

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 AND
 TARTAGLIONE, FEBRUARY 1, 2019

REFERRED TO STATE GOVERNMENT, FEBRUARY 1, 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 and for place of filing, providing for manner of
 15 filing and for inability to file reports or statements
 16 electronically by deadline and further providing for late
 17 filing fee and certificate of filing and for additional
 18 powers and duties of the Secretary of the Commonwealth.

19 The General Assembly of the Commonwealth of Pennsylvania
 20 hereby enacts as follows:

21 Section 1. Section 1626 of the act of June 3, 1937
 22 (P.L.1333, No.320), known as the Pennsylvania Election Code, is
 23 amended by adding a subsection to read:

24 Section 1626. Reporting by Candidate and Political
 25 Committees and other Persons.--

1 * * *

2 (k) (1) All campaign finance reports required to be filed
3 with the Secretary of the Commonwealth shall be filed
4 electronically using the electronic filing system developed by
5 the Secretary of the Commonwealth that is consistent with the
6 purposes of this subsection. A campaign finance report submitted
7 electronically must:

8 (i) be made under oath or equivalent affirmation;

9 (ii) require an electronic signature from the treasurer or
10 assistant treasurer at the time of the filing of the campaign
11 finance report. In addition, a report filed by a political
12 committee, authorized by a candidate and created solely for the
13 purpose of influencing an election on behalf of that candidate
14 must be signed, using an electronic signature, under oath or
15 equivalent affirmation by the candidate that, to the best of the
16 candidate's knowledge, the political committee has not violated
17 a provision of this act; and

18 (iii) be made subject to the penalties for perjury.

19 (2) (i) A candidate or political committee not able to file
20 electronically the report or statement required by this
21 subsection shall request an exemption from the Secretary of the
22 Commonwealth. The candidate or political committee upon approval
23 of the Secretary of the Commonwealth shall file reports and
24 statements on forms developed by the Secretary of the
25 Commonwealth.

26 (ii) In order to request an exemption for electronic
27 submissions or reports or statements, the candidate or political
28 committee must demonstrate technological hardship.

29 Section 2. Sections 1628 and 1631(1) of the act are amended
30 to read:

1 Section 1628. Late Contributions and Independent
2 Expenditures.--Any candidate or political committee, authorized
3 by a candidate and created solely for the purpose of influencing
4 an election on behalf of that candidate, which receives any
5 contribution or pledge of five hundred dollars (\$500) or more,
6 and any person making an independent expenditure, as defined by
7 this act, of five hundred dollars (\$500) or more after the final
8 pre-election report has been deemed completed shall report such
9 contribution, pledge or expenditure to the appropriate
10 supervisor. Such report shall be sent by the candidate, chairman
11 or treasurer of the political committee within twenty-four (24)
12 hours of receipt of the contribution. It shall be the duty of
13 the supervisor to confirm the substance of such report. [The
14 report shall be made by telegram, mailgram, overnight mail or
15 facsimile transmission.] The reports filed with the Secretary of
16 the Commonwealth shall be filed electronically in accordance
17 with section 1631.1. Any candidate in his own behalf, or
18 chairman, treasurer or candidate in behalf of the political
19 committee may also comply with this section by appearing
20 personally before such supervisor and reporting such late
21 contributions or pledges.

22 Section 1631. Place of Filing.--

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

25 (1) (i) Any candidate, individual, or committee required to
26 file a report concerning any candidate shall file that statement
27 or report in the office of the supervisor with whom the
28 candidate filed a nomination paper, nomination certificate,
29 nomination petitions or with the supervisor with whom the
30 candidate would have filed such if he had sought nomination in

1 that manner.

2 [(ii) All candidates and political committees, authorized by
3 candidates and created solely for the purpose of influencing the
4 election of such candidates, who must file reports with the
5 Secretary of the Commonwealth, shall also file copies of their
6 reports in the county in which the candidate resides.]

7 (ii) All candidates and political committees, authorized by
8 candidates and created solely for the purpose of influencing the
9 election of such candidates, must only file campaign finance
10 reports electronically with the Secretary of the Commonwealth.

11 * * *

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

13 Section 1631.1. Manner of Filing.--

14 (a) All campaign finance reports and statements required to
15 be filed with the Secretary of the Commonwealth pursuant to
16 sections 1626, 1627, 1628 and 1641 shall be filed with the
17 Secretary of the Commonwealth using the electronic filing system
18 developed by the Secretary of the Commonwealth.

19 (b) A campaign finance report or statement filed
20 electronically shall:

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

23 (2) include the electronic signature of the treasurer or
24 assistant treasurer of the political committee serving at the
25 time of the filing of the campaign finance report or statement;
26 and

27 (3) for a report or statement filed by a candidate or a
28 candidate's political committee, include the electronic
29 signature of the candidate, stating that, to the best of the
30 candidate's knowledge, the political committee has not violated

1 a provision of this act.

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

6 (2) Each principal authorizing another to act under
7 paragraph (1) must:

8 (i) review the contents of the report or statement prepared
9 under paragraph (1); and

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

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

18 (4) As used in this subsection, "principal" shall mean any
19 person required to file any report or statement electronically
20 with the Secretary of the Commonwealth in accordance with this
21 section.

22 Section 1631.2. Inability to File Reports or Statements
23 Electronically by Deadline.--

24 (a) All reports or statements filed with the Secretary of
25 the Commonwealth under section 1631.1 are subject to the
26 following:

27 (1) If a candidate or political committee cannot file a
28 report or statement on the day the report or statement is due
29 because of the unavailability of the Department of State's
30 electronic filing system at the time the candidate or political

1 committee attempts to file the report or statement, the
2 principal shall immediately notify the Department of State in a
3 manner designated by the Secretary of the Commonwealth. If the
4 website is unavailable and the candidate or political committee
5 has notified the department, the candidate or political
6 committee shall have until 11:59 o'clock P.M. on the next
7 business day following the deadline to file the report or
8 statement electronically and the principal shall file a
9 statement affirming that the principal was unable to file the
10 report or statement on time because of the unavailability of the
11 Department of State's electronic filing system at the time the
12 principal attempted to file the report or statement on the day
13 the report or statement was due. The affirmation statement shall
14 be due at the same time as the statement or report filed under
15 this subsection. The report or statement shall not be considered
16 filed until the affirmation statement is filed.

17 (2) If a candidate or political committee is unable to file
18 as required under paragraph (1) because the Department of
19 State's electronic filing system remains unavailable, the
20 principal shall notify the Department of State each business day
21 a report or statement cannot be filed due to the unavailability
22 of the Department of State's electronic filing system. The
23 candidate or political committee shall have until the following
24 business day to electronically file the report or statement or
25 notify the Department of State a second time of the
26 inaccessibility of the department's electronic filing system.
27 The principal shall file a statement affirming that the
28 principal was unable to file the report or statement on time
29 because of the unavailability of the Department of State's
30 electronic filing system. The affirmation statement shall be

1 due at the same time as the statement or report filed under this
2 subsection. The report or statement shall not be considered
3 filed until the affirmation statement is filed.

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

7 (c) For cause shown, the Secretary of the Commonwealth may
8 waive late filing fees for reports or statements filed after the
9 deadline but which are the subject of notifications as
10 prescribed by this section.

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

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

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

20 Section 4. Section 1632(a) of the act is amended to read:

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

22 (a) [A late filing fee for each report or statement of
23 expenditures and contributions which is not filed within the
24 prescribed period shall be imposed as follows. Such fee shall be
25 ten dollars (\$10) for each day or part of a day excluding
26 Saturdays, Sundays and holidays that a report is overdue. An
27 additional fee of ten dollars (\$10) is due for each of the first
28 six (6) days that a report is overdue. The maximum fee payable
29 with respect to a single report is two hundred fifty dollars
30 (\$250). A supervisor shall receive an overdue report or

1 statement even if any late filing fee due has not been paid but
2 the report or statement shall not be considered filed until all
3 fees have been paid upon the receipt by the supervisor of an
4 overdue report. No further late filing fees shall be incurred
5 notwithstanding the fact that the report or statement is not
6 considered filed. The late filing fee is the personal liability
7 of the candidate or treasurer of a political committee and
8 cannot be paid from contributions to the candidate or committee,
9 nor may such fee be considered an expenditure. A report or
10 statement of expenditures and contributions shall be deemed to
11 have been filed within the prescribed time if the letter
12 transmitting the report or statement which is received by the
13 supervisor is transmitted by first class mail and is postmarked
14 by the United States Postal Service on the day prior to the
15 final day on which the report or statement is to be received:
16 Provided, That this sentence shall not be applicable to the
17 reporting requirements contained in section 1628.] For reports
18 or statements required to be electronically filed with the
19 Secretary of the Commonwealth, the penalty for each report or
20 statement that is not filed within the prescribed period shall
21 be fifty dollars (\$50) a day for the first six (6) days the
22 report or statement is late and one hundred dollars (\$100) a day
23 for day seven (7) and each day thereafter. The maximum penalty
24 for late reports or statements is two thousand dollars (\$2,000)
25 for each required filing. The late filing fee shall be the
26 personal responsibility of the candidate or treasurer of a
27 political committee and cannot be paid from contributions to the
28 candidate or committee nor may the fee be considered an
29 expenditure. The Secretary of the Commonwealth shall receive an
30 overdue report or statement notwithstanding whether a late

1 filing fee due has not been paid. A report or statement shall
2 not be considered filed until all fees have been paid upon the
3 receipt by the Secretary of the Commonwealth of an overdue
4 report or statement.

5 * * *

6 Section 5. Section 1640 of the act is amended to read:

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

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

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

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

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

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

26 (6) To maintain a searchable computer database and
27 electronic reporting system that contains the information
28 necessary for the proper administration of this article,
29 including information on contributions and expenditures by all
30 candidates and all political committees and distribution of

1 money, and including public access through the Internet. The
2 database must be designed with an emergency recovery system to
3 ensure that campaign expense records are not lost in the case of
4 an emergency, natural disaster or other event that could cause
5 the system to malfunction.

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

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

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

17 Section 6. The Secretary of the Commonwealth shall transmit
18 notice to the Legislative Reference Bureau for publication in
19 the Pennsylvania Bulletin when the electronic filing system
20 developed by the Secretary of the Commonwealth is available for
21 use.

22 Section 7. This act shall take effect 90 days after
23 publication in the Pennsylvania Bulletin of the notice under
24 section 6.