
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 128 Session of
2021

INTRODUCED BY FONTANA, SANTARSIERO, BREWSTER AND COSTA,
JANUARY 26, 2021

REFERRED TO STATE GOVERNMENT, JANUARY 26, 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," providing for voting by all-mail; and, in
12 penalties, further providing for violations of provisions
13 relating to absentee and mail-in ballots.

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

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

19 ARTICLE XIII-F

20 VOTE BY ALL-MAIL

21 Section 1301-F. Definitions.

22 The following words and phrases when used in this article
23 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Department." The Department of State of the Commonwealth.

3 "Nonforwardable mail." Mail collected for delivery by the

4 United States Postal Service which cannot be forwarded or mailed

5 to an address other than the mailing address inscribed on the

6 materials mail, notwithstanding whether a change of address has

7 been received and processed by the United States Postal Service,

8 and which is conspicuously stamped "DO NOT FORWARD" by the

9 sender.

10 Section 1302-F. All-mail elections.

11 Notwithstanding any provision of this act or of any other law

12 of this Commonwealth, all voting in elections held after

13 November 3, 2020, shall be conducted only by mail-in and

14 absentee ballot in accordance with Articles XIII and XIII-D,

15 subject to the following:

16 (1) Notwithstanding sections 1302, 1302.1, 1302.2, 1302-

17 D, 1302.1-D and 1302.2-D or any other provision of law:

18 (i) Not sooner than 20 days prior to the date of the

19 election but not later than 14 days prior to the date of

20 the election, the county board shall commence to mail by

21 nonforwardable mail, postage prepaid, an official mail-in

22 ballot to every qualified registered elector in the

23 county to the elector's voter registration address, if

24 the elector has not lost the elector's voting rights by

25 failure to vote as otherwise required under this act.

26 (ii) If the county board determines that the elector

27 does not receive daily mail service from the United

28 States Postal Service, the county shall mail by

29 nonforwardable mail, postage prepaid, an official mail-in

30 ballot not sooner than 20 days prior to the date of the

1 election and not later than the 18 days prior to the date
2 of the election.

3 (iii) For an official ballot to be mailed to
4 addresses outside this Commonwealth to electors who are
5 not military or overseas electors, the county may mail
6 the official ballots not sooner than 29 days prior to the
7 date of the election.

8 (iv) If a registered elector modifies or changes the
9 elector's registration after the deadline for
10 registration provided under section 1231, the county
11 board shall make the mail-in ballot available by
12 nonforwardable mail, at the county board's office or at
13 another place designated by the county board.

14 (2) For a qualified registered elector who is absent
15 from the elector's voter registration address by a reason
16 enumerated under section 1301 and unable to retrieve the
17 elector's official mail-in ballot from that address prior to
18 the election, the elector may submit an application for an
19 official absentee ballot to the appropriate county board as
20 provided under Article XIII, which must be received by the
21 county board no later than the deadline provided in section
22 1302.1(a).

23 (3) For a primary election:

24 (i) The county board shall mail the official mail-in
25 ballot of a party to each qualified registered elector
26 who is duly registered and enrolled as a member of a
27 party.

28 (ii) For a qualified registered elector with no
29 party affiliation, if the ballot for the primary election
30 provides for a measure or question, each registered

1 elector shall be mailed a mail-in ballot limited to those
2 measures or questions for which the registered elector is
3 eligible to vote.

4 (4) Official ballots delivered or mailed under this
5 section shall be accompanied by the following warning
6 conspicuously placed in boldface type:

7 ANY PERSON WHO, BY USE OR FORCE OR OTHER MEANS, UNDULY
8 INFLUENCES AN ELECTOR TO VOTE IN ANY PARTICULAR MANNER OR
9 TO REFRAIN FROM VOTING IS SUBJECT TO CRIMINAL PENALTIES
10 UPON CONVICTION, INCLUDING IMPRISONMENT OR A FINE, OR
11 BOTH.

12 (5) A county board shall count a ballot only if:

13 (i) the ballot is returned in the envelope
14 containing the declaration of the elector;

15 (ii) the envelope containing the declaration of the
16 elector is signed by the elector to whom the mail-in or
17 absentee ballot is issued; and

18 (iii) the signature on the envelope containing the
19 declaration of the elector is verified by the county
20 board by comparing it to the signature on the elector's
21 registration card, according to the procedure adopted by
22 the department under section 1303-F.

23 (6) If the county board determines that an elector to
24 whom a replacement ballot has been issued under paragraph (7)
25 has voted more than once, the county board shall count only
26 one ballot cast by that elector.

27 (7) A qualified registered elector may obtain a
28 replacement ballot if the ballot is destroyed, spoiled, lost
29 or not received by the elector. The county board shall
30 maintain a record of each replacement ballot provided under

1 this section. Notwithstanding the deadline for mailing
2 ballots under paragraph (1), a replacement ballot may be
3 mailed, made available at the office of the county board or
4 made available at one central location designated by the
5 county board in the election district in which the election
6 is conducted. The county board is not required to mail a
7 replacement ballot after the fifth day before the date of the
8 election. Replacement ballots shall be issued in accordance
9 with the following:

10 (i) To vote a replacement ballot, the elector must
11 complete and sign a replacement ballot request form,
12 which must include a signed statement of the elector
13 subject to the penalties of 18 Pa.C.S. § 4904 (relating
14 to unsworn falsification to authorities) that the
15 elector's mailed ballot was destroyed, spoiled, lost or
16 not received by the elector.

17 (ii) The request for a replacement ballot may be
18 made electronically, by telephone, in writing, in person
19 or by other means designated by the department.

20 (iii) The replacement ballot request form shall be
21 mailed or made available to the elector along with the
22 replacement ballot.

23 (iv) Upon receipt of a request for a replacement
24 ballot, the county board shall:

25 (A) verify the registration of the elector and
26 ensure that another ballot has not been returned by
27 the elector;

28 (B) note in the district register that the
29 elector has requested a replacement ballot;

30 (C) mark the outer return envelope clearly so

1 that it may be readily identified as a replacement
2 ballot; and

3 (D) issue the replacement ballot by mail or
4 other means determined appropriate by the department.

5 (v) Upon receipt of a voted replacement ballot, the
6 county board shall verify that a completed and signed
7 replacement ballot request form has been received by the
8 county board or is included with the voted replacement
9 ballot. If a request form has been completed and signed
10 by the elector and received by the county board, the
11 county board shall process the replacement ballot. If the
12 request form is not completed or signed by the elector or
13 received by the county board, the county board may not
14 process the replacement ballot.

15 (vi) If the county board determines that an elector
16 to whom a replacement ballot has been issued at the
17 request of the elector has voted more than once, the
18 county board shall count only the first ballot received
19 by the county board and provide the elector's name to the
20 department for further review.

21 (8) The county board shall provide, at any location
22 where ballots are issued, at least three suitable
23 compartments, shelves or tables at which registered electors
24 may mark and return their mail-in or absentee ballots. The
25 compartments, shelves or tables shall be arranged in a manner
26 as to ensure that the elector may conveniently mark the
27 ballot with absolute secrecy. The county board shall also
28 provide, at any location where ballots are issued,
29 compartments with accessible voting units, which shall
30 include any voting device that complies with the Americans

1 with Disabilities Act of 1990 (Public Law 101-336, 104 Stat.
2 327) and the Help America Vote Act of 2002 (Public Law 107-
3 252, 52 U.S.C. § 21081 et seq.) and meets any additional
4 criteria established by the department under section 1303-F.
5 The compartments, shelves or tables under this paragraph
6 shall be made available during the entire period of time
7 ballots are issued under paragraph (1)(i) until the deadline
8 for receipt of absentee and mail-in ballots under Articles
9 XIII and XIII-D.

10 (9) Notwithstanding sections 1306(b)(3) and 1306-D(b)(3)
11 or any other provision of law, elections in this Commonwealth
12 shall be conducted only by mail-in and absentee ballot as
13 required under this section. A registered elector may not
14 remit a ballot for spoiling in order to vote at the polling
15 place unless otherwise provided under this article.

16 Notwithstanding sections 1302(i)(1), 1303(e), 1302-D(f) and
17 1303-D(e), official mail-in and absentee ballots mailed under
18 this article may not state that the elector is eligible to
19 vote at a polling place on election day if the elector brings
20 the elector's absentee ballot to the elector's polling place,
21 remits the ballot and the envelope containing the declaration
22 of the elector to the judge of elections to be spoiled and
23 signs a statement subject to the penalties of 18 Pa.C.S. §
24 4904 (relating to unsworn falsification to authorities) to
25 the same effect.

26 (10) Notwithstanding section 1308(g)(1.1) or any other
27 provision of law, no earlier than the seventh day prior to
28 the date of the election, the county board shall meet to
29 begin precanvassing all mail-in and absentee ballots received
30 prior to the meeting. A county board shall provide at least

1 48 hours' notice of a precavass meeting by publicly posting
2 a notice of a precavass meeting on its publicly accessible
3 internet website. One authorized representative of each
4 candidate in an election and one representative from each
5 political party shall be permitted to remain in the room in
6 which the mail-in and absentee ballots are precavassed. An
7 individual observing, attending or participating in a
8 precavass meeting may not disclose the results of any
9 portion of a precavass meeting prior to the close of the
10 polls.

11 Section 1303-F. Duties of department.

12 The department may establish by guidance, rule or regulation
13 the requirements and criteria for implementation and
14 administration of this article, including the following:

15 (1) the designation of places of deposit for the mailed
16 ballots cast in an election;

17 (2) the dates and times the places of deposit must be
18 open and the security requirements for the places of deposit;

19 (3) the requirements and criteria, including to ensure
20 privacy and adequate public availability of the compartments,
21 shelves, tables and voting booths provided to electors and

22 (4) the appropriate means by which county boards provide
23 for requests for, issuance of and tracking of replacement
24 ballots.

25 Section 2. Section 1853 of the act, amended March 27, 2020
26 (P.L.41, No.12), is amended to read:

27 Section 1853. Violations of Provisions Relating to Absentee
28 and Mail-in Ballots.--If any person shall sign an application
29 for absentee ballot, mail-in ballot or declaration of elector on
30 the forms prescribed knowing any matter declared therein to be

1 false, or shall vote any ballot other than one properly issued
2 to the person, or vote or attempt to vote more than once in any
3 election for which an absentee ballot or mail-in ballot shall
4 have been issued to the person, or shall violate any other
5 provisions of Article XIII [or], Article XIII-D or Article XIII-
6 F of this act, the person shall be guilty of a misdemeanor of
7 the third degree, and, upon conviction, shall be sentenced to
8 pay a fine not exceeding two thousand five hundred dollars
9 (\$2,500), or be imprisoned for a term not exceeding two (2)
10 years, or both, at the discretion of the court.

11 If any chief clerk or member of a board of elections, member
12 of a return board or member of a board of registration
13 commissioners, shall neglect or refuse to perform any of the
14 duties prescribed by Article XIII or Article XIII-D of this act,
15 or shall reveal or divulge any of the details of any ballot cast
16 in accordance with the provisions of Article XIII or Article
17 XIII-D of this act, or shall count an absentee ballot or mail-in
18 ballot knowing the same to be contrary to Article XIII or
19 Article XIII-D, or shall reject an absentee ballot or mail-in
20 ballot without reason to believe that the same is contrary to
21 Article XIII or Article XIII-D, or shall permit an elector to
22 cast the elector's ballot at a polling place knowing that there
23 has been issued to the elector an absentee ballot, the elector
24 shall be guilty of a felony of the third degree, and, upon
25 conviction, shall be punished by a fine not exceeding fifteen
26 thousand dollars (\$15,000), or be imprisoned for a term not
27 exceeding seven (7) years, or both, at the discretion of the
28 court.

29 Section 3. The amendment or addition of Article XIII-F and
30 section 1853 of the act shall apply to elections occurring

1 after November 3, 2020.

2 Section 4. This act shall take effect immediately.