

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 965 Session of 2011

INTRODUCED BY BENNINGHOFF, BOBACK, BOYD, BROOKS, CALTAGIRONE, CAUSER, CLYMER, D. COSTA, CUTLER, DAVIS, DeLUCA, DENLINGER, FARRY, FLECK, GABLER, GILLEN, GINGRICH, GOODMAN, GRELL, HARRIS, HORNAMAN, JOSEPHS, KAVULICH, KNOWLES, LAWRENCE, LONGIETTI, MARSHALL, MILLARD, MILLER, MILNE, MUNDY, MURT, M. O'BRIEN, PICKETT, PYLE, RAPP, READSHAW, REICHLEY, ROAE, SCHRODER, K. SMITH, STERN, SWANGER, VULAKOVICH, WAGNER AND WHITE, MARCH 7, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 7, 2011

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," in primary and election expenses, defining  
 12 "prerecorded political message"; and further providing for  
 13 advertising.

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

16 Section 1. Section 1621 of the act of June 3, 1937  
 17 (P.L.1333, No.320), known as the Pennsylvania Election Code, is  
 18 amended by adding a subsection to read:

19 Section 1621. Definitions.--As used in this article, the  
 20 following words have the following meanings:

1 \* \* \*

2 (n) The words "prerecorded political message" shall mean a  
3 prerecorded or synthesized voice message by:

4 (1) A political candidate or political party.

5 (2) A person when the content of the message advocates the  
6 success or defeat of any candidate, party or measure at any  
7 election or contains information about any candidate or party.

8 Section 2. Section 1638 of the act, added October 4, 1978  
9 (P.L.893, No.171), is amended to read:

10 Section 1638. Advertising.--

11 (a) [Whenever] Except as provided under subsection (c),  
12 whenever any person makes an expenditure for the purpose of  
13 financing communications expressly advocating the election or  
14 defeat of a candidate, or ballot questions, through any  
15 broadcasting station, newspaper, magazine, outdoor advertising  
16 facility, direct mailing, or any other type of general public  
17 political advertising, such communication:

18 (1) If authorized by the candidate, his authorized political  
19 committee or their agents, shall clearly and conspicuously state  
20 that the communication has been authorized.

21 (2) If not authorized by a candidate, his authorized  
22 political committee, or their agents, shall clearly and  
23 conspicuously state the name of the person who made or financed  
24 the expenditure for the communication, including, in the case of  
25 a political committee the name of any affiliated or connected  
26 organization.

27 (b) (1) No candidate for public office, or political  
28 committee or party acting on his behalf, shall place any  
29 advertisement referring to an opposing candidate for the same  
30 office which is to be broadcast or published during the one

1 hundred and twenty (120) hours immediately prior to an election  
2 or published in a weekly newspaper or periodical during the  
3 eight (8) days immediately prior to an election, with a  
4 television or radio broadcasting station, newspaper or  
5 periodical, unless he has first given a copy of the material to  
6 appear or be used in the advertisement and reasonable notice to  
7 the opposing candidate and the county board of elections of the  
8 county where the advertisement is to be placed in sufficient  
9 time for a reply advertisement to be published or broadcast at  
10 the same approximate time or in the same issue of the  
11 publication or on the same radio or television broadcast as the  
12 original advertisement and prior to the election in question.

13 (2) The reasonable notice referred to in clause (1) shall be  
14 given in writing by registered mail, return receipt requested,  
15 addressee signature only, with a true copy of the material  
16 enclosed to appear or be used in the advertisement so as to  
17 afford the recipient sufficient time to place a reply  
18 advertisement to be published or broadcast at the same  
19 approximate time or in the same issue of the publication or on  
20 the same radio or television broadcast as the original  
21 advertisement and prior to the election in question.

22 (3) Any person, firm or corporation, political committee or  
23 party or member thereof, violating any of the provisions of this  
24 section, shall be guilty of a misdemeanor, and upon conviction  
25 thereof, shall be sentenced to pay a fine not exceeding one  
26 thousand dollars (\$1,000), or to undergo an imprisonment of not  
27 less than one (1) month nor more than two (2) years, or both, in  
28 the discretion of the court.

29 (c) Whenever any person makes an expenditure for the purpose  
30 of financing communications to influence the outcome of an

1 election, through a prerecorded political message, such  
2 communication:

3 (1) If authorized by the candidate, his authorized political  
4 committee or their agents shall clearly and conspicuously state  
5 the communication has been authorized.

6 (2) If not authorized by a candidate, his authorized  
7 political committee or their agents shall clearly and  
8 conspicuously state the name of the person who made or financed  
9 the expenditure for the communication, including, in the case of  
10 a political committee, the name of any affiliated or connected  
11 organization.

12 Section 3. This act shall take effect in 60 days.