a referendum on the
9 convention's report; and making an appropriation.

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7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Citizens
11 Constitutional Convention Act of 2008.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Candidate." An individual seeking to become an elected
17 delegate.

18 "Committee." The preparatory committee established under
19 this act.

20 "Convention." The Citizens Constitutional Convention
21 authorized by this act.

22 "County board." A county board of elections.

23 "Delegate." An elected or alternate delegate to the
24 convention.

25 "Elected delegate." A delegate who is elected to the
26 convention under this act.

27 "Public official." A person elected by the public, elected
28 or appointed by a governmental body or an appointed official in
29 the executive, legislative or judicial branch of this
30 Commonwealth or any of its political subdivisions. The term

1 shall not include members of advisory boards that have no
2 authority to do any of the following:

3 (1) Expend public funds, other than reimbursement for
4 personal expenses.

5 (2) Otherwise exercise the power of the Commonwealth or
6 any of its subdivisions.

7 "Secretary." The Secretary of the Commonwealth.

8 Section 3. Referendum.

9 (a) Question.--At the municipal election on November 4,
10 2009, the following question shall be submitted to the
11 electorate of this Commonwealth to determine its will regarding
12 a Constitutional Convention:

13 Shall a Constitutional Convention be called in accordance
14 with and subject to the limitations and requirements
15 contained in the Citizens Constitutional Convention Act
16 of 2008, to prepare for submission to the electorate
17 proposals for the revision of all Articles of the
18 Constitution of Pennsylvania except Article I?

19 (b) Election.--The secretary shall certify questions to the
20 county boards. The election shall be conducted in accordance
21 with the act of June 3, 1937 (P.L.1333, No.320), known as the
22 Pennsylvania Election Code.

23 (c) Secretary.--If a majority of the electors casting votes
24 on the question under subsection (a) vote in the affirmative,
25 the secretary shall transmit notice of the vote to the
26 Legislative Reference Bureau for publication as a notice in the
27 Pennsylvania Bulletin.

28 Section 4. Convention, membership, qualifications and
29 vacancies.

30 (a) Call.--If a majority of the electors voting upon the

1 question set forth in section 3(a) vote in the affirmative, a
2 convention shall be called by the Governor.

3 (b) Delegates.--The convention shall consist of three
4 elected delegates from each senatorial district. Each elector in
5 each senatorial district may vote for not more than two
6 candidates. The three candidates receiving the highest number of
7 votes shall be elected delegates. The candidate receiving the
8 fourth-highest number of votes shall be the first alternate
9 delegate; the candidate receiving the fifth-highest number of
10 votes shall be the second alternate delegate.

11 (c) Qualifications.--A delegate must meet the following
12 qualifications:

13 (1) Be at least 18 years of age prior to November 4,
14 2009.

15 (2) Have been a citizen and resident of this
16 Commonwealth for at least four years before election.

17 (3) Have resided in and been a registered elector of the
18 elected delegate's senatorial district for at least one year
19 preceding election.

20 (4) Reside in the elected delegate's senatorial district
21 during their term of service.

22 (5) Not be a public official on the effective date of
23 this act under section 16(2), or during their term of
24 service.

25 (6) Not be a registered lobbyist in this Commonwealth on
26 the effective date of this act, or during their term of
27 service.

28 (d) Salary.--Elected delegates shall be entitled to a salary
29 equal to the salary of a member of the General Assembly during
30 their term of service, payable monthly.

(e) Expenses.--Elected delegates shall be entitled to reimbursement for the following expenses:

(1) Actual mileage traveled in a personal vehicle in the performance of their duties during their term of service, documented, reported and payable monthly at the applicable Federal rate, including commuting mileage.

(2) Actual expenses for other modes of ground transportation in the performance of their duties during their term of service, documented, reported and payable monthly, including commuting expenses.

(3) Actual expenses for overnight lodging required for the convenience of elected delegates traveling more than 50 miles from their residence in the performance of their duties during their term of service, documented, reported and payable monthly.

(f) Terms of service.--Terms of service for elected delegates shall commence on the date of their oath of office. Terms shall expire October 1, 2010, except for delegate members of the preparatory committee, whose terms shall expire November 1, 2010.

(g) Immunity.--The following shall apply:

(1) A delegate shall, in all cases except treason, felony, violation of oath of office and breach of the peace, be privileged from arrest during attendance and travel to and from the convention.

(2) A delegate shall not be questioned in any other place for any speech or debate in the convention.

(h) Exclusions.--The following shall apply:

(1) No elected delegate shall, during their term of service, be appointed to or hold any civil office under this

1 Commonwealth to which a salary, fee or perquisite is
2 attached.

3 (2) No member of Congress or other person holding any
4 office, except that of attorney-at-law or in the National
5 Guard or a reserve component of the armed forces of the
6 United States, under the United States or this Commonwealth
7 to which a salary, fee or perquisite is attached shall be a
8 delegate during their continuance in office.

9 (3) Elected delegates shall be prohibited from serving
10 as a public official as defined in section 2 for a period of
11 two years after their term of service expires.

12 Section 5. Nomination of elected delegates and withdrawals.

13 (a) Nomination.--Candidates for delegates to the convention
14 shall be nominated by petition in accordance with all of the
15 following:

16 (1) The secretary shall prescribe the form of the
17 petition, which shall not include any reference to the
18 political affiliation of the candidate.

19 (2) A petition must be signed by at least 100 qualified
20 electors of the candidate's senatorial district in accordance
21 with all of the following:

22 (i) An elector may not sign more than two nomination
23 petitions.

24 (ii) A signer must state the signer's residence,
25 giving city, borough or township, with street and number,
26 and that the signer is a qualified elector of the
27 district. The signature must be dated.

28 (iii) A petition shall not be circulated prior to
29 August 19, 2009. A signature shall not be counted unless
30 it bears a date later than August 18, 2009.

1 (iv) A petition may be on one or more sheets.
2 Different sheets must be used for signers residing in
3 different counties. If more than one sheet is used, the
4 sheets must be bound together when offered for filing if
5 they are intended to constitute one petition, and each
6 sheet must be numbered consecutively at the foot of each
7 page, beginning with number one. Each sheet must have
8 appended to it the affidavit for the individual who
9 circulated it setting forth all of the following:

10 (A) That the individual is a qualified elector
11 of the senatorial district named in the petition.

12 (B) The individual's residence, giving city,
13 borough or township, with street and number.

14 (C) That the signers to the petition signed with
15 the knowledge of the contents of the petition.

16 (D) That the residences of the signers are
17 correctly stated.

18 (E) That each signer resides in the district
19 named in the affidavit.

20 (F) That each signer signed on the date set
21 forth.

22 (G) That, to the best of the affidavit's
23 knowledge and belief, the signers are qualified
24 electors of the district.

25 (3) A petition must be filed in the office of the
26 secretary by 5 p.m. on September 9, 2009. A filing fee of
27 \$100 must be paid by the candidate by certified check or
28 money order.

29 (b) Candidate's affidavit.--A candidate must file with the
30 office of the secretary, by 5 p.m. on September 9, 2009, an

1 affidavit stating or attesting to all of the following:

2 (1) The candidate's residence with street, number and
3 post office address.

4 (2) That the candidate is eligible for the office of
5 elected delegate to the convention.

6 (3) That, if elected, the candidate will faithfully
7 observe the limitations and requirements imposed upon the
8 convention by this act.

9 (4) That the candidate meets the qualifications set
10 forth in section 4(c).

11 (c) Statement of financial interests.--A candidate must file
12 copies of a statement of financial interests with the office of
13 the secretary and the State Ethics Commission by 5 p.m. on
14 September 9, 2009.

15 (d) Withdrawal.--A candidate may withdraw as a candidate if
16 the candidate:

17 (1) Makes the request in writing. The request must be
18 signed by the candidate and acknowledged before an officer
19 empowered to administer oaths.

20 (2) Files the request in the office of the secretary by
21 5 p.m. on September 16, 2009.

22 (e) Certification.--The secretary shall certify the names of
23 the nominees to the county boards as provided by law no later
24 than September 23, 2009.

25 (f) Forms.--The secretary shall provide all forms and
26 instructions for candidates in a timely and convenient manner
27 consistent with that used for legislative elections.

28 Section 6. Elected and alternate delegates.

29 Elections for elected delegates shall be held at the
30 municipal election on November 4, 2009, and shall be

1 nonpartisan. The secretary shall forward to each county board
2 the names of the candidates. Candidates' names shall be grouped
3 together on the ballot without reference to party affiliation,
4 separate from the names of candidates for any other office, and
5 subsequent to the question set forth in section 3(a). Each
6 elector voting at the municipal election shall be entitled to
7 vote for two candidates from the elector's senatorial district.
8 If the question which is set forth in section 3(a) is approved
9 by a majority of the electors casting votes:

10 (1) The three candidates receiving the highest number of
11 votes shall be the elected delegates of that district.

12 (2) The candidate receiving the fourth-highest number of
13 votes shall be the first alternate delegate; the candidate
14 receiving the fifth-highest number of votes shall be the
15 second alternate delegate.

16 (3) In the case of a tie vote, the election shall be
17 determined in accordance with the provisions of section 1418
18 of the act of June 3, 1937 (P.L.1333, No.320), known as the
19 Pennsylvania Election Code.

20 (4) The county boards shall, by November 18, 2009,
21 certify the return of the election for all delegates to the
22 secretary.

23 (5) The secretary shall, by November 25, 2009, certify
24 to the Governor the names of elected and alternate delegates.

25 Section 7. Vacancies.

26 (a) Candidate.--In the event of the death of a candidate
27 prior to September 23, 2009, that candidate's name shall be
28 removed from the ballot. In the event of the death of a
29 candidate on or after September 26, 2009, votes received by that
30 candidate in the municipal election shall be counted and

1 recorded, but void, and a vacancy shall exist.

2 (b) Elected delegate.--In the event of a vacancy in the
3 office of elected delegate, the first alternate delegate from
4 the same senatorial district shall become the elected delegate;
5 if the first alternate is unable to serve, the second alternate
6 delegate shall become the elected delegate, etc. If no such
7 alternate delegate is available to fill a vacancy, the remaining
8 elected delegates from the same district, together with the
9 Senator from that district, shall collectively nominate a single
10 candidate to be confirmed by a majority of the convention as
11 soon as practicable to fill the vacancy.

12 Section 8. Organization of convention and sessions.

13 (a) Convening.--The following shall apply:

14 (1) The convention's elected delegates shall convene in
15 the Hall of the House of Representatives on December 2, 2009,
16 at 12 noon.

17 (2) The convention shall be called to order by the
18 Governor.

19 (3) The secretary shall certify the returns of the
20 elections for elected and alternate delegates and issue
21 certificates of election.

22 (4) The Chief Justice of the Supreme Court shall, after
23 the returns have been certified, administer the oath of
24 office in the following form:

25 I do solemnly swear (or affirm) that I will support,
26 obey and defend the Constitution of the United States
27 and the Constitution of Pennsylvania, that I will
28 abide by the limitations and requirements of the
29 Citizens Constitutional Convention Act of 2008, and
30 that I will discharge my duties with fidelity.

1 (5) Each elected delegate shall sign and swear a written
2 version of the oath of office, provided by the secretary, to
3 be preserved with the official journals of the convention,
4 and other copies as needed by the secretary.

5 (b) Organization.--The following shall apply:

6 (1) The convention shall be the final judge of the
7 qualifications of its own delegates.

8 (2) The convention shall elect from among its elected
9 delegates a president, first vice-president, second vice-
10 president and a secretary.

11 (3) The convention shall elect from among its elected
12 delegates 15 members to serve on a preparatory committee with
13 the elected officers of the convention. The committee shall
14 also include the Majority Leader of the Senate, the Minority
15 Leader of the Senate, the Majority Leader of the House of
16 Representatives and the Minority Leader of the House of
17 Representatives.

18 (4) The convention shall organize ten committees to
19 separately address each article of the Constitution of
20 Pennsylvania subject to the scope of the convention.

21 (5) The convention shall organize a committee on
22 arrangement, submission and address to the people.

23 (c) Duties of preparatory committee.--The following shall
24 apply:

25 (1) The committee shall prescribe rules for all of the
26 following, subject to adoption by a majority of the elected
27 delegates at the commencement of working sessions:

28 (i) Procedure.

29 (ii) Conduct of delegates, including censure,
30 suspension or removal.

1 (2) The committee shall be authorized to do all of the
2 following, when required for the conduct of the business of
3 the convention:

4 (i) Lease or otherwise obtain suitable meeting and
5 office space and to purchase or lease supplies,
6 equipment, publications and other material necessary for
7 the work of the convention.

8 (ii) Hire or engage staff necessary for the work of
9 the convention.

10 (iii) Initiate relevant studies through its own
11 personnel or in cooperation with any public or private
12 agencies.

13 (iv) Hold public hearings.

14 (v) Enter into contracts.

15 (vi) Receive from the Commonwealth agencies and
16 political subdivisions and local agencies assistance
17 necessary or desirable to carry out properly the powers
18 and duties under this subsection.

19 (vii) Submit a budget and additional reports to the
20 General Assembly in sufficient time for the General
21 Assembly to pass any necessary appropriation act required
22 by section 15, as needed.

23 (d) Sessions.--The following shall apply:

24 (1) The organizational session shall be adjourned no
25 later than 5 p.m. on December 5, 2009.

26 (2) Working sessions of the convention shall commence on
27 January 12, 2010.

28 (e) Sine die adjournment.--The convention shall adjourn sine
29 die no later than September 15, 2010.

30 Section 9. Function.

1 (a) Scope.--The convention has the power, by a vote of two-
2 thirds of its elected delegates on final passage, to make
3 recommendations to the electorate on all subjects contained
4 within the Constitution of Pennsylvania except for those
5 contained within Article I of the Constitution of Pennsylvania,
6 pertaining to the Declaration of Rights.

7 (b) Reorganization.--In dealing with the subject matter
8 under subsection (a), the convention may recommend amendment,
9 addition, deletion, division, transfer, continuation without
10 change and implementation schedules.

11 Section 10. Manner of submitting proposals to electorate.

12 (a) Convention.--The following shall apply:

13 (1) The recommendations of the convention shall be
14 submitted to the electorate as determined by the convention.

15 (2) The convention shall frame the ballot question or
16 questions.

17 (b) Certification.--The changes proposed and the ballot
18 question or questions shall be certified by the president and
19 secretary of the convention to the secretary by September 30,
20 2009.

21 Section 11. Submission to electorate.

22 (a) Secretary.--The following shall apply:

23 (1) The secretary shall publish the Constitution of
24 Pennsylvania showing the changes proposed by the convention
25 and any address to the people by the convention, in
26 convenient printed form and in convenient digital form at the
27 earliest time practicable after certification.

28 (2) The secretary shall advertise the proposals and
29 address of the convention in at least two newspapers of
30 general circulation in every county once during the second

1 week of October 2009 and once during the fourth week of
2 October 2009.

3 (3) The secretary shall send a sufficient number of
4 copies of the printed publication under paragraph (1) to each
5 county board to satisfy the requirements of subsection (b).

6 (4) Upon request of an elector, the secretary shall send
7 a copy of the publication under paragraph (1).

8 (b) County boards.--Each county board shall make the
9 publication under subsection (a)(1) available at each polling
10 place in a quantity equal to the number of voting booths,
11 terminals or stations at that polling place.

12 (c) Election.--The following shall apply:

13 (1) The recommendations of the convention shall be
14 submitted to the electors for their approval or rejection at
15 the general election on November 3, 2010.

16 (2) A majority affirmative vote of the electors casting
17 votes on the ballot question or questions certified under
18 section 10(b) in the election is necessary for the adoption
19 of the recommendations of the convention.

20 (d) Certification.--The secretary shall certify the results
21 of the election by November 24, 2010.

22 Section 12. Lobbying.

23 (a) Delegates.--The following shall apply:

24 (1) Direct lobbying of individual delegates by
25 organizations or individuals registered as lobbyists within
26 this Commonwealth on the effective date of this act and for
27 the duration of the convention, other than meetings between
28 individual electors of a senatorial district and the delegate
29 or delegates representing the same district, shall be
30 prohibited.

1 (2) No delegate shall accept any gift, meal, service or
2 other benefit, or any promise of such in the future, offered
3 by any party in an effort to influence the outcome of the
4 convention.

5 (b) Convention.--The following shall apply:

6 (1) Lobbyists prohibited from lobbying delegates in
7 subsection (a)(1) shall be permitted to lobby the convention
8 as a whole by the following methods:

9 (i) Providing printed reference materials in
10 quantities sufficient for distribution to all elected
11 delegates, subject to any pertinent policies adopted by
12 the convention.

13 (ii) Providing printed and oral testimony at a
14 hearing before any committee or subcommittee of the
15 convention, subject to any pertinent policies adopted by
16 the convention.

17 (iii) Providing printed reference materials to
18 committees or subcommittees of the convention in
19 quantities sufficient for distribution to all elected
20 delegates, subject to any pertinent policies adopted by
21 the convention.

22 (2) The convention shall not accept, on behalf of its
23 delegates, any gift, meal, service or other benefit, or any
24 promise of such in the future, offered by any party in an
25 effort to influence the outcome of the convention.

26 Section 13. Convention open to public.

27 Sessions of the convention as a whole and all meetings of its
28 committees and subcommittees shall be open to the public.

29 Section 14. Judicial immunity.

30 Provided no portion of the resultant Constitution of

1 Pennsylvania, duly proposed by the convention and adopted by the
2 electorate according to the provisions of this act, is found to
3 be in violation of the Constitution of the United States, no
4 court of this Commonwealth shall have the authority to overturn
5 its provisions.

6 Section 15. Appropriation.

7 If the question in section 3(a) is approved by the
8 electorate, the sum of \$20,000,000 shall be transferred from the
9 nonlapsing leadership accounts of the General Assembly, in four
10 equal contributions by the majority and minority caucuses of the
11 Senate and the House of Representatives, to carry out the
12 provisions of this act. Further sums required by the convention
13 to perform its duties, contributed in similar fashion, shall be
14 provided upon request by the convention in accordance with
15 section 8(c)(2)(vii).

16 Section 16. Effective date.

17 This act shall take effect as follows:

18 (1) Section 15 of this act shall take effect upon
19 publication of the notice under section 3(c).

20 (2) The remainder of this act shall take effect
21 immediately.