

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1482 Session of 2021

INTRODUCED BY CUTLER, RYAN, ROWE, BOBACK, STAMBAUGH, HAMM, ECKER, SCHMITT, COOK, STAATS, MILLARD, IRVIN, FEE, LEWIS, HICKERNELL, GLEIM, WHEELAND, OWLETT, CAUSER, MERCURI, HENNESSEY, METCALFE, KAUFFMAN, GAYDOS, SONNEY, GROVE, EMRICK, ROAE, MENTZER, TOPPER, SAYLOR, THOMAS, JAMES, MOUL, SMITH, KEEFER, B. MILLER, SANKEY, OBERLANDER, STRUZZI, ZIMMERMAN, SCHLEGEL CULVER, JOZWIAK, WARNER, DAVANZO, GILLEN, HERSHEY, ARMANINI, TOOHIL, FARRY AND TOMLINSON, MAY 25, 2021

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 25, 2021

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 preliminary provisions, establishing the  
 12 Bureau of Election Audits; in the Secretary of the  
 13 Commonwealth, providing for reports on implementation of  
 14 elections; and, in electronic voting systems, repealing  
 15 provisions relating to statistical sample.

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

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

21 Section 107. Bureau of Election Audits.--(a) The Bureau of

1 Election Audits is established in the Office of the Auditor  
2 General.

3 (b) The Auditor General shall conduct independent election  
4 audits in accordance with Generally Accepted Governmental Audit  
5 Standards (GAGAS) and shall ensure that the audit methodology  
6 will verify the accuracy of the election and the accuracy of all  
7 election equipment used.

8 (c) For audits that occur during an election year in which  
9 the Auditor General stands for election, the Auditor General  
10 shall appoint an independent Special Auditor who shall be a  
11 licensed certified public accountant and shall have experience  
12 in completing election audits to oversee the operation of the  
13 Bureau of Election Audits for an election year in which the  
14 Auditor General stands for election.

15 (d) The Bureau of Election Audits shall continually improve  
16 the election audits required under this section to ensure the  
17 accuracy of election results and compliance with Federal and  
18 State laws.

19 (e) The duties of the Bureau of Election Audits shall  
20 include:

21 (1) Except if a full manual recount of an election is  
22 undertaken, conducting result-confirming audits of each election  
23 in this Commonwealth, completed by the third Friday following  
24 the election. The audits shall include:

25 (i) A statistically sound, ballot-comparison, risk-limiting  
26 audit of ballots for each election, except for an election which  
27 is uncontested.

28 (ii) An audit of election machine logs.

29 (iii) An audit of the returned absentee and mail-in ballots  
30 in each county, including a comparison of retained outer mailing

1 envelopes, secrecy envelopes and the total number of absentee  
2 and mail-in ballots canvassed.

3 (iv) An audit comparing each canvassed and retained paper  
4 ballot in each county with the number of votes recorded.

5 (v) An audit of the pre-election testing of election  
6 equipment conducted by each county.

7 (vi) Any other audit deemed necessary by the Bureau of  
8 Election Audits to ensure the public trust in the outcome of  
9 each election.

10 (2) Conducting performance audits of the operations of  
11 elections systems and processes at least once every five years.

12 The audits shall include:

13 (i) An audit of each county election office in this  
14 Commonwealth.

15 (ii) An audit of the Department of State's election  
16 equipment certification process.

17 (iii) An audit of the Statewide Voter Registration System,  
18 including an audit of the accuracy of the voter registration  
19 list.

20 (iv) An audit of the Department of State's administration of  
21 elections.

22 (v) Any other audit deemed necessary by the Bureau of  
23 Election Audits to ensure public trust in the election  
24 administration in this Commonwealth.

25 (3) Publicly posting audit methodologies for each of the  
26 audits required under this section, including on the Auditor  
27 General's publicly accessible Internet website and the  
28 Department of State's publicly accessible Internet website.

29 (4) Publicly posting the results of each audit required  
30 under this section, including on the Auditor General's publicly

1 accessible Internet website, the Department of State's publicly  
2 accessible Internet website and each county's publicly  
3 accessible Internet website.

4 (5) Monitoring corrective action plans developed by entities  
5 audited under this section, ensuring that the corrective action  
6 plan addresses deficiencies identified by an audit and that the  
7 plan is successfully executed to remediate deficiencies.

8 (f) The duties of the County Boards of Elections shall  
9 include:

10 (1) Cooperating with the Bureau of Election Audits to enable  
11 efficient conduct of each audit required under subsection (e).

12 (2) Cooperating with the Bureau of Election Audits to post  
13 the results of audits conducted in that county as required under  
14 subsection (e) (4).

15 (3) Holding a public meeting between the third Saturday  
16 after an election and the fourth Thursday after an election, at  
17 which the board shall make publicly available to the residents  
18 of the county the results of audits conducted under subsection  
19 (e).

20 (4) Submitting to the Department of State, along with the  
21 certified results of the election, a report with the results of  
22 the audits conducted under subsection (e) (3). The report shall  
23 include the following:

24 (i) The overall accuracy of election results as confirmed by  
25 the audits under subsection (e) (3).

26 (ii) A description of any problem or discrepancy encountered  
27 in the administration of the election.

28 (iii) The identified causes of any problem or discrepancy.

29 (iv) Recommended corrective actions with respect to avoiding  
30 or mitigating any problem or discrepancy in future elections.

1 (5) Development of a corrective action plan to address any  
2 findings of error or deficiency within an audit conducted under  
3 this section.

4 (g) The duties of the Department of State shall include:

5 (1) Cooperating with the Bureau of Election Audits to enable  
6 efficient conduct of each audit required under subsection (e).

7 (2) Cooperating with the Bureau of Election Audits to post  
8 the methodologies and results of audits conducted in the  
9 Commonwealth as required under subsection (e) (3) and (4).

10 (3) Developing a corrective action plan to address any  
11 findings of error or deficiency within an audit conducted under  
12 this section.

13 Section 209. Reports on Implementation of Elections.--(a)  
14 No later than 60 days after an election, the Bureau of  
15 Commissions, Elections and Legislation of the Department of  
16 State shall issue a report to the chair and minority chair of  
17 the State Government Committee of the Senate and the chair and  
18 minority chair of the State Government Committee of the House of  
19 Representatives. A copy of the report shall be made available on  
20 the Department of State's publicly accessible Internet website.

21 (b) The report under subsection (a) shall include only the  
22 following information relating to the administration of the  
23 election by the Department of State, a county board of elections  
24 or a registration commission established under 25 Pa.C.S. § 1203  
25 (relating to commissions):

26 (1) For each county and the sum for this Commonwealth, the  
27 number of applications for an absentee ballot which were  
28 received by the county boards of elections.

29 (2) For each county and the sum for this Commonwealth, the  
30 number of applications for a mail-in ballot which were received

1 by the county boards of elections.

2 (3) For each county and the sum for this Commonwealth, the  
3 number of applications for an absentee ballot which were  
4 approved by the county boards of elections.

5 (4) For each county and the sum for this Commonwealth, the  
6 number of applications for a mail-in ballot which were approved  
7 by the county boards of elections.

8 (5) For each county and the sum for this Commonwealth, the  
9 number of absentee ballots which were voted by the electors.

10 (6) For each county and the sum for this Commonwealth, the  
11 number of mail-in ballots which were voted by the electors.

12 (7) For each county and the sum for this Commonwealth, the  
13 number of qualified electors voting by a provisional ballot  
14 under section 1306(b) (2).

15 (8) For each county and the sum for this Commonwealth, the  
16 number of qualified electors voting by provisional ballot under  
17 section 1306-D(b) (2).

18 (9) For each county and the sum for this Commonwealth, the  
19 number of provisional ballots under paragraph (7) which were  
20 canvassed.

21 (10) For each county and the sum for this Commonwealth, the  
22 number of provisional ballots under paragraph (8) which were  
23 canvassed.

24 (11) For each county and the sum for this Commonwealth, the  
25 number of applications for an absentee ballot by an individual  
26 who was not a registered elector at the time of the application  
27 and for whom a voter registration application was timely  
28 received after the application for an absentee ballot was  
29 received.

30 (12) For each county and the sum for this Commonwealth, the

1 number of applications for a mail-in ballot by an individual who  
2 was not a registered elector at the time of the application and  
3 for whom a voter registration application was timely received.

4 (13) For each county and the sum for this Commonwealth, the  
5 number of voter registration applications under section 1231 and  
6 25 Pa.C.S. Pt. IV (relating to voter registration) which were  
7 received fewer than:

8 (i) thirty days before the election; and

9 (ii) fifteen days before the election.

10 (14) For each county, the starting and ending date and time  
11 that the county board of elections met to pre-canvass absentee  
12 ballots and mail-in ballots under section 1308(g)(1.1).

13 (15) For each county, the starting and ending date and time  
14 that the county board of elections met to canvass absentee  
15 ballots and mail-in ballots under section 1308(g)(2).

16 (16) For each county and the sum for this Commonwealth, the  
17 number of absentee ballots which were challenged under section  
18 1302.2(c).

19 (17) For each county and the sum for this Commonwealth, the  
20 number of mail-in ballots which were challenged under section  
21 1302.2-D(a)(2).

22 (18) For each county and the sum for this Commonwealth, the  
23 number of absentee ballots subject to challenges under paragraph  
24 (17) that were not canvassed.

25 (19) For each county and the sum for this Commonwealth, the  
26 number of mail-in ballots subject to challenges under paragraph  
27 (17) that were not canvassed.

28 (20) The number of incidents known to the Department of  
29 State, county board of elections or registration commission  
30 relating to each of the following categories:

1 (i) Absentee ballots or mail-in ballots that were sent to  
2 the wrong individual or wrong address.

3 (ii) Absentee ballots or mail-in ballots that were voted by  
4 an individual other than the individual who applied for the  
5 absentee ballot or mail-in ballot.

6 (iii) Absentee ballots or mail-in ballots that were returned  
7 to the county board of elections by a means other than that  
8 which is permissible by law, notwithstanding any court opinion  
9 or order.

10 (21) To the extent consistent with Federal and State law, a  
11 review of any action taken by the Department of State, county  
12 board of elections or registration commission in response to an  
13 incident under paragraph (20), including determinations made on  
14 the incident, legal actions filed and referrals to law  
15 enforcement.

16 (22) A review of issues or incidents encountered with an  
17 electronic voting system that received the approval of the  
18 Secretary of the Commonwealth under section 1105-A, including  
19 any technical issues or software problems encountered in polling  
20 places and recommendations for spot verifications of tabulated  
21 votes as compared to reported votes.

22 (23) A review of any inconsistent treatment of absentee  
23 ballots and mail-in ballots received by county boards of  
24 elections after 8 p.m. on the day of the election.

25 (24) A review of any inconsistencies in the manner in which  
26 county boards of elections received, processed or canvassed  
27 absentee ballots and mail-in ballots which did not comply with  
28 the requirements of Article XIII or Article XIII-D.

29 (25) A review of the access given to poll watchers as  
30 provided for under section 417, including any inconsistencies in



1 the standards used in allowing access or disparate treatment of  
2 poll watchers due to political affiliation.

3 (26) A review of the access given to authorized  
4 representatives under section 1308(g)(1.1) and (2), including  
5 any inconsistencies in the standards used in allowing access or  
6 disparate treatment of authorized representatives due to  
7 political affiliation.

8 (27) A review of issues or incidents regarding the in-person  
9 return of absentee ballots and mail-in ballots to the county  
10 board of elections at a location other than the main office of  
11 the county board of elections, the monitoring of the locations  
12 and any inconsistencies with the monitoring and usage of the  
13 locations by county board of elections.

14 (28) A review of issues or incidents of the review process  
15 of absentee ballots, mail-in ballots, ballots cast at polling  
16 places and provisional ballots and any inconsistencies in the  
17 standards applied to determine the eligibility of electors or  
18 ballots by county board of elections.

19 (c) The Department of State shall develop a process to  
20 collect data required to be included in the report under  
21 subsection (b) from each county board of elections which  
22 conducts an election and each registration commission under 25  
23 Pa.C.S. Pt. IV in a county which conducts an election, as  
24 applicable. A county board of elections or registration  
25 commission under this subsection shall comply with the process  
26 for submission of data under this subsection no later than 45  
27 days after an election.

28 Section 2. Section 1117-A of the act is repealed:

29 [Section 1117-A. Statistical Sample.--The county board of  
30 elections, as part of the computation and canvass of returns,

1 shall conduct a statistical recount of a random sample of  
2 ballots after each election using manual, mechanical or  
3 electronic devices of a type different than those used for the  
4 specific election. The sample shall include at least two (2) per  
5 centum of the votes cast or two thousand (2,000) votes whichever  
6 is the lesser.]

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