

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 267** Session of  
2007

INTRODUCED BY ERICKSON, RAFFERTY, WONDERLING, PICCOLA, FOLMER,  
M. WHITE, D. WHITE, WASHINGTON, EARLL, PILEGGI, RHOADES,  
WAUGH, McILHINNEY AND BAKER, MARCH 8, 2007

REFERRED TO STATE GOVERNMENT, MARCH 8, 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 vacancies in election  
12 boards and for election boards in new districts.

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

15 Section 1. Section 405 of the act of June 3, 1937 (P.L.1333,  
16 No.320), known as the Pennsylvania Election Code, amended  
17 December 9, 2002 (P.L.1246, No.150), is amended to read:

18 Section 405. Vacancies in Election Boards; Appointment;  
19 Judge and Majority Inspector to Be Members of Majority Party;  
20 Minority Inspector to Be Member of Minority Party.--(a)  
21 Vacancies in election boards existing by reason of the  
22 disqualification, removal, resignation or death of an election

1 officer, or from any other cause, occurring prior to the fifth  
2 day before any primary or election, shall, in all cases, be  
3 filled by appointment, by the [court of the proper county]  
4 county board of elections, of competent persons, qualified in  
5 accordance with the provisions of this act, who shall serve for  
6 the unexpired term of the person whose place he is appointed to  
7 fill: Provided, however, That any district election officer who,  
8 after his election or appointment, changes his political  
9 affiliation, shall not thereby become disqualified to serve on  
10 said election board, and shall not thereby be subject to  
11 removal. In making such appointments, the [court] county board  
12 of elections shall receive and consider any petitions filed by  
13 qualified electors of the district affected, and shall make no  
14 appointment to fill any vacancy unless notice of the time at  
15 which they will make such appointment shall have been posted on  
16 the polling place of such district, and in the immediate  
17 vicinity thereof, at least five days prior thereto. In the  
18 appointment of inspectors in any election district, both shall  
19 not be of the same political party at the time of said  
20 appointment, but one shall be of the party having the largest  
21 number of votes and the other shall be of the party having the  
22 second largest number of votes in said district at the last  
23 preceding November election, as nearly as the [judge or judges]  
24 county board of elections can ascertain the fact. The judge of  
25 election shall, in all cases of appointment, be of the political  
26 party having the majority of votes in said district at the last  
27 preceding November election, as nearly as the [judge or judges]  
28 county board of elections can ascertain the fact. Immediately  
29 upon the [entry of an order of court filling any vacancy on an  
30 election board, the clerk of said court shall forthwith transmit

1 a certified copy of said order to the county board, giving the  
2 name and address of said appointee.] appointment by the county  
3 board of elections filling any vacancy on an election board, the  
4 county board shall amend its records to include the name and  
5 address of said appointee. Notwithstanding any provisions to the  
6 contrary, in counties which have adopted home rule charters or  
7 optional plans and which appoint the members of the county  
8 election board under section 301(b), vacancies in the county  
9 board of elections shall be filled consistent with the  
10 provisions for appointment of county election board members  
11 under that section.

12 (a.1) Vacancies in county boards existing by reason of the  
13 disqualification, removal, resignation or death of a clerk or  
14 machine inspector appointed pursuant to section 404 or a vacancy  
15 of a clerk or machine inspector from any other cause occurring  
16 prior to the day of any primary or election may be filled by a  
17 student pursuant to section 402(b).

18 (b) The first election board for any new district shall be  
19 selected, by the [court of the proper county] county board of  
20 elections, of competent persons, qualified in accordance with  
21 the provisions of this act, who shall serve until the next  
22 municipal election at which all election officials are elected  
23 under the provisions of section 401.

24 (c) Vacancies in election boards occurring at any time  
25 during the five days immediately preceding any primary or  
26 election or on the day of the primary or election may be filled  
27 by appointment by the county board of elections from a pool of  
28 competent persons who are qualified registered electors of the  
29 county and who have been trained by the county to perform the  
30 duties of election officers which are required by this act. Any

1 person appointed to fill a vacancy in accordance with this  
2 subsection shall serve as a member of the election board on the  
3 day of the primary or election only. Any election board position  
4 filled in accordance with this subsection shall be deemed vacant  
5 on the day immediately following the primary or election and  
6 subsequently shall be filled in accordance with subsection (a).

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