

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 638 Session of 2017

INTRODUCED BY SIMMONS, KAUFFMAN, CALTAGIRONE, GROVE, GILLEN, ROTHMAN, COX, GABLER AND METCALFE, FEBRUARY 27, 2017

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 13, 2018

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 district election officers, further providing
12 for election officers to be sworn; in dates of elections and
13 primaries and special elections, further providing for
14 affidavits of candidates; in nomination of candidates,
15 further providing for petition may consist of several sheets
16 and affidavit of circulator, for affidavits of candidates,
17 for examination of nomination petitions, certificates and
18 papers and return of rejected nomination petitions,
19 certificates and papers, for vacancy in party nomination by
20 failure to pay filing fee or for failure to file loyalty
21 oath, for affidavits of candidates, for filling of certain
22 vacancies in public office by means of nomination
23 certificates and nomination papers and for substituted
24 nominations to fill certain vacancies for a November
25 election; in ballots, further providing for form and printing
26 of ballots; in returns of primaries and elections, further
27 providing for manner of computing irregular ballots; and <--
28 replacing references to "justice of the peace" with
29 "magisterial district judge."JUDGE"; AND REMOVING REFERENCES <--
30 TO THE "TRAFFIC COURT OF PHILADELPHIA."

31 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Sections 406, 630.1, 909, 910, 976, 978.1, 981.1,
3 993(a) and (b), 998(a) and (b), 1004 and 1405 of the act of June
4 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election
5 Code, are amended to read:

6 Section 406. Election Officers to Be Sworn.--All judges,
7 inspectors, clerks of election and machine inspectors shall,
8 before entering upon their duties at any primary or election, be
9 duly sworn in the presence of each other and of the watchers and
10 overseers, if any. The judge shall first be sworn by the
11 minority inspector or by a magistrate, alderman or [justice of
12 the peace] magisterial district judge, and the inspectors,
13 clerks and machine inspectors shall then be sworn by the judge.
14 Each of them shall forthwith sign in duplicate the oath taken by
15 him upon forms to be furnished by the county board, and the same
16 shall be attested by the officer who administered the oath.

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,
23 with street and number, if any, and his post-office address; (b)
24 his election district, giving city, borough, town or township;
25 (c) the name of the office for which he consents to be a
26 candidate; (d) that he is eligible for such office; (e) that he
27 will not knowingly violate any provision of this act, or of any
28 law regulating and limiting election expenses and prohibiting
29 corrupt practices in connection therewith; (f) unless he is a
30 candidate for judge of a court of common pleas[,] OR the <--

1 Philadelphia Municipal Court [or the Traffic Court of <--
2 Philadelphia, for for the office of school board in a district <--
3 where that office is elective] or for the office of [justice of
4 the peace] magisterial district judge, that he is not a
5 candidate for the same office of any party or political body
6 other than the one designated in such certificate; (g) that he
7 is aware of the provisions of section 1626 of this act requiring
8 election and post-election reporting of campaign contributions
9 and expenditures; and (h) that he is not a candidate for an
10 office which he already holds, the term of which is not set to
11 expire in the same year as the office subject to the affidavit.

12 Section 909. Petition May Consist of Several Sheets;
13 Affidavit of Circulator.--Said nomination petition may be on one
14 or more sheets, and different sheets must be used for signers
15 resident in different counties. If more than one sheet is used,
16 they shall be bound together when offered for filing if they are
17 intended to constitute one petition, and each sheet shall be
18 numbered consecutively beginning with number one, at the foot of
19 each page. In cases of petitions for delegate or alternate
20 delegate to National conventions, each sheet shall contain a
21 notation indicating the presidential candidate to whom he is
22 committed or the term "uncommitted." Each sheet shall have
23 appended thereto the affidavit of the circulator of each sheet,
24 setting forth--(a) that he or she is a qualified elector duly
25 registered and enrolled as a member of the designated party of
26 the State, or of the political district, as the case may be,
27 referred to in said petition, unless said petition relates to
28 the nomination of a candidate for a court of common pleas, for
29 the Philadelphia Municipal Court [or for the Traffic Court of <--
30 Philadelphia] or for [justice of the peace] magisterial district <--

1 judge, in which event the circulator need not be a duly
2 registered and enrolled member of the designated party; (b) his
3 residence, giving city, borough or township, with street and
4 number, if any; (c) that the signers thereto signed with full
5 knowledge of the contents of the petition; (d) that their
6 respective residences are correctly stated therein; (e) that
7 they all reside in the county named in the affidavit; (f) that
8 each signed on the date set opposite his name; and (g) that, to
9 the best of affiant's knowledge and belief, the signers are
10 qualified electors and duly registered and enrolled members of
11 the designated party of the State, or of the political district,
12 as the case may be.

13 Section 910. Affidavits of Candidates.--Each candidate for
14 any State, county, city, borough, incorporated town, township,
15 ward, school district, poor district, election district, party
16 office, party delegate or alternate, or for the office of United
17 States Senator or Representative in Congress, shall file with
18 his nomination petition his affidavit stating--(a) his
19 residence, with street and number, if any, and his post-office
20 address; (b) his election district, giving city, borough, town
21 or township; (c) the name of the office for which he consents to
22 be a candidate; (d) that he is eligible for such office; (e)
23 that he will not knowingly violate any provision of this act, or
24 of any law regulating and limiting nomination and election
25 expenses and prohibiting corrupt practices in connection
26 therewith; (f) unless he is a candidate for judge of a court of
27 common pleas[,] OR the Philadelphia Municipal Court [or the <--
28 Traffic Court of Philadelphia, ~~for~~ for the office of school <--
29 director in a district where that office is elective] or for the
30 office of [justice of the peace] magisterial district judge that

1 he is not a candidate for nomination for the same office of any
2 party other than the one designated in such petition; (g) if he
3 is a candidate for a delegate, or alternate delegate, member of
4 State committee, National committee or party officer, that he is
5 a registered and enrolled member of the designated party; (h) if
6 he is a candidate for delegate or alternate delegate the
7 presidential candidate to whom he is committed or the term
8 "uncommitted"; (i) that he is aware of the provisions of section
9 1626 of this act requiring pre-election and post-election
10 reporting of campaign contributions and expenditures; and (j)
11 that he is not a candidate for an office which he already holds,
12 the term of which is not set to expire in the same year as the
13 office subject to the affidavit. In cases of petitions for
14 delegate and alternate delegate to National conventions, the
15 candidate's affidavit shall state that his signature to the
16 delegate's statement, as hereinafter set forth, if such
17 statement is signed by said candidate, was affixed to the sheet
18 or sheets of said petition prior to the circulation of same. In
19 the case of a candidate for nomination as President of the
20 United States, it shall not be necessary for such candidate to
21 file the affidavit required in this section to be filed by
22 candidates, but the post-office address of such candidate shall
23 be stated in such nomination petition.

24 Section 976. Examination of Nomination Petitions,
25 Certificates and Papers; Return of Rejected Nomination
26 Petitions, Certificates and Papers.--When any nomination
27 petition, nomination certificate or nomination paper is
28 presented in the office of the Secretary of the Commonwealth or
29 of any county board of elections for filing within the period
30 limited by this act, it shall be the duty of the said officer or

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

1 identical with or deceptively similar to the words used by any
2 existing party or by any political body which has already filed
3 nomination papers for the same office, or if the appellation set
4 forth therein contains part of the name, or an abbreviation of
5 the name or part of the name of an existing political party, or
6 of a political body which has already filed nomination papers
7 for the same office. The invalidity of any sheet of a nomination
8 petition or nomination paper shall not affect the validity of
9 such petition or paper if a sufficient petition or paper remains
10 after eliminating such invalid sheet. The action of said officer
11 or board in refusing to receive and file any such nomination
12 petition, certificate or paper, may be reviewed by the court
13 upon an application to compel its reception as of the date when
14 it was presented to the office of such officer or board:

15 Provided, however, That said officer or board shall be entitled
16 to a reasonable time in which to examine any petitions,
17 certificates or papers, and to summon and interrogate the
18 candidates named therein, or the persons presenting said
19 petitions, certificates or papers, and his or their retention of
20 same for the purpose of making such examination or interrogation
21 shall not be construed as an acceptance or filing.

22 Upon completion of any examination, if any nomination
23 petition, certificate or paper is found to be defective, it
24 shall forthwith be rejected and returned to the candidate or one
25 of the candidates named therein, together with a statement of
26 the reasons for such rejection:

27 Provided further, That no nomination petition, nomination
28 paper or nomination certificate shall be permitted to be filed,
29 if the political party or political body referred to therein
30 shall be composed of a group of electors whose purposes or aims,

1 or one of whose purposes or aims, is the establishment, control,
2 conduct, seizure or overthrow of the Government of the
3 Commonwealth of Pennsylvania or the United States of America by
4 the use of force, violence, military measure or threats of one
5 or more of the foregoing. The authority to reject such
6 nomination petition, paper or certificate for this reason shall,
7 when filed with the Secretary of the Commonwealth, be vested in
8 a committee composed of the Governor, the Attorney General and
9 the Secretary of the Commonwealth, and when filed with any
10 county board of elections shall be vested in such board. If in
11 such case the committee or board, as the case may be, shall
12 conclude that the acceptance of such nomination petition, paper
13 or certificate should be refused, it shall within two days of
14 the filing of such nomination petition, paper or certificate fix
15 a place and a time five days in advance for hearing the matter,
16 and notice thereof shall be given to all parties affected
17 thereby. At the time and place so fixed the committee or board,
18 as the case may be, shall hear testimony, but shall not be bound
19 by technical rules of evidence. The testimony presented shall be
20 stenographically recorded and made a part of the record of the
21 committee or board. Within two days after such hearing the
22 committee or board, if satisfied upon competent evidence that
23 the said nomination petition, paper or certificate is not
24 entitled to be accepted and filed, it shall announce its
25 decision and immediately notify the parties affected thereby.
26 Failure to announce decision within two days after such hearing
27 shall be conclusive that such nomination petition, paper or
28 certificate has been accepted and filed. The decision of said
29 committee or board in refusing to accept and file such
30 nomination petition, paper or certificate may be reviewed by the

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

22 Section 978.1. Vacancy in Party Nomination by Failure to Pay
23 Filing Fee or for Failure to File Loyalty Oath.--Every person
24 nominated at any primary election as the candidate of any
25 political party for any office, other than a borough, town,
26 township, school district or poor district office, or the office
27 of [justice of the peace] magisterial district judge, or
28 constable, who has not paid the filing fee required by section
29 nine hundred thirteen of this act, as amended, for the filing of
30 a nomination petition for such office, or who has not filed the

1 loyalty oath required by section 14, act of December 22, 1951
2 (P.L.1726), known as the "Pennsylvania Loyalty Act," as last
3 amended June 19, 1961 (P.L.446), shall pay the amount of such
4 fee to and file such oath with the Secretary of the
5 Commonwealth, or the county board of elections, as the case may
6 be, at least eighty-five (85) days previous to the day of the
7 general or municipal election at which such candidate's name
8 would appear on the ballot. Failure to pay such fee or file such
9 oath within the time herein prescribed shall result in a vacancy
10 in such party nomination. Such vacancy shall be filled in the
11 manner hereinafter provided for the filling of such vacancies
12 happening by reason of the death or withdrawal of any candidate.

13 Section 981.1. Affidavits of Candidates.--Each candidate for
14 any State, county, city, borough, incorporated town, township,
15 ward, school district, poor district or election district
16 office, or for the office of United States Senator or
17 Representative in Congress, selected as provided in sections 979
18 and 980 of this act, shall file with the substituted nomination
19 certificate an affidavit stating--(a) his residence, with street
20 and number, if any, and his post-office address; (b) his
21 election district, giving city, borough, town or township; (c)
22 the name of the office for which he consents to be a candidate;
23 (d) that he is eligible for such office; (e) that he will not
24 knowingly violate any provision of this act, or of any law
25 regulating and limiting election expenses and prohibiting
26 corrupt practices in connection therewith; (f) unless he is a
27 candidate for judge of a court of common pleas[,] OR the <--
28 Philadelphia Municipal Court [or the Traffic Court of <--
29 Philadelphia, for for the office of school board in a district <--
30 where that office is elective] or for the office of [justice of

1 the peace] magisterial district judge, that he is not a
2 candidate for the same office of any party or political body
3 other than the one designated in such certificate; (g) that he
4 is aware of the provisions of section 1626 of this act requiring
5 election and post-election reporting of campaign contributions
6 and expenditures; and (h) that he is not a candidate for an
7 office which he already holds, the term of which is not set to
8 expire in the same year as the office subject to the affidavit.

9 Section 993. Filling of Certain Vacancies in Public Office
10 by Means of Nomination Certificates and Nomination Papers.--(a)
11 In all cases where a vacancy shall occur for any cause in an
12 elective public office, including that of judge of a court of
13 record, at a time when such vacancy is required by the
14 provisions of the Constitution or the laws of this Commonwealth
15 to be filled at the ensuing election but at a time when
16 nominations for such office cannot be made under any other
17 provision of this act, nominations to fill such vacancies shall
18 be made by political parties in accordance with party rules
19 relating to the filling of vacancies by means of nomination
20 certificates in the form prescribed in section nine hundred
21 ninety-four of this act, and by political bodies by means of
22 nomination papers in accordance with the provisions of sections
23 nine hundred fifty-one, nine hundred fifty-two and nine hundred
24 fifty-four of this act. No such nomination certificate shall
25 nominate any person who has already been nominated by any other
26 political party or by any political body for the same office
27 unless such person is a candidate for the office of judge of a
28 court of common pleas[,] OR the Philadelphia Municipal Court [or <--
29 the Traffic Court of Philadelphia, for for the office of school <--
30 director in districts where that office is elective] or for the

1 office of [justice of the peace] magisterial district judge. No
2 such nomination papers shall nominate any person who has already
3 been nominated by any political party or by any other political
4 body for any office to be filled at the ensuing November
5 election, unless such person is a candidate for the office of
6 judge of a court of common pleas[,] OR the Philadelphia <--
7 Municipal Court [or the Traffic Court of Philadelphia, for for <--
8 the office of school director in districts where that office is
9 elective] or for the office of [justice of the peace]
10 magisterial district judge.

11 (b) Said nomination certificates and nomination papers for
12 State public offices and judges of courts of records shall be
13 filed in the office of the Secretary of the Commonwealth at
14 least fifty (50) days prior to a general or municipal election,
15 as the case may be. Nomination certificates and nomination
16 papers for public offices in counties, cities, boroughs, towns,
17 townships, wards and school districts and for the offices of
18 aldermen and [justices of the peace] magisterial district judges
19 shall be filed in the office of the county board of elections at
20 least fifty (50) days prior to a municipal election.

21 * * *

22 Section 998. Substituted Nominations to Fill Certain
23 Vacancies for a November Election.--(a) Any vacancy happening
24 or existing in any party nomination made in accordance with the
25 provisions of section nine hundred ninety-three of this act for
26 a November election by reason of the death or withdrawal of any
27 candidate may be filled by a substituted nomination made by such
28 committee as is authorized by the rules of the party to make
29 nominations in the event of vacancies on the party ticket, in
30 the form prescribed by section nine hundred ninety-four of this

1 act. But no substituted nomination certificate shall nominate
2 any person who has already been nominated by any other political
3 party or by any political body for the same office, unless such
4 person is a candidate for the office of judge of a court of
5 common pleas[,] OR the Philadelphia Municipal Court [or the <--
6 Traffic Court of Philadelphia, ~~for~~ for the office of school <--
7 director in districts where that office is elective] or for the
8 office of [justice of the peace] magisterial district judge.

9 (b) In case of the death or withdrawal of any candidate
10 nominated by a political body for an election, the committee
11 named in the original nomination papers may nominate a
12 substitute in his place by filing a substituted nomination
13 certificate in the form and manner prescribed by section nine
14 hundred eighty of this act. In the case of a vacancy caused by
15 the death of any candidate, said nomination certificate shall be
16 accompanied by a death certificate properly certified. No
17 substituted nomination certificate shall nominate any person who
18 has already been nominated by any political party or by any
19 other political body for any office to be filled at the ensuing
20 November election, unless such person is a candidate for the
21 office of judge of a court of common pleas[,] OR the <--
22 Philadelphia Municipal Court [or the Traffic Court of <--
23 Philadelphia, ~~for~~ for the office of school director in districts <--
24 where that office is elective] or for the office of [justice of
25 the peace] magisterial district judge.

26 * * *

27 Section 1004. Form of Ballots; Printing Ballots; Stubs;
28 Numbers.--From the lists furnished by the Secretary of the
29 Commonwealth under the provisions of sections 915 and 984, and
30 from petitions and papers filed in their office, the county

1 election board shall print the official primary and election
2 ballots in accordance with the provisions of this act: Provided,
3 however, That in no event, shall the name of any person
4 consenting to be a candidate for nomination for any one office,
5 except the office of judge of a court of common pleas[,] OR the <--
6 Philadelphia Municipal Court [or the Traffic Court of <--
7 Philadelphia, for the office of school director in districts <--
8 where that office is elective] or the office of [justice of the
9 peace] magisterial district judge be printed as a candidate for
10 such office upon the official primary ballot of more than one
11 party. All ballots for use in the same election district at any
12 primary or election shall be alike. They shall be at least six
13 inches long and four inches wide, and shall have a margin
14 extending beyond any printing thereon. They shall be printed
15 with the same kind of type (which shall not be smaller than the
16 size known as "brevier" or "eight point body") upon white paper
17 of uniform quality, without any impression or mark to
18 distinguish one from another, and with sufficient thickness to
19 prevent the printed matter from showing through. Each ballot
20 shall be attached to a stub, and all the ballots for the same
21 election district shall be bound together in books of fifty, in
22 such manner that each ballot may be detached from its stub and
23 removed separately. The ballots for each party to be used at a
24 primary shall be bound separately. The stubs of the ballots
25 shall be consecutively numbered, and in the case of primary
26 ballots, the number shall be preceded by an initial or
27 abbreviation designating the party name. The number and initial
28 or abbreviation which appears upon the stub shall also be
29 printed in the upper right hand corner of the back of the
30 ballot, separated from the remainder of the ballot by a diagonal

1 perforated line so prepared that the upper right hand corner of
2 the back of the ballot containing the number may be detached
3 from the ballot before it is deposited in the ballot box and
4 beside that corner shall also be printed, "Remove numbered stub
5 immediately before depositing your ballot in ballot box."

6 Section 1405. Manner of Computing Irregular Ballots.--The
7 county board, in computing the votes cast at any primary or
8 election, shall compute and certify votes cast on irregular
9 ballots exactly as such names were written, stamped, affixed to
10 the ballot by sticker, or deposited or affixed in or on
11 receptacles for that purpose, and as they have been so returned
12 by the election officers. In the primary the Secretary of the
13 Commonwealth shall not certify the votes cast on irregular
14 ballots for any person for a National office including that of
15 the President of the United States, United States Senator and
16 Representative in Congress; or for any State office including
17 that of Governor and Lieutenant Governor, Auditor General, State
18 Treasurer, Senator and Representative in the General Assembly,
19 justices and judges of courts of record or for any party office
20 including that of delegate or alternate delegate to National
21 conventions and member of State committee unless the total
22 number of votes cast for said person is equal to or greater than
23 the number of signatures required on a nomination petition for
24 the particular office. In the primary the county board shall not
25 certify the votes cast on irregular ballots for any person for a
26 [justice of the peace] magisterial district judge, constable,
27 National, State, county, city, borough, town, township, ward,
28 school district, election or local party office unless the total
29 number of votes cast for said person is equal to or greater than
30 the number of signatures required on a nomination petition for

1 the particular office.

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