

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 421 Session of 2019

INTRODUCED BY BOSCOLA, BROWNE, MENSCH, BARTOLOTTA, KILLION, LAUGHLIN, SCAVELLO, STEFANO AND PHILLIPS-HILL, MARCH 25, 2019

SENATOR FOLMER, STATE GOVERNMENT, AS AMENDED, JUNE 18, 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 ballots, further providing for form of
12 official election ballot; in voting machines, further
13 providing for requirements of voting machines and for form of
14 ballot labels on voting machines; in electronic voting
15 systems, further providing for requirements of electronic
16 voting systems, for forms and for election day procedures and
17 the process of voting; and, in preparation for and conduct of
18 primaries and elections, further providing for instructions
19 of voters and manner of voting in districts in which voting
20 machines are used, for count and return of votes in districts
21 in which ballots are used and for what ballots shall be
22 counted, manner of counting and defective ballots.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Sections 1003(a), 1107(b), 1110(h), 1107-A(3),
26 1109-A(a) (2) and (d), 1112-A(a) (2) and (4), 1216(d) and (f),
27 1222(a) and (b) and 1223(a) of the act of June 3, 1937
28 (P.L.1333, No.320), known as the Pennsylvania Election Code, are

1 amended to read:

2 Section 1003. Form of Official Election Ballot.--

3 (a) The official ballots for general, municipal and special
4 elections shall be in substantially the following form:

5 OFFICIAL BALLOT

6 District, Ward,
7 City of, County of,
8 State of Pennsylvania
9 Election held on the day of, [19]
10 20.....

11 A cross (X) or check () mark in the square opposite the name of
12 any candidate indicates a vote for that candidate.

13 [To vote a straight party ticket, mark a cross (X) or check
14 () in the square, in the Party Column, opposite the name of the
15 party of your choice. To vote for an individual candidate of
16 another party after making a mark in the party square, mark a
17 cross (X) or check () opposite his name. For an office where
18 more than one candidate is to be voted for, the voter, after
19 marking in the party square, may divide his vote by marking a
20 cross (X) or check () to the right of each candidate for whom
21 he or she desires to vote. For such office votes shall not be
22 counted for candidates not individually marked.]

23 To vote for a person whose name is not on the ballot, write,
24 print or paste his name in the blank space provided for that
25 purpose. A cross (X) or check () mark in the square opposite
26 the names of the candidates of any party for President and Vice-
27 President of the United States indicates a vote for all the
28 candidates of that party for presidential elector. To vote for
29 individual candidates for presidential elector, write, print or
30 paste their names in the blank spaces provided for that purpose

1 under the title "Presidential Electors." Mark ballot only in
2 black lead pencil, indelible pencil or blue, black or blue-black
3 ink, in fountain pen or ball point pen; use the same pencil or
4 pen for all markings you place on the ballot.

5 Before leaving the voting compartment, fold this ballot,
6 without displaying the markings thereon, in the same way it was
7 folded when received, then leave the compartment and exhibit the
8 ballot to one of the election officers who shall ascertain by an
9 inspection of the number appearing upon the right hand corner of
10 the back of the ballot whether the ballot so exhibited to him is
11 the same ballot which the elector received before entering the
12 voting compartment. If it is the same, the election officer
13 shall direct the elector, without unfolding the ballot, to
14 remove the perforated corner containing the number, and the
15 elector shall immediately deposit the ballot in the ballot box.
16 Any ballot deposited in a ballot box at any primary or election
17 without having the said number torn off shall be void and shall
18 not be counted.

19	[Party Column	Presidential Electors
20		
21	To Vote a Straight Party Ticket	(Vote for the candidates of
22	Mark a Cross (X) or Check () in	one party for President and
23	this Column.	Vice-President, or insert the
24		names of candidates.)
25		For
26		John Stiles
27	Democratic	and
28		Richard Doe,
29		Democratic
30		For

1 John Doe
2 Republican and
3 Richard Roe,
4 Republican
5 For
6 John Smith
7 Socialist and
8 William Jones,
9 Socialist
10 Citizens]

11 Presidential Electors.
12 (Vote for the candidates of one party for President and Vice
13 President, or insert the names of candidates)

14 For
15 John Stiles and Richard Doe..... Democratic
16 For
17 John Doe and Richard Roe..... Republican
18 For
19 John Smith and William Jones..... Socialist
20 For
21 Citizens

22 United States Senator.
23 (Vote for one)

24 Richard Roe Democratic
25 John Doe Republican
26 Richard Stiles Socialist

27 Governor.
28 (Vote for one)
29 Richard Roe Democratic
30 John Doe Republican

1 Richard Stiles Socialist
2 Representatives in Congress,
3 District.

4 (Vote for one)

5 Richard Roe Democratic

6 John Doe Republican

7 Richard Stiles Socialist

8 Senator in the General Assembly,

9 District.

10 (Vote for one)

11 John Doe Democratic

12 Richard Roe Republican

13 * * *

14 Section 1107. Requirements of Voting Machines.--No voting
15 machine shall, upon any examination or reexamination, be
16 approved by the Secretary of the Commonwealth, or by any
17 examiner appointed by him, unless it shall, at the time, satisfy
18 the following requirements:

19 * * *

20 [(b) It shall permit each voter, at other than primary
21 elections, to vote a straight political party ticket in one
22 operation, and, in one operation, to vote for all the candidates
23 of one political party for presidential electors, and, in one
24 operation, to vote for all the candidates of one political party
25 for every office to be voted for, except those offices as to
26 which he votes for individual candidates.]

27 * * *

28 Section 1110. Form of Ballot Labels on Voting Machines.--

29 * * *

30 (h) The names of all candidates of a political party shall

1 appear in the same row or column, and except in cases of names
2 of presidential commitments of nominees for delegate or
3 alternate delegate to political party National conventions no
4 other names shall appear in the same row or column[, to the left
5 or top of which shall be a straight party lever, by means of
6 which an elector may, in one operation, vote for all the
7 candidates of that political party for every office to be voted
8 for]. Where the names of the delegate or alternate delegate and
9 the presidential candidate he is supporting shall both appear,
10 the print size of the name of the delegate or alternate delegate
11 shall be equal to the size of the name of the particular
12 presidential candidate to whom he is committed, or in the case
13 where he is uncommitted, the word "uncommitted" shall appear in
14 the same size print. The names of such candidates shall be
15 arranged under or opposite the title of the office for which
16 they are candidates, and shall appear in the order of the votes
17 obtained by the candidate for Governor of the party nominated at
18 the last gubernatorial election, beginning with the party
19 obtaining the highest number of votes: Provided, however, That
20 in the case of parties or bodies not represented on the ballot
21 at the last gubernatorial election, the names of the candidates
22 of such parties shall be arranged alphabetically, according to
23 the party or body name. The names of all candidates of a
24 political body shall appear in the same row or column, and, if
25 the number of parties and bodies permits, each political body
26 shall be entitled exclusively to a separate row or column[, with
27 a straight party lever]. If, however, the number of political
28 parties and political bodies renders it impossible or
29 impracticable to so arrange the political bodies, in such case
30 said bodies shall not be entitled to a separate row or column

1 [and a straight party lever], but shall be listed by political
2 appellations on the first left hand or top row, with the
3 designating letter and number of the ballot label where their
4 candidates may be found, together with the political
5 appellations of other political bodies, whose candidates may be
6 interspersed on the same row or column. Subject to the aforesaid
7 limitations, the form and arrangement of ballot labels, as to
8 the placing thereon of political bodies, shall be within the
9 discretion of the county board.

10 * * *

11 Section 1107-A. Requirements of Electronic Voting Systems.--
12 No electronic voting system shall, upon any examination or
13 reexamination, be approved by the Secretary of the Commonwealth,
14 or by any examiner appointed by him, unless it shall be
15 established that such system, at the time of such examination or
16 reexamination:

17 * * *

18 [(3) Permits each voter, at other than primary elections, to
19 vote a straight political party ticket by one mark or act and,
20 by one mark or act, to vote for all the candidates of one
21 political party for presidential electors and, by one mark or
22 act, to vote for all the candidates of one political party for
23 every office to be voted for, and every such mark or act shall
24 be equivalent to and shall be counted as a vote for every
25 candidate of the political party so marked including its
26 candidates for presidential electors, except with respect to
27 those offices as to which the voter has registered a vote for
28 individual candidates of the same or another political party or
29 political body, in which case the automatic tabulating equipment
30 shall credit the vote for that office only for the candidate

1 individually so selected, notwithstanding the fact that the
2 voter may not have individually voted for the full number of
3 candidates for that office for which he was entitled to vote.]

4 * * *

5 Section 1109-A. Forms.--(a) * * *

6 (2) The pages placed on the voting device shall be of
7 sufficient number to include, following the listing of
8 particular candidates, the names of candidates for any
9 nonpartisan offices and any measures for which a voter may be
10 qualified to vote on a given election day, provided further that
11 for municipal, general or special elections, the first ballot
12 page shall list in the order that such political parties are
13 entitled to priority on the ballot, the names of such political
14 parties [with designating arrows so as to indicate the voting
15 square or position on the ballot card where the voter may insert
16 by one mark or punch the straight party ticket of his choice].

17 * * *

18 [(d) In partisan elections the ballot cards shall include a
19 voting square or position whereby the voter may by one punch or
20 mark record a straight party ticket vote for all the candidates
21 of one party or may vote a split ticket for the candidates of
22 his choice.]

23 * * *

24 Section 1112-A. Election Day Procedures and the Process of
25 Voting.--(a) In an election district which uses an electronic
26 voting system in which votes are registered electronically, the
27 following procedures will be applicable for the conduct of the
28 election at the election district:

29 * * *

30 (2) At [primary] all elections, the voter shall be able to

1 vote for each candidate individually by the means provided. [At
2 all other elections, he may vote for each candidate
3 individually, or he may vote a straight political party ticket
4 in one operation by operating the straight political party
5 mechanism of the political party or political body of his
6 choice. He may also, after having operated the straight party
7 mechanism and before recording his vote, cancel the vote for any
8 candidate of such political party or political body and may
9 thereupon vote for a candidate of another party, or political
10 body for the same office.] The voter may also vote individually
11 for or against a question submitted to the vote of the electors.

12 * * *

13 (4) At any general election at which presidential electors
14 are to be chosen, each elector shall be permitted to vote by one
15 operation for all the presidential electors of a political party
16 or political body. For each party or body nominating
17 presidential electors, a ballot label shall be provided
18 containing only the words "Presidential Electors," preceded by
19 the names of the party or body and followed by the names of the
20 candidates thereof for the Office of President and Vice-
21 President, and the corresponding counter or registering device
22 shall register votes cast for said electors when thus voted for
23 collectively. If any elector desires to vote a ticket for
24 presidential electors made up of the names of persons nominated
25 by different parties or bodies, or partially of names of persons
26 so in nomination and partially of names of persons not in
27 nomination by any party or body, he may write or deposit a paper
28 ballot prepared by himself in the receptacle provided in or on
29 the voting device for that purpose, or he may list their names
30 on the write-in ballot or envelope provided for that purpose.

1 The voting device shall be so constructed that it will not be
2 possible for any one voter to vote a straight party ticket for
3 presidential electors and at the same time to deposit a ballot
4 for presidential electors in a receptacle as [hereinabove]
5 provided in this section. When the votes for presidential
6 electors are counted, the votes appearing upon the counter or
7 registering device corresponding to the ballot label containing
8 the names of the candidates for President and Vice-President of
9 any party or body shall be counted as votes for each of the
10 candidates for presidential elector of such party or body, and
11 thereupon all candidates for presidential elector shall be
12 credited, in addition, with the votes cast for them upon the
13 ballots deposited in the machine, as [hereinabove] provided in
14 this section.

15 * * *

16 Section 1216. Instructions of Voters and Manner of Voting in
17 Districts in Which Voting Machines are Used.--

18 * * *

19 (d) At [primaries] all elections, he shall vote for each
20 candidate individually by operating the key, handle, pointer or
21 knob, upon or adjacent to which the name of such candidate is
22 placed. [At elections, he may vote for each candidate
23 individually by operating the key, handle, pointer or knob, upon
24 or adjacent to which the names of candidates of his choice are
25 placed, or he may vote a straight political party ticket in one
26 operation by operating the straight political party lever of the
27 political party or political body of his choice, if such machine
28 has thereon a separate lever for all the candidates of the
29 political body. He may also, after having operated the straight
30 party lever, and before recording his vote, cancel the vote for

1 any candidate of such political party or political body by
2 replacing the individual key, handle, pointer or knob of such
3 candidate, and may thereupon vote for a candidate of another
4 party, or political body for the same office by operating the
5 key, handle, pointer or knob, upon or adjacent to which the name
6 of such candidate appears.] In the case of a question submitted
7 to the vote of the electors, the elector shall operate the key,
8 handle, pointer or knob corresponding to the answer which he
9 desires to give.

10 * * *

11 (f) At any general election at which presidential electors
12 are to be chosen, each elector shall be permitted to vote by one
13 operation for all the presidential electors of a political party
14 or political body. For each party or body nominating
15 presidential electors, a ballot label shall be provided
16 containing only the words "Presidential Electors," preceded by
17 the names of the party or body and followed by the names of the
18 candidates thereof for the office of President and Vice-
19 President, and the corresponding counter or registering device
20 shall register votes cast for said electors when thus voted for
21 collectively. If an elector desires to vote a ticket for
22 presidential electors made up of the names of persons nominated
23 by different parties or bodies, or partially of names of persons
24 so in nomination and partially of names of persons not in
25 nomination by any party or body, or wholly of names of persons
26 not in nomination by any party or body, he may write or deposit
27 a paper ballot prepared by himself in the receptacle provided in
28 or on the machine for the purpose. The machine shall be so
29 constructed that it will not be possible for any one voter to
30 vote a straight party ticket for presidential electors and at

1 the same time to deposit a ballot for presidential electors in a
2 receptacle as [hereinabove] provided in this section. When the
3 votes for presidential electors are counted, the votes appearing
4 upon the counter or registering device corresponding to the
5 ballot label containing the names of the candidates for
6 President and Vice-President of any party or body shall be
7 counted as votes for each of the candidates for presidential
8 elector of such party or body, and thereupon all candidates for
9 presidential elector shall be credited, in addition, with the
10 votes cast for them upon the ballots deposited in the machine,
11 as [hereinabove] provided in this section.

12 * * *

13 Section 1222. Count and Return of Votes in Districts in
14 Which Ballots are Used.--

15 (a) As soon as all the ballots have been properly accounted
16 for, and those outside the ballot box, as well as the "Voting
17 Check List," numbered lists of voters and district register
18 sealed, the election officers shall forthwith open the ballot
19 box, and take therefrom all ballots therein, and at primaries,
20 separate the same according to the party to which they belong.
21 The ballots shall then be counted one by one, and a record made
22 of the total number, and at primaries of the total number cast
23 for each party. Then the judge, under the scrutiny of the
24 minority inspector, or the minority inspector, under the
25 scrutiny of the judge, in the presence of the other officers,
26 clerks, and of the overseers, if any, and within the hearing and
27 sight of the watchers outside the enclosed space, shall read
28 aloud the names of the candidates marked or inserted upon each
29 ballot (at primaries the ballots of each party being read in
30 sequence), together with the office for which the person named

1 is a candidate, and the answers contained on the ballots to the
2 questions submitted, if any, and the majority inspector and
3 clerks shall carefully enter each vote as read, and keep account
4 of the same in ink in triplicate tally papers (triplicate tally
5 papers for each party at primaries) to be provided by the county
6 board of elections for that purpose, all three of which shall be
7 made at the same time.[: Provided, That at all general,
8 municipal and special elections, in entering each vote received
9 by candidates at such election, it shall not be necessary to
10 enter separate tally marks for each vote received by such
11 candidates upon the ballots containing the same votes for the
12 same names, commonly known, and in this act designated as
13 "Straight Party Tickets" for such purpose straight party ticket
14 votes shall be entered carefully as each straight party ticket
15 vote is read on the triplicate tally sheets under the heading
16 "Number of votes received upon
17 the straight party tickets." Upon
18 completing the number of votes received by each straight party
19 ticket, the number so tallied for each party shall be entered
20 numerically on the extreme right hand margin of each such tally
21 paper.] All ballots, after being removed from the box, shall be
22 kept within the unobstructed view of all persons in the voting
23 room until replaced in the box. No person while handling the
24 ballots shall have in his hand any pencil, pen, stamp or other
25 means of marking or spoiling any ballot. The election officers
26 shall forthwith proceed to canvass and compute the votes cast,
27 and shall not adjourn or postpone the canvass or computation
28 until it shall have been fully completed.

29 (b) When the vote cast for the different persons named upon
30 the ballots and upon the questions, if any, appearing thereon,

1 shall have been fully recorded in the tally papers and counted,
2 the election officers shall duly certify to the number of votes
3 cast for each person (upon the respective party tickets at
4 primaries), and shall prepare in ink two (2) general returns,
5 showing, in addition to the entries made thereon as aforesaid,
6 the total number of ballots received from the county board (the
7 total of each party at primaries), the number of ballots cast
8 (the number of each party at primaries), the number of ballots
9 (of each party at primaries) declared void, and the number of
10 ballots spoiled and cancelled, and any blank ballots cast, as
11 well as the votes cast for each candidate. At elections, the
12 number of votes cast for each candidate by each political party
13 or political body of which such candidate is a nominee shall be
14 separately stated.[: Provided, That the number of votes received
15 by each set of candidates upon "straight party tickets" shall be
16 entered opposite the names of the respective candidates in a
17 column immediately adjoining upon the left which column shall be
18 of convenient width and shall be headed "number of votes
19 received upon straight party tickets."] In an immediate column
20 to the left thereto, the number of votes received by each
21 candidate upon all ballots [other than "straight party tickets"
22 including all ballots known as "split tickets"] shall be
23 entered, such column to be of convenient width and shall be
24 headed "number of votes [received other than upon straight party
25 tickets." The number of votes received by each candidate as
26 shown in the column headed "number of votes received upon
27 straight party tickets" shall then be added, together with the
28 number of votes received by each candidate as shown in the
29 column headed "number of votes received other than upon straight
30 party tickets" and thereupon, the] received." The total number

1 of votes received by each candidate shall be entered in a column
2 on the extreme right-hand side of the return sheets, which
3 column shall be of convenient width and shall be headed "total
4 number of votes."

5 Nothing in this section contained shall be construed to
6 authorize or permit the canvassing, counting or tallying ballots
7 with any less degree of strictness than otherwise required by
8 law. [, the intention of this section being to dispense with the
9 individual tally marks only so far as the so-called "straight
10 party tickets" are concerned, and all other operations of
11 tallying, counting, canvassing and announcing the votes shall
12 proceed as near as may be in accordance with the other
13 provisions of this act.]

14 * * *

15 Section 1223. What Ballots Shall Be Counted; Manner of
16 Counting; Defective Ballots.--(a) No ballot which is so marked
17 as to be capable of identification shall be counted. Any ballot
18 that is marked in blue, black or blue-black ink, in fountain pen
19 or ball point pen, or black lead pencil or indelible pencil,
20 shall be valid and counted: Provided, That all markings on the
21 ballot are made by the same pen or pencil. Any ballot marked by
22 any other mark than an (X) or check () in the spaces provided
23 for that purpose shall be void and not counted: Provided,
24 however, That no vote recorded thereon shall be declared void
25 because a cross (X) or check () mark thereon is irregular in
26 form. [Any erasure, mutilation or defective marking of the
27 straight party column at November elections shall render the
28 entire ballot void, unless the voter has properly indicated his
29 choice for candidates in any office block, in which case the
30 vote or votes for such candidates only shall be counted.] Any

1 erasure or mutilation in the vote in any office block shall
2 render void the vote for any candidates in said block, but shall
3 not invalidate the votes cast on the remainder of the ballot, if
4 otherwise properly marked. Any ballot indicating a vote for any
5 person whose name is not printed on the ballot, by writing,
6 stamping or sticker, shall be counted as a vote for such person,
7 if placed in the proper space or spaces provided for that
8 purpose, whether or not an (X) or check () is placed after the
9 name of such person: Provided, however, That if such writing,
10 stamping or sticker is placed over the name of a candidate
11 printed on the ballot, it shall render the entire vote in said
12 office block void. If an elector shall mark his ballot for more
13 persons for any office than there are candidates to be voted for
14 for such office, or if, for any reason, it may be impossible to
15 determine his choice for any office, his ballot shall not be
16 counted for such office, but the ballot shall be counted for all
17 offices for which it is properly marked. Ballots not marked, or
18 improperly or defectively marked, so that the whole ballot is
19 void, shall be set aside and shall be preserved with the other
20 ballots.

21 * * *

22 Section 2. This act shall apply to elections ~~commencing more~~ <--
23 ~~than 90 days after the effective date of this section~~ HELD ON OR <--
24 AFTER JANUARY 1, 2020.

25 Section 3. This act shall take effect immediately.