
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2093 Session of
2021

INTRODUCED BY MUSTELLO, SMITH, STAMBAUGH, ROWE, LEWIS DELROSSO,
BERNSTINE, RYAN, JOZWIAK, M. MACKENZIE, HAMM, COX,
R. MACKENZIE, STAATS AND METCALFE, NOVEMBER 17, 2021

REFERRED TO COMMITTEE ON STATE GOVERNMENT, NOVEMBER 17, 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 nomination of candidates, further providing
12 for affidavits of candidates; and replacing references to
13 "justice of the peace" with "magisterial district judge."

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

16 Section 1. Sections 406, 630.1, 909, 910, 976, 978.1, 981.1,
17 993(a) and (b) and 998 (a) and (b) of the act of June 3, 1937
18 (P.L.1333, No.320), known as the Pennsylvania Election Code, are
19 amended to read:

20 Section 406. Election Officers to Be Sworn.--All judges,
21 inspectors, clerks of election and machine inspectors shall,
22 before entering upon their duties at any primary or election, be
23 duly sworn in the presence of each other and of the watchers and

1 overseers, if any. The judge shall first be sworn by the
2 minority inspector or by a magistrate, alderman or [justice of
3 the peace] magisterial district judge, and the inspectors,
4 clerks and machine inspectors shall then be sworn by the judge.
5 Each of them shall forthwith sign in duplicate the oath taken by
6 him upon forms to be furnished by the county board, and the same
7 shall be attested by the officer who administered the oath.

8 Section 630.1. Affidavits of Candidates.--Each candidate for
9 any State, county, city, borough, incorporated town, township,
10 school district or poor district office, or for the office of
11 United States Senator or Representative in Congress, selected as
12 provided in section 630 of this act, shall file with the
13 nomination certificate an affidavit stating--(a) his residence,
14 with street and number, if any, and his post-office address; (b)
15 his election district, giving city, borough, town or township;
16 (c) the name of the office for which he consents to be a
17 candidate; (d) that he is eligible for such office; (e) that he
18 will not knowingly violate any provision of this act, or of any
19 law regulating and limiting election expenses and prohibiting
20 corrupt practices in connection therewith; (f) unless he is a
21 candidate for judge of a court of common pleas, the Philadelphia
22 Municipal Court or for the office of school board in a district
23 where that office is elective or for the office of [justice of
24 the peace] magisterial district judge, that he is not a
25 candidate for the same office of any party or political body
26 other than the one designated in such certificate; (g) that he
27 is aware of the provisions of section 1626 of this act requiring
28 election and post-election reporting of campaign contributions
29 and expenditures; and (h) that he is not a candidate for an
30 office which he already holds, the term of which is not set to

1 expire in the same year as the office subject to the affidavit.

2 Section 909. Petition May Consist of Several Sheets;

3 Statement of Circulator.--Said nomination petition may be on one

4 or more sheets, and different sheets must be used for signers

5 resident in different counties. If more than one sheet is used,

6 they shall be bound together when offered for filing if they are

7 intended to constitute one petition, and each sheet shall be

8 numbered consecutively beginning with number one, at the foot of

9 each page. In cases of petitions for delegate or alternate

10 delegate to National conventions, each sheet shall contain a

11 notation indicating the presidential candidate to whom he is

12 committed or the term "uncommitted." Each sheet shall have

13 appended thereto the statement of the circulator of each sheet,

14 setting forth, subject to the penalties of 18 Pa.C.S. § 4904

15 (relating to unsworn falsification to authorities)--(a) that he

16 or she is a qualified elector of the Commonwealth, who is duly

17 registered and enrolled as a member of the party designated in

18 said petition, unless said petition relates to the nomination of

19 a candidate for a court of common pleas, for the Philadelphia

20 Municipal Court or for [justice of the peace] magisterial

21 district judge, in which event the circulator need not be a duly

22 registered and enrolled member of the designated party; (b) his

23 residence, giving city, borough or township, with street and

24 number, if any; (c) that the signers thereto signed with full

25 knowledge of the contents of the petition; (d) that their

26 respective residences are correctly stated therein; (e) that

27 they all reside in the county named in the statement; (f) that

28 each signed on the date set opposite his name; and (g) that, to

29 the best of the circulator's knowledge and belief, the signers

30 are qualified electors and duly registered and enrolled members

1 of the designated party of the State, or of the political
2 district, as the case may be.

3 Section 910. Affidavits of Candidates.--Each candidate for
4 any State, county, city, borough, incorporated town, township,
5 ward, school district, poor district, election district, party
6 office, party delegate or alternate, or for the office of United
7 States Senator or Representative in Congress, shall file with
8 his nomination petition his affidavit stating--(a) his
9 residence, with street and number, if any, and his post-office
10 address; (b) his election district, giving city, borough, town
11 or township; (c) the name of the office for which he consents to
12 be a candidate; (d) that he is eligible for such office; (e)
13 that he will not knowingly violate any provision of this act, or
14 of any law regulating and limiting nomination and election
15 expenses and prohibiting corrupt practices in connection
16 therewith; (f) unless he is a candidate for judge of a court of
17 common pleas, the Philadelphia Municipal Court or for the office
18 of school director in a district where that office is elective
19 or for the office of [justice of the peace] magisterial district
20 judge that he is not a candidate for nomination for the same
21 office of any party other than the one designated in such
22 petition; (g) if he is a candidate for a delegate, or alternate
23 delegate, member of State committee, National committee or party
24 officer, that he is a registered and enrolled member of the
25 designated party; (h) if he is a candidate for delegate or
26 alternate delegate the presidential candidate to whom he is
27 committed or the term "uncommitted"; (i) that he is aware of the
28 provisions of section 1626 of this act requiring pre-election
29 and post-election reporting of campaign contributions and
30 expenditures; and (j) that he is not a candidate for an office

1 which he already holds, the term of which is not set to expire
2 in the same year as the office subject to the affidavit. In
3 cases of petitions for delegate and alternate delegate to
4 National conventions, the candidate's affidavit shall state that
5 his signature to the delegate's statement, as hereinafter set
6 forth, if such statement is signed by said candidate, was
7 affixed to the sheet or sheets of said petition prior to the
8 circulation of same. In the case of a candidate for nomination
9 as President of the United States, it shall not be necessary for
10 such candidate to file the affidavit required in this section to
11 be filed by candidates, but the post-office address of such
12 candidate shall be stated in such nomination petition.

13 Section 976. Examination of Nomination Petitions,
14 Certificates and Papers; Return of Rejected Nomination
15 Petitions, Certificates and Papers.--When any nomination
16 petition, nomination certificate or nomination paper is
17 presented in the office of the Secretary of the Commonwealth or
18 of any county board of elections for filing within the period
19 limited by this act, it shall be the duty of the said officer or
20 board to examine the same. No nomination petition, nomination
21 paper or nomination certificate shall be permitted to be filed
22 if--(a) it contains material errors or defects apparent on the
23 face thereof, or on the face of the appended or accompanying
24 affidavits; or (b) it contains material alterations made after
25 signing without the consent of the signers; or (c) it does not
26 contain a sufficient number of signatures as required by law;
27 Provided, however, That the Secretary of the Commonwealth or the
28 county board of elections, although not hereby required so to
29 do, may question the genuineness of any signature or signatures
30 appearing thereon, and if he or it shall thereupon find that any

1 such signature or signatures are not genuine, such signature or
2 signatures shall be disregarded in determining whether the
3 nomination petition, nomination paper or nomination certificate
4 contains a sufficient number of signatures as required by law;
5 or (d) in the case of nomination petitions, if nomination
6 petitions have been filed for printing the name of the same
7 person for the same office, except the office of judge of a
8 court of common pleas, the Philadelphia Municipal Court or the
9 office of school director in districts where that office is
10 elective or the office of [justice of the peace] magisterial
11 district judge upon the official ballot of more than one
12 political party; or (e) in the case of nomination papers, if the
13 candidate named therein has filed a nomination petition for any
14 public office for the ensuing primary, or has been nominated for
15 any such office by nomination papers previously filed; or (f) if
16 the nomination petitions or papers are not accompanied by the
17 filing fee or certified check required for said office; or (g)
18 in the case of nomination papers, the appellation set forth
19 therein is identical with or deceptively similar to the words
20 used by any existing party or by any political body which has
21 already filed nomination papers for the same office, or if the
22 appellation set forth therein contains part of the name, or an
23 abbreviation of the name or part of the name of an existing
24 political party, or of a political body which has already filed
25 nomination papers for the same office. The invalidity of any
26 sheet of a nomination petition or nomination paper shall not
27 affect the validity of such petition or paper if a sufficient
28 petition or paper remains after eliminating such invalid sheet.
29 The action of said officer or board in refusing to receive and
30 file any such nomination petition, certificate or paper, may be

1 reviewed by the court upon an application to compel its
2 reception as of the date when it was presented to the office of
3 such officer or board: Provided, however, That said officer or
4 board shall be entitled to a reasonable time in which to examine
5 any petitions, certificates or papers, and to summon and
6 interrogate the candidates named therein, or the persons
7 presenting said petitions, certificates or papers, and his or
8 their retention of same for the purpose of making such
9 examination or interrogation shall not be construed as an
10 acceptance or filing.

11 Upon completion of any examination, if any nomination
12 petition, certificate or paper is found to be defective, it
13 shall forthwith be rejected and returned to the candidate or one
14 of the candidates named therein, together with a statement of
15 the reasons for such rejection:

16 Provided further, That no nomination petition, nomination
17 paper or nomination certificate shall be permitted to be filed,
18 if the political party or political body referred to therein
19 shall be composed of a group of electors whose purposes or aims,
20 or one of whose purposes or aims, is the establishment, control,
21 conduct, seizure or overthrow of the Government of the
22 Commonwealth of Pennsylvania or the United States of America by
23 the use of force, violence, military measure or threats of one
24 or more of the foregoing. The authority to reject such
25 nomination petition, paper or certificate for this reason shall,
26 when filed with the Secretary of the Commonwealth, be vested in
27 a committee composed of the Governor, the Attorney General and
28 the Secretary of the Commonwealth, and when filed with any
29 county board of elections shall be vested in such board. If in
30 such case the committee or board, as the case may be, shall

1 conclude that the acceptance of such nomination petition, paper
2 or certificate should be refused, it shall within two days of
3 the filing of such nomination petition, paper or certificate fix
4 a place and a time five days in advance for hearing the matter,
5 and notice thereof shall be given to all parties affected
6 thereby. At the time and place so fixed the committee or board,
7 as the case may be, shall hear testimony, but shall not be bound
8 by technical rules of evidence. The testimony presented shall be
9 stenographically recorded and made a part of the record of the
10 committee or board. Within two days after such hearing the
11 committee or board, if satisfied upon competent evidence that
12 the said nomination petition, paper or certificate is not
13 entitled to be accepted and filed, it shall announce its
14 decision and immediately notify the parties affected thereby.
15 Failure to announce decision within two days after such hearing
16 shall be conclusive that such nomination petition, paper or
17 certificate has been accepted and filed. The decision of said
18 committee or board in refusing to accept and file such
19 nomination petition, paper or certificate may be reviewed by the
20 court upon an application to compel its reception as of the date
21 when presented to the Secretary of the Commonwealth or such
22 board. The application shall be made within two days of the time
23 when such decision is announced. If the application is properly
24 made, any judge of said court may fix a time and place for
25 hearing the matter in dispute, of which notice shall be served
26 with a copy of said application upon the Secretary of the
27 Commonwealth or the county board of elections, as the case may
28 be. At the time so fixed, the court, or any judge thereof
29 assigned for the purpose, shall hear the case de novo. If after
30 such hearing the said court shall find that the decision of the

1 committee or the board was erroneous, it shall issue its mandate
2 to the committee or board to correct its decision and to accept
3 and file the nomination paper, petition or certificate. From any
4 decision of the court an appeal may be taken within two days
5 after the entry thereof. It shall be the duty of the said court
6 to fix the hearing and to announce its decision within such
7 period of time as will permit the Secretary of the Commonwealth
8 or the county board of elections to permit the names of the
9 candidates affected by the court's decision to be printed on the
10 ballot, if the court should so determine.

11 Section 978.1. Vacancy in Party Nomination by Failure to Pay
12 Filing Fee or for Failure to File Loyalty Oath.--Every person
13 nominated at any primary election as the candidate of any
14 political party for any office, other than a borough, town,
15 township, school district or poor district office, or the office
16 of [justice of the peace] magisterial district judge, or
17 constable, who has not paid the filing fee required by section
18 nine hundred thirteen of this act, as amended, for the filing of
19 a nomination petition for such office, or who has not filed the
20 loyalty oath required by section 14, act of December 22, 1951
21 (P.L.1726), known as the "Pennsylvania Loyalty Act," as last
22 amended June 19, 1961 (P.L.446), shall pay the amount of such
23 fee to and file such oath with the Secretary of the
24 Commonwealth, or the county board of elections, as the case may
25 be, at least eighty-five (85) days previous to the day of the
26 general or municipal election at which such candidate's name
27 would appear on the ballot. Failure to pay such fee or file such
28 oath within the time herein prescribed shall result in a vacancy
29 in such party nomination. Such vacancy shall be filled in the
30 manner hereinafter provided for the filling of such vacancies

1 happening by reason of the death or withdrawal of any candidate.

2 Section 981.1. Affidavits of Candidates.--Each candidate for
3 any State, county, city, borough, incorporated town, township,
4 ward, school district, poor district or election district
5 office, or for the office of United States Senator or
6 Representative in Congress, selected as provided in sections 979
7 and 980 of this act, shall file with the substituted nomination
8 certificate an affidavit stating--(a) his residence, with street
9 and number, if any, and his post-office address; (b) his
10 election district, giving city, borough, town or township; (c)
11 the name of the office for which he consents to be a candidate;
12 (d) that he is eligible for such office; (e) that he will not
13 knowingly violate any provision of this act, or of any law
14 regulating and limiting election expenses and prohibiting
15 corrupt practices in connection therewith; (f) unless he is a
16 candidate for judge of a court of common pleas, the Philadelphia
17 Municipal Court [or for the office of school board in a district
18 where that office is elective] or for the office of [justice of
19 the peace] magisterial district judge, that he is not a
20 candidate for the same office of any party or political body
21 other than the one designated in such certificate; (g) that he
22 is aware of the provisions of section 1626 of this act requiring
23 election and post-election reporting of campaign contributions
24 and expenditures; and (h) that he is not a candidate for an
25 office which he already holds, the term of which is not set to
26 expire in the same year as the office subject to the affidavit.

27 Section 993. Filling of Certain Vacancies in Public Office
28 by Means of Nomination Certificates and Nomination Papers.--(a)
29 In all cases where a vacancy shall occur for any cause in an
30 elective public office, including that of judge of a court of

1 record, at a time when such vacancy is required by the
2 provisions of the Constitution or the laws of this Commonwealth
3 to be filled at the ensuing election but at a time when
4 nominations for such office cannot be made under any other
5 provision of this act, nominations to fill such vacancies shall
6 be made by political parties in accordance with party rules
7 relating to the filling of vacancies by means of nomination
8 certificates in the form prescribed in section nine hundred
9 ninety-four of this act, and by political bodies by means of
10 nomination papers in accordance with the provisions of sections
11 nine hundred fifty-one, nine hundred fifty-two and nine hundred
12 fifty-four of this act. No such nomination certificate shall
13 nominate any person who has already been nominated by any other
14 political party or by any political body for the same office
15 unless such person is a candidate for the office of judge of a
16 court of common pleas, the Philadelphia Municipal Court or for
17 the office of school director in districts where that office is
18 elective or for the office of [justice of the peace] magisterial
19 district judge. No such nomination papers shall nominate any
20 person who has already been nominated by any political party or
21 by any other political body for any office to be filled at the
22 ensuing November election, unless such person is a candidate for
23 the office of judge of a court of common pleas, the Philadelphia
24 Municipal Court or for the office of school director in
25 districts where that office is elective or for the office of
26 [justice of the peace] magisterial district judge.

27 (b) Said nomination certificates and nomination papers for
28 State public offices and judges of courts of records shall be
29 filed in the office of the Secretary of the Commonwealth at
30 least fifty (50) days prior to a general or municipal election,

1 as the case may be. Nomination certificates and nomination
2 papers for public offices in counties, cities, boroughs, towns,
3 townships, wards and school districts and for the offices of
4 aldermen and [justices of the peace] magisterial district judges
5 shall be filed in the office of the county board of elections at
6 least fifty (50) days prior to a municipal election.

7 * * *

8 Section 998. Substituted Nominations to Fill Certain
9 Vacancies for a November Election.--(a) Any vacancy happening
10 or existing in any party nomination made in accordance with the
11 provisions of section nine hundred ninety-three of this act for
12 a November election by reason of the death or withdrawal of any
13 candidate may be filled by a substituted nomination made by such
14 committee as is authorized by the rules of the party to make
15 nominations in the event of vacancies on the party ticket, in
16 the form prescribed by section nine hundred ninety-four of this
17 act. But no substituted nomination certificate shall nominate
18 any person who has already been nominated by any other political
19 party or by any political body for the same office, unless such
20 person is a candidate for the office of judge of a court of
21 common pleas, the Philadelphia Municipal Court or for the office
22 of school director in districts where that office is elective or
23 for the office of [justice of the peace] magisterial district
24 judge.

25 (b) In case of the death or withdrawal of any candidate
26 nominated by a political body for an election, the committee
27 named in the original nomination papers may nominate a
28 substitute in his place by filing a substituted nomination
29 certificate in the form and manner prescribed by section nine
30 hundred eighty of this act. In the case of a vacancy caused by

1 the death of any candidate, said nomination certificate shall be
2 accompanied by a death certificate properly certified. No
3 substituted nomination certificate shall nominate any person who
4 has already been nominated by any political party or by any
5 other political body for any office to be filled at the ensuing
6 November election, unless such person is a candidate for the
7 office of judge of a court of common pleas, the Philadelphia
8 Municipal Court or for the office of school director in
9 districts where that office is elective or for the office of
10 [justice of the peace] magisterial district judge.

11 * * *

12 Section 2. Section 1004 of the act, amended March 27, 2020
13 (P.L.41, No.12), is amended to read:

14 Section 1004. Form of Ballots; Printing Ballots.--From the
15 lists furnished by the Secretary of the Commonwealth under the
16 provisions of sections 915 and 984, and from petitions and
17 papers filed in their office, the county election board shall
18 print the official primary and election ballots in accordance
19 with the provisions of this act: Provided, however, That in no
20 event, shall the name of any person consenting to be a candidate
21 for nomination for any one office, except the office of judge of
22 a court of common pleas, the Philadelphia Municipal Court or the
23 office of school director in districts where that office is
24 elective or the office of [justice of the peace] magisterial
25 district judge be printed as a candidate for such office upon
26 the official primary ballot of more than one party. All ballots
27 for use in the same election district at any primary or election
28 shall be alike.

29 Section 3. Section 1405 of the act is amended to read:

30 Section 1405. Manner of Computing Irregular Ballots.--The

1 county board, in computing the votes cast at any primary or
2 election, shall compute and certify votes cast on irregular
3 ballots exactly as such names were written, stamped or deposited
4 in or on receptacles for that purpose, and as they have been so
5 returned by the election officers. In districts in which paper
6 ballots or ballot cards are electronically tabulated, stickers
7 or labels may not be used to mark ballots. A vote cast by means
8 of a sticker or label affixed to a ballot or ballot card shall
9 be void and may not be counted. In the primary the Secretary of
10 the Commonwealth shall not certify the votes cast on irregular
11 ballots for any person for a National office including that of
12 the President of the United States, United States Senator and
13 Representative in Congress; or for any State office including
14 that of Governor and Lieutenant Governor, Auditor General, State
15 Treasurer, Senator and Representative in the General Assembly,
16 justices and judges of courts of record or for any party office
17 including that of delegate or alternate delegate to National
18 conventions and member of State committee unless the total
19 number of votes cast for said person is equal to or greater than
20 the number of signatures required on a nomination petition for
21 the particular office. In the primary the county board shall not
22 certify the votes cast on irregular ballots for any person for a
23 [justice of the peace] magisterial district judge, constable,
24 National, State, county, city, borough, town, township, ward,
25 school district, election or local party office unless the total
26 number of votes cast for said person is equal to or greater than
27 the number of signatures required on a nomination petition for
28 the particular office.

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