

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 178 Session of 2019

INTRODUCED BY BROWNE, GORDNER, MENSCH, YAW, FOLMER, BAKER, SCAVELLO, AUMENT, DISANTO, COSTA, HUGHES, BOSCOLA, FONTANA, SANTARSIERO, BREWSTER, HAYWOOD, FARNESE, SCHWANK, KEARNEY, TARTAGLIONE AND J. WARD, FEBRUARY 1, 2019

SENATOR FOLMER, STATE GOVERNMENT, AS AMENDED, APRIL 9, 2019

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, further
12 providing for reporting by candidate and political committees
13 and other persons, for late contributions and independent
14 expenditures, FOR OATH OF COMPLIANCE, PERJURY, <--
15 DISQUALIFICATION FROM OFFICE AND COMMERCIAL USE and for place
16 of filing, providing for manner of filing and for inability
17 to file reports or statements electronically by deadline and
18 further providing for late filing fee and certificate of
19 filing and, for additional powers and duties of the Secretary <--
20 of the Commonwealth AND FOR REPORTS BY BUSINESS ENTITIES AND <--
21 PUBLICATION BY SECRETARY OF THE COMMONWEALTH.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 ~~Section 1. Section 1626 of the act of June 3, 1937~~ <--

25 ~~(P.L.1333, No.320), known as the Pennsylvania Election Code, is~~

26 ~~amended by adding a subsection to read:~~

1 SECTION 1. SECTION 1626(A) AND (H) OF THE ACT OF JUNE 3, <--
2 1937 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA ELECTION
3 CODE, ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A
4 SUBSECTION TO READ:

5 Section 1626. Reporting by Candidate and Political
6 Committees and other Persons.--

7 (A) EACH TREASURER OF A POLITICAL COMMITTEE AND EACH <--
8 CANDIDATE FOR ELECTION TO PUBLIC OFFICE SHALL FILE WITH THE
9 APPROPRIATE SUPERVISOR REPORTS OF RECEIPTS AND EXPENDITURES ON
10 FORMS, DESIGNED BY THE SECRETARY OF THE COMMONWEALTH, IF THE
11 AMOUNT RECEIVED OR EXPENDED OR LIABILITIES INCURRED SHALL EXCEED
12 THE SUM OF TWO HUNDRED FIFTY DOLLARS (\$250). SHOULD SUCH AN
13 AMOUNT NOT EXCEED TWO HUNDRED FIFTY DOLLARS (\$250), THEN THE
14 CANDIDATE OR THE TREASURER OF THE COMMITTEE SHALL FILE A [SWORN]
15 STATEMENT TO THAT EFFECT WITH THE APPROPRIATE SUPERVISOR RATHER
16 THAN THE REPORT REQUIRED BY THIS SECTION.

17 * * *

18 (H) ALL REPORTS OR STATEMENTS REQUIRED TO BE FILED PURSUANT
19 TO THIS SECTION SHALL BE FILED PURSUANT TO [SECTION 1630]
20 SECTIONS 1629 AND 1631.1. ALL REPORTS AND STATEMENTS REQUIRED BY
21 THIS SECTION SHALL COVER THE CAMPAIGN ACTIVITY OF A CANDIDATE
22 ONLY FROM THE LAST PRIOR REPORT OR STATEMENT.

23 * * *

24 (k) (1) All ~~campaign finance~~ reports OR STATEMENTS required <--
25 to be filed with the Secretary of the Commonwealth shall be
26 filed electronically using the electronic filing system
27 developed by the Secretary of the Commonwealth that is
28 consistent with the purposes of this subsection. A ~~campaign~~ <--
29 finance report OR STATEMENT submitted electronically must: <--

30 (i) ~~be made under oath or equivalent affirmation;~~ <--

1 ~~(ii)~~ require an electronic signature from the treasurer or
2 assistant treasurer at the time of the filing of the ~~campaign~~ <--
3 ~~finance~~ report OR STATEMENT. In addition, a report filed by a <--
4 political committee, authorized by a candidate and created
5 solely for the purpose of influencing an election on behalf of
6 that candidate must be signed, using an electronic signature,
7 ~~under oath or equivalent affirmation by the candidate~~ STATING <--
8 that, to the best of the candidate's knowledge, the political
9 committee has not violated a provision of this act; and
10 ~~(iii)~~ (II) be made subject to the penalties for perjury OF <--
11 18 PA.C.S. § 4904 (RELATING TO UNSWORN FALSIFICATION TO
12 AUTHORITIES).

13 (2) (i) A candidate or political committee not able to file
14 electronically the report or statement required by this
15 subsection shall request an exemption from the Secretary of the
16 Commonwealth. The candidate or political committee upon approval
17 of the Secretary of the Commonwealth shall file reports and
18 statements on forms developed by the Secretary of the
19 Commonwealth.

20 (ii) In order to request an exemption for electronic
21 submissions or reports or statements, the candidate or political
22 committee must demonstrate technological hardship. AS USED IN <--
23 THIS SUBCLAUSE, THE TERM "TECHNOLOGICAL HARDSHIP" MEANS A LACK
24 OF COMPUTER OR INTERNET ACCESS OR A DISABILITY THAT PREVENTS
25 ELECTRONIC FILING.

26 Section 2. Sections 1628, 1629 HEADING, (A) AND (B) and <--
27 1631(1) of the act are amended to read:

28 Section 1628. Late Contributions and Independent
29 Expenditures.--Any candidate or political committee, authorized
30 by a candidate and created solely for the purpose of influencing

1 an election on behalf of that candidate, which receives any
2 contribution or pledge of five hundred dollars (\$500) or more,
3 and any person making an independent expenditure, as defined by
4 this act, of five hundred dollars (\$500) or more after the final
5 pre-election report has been deemed completed shall report such
6 contribution, pledge or expenditure to the appropriate
7 supervisor. Such report shall be sent by the candidate, chairman
8 or treasurer of the political committee within twenty-four (24)
9 hours of receipt of the contribution. It shall be the duty of
10 the supervisor to confirm the substance of such report. [The
11 report shall be made by telegram, mailgram, overnight mail or
12 facsimile transmission.] ~~The reports filed with the Secretary of~~ <--
13 ~~the Commonwealth shall be filed electronically in accordance~~
14 ~~with section 1631.1. Any]~~ THE REPORTS FILED WITH THE SECRETARY <--
15 OF THE COMMONWEALTH SHALL BE FILED ELECTRONICALLY IN ACCORDANCE
16 WITH SECTION 1631.1. IF THE CANDIDATE OR POLITICAL COMMITTEE IS
17 NOT REQUIRED TO FILE ELECTRONICALLY, THE REPORT SHALL BE FILED
18 BY FACSIMILE, ELECTRONIC MAIL OR OVERNIGHT MAIL COURIER SERVICE.
19 EXCEPT FOR REPORTS REQUIRED TO BE FILED ELECTRONICALLY, A
20 candidate in his own behalf, or chairman, treasurer or candidate
21 [in] ON behalf of the political committee may also comply with <--
22 this section by appearing personally before such supervisor and
23 reporting such late contributions or pledges.

24 SECTION 1629. [OATH OF COMPLIANCE] UNSWORN FALSIFICATION; <--
25 PERJURY; DISQUALIFICATION FROM OFFICE; COMMERCIAL USE.--

26 [(A) EACH REPORT SHALL BE SUBSCRIBED AND SWORN TO BY THE
27 INDIVIDUAL SUBMITTING THE REPORT. IN ADDITION, ANY REPORT FILED
28 BY A POLITICAL COMMITTEE, AUTHORIZED BY A CANDIDATE AND CREATED
29 SOLELY FOR THE PURPOSE OF INFLUENCING AN ELECTION ON BEHALF OF
30 THAT CANDIDATE, MUST BE ACCOMPANIED BY AN AFFIDAVIT FROM THAT

1 CANDIDATE WHICH PROVIDES THAT, TO THE BEST OF THE CANDIDATE'S
2 KNOWLEDGE, THE POLITICAL COMMITTEE HAS NOT VIOLATED ANY
3 PROVISION OF THIS ACT.]

4 (B) ANY WILFULLY FALSE, FRAUDULENT OR MISLEADING STATEMENT
5 OR ENTRY MADE BY ANY CANDIDATE OR TREASURER IN ANY STATEMENT OR
6 REPORT [UNDER OATH] AS REQUIRED BY THIS ARTICLE, SHALL
7 CONSTITUTE THE CRIME OF [PERJURY] UNSWORN FALSIFICATION TO
8 AUTHORITIES, AND BE PUNISHABLE AS SUCH ACCORDING TO THE LAWS OF
9 THIS COMMONWEALTH.

10 * * *

11 Section 1631. Place of Filing.--

12 Any statement or report required by this article to be filed,
13 shall be done in the following manner:

14 (1) (i) Any candidate, individual, or committee required to
15 file a report concerning any candidate shall file that statement
16 or report in the office of the supervisor with whom the
17 candidate filed a nomination paper, nomination certificate,
18 nomination petitions or with the supervisor with whom the
19 candidate would have filed such if he had sought nomination in
20 that manner.

21 [(ii) All candidates and political committees, authorized by
22 candidates and created solely for the purpose of influencing the
23 election of such candidates, who must file reports with the
24 Secretary of the Commonwealth, shall also file copies of their
25 reports in the county in which the candidate resides.]

26 (ii) All candidates and political committees, authorized by
27 candidates and created solely for the purpose of influencing the
28 election of such candidates, WHO MUST FILE REPORTS WITH THE <--
29 SECRETARY OF THE COMMONWEALTH AS REQUIRED BY THIS SUBSECTION,
30 must only file ~~campaign finance~~ reports electronically with the <--

1 Secretary of the Commonwealth.

2 * * *

3 Section 3. The act is amended by adding sections to read:

4 Section 1631.1. Manner of Filing.--

5 (a) All ~~campaign finance~~ reports and statements required to <--
6 be filed with the Secretary of the Commonwealth pursuant to
7 sections 1626, 1627, 1628 and 1641 shall be filed with the
8 Secretary of the Commonwealth using the electronic filing system
9 developed by the Secretary of the Commonwealth.

10 (b) A ~~campaign finance~~ report or statement filed <--
11 electronically shall:

12 (1) be made subject to the penalties of 18 Pa.C.S. § 4904
13 (relating to unsworn falsification to authorities);

14 (2) include the electronic signature of the treasurer or
15 assistant treasurer of the political committee serving at the
16 time of the filing of the ~~campaign finance~~ report or statement; <--
17 and

18 (3) for a report or statement filed by a candidate or a
19 candidate's political committee, include the electronic
20 signature of the candidate, stating that, to the best of the
21 candidate's knowledge, the political committee has not violated
22 a provision of this act.

23 (c) (1) A principal may authorize another person to prepare
24 the contents of the report or statement, including entry of data
25 into the electronic filing system as required under subsection
26 (a).

27 (2) Each principal authorizing another to act under
28 ~~paragraph~~ CLAUSE (1) must: <--

29 (i) review the contents of the report or statement prepared
30 under ~~paragraph~~ CLAUSE (1); and <--

1 (ii) file with the electronic filing system the approval of
2 the contents of the report or statement and verification of its
3 accuracy, in accordance with subsection (b). The approval shall
4 be transmitted personally by the principal and not on the
5 principal's behalf by any other person.

6 (3) No report or statement shall be considered complete or
7 filed until all necessary approvals and verifications shall have
8 been submitted by each principal required to file.

9 (4) As used in this subsection, "principal" shall mean any
10 person required to file any report or statement electronically
11 with the Secretary of the Commonwealth in accordance with this
12 section.

13 Section 1631.2. Inability to File Reports or Statements
14 Electronically by Deadline.--

15 (a) All reports or statements filed with the Secretary of
16 the Commonwealth under section 1631.1 are subject to the
17 following:

18 (1) If a candidate or political committee cannot file a
19 report or statement on the day the report or statement is due
20 because of the unavailability of the Department of State's
21 electronic filing system at the time the candidate or political
22 committee attempts to file the report or statement, the
23 principal shall immediately notify the Department of State in a
24 manner designated by the Secretary of the Commonwealth. If the
25 website is unavailable and the candidate or political committee
26 has notified the department, the candidate or political
27 committee shall have until 11:59 o'clock P.M. on the next
28 business day following the deadline to file the report or
29 statement electronically and the principal shall file a
30 statement affirming that the principal was unable to file the

<--

1 report or statement on time because of the unavailability of the
2 Department of State's electronic filing system at the time the
3 principal attempted to file the report or statement on the day
4 the report or statement was due. The affirmation statement shall
5 be due at the same time as the statement or report filed under
6 this subsection. The report or statement shall not be considered
7 filed until the affirmation statement is filed.

8 (2) If a candidate or political committee is unable to file
9 as required under ~~paragraph~~ CLAUSE (1) because the Department of <--
10 State's electronic filing system remains unavailable, the
11 principal shall notify the Department of State each ~~business day~~ <--
12 a report or statement cannot be filed due to the unavailability
13 of the Department of State's electronic filing system. The
14 candidate or political committee shall have until 11:59 O'CLOCK <--
15 P.M. ON the ~~following business~~ NEXT day to electronically file <--
16 the report or statement or notify the Department of State a
17 second time of the inaccessibility of the department's
18 electronic filing system. The principal shall file a statement
19 affirming that the principal was unable to file the report or
20 statement on time because of the unavailability of the
21 Department of State's electronic filing system. The affirmation
22 statement shall be due at the same time as the statement or
23 report filed under this subsection. The report or statement
24 shall not be considered filed until the affirmation statement is
25 filed.

26 (b) The Department of State may provide for an alternative
27 method of electronic filing if the department's electronic
28 filing system remains unavailable.

29 (c) For cause shown, the Secretary of the Commonwealth may
30 waive late filing fees for reports or statements filed after the

1 deadline but which are the subject of notifications as
2 prescribed by this section.

3 (d) As used in this section, "unavailability of the
4 Department of State's electronic filing system" shall mean a
5 failure of the system within the Department of State's technical
6 environment that does not allow access to the system by an
7 individual. The term does not include:

8 (1) a network issue between the user's computer and the
9 Department of State's environment; or

10 (2) a failure of any part of the user's computer or internal
11 network.

12 Section 4. Section 1632(a) of the act is amended AND THE <--
13 SECTION IS AMENDED BY ADDING A SUBSECTION to read:

14 Section 1632. Late Filing Fee; Certificate of Filing.--

15 (a) †A late filing fee for each report or statement of <--
16 expenditures and contributions REQUIRED TO BE FILED WITH THE <--
17 COUNTY BOARD OF ELECTIONS which is not filed within the

18 prescribed period shall be imposed as follows. Such fee shall be
19 ten dollars (\$10) for each day or part of a day excluding
20 Saturdays, Sundays and holidays that a report OR STATEMENT is <--
21 overdue. An additional fee of ten dollars (\$10) is due for each
22 of the first six (6) days that a report OR STATEMENT is overdue. <--

23 The maximum fee payable with respect to a single report OR <--
24 STATEMENT is two hundred fifty dollars (\$250). **[A supervisor]** <--

25 THE COUNTY BOARD OF ELECTIONS shall receive an overdue report or
26 statement even if any late filing fee due has not been paid but
27 the report or statement shall not be considered filed until all
28 fees have been paid upon the receipt by the **[supervisor]** COUNTY <--
29 BOARD OF ELECTIONS of an overdue report. No further late filing
30 fees shall be incurred notwithstanding the fact that the report

1 or statement is not considered filed. The late filing fee is the
2 personal liability of the candidate or treasurer of a political
3 committee and cannot be paid from contributions to the candidate
4 or committee, nor may such fee be considered an expenditure. A
5 report or statement of expenditures and contributions shall be
6 deemed to have been filed within the prescribed time if the
7 letter transmitting the report or statement which is received by
8 the **[supervisor]** COUNTY BOARD OF ELECTIONS is transmitted by <--
9 first class mail and is postmarked by the United States Postal
10 Service on the day prior to the final day on which the report or
11 statement is to be received: Provided, That this sentence shall
12 not be applicable to the ~~reporting requirements contained in~~ <--
13 ~~section 1628.] For reports~~ REPORTING REQUIREMENTS CONTAINED IN <--
14 SECTION 1628.

15 (A.1) FOR REPORTS or statements required to be
16 electronically filed with the Secretary of the Commonwealth, the
17 penalty for each report or statement that is not filed within
18 the prescribed period shall be fifty dollars (\$50) a day for the
19 first six (6) days the report or statement is late and one
20 hundred dollars (\$100) a day for day seven (7) and each day
21 thereafter. The maximum penalty for late reports or statements
22 is two thousand dollars (\$2,000) for each required filing. The
23 late filing fee shall be the personal responsibility of the
24 candidate or treasurer of a political committee and cannot be
25 paid from contributions to the candidate or committee nor may
26 the fee be considered an expenditure. The Secretary of the
27 Commonwealth shall receive an overdue report or statement
28 notwithstanding whether a late filing fee due has not been paid.
29 A report or statement shall not be considered filed until all
30 fees have been paid upon the receipt by the Secretary of the

1 Commonwealth of an overdue report or statement.

2 * * *

3 Section 5. ~~Section 1640 of the act is~~ SECTIONS 1640 AND <--
4 1641(A) OF THE ACT ARE amended to read:

5 Section 1640. Additional Powers and Duties of the Secretary
6 of the Commonwealth.--The Secretary of the Commonwealth shall
7 have the following additional powers and duties:

8 (1) To serve as the State clearing house for information
9 concerning the administration of this act.

10 (2) To prescribe suitable rules and regulations to carry out
11 the provisions of this act.

12 (3) To develop the prescribed forms required by the
13 provisions of this article for the making of the reports and
14 statements required to be filed with the supervisor.

15 (4) To prepare a manual setting forth recommended uniform
16 methods of bookkeeping and reporting which shall be furnished by
17 the supervisor to the person required to file such reports and
18 statements as required by this article.

19 (5) To examine the contributions to State legislative and
20 Statewide candidates and publish a list of all those political
21 committees who have contributed to candidates and who have
22 failed to file reports as required by this act within six (6)
23 days of their failure to comply.

24 (6) To maintain a searchable computer database and
25 electronic reporting system that contains the information
26 necessary for the proper administration of this article,
27 including information on contributions and expenditures by all
28 candidates and all political committees and distribution of
29 money, and including public access through the Internet. The
30 database must be designed with an emergency recovery system to

1 ensure that campaign expense records are not lost in the case of
2 an emergency, natural disaster or other event that could cause
3 the system to malfunction.

4 (7) To establish a training program on the electronic
5 reporting system and make it available to a candidate or
6 political committee.

7 (8) To ensure all information contained in a statement OR <--
8 REPORT filed, that is not on the electronic reporting system, be
9 entered into the electronic reporting system as soon as
10 practicable but no later than four (4) business days after its
11 receipt by the Secretary of the Commonwealth.

12 (9) The Department of State shall issue to the registrant an
13 electronic receipt that includes a confirmation number and the
14 date and time of filing.

15 SECTION 1641. REPORTS BY BUSINESS ENTITIES; PUBLICATION BY <--
16 SECRETARY OF THE COMMONWEALTH.--

17 (A) ANY BUSINESS ENTITY INCLUDING BUT NOT LIMITED TO A
18 CORPORATION, COMPANY, ASSOCIATION, PARTNERSHIP OR SOLE
19 PROPRIETORSHIP, WHICH HAS BEEN AWARDED NON-BID CONTRACTS FROM
20 THE COMMONWEALTH OR ITS POLITICAL SUBDIVISIONS DURING THE
21 PRECEDING CALENDAR YEAR, SHALL REPORT ELECTRONICALLY IN
22 ACCORDANCE WITH SECTION 1631.1 BY FEBRUARY 15 OF EACH YEAR TO
23 THE SECRETARY OF THE COMMONWEALTH AN ITEMIZED LIST OF ALL
24 POLITICAL CONTRIBUTIONS KNOWN TO THE BUSINESS ENTITY BY VIRTUE
25 OF THE KNOWLEDGE POSSESSED BY EVERY OFFICER, DIRECTOR,
26 ASSOCIATE, PARTNER, LIMITED PARTNER OR INDIVIDUAL OWNER THAT HAS
27 BEEN MADE BY:

28 (1) ANY OFFICER, DIRECTOR, ASSOCIATE, PARTNER, LIMITED
29 PARTNER, INDIVIDUAL OWNER OR MEMBERS OF THEIR IMMEDIATE FAMILY
30 WHEN THE CONTRIBUTIONS EXCEED AN AGGREGATE OF ONE THOUSAND

1 DOLLARS (\$1,000) BY ANY INDIVIDUAL DURING THE PRECEDING YEAR; OR
2 (2) ANY EMPLOYE OR MEMBERS OF HIS IMMEDIATE FAMILY WHOSE
3 POLITICAL CONTRIBUTION EXCEEDED ONE THOUSAND DOLLARS (\$1,000)
4 DURING THE PRECEDING YEAR.

5 FOR THE PURPOSES OF THIS SUBSECTION, "IMMEDIATE FAMILY" MEANS A
6 PERSON'S SPOUSE AND ANY UNEMANCIPATED CHILD.

7 * * *

8 Section 6. The Secretary of the Commonwealth shall transmit
9 notice to the Legislative Reference Bureau for publication in
10 the Pennsylvania Bulletin when the electronic filing system
11 developed by the Secretary of the Commonwealth is available for
12 use.

13 Section 7. This act shall take effect ~~90~~ 120 days after
14 publication in the Pennsylvania Bulletin of the notice under
15 section 6.

<--