

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1953 Session of 2020

INTRODUCED BY BOYLE, MARCH 4, 2020

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 4, 2020

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," providing for small dollar financing of State
 12 legislative campaigns; establishing the Freedom from
 13 Influence Fund; and imposing an additional assessment
 14 relative to civil and criminal penalties.

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

17 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known
 18 as the Pennsylvania Election Code, is amended by adding an
 19 article to read:

20 ARTICLE XVI-A

21 SMALL DOLLAR FINANCING OF STATE

22 LEGISLATIVE CAMPAIGNS

23 Section 1601-A. Scope of article.

24 This article relates to public financing of campaigns for

1 State legislative offices.

2 Section 1602-A. Definitions.

3 The following words and phrases when used in this article
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Fund." The Freedom From Influence Fund established under
7 section 1610-A(a).

8 "Qualified small dollar contribution." With respect to a
9 candidate for the office of Senator or Representative in the
10 General Assembly and the authorized committees of the candidate,
11 a contribution that meets the requirements of section 1606-A.

12 "Secretary." The Secretary of the Commonwealth.

13 "Small dollar democracy qualifying period." With respect to
14 a candidate for the office of Senator or Representative in the
15 General Assembly, the 180-day period during the election cycle
16 for the office which begins on the date on which the candidate
17 files a statement of intent under section 1607-A(a)(1), except
18 that the period may not continue after the date that is 30 days
19 before the date of the general election for the office.

20 Section 1603-A. Benefits and eligibility requirements for
21 candidates.

22 (a) General rule.--If a candidate for election to the office
23 of Senator or Representative in the General Assembly is
24 certified as a participating candidate under this article with
25 respect to an election for the office, the candidate shall be
26 entitled to payments as provided under this article.

27 (b) Amount of payment.--The amount of a payment made under
28 this article shall be equal to 600% of the amount of qualified
29 small dollar contributions received by the candidate since the
30 most recent payment made to the candidate under this article

1 during the election cycle without regard to whether or not the
2 candidate received any of the contributions before, during or
3 after the small dollar democracy qualifying period applicable to
4 the candidate.

5 (c) Limit on aggregate amount of payments.--The aggregate
6 amount of payments made to a participating candidate under this
7 article with respect to an election cycle may not exceed 50% of
8 the average of the 20 highest amounts of disbursements made by
9 the authorized committees of any winning candidate for the same
10 type of office during the most recent election cycle, rounded to
11 the nearest \$10,000.

12 Section 1604-A. Procedures for making payments.

13 (a) General rule.--The secretary shall make a payment under
14 this article to a candidate who is certified as a participating
15 candidate upon receipt from the candidate of a request for a
16 payment which includes all of the following:

17 (1) A statement of the number and amount of qualified
18 small dollar contributions received by the candidate since
19 the most recent payment made to the candidate under this
20 article during the election cycle.

21 (2) A statement of the amount of the payment the
22 candidate anticipates receiving with respect to the request.

23 (3) A statement of the total amount of payments the
24 candidate has received under this article as of the date of
25 the statement.

26 (4) Any other information and assurances as the
27 secretary may require.

28 (b) Restrictions on submission of requests.--A candidate may
29 not submit a request under subsection (a) unless each of the
30 following applies:

1 (1) The amount of the qualified small dollar
2 contributions in the statement referred to in subsection (a)
3 (1) is equal to or greater than \$1,000, unless the request is
4 submitted during the 30-day period which ends on the date of
5 a general election.

6 (2) The candidate did not receive a payment under this
7 article during the seven-day period which ends on the date
8 the candidate submits the request.

9 Section 1605-A. Use of funds.

10 (a) Use of funds for authorized campaign expenditures.--A
11 candidate shall use payments made under this article, including
12 payments provided with respect to a previous election cycle
13 which are withheld from remittance to the secretary in
14 accordance with this article, only for making direct payments
15 for the receipt of goods and services which constitute
16 authorized expenditures as determined in accordance with this
17 act in connection with the election cycle involved.

18 (b) Prohibiting use of funds for legal expenses, fines or
19 penalties.--A candidate may not use payments made under this
20 article for the payment of expenses incurred in connection with
21 any action, claim or other matter before the secretary or before
22 any court, hearing officer, arbitrator or other dispute
23 resolution entity, or for the payment of any fine or civil
24 monetary penalty.

25 Section 1606-A. Qualified small dollar contributions.

26 A contribution is a qualified small dollar contribution if
27 the contribution meets the following requirements:

28 (1) The contribution is in an amount that:

29 (i) is not less than \$1 nor more than \$200; and

30 (ii) for an individual contributing more than \$200

1 to the same candidate, consists of the first \$200
2 received by the candidate from that individual.

3 (2) The contribution is made directly by an individual
4 to the candidate or an authorized committee of the candidate
5 and is not received by the candidate or committee with the
6 knowledge that the contribution was made with funds provided
7 to the contributor by another person or reimbursed to the
8 contributor by another person.

9 Section 1607-A. Eligibility.

10 (a) General rule.--A candidate for the office of Senator or
11 Representative in the General Assembly is eligible to be
12 certified as a participating candidate under this article with
13 respect to an election if the candidate meets the following
14 requirements:

15 (1) The candidate files with the secretary a statement
16 of intent to seek certification as a participating candidate.

17 (2) The candidate meets the qualifying requirements of
18 section 1608-A.

19 (3) Not later than the last day of the small dollar
20 democracy qualifying period, the candidate files with the
21 secretary an affidavit signed by the candidate and the
22 treasurer of the candidate's principal campaign committee
23 declaring that the candidate:

24 (i) has complied and, if certified, will comply with
25 the contribution and expenditure requirements of this
26 act;

27 (ii) if certified, will run only as a participating
28 candidate for all elections for the office that the
29 candidate is seeking during that election cycle; and

30 (iii) has either qualified or will take steps to

1 qualify under State law to be on the ballot.

2 (b) General election.--Notwithstanding the provisions of
3 subsection (a), a candidate shall not be eligible to be
4 certified as a participating candidate for a general election
5 unless the candidate's party nominated the candidate to be
6 placed on the ballot for the general election or the candidate
7 is otherwise qualified to be on the ballot under State law.

8 Section 1608-A. Qualifying requirements.

9 (a) Receipt of qualified small dollar contributions.--A
10 candidate for the office of Senator or Representative in the
11 General Assembly meets the requirement of this section if,
12 during the small dollar democracy qualifying period, each of the
13 following occurs:

14 (1) No fewer than 50 individuals make a qualified small
15 dollar contribution to the candidate.

16 (2) The candidate obtains a total dollar amount of
17 qualified small dollar contributions which is equal to or
18 greater than \$10,000.

19 (b) Requirements relating to receipt of qualified small
20 dollar contribution.--Each qualified small dollar contribution:

21 (1) may be made by means of a personal check, money
22 order, debit card, credit card, electronic payment account or
23 any other method deemed appropriate by the secretary;

24 (2) shall be accompanied by a signed statement or, in
25 the case of a contribution made online or through other
26 electronic means, an electronic equivalent, containing the
27 contributor's name and address; and

28 (3) shall be acknowledged by a receipt that is sent to
29 the contributor, with a copy in paper or electronic form kept
30 by the candidate for the secretary.

1 (c) Verification of contributions.--The secretary shall
2 establish procedures for the auditing and verification of the
3 contributions received and expenditures made by participating
4 candidates under this article, including procedures for random
5 audits, to ensure that contributions and expenditures meet the
6 requirements of this article.

7 Section 1609-A. Certification.

8 (a) Deadline.--No later than five business days after a
9 candidate files an affidavit under section 1607-A(a)(3), the
10 secretary shall determine whether or not the candidate meets the
11 requirements for certification as a participating candidate.

12 (b) Certification of candidate.--If the secretary determines
13 that the candidate meets the requirements for certification as a
14 participating candidate, the secretary shall certify the
15 candidate as a participating candidate.

16 (c) Notification.--The secretary shall notify the candidate
17 of the secretary's determination as to whether or not the
18 candidate meets the requirements for certification as a
19 participating candidate.

20 (d) Deemed certification.--If the secretary certifies a
21 candidate as a participating candidate with respect to the first
22 election of the election cycle involved, the secretary shall be
23 deemed to have certified the candidate as a participating
24 candidate with respect to all subsequent elections of the
25 election cycle.

26 (e) Revocation of certification.--The secretary shall revoke
27 a certification under subsection (b) if any of the following
28 occur:

29 (1) A candidate fails to qualify to appear on the ballot
30 at any time after the date of certification, other than a

1 candidate certified as a participating candidate with respect
2 to a primary election who fails to qualify to appear on the
3 ballot for a subsequent election in that election cycle.

4 (2) A candidate ceases to be a candidate for the office
5 involved, as determined on the basis of an official
6 announcement by an authorized committee of the candidate or
7 on the basis of a reasonable determination by the secretary.

8 (3) A candidate otherwise fails to comply with the
9 requirements of this article, including any regulatory
10 requirements prescribed by the secretary.

11 Section 1610-A. Freedom From Influence Fund.

12 (a) Establishment.--The Freedom From Influence Fund is
13 established as a special fund in the State Treasury.

14 (b) Fund sources.--The sources of the fund are as follows:

15 (1) Amounts deposited under section 1611-A(b).

16 (2) Interest accrued by the fund.

17 (c) Use of fund to make payments to participating
18 candidates.--

19 (1) Amounts in the fund shall be available without
20 further appropriation to make payments to participating
21 candidates as provided under this article.

22 (2) Beginning with the first election cycle that begins
23 after the effective date of this article, not later than 90
24 days before the first day of each election cycle, the
25 secretary shall:

26 (i) Audit the fund to determine whether the amounts
27 in the fund will be sufficient to make payments to
28 participating candidates in the amounts provided in this
29 article during the election cycle.

30 (ii) Submit a report to the General Assembly

1 describing the results of the audit.

2 (3) If, on the basis of the audit, the secretary
3 determines that the amount anticipated to be available in the
4 fund with respect to the election cycle involved is not, or
5 may not be, sufficient to satisfy the full entitlements of
6 participating candidates to payments under this article for
7 the election cycle, the secretary shall reduce each amount
8 which would otherwise be paid to all participating candidates
9 under this article by a pro rata amount as may be necessary
10 to ensure that the aggregate amount of payments anticipated
11 to be made with respect to the election cycle will not exceed
12 the amount anticipated to be available for payments with
13 respect to the election cycle.

14 (4) If, after reducing the amounts paid to participating
15 candidates with respect to an election cycle, the secretary
16 determines that there are sufficient amounts in the fund to
17 restore the amount or any portion of the amount by which the
18 payments were reduced, to the extent that funds are
19 available, the secretary may make a payment on a pro rata
20 basis to each participating candidate with respect to the
21 election cycle in the amount or portion of the amount by
22 which the candidate's payments were reduced.

23 (d) Use of money from other sources.--In any case in which
24 the secretary determines that there is insufficient money in the
25 fund to make payments to participating candidates under this
26 article, money shall not be made available from any other source
27 for the purpose of making the payments.

28 Section 1611-A. Additional assessments.

29 (a) Levy and imposition.--In addition to any fines, fees or
30 penalties levied or imposed as provided by law, whether civil or

1 criminal, under this act or any other statute, an additional
2 assessment shall be levied for disposition in accordance with
3 subsection (b) as follows:

4 (1) Upon conviction of a business entity, including a
5 corporation or unincorporated association, limited liability
6 partnership or company or other legal entity, for any
7 violation of the provisions of this act or other statute of
8 the Commonwealth, the court shall assess the entity convicted
9 an amount equal to 2.75% of any fine imposed on the entity
10 for the conviction.

11 (2) Upon a business entity, including a corporation or
12 unincorporated association, limited liability partnership or
13 company or other legal entity, entering into a settlement
14 agreement or consent decree with the Commonwealth in
15 satisfaction of any allegation that the entity committed a
16 criminal offense under the provisions of this act or other
17 statute of the Commonwealth, the court shall assess the
18 entity entering into the settlement agreement or consent
19 decree an amount equal to 2.75% of the amount of the
20 settlement.

21 (3) Upon a business entity, including a corporation or
22 unincorporated association, limited liability partnership or
23 company or other legal entity, being assessed a civil or
24 administrative penalty for a violation of this act or other
25 statute of the Commonwealth or a regulation promulgated under
26 this act or other statute of the Commonwealth, the
27 administrative agency shall assess the entity which engaged
28 in the violation an amount equal to 2.75% of the amount of
29 the civil or administrative penalty imposed.

30 (4) Upon a business entity, including a corporation or

1 unincorporated association, limited liability partnership or
2 company or other legal entity, entering into a settlement
3 agreement or consent decree with an administrative agency in
4 satisfaction of any allegation of an action or omission by
5 the entity which would be subject to a civil penalty or
6 administrative penalty, the administrative agency shall
7 assess the entity entering into the settlement agreement or
8 consent decree an amount equal to 2.75% of the amount of the
9 settlement.

10 (b) Disposition.--Notwithstanding any other statutory
11 provision:

12 (1) All additional assessments levied and collected
13 under subsection (a) by any division of the unified judicial
14 system or an administrative agency shall be remitted to the
15 Commonwealth for deposit in the fund.

16 (2) If the fines, fees or penalties are being paid in
17 installments, the additional assessment shall be remitted on
18 each installment on a pro rata basis.

19 Section 1612-A. Study and report.

20 No later than two years after the completion of the first
21 election cycle in which small dollar financing is in effect, the
22 secretary shall do the following:

23 (1) Assess:

24 (i) the amount of payment referred to in section
25 1603-A(b); and

26 (ii) the amount of a qualified small dollar
27 contribution referred to in section 1606-A.

28 (2) Submit to the General Assembly a report on the
29 effectiveness of small dollar financing of State legislative
30 campaigns.

1 Section 2. The addition of section 1611-A of the act shall
2 apply with respect to convictions which occur on or after the
3 effective date of this section.

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