

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 886 Session of 2021

INTRODUCED BY GEBHARD AND MENSCH, SEPTEMBER 28, 2021

REFERRED TO STATE GOVERNMENT, SEPTEMBER 28, 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 district election officers, further providing
 12 for election officers to be sworn; in dates of elections and
 13 primaries and special elections, further providing for
 14 affidavits of candidates; in nomination of candidates,
 15 further providing for petition may consist of several sheets
 16 and affidavit of circulator, for affidavits of candidates,
 17 for examination of nomination petitions, certificates and
 18 papers and return of rejected nomination petitions,
 19 certificates and papers, for vacancy in party nomination by
 20 failure to pay filing fee or for failure to file loyalty
 21 oath, for affidavits of candidates, for filling of certain
 22 vacancies in public office by means of nomination
 23 certificates and nomination papers and for substituted
 24 nominations to fill certain vacancies for a November
 25 election; in ballots, further providing for form of ballots
 26 and printing ballots; in returns of primaries and elections,
 27 further providing for manner of computing irregular ballots;
 28 and replacing references to "justice of the peace" with
 29 "magisterial district judge."

30 The General Assembly of the Commonwealth of Pennsylvania
 31 hereby enacts as follows:

32 Section 1. Sections 406, 630.1, 909, 910, 976, 978.1, 981.1,

1 993(a) and (b) and 998(a) and (b) of the act of June 3, 1937
2 (P.L.1333, No.320), known as the Pennsylvania Election Code, are
3 amended to read:

4 Section 406. Election Officers to Be Sworn.--All judges,
5 inspectors, clerks of election and machine inspectors shall,
6 before entering upon their duties at any primary or election, be
7 duly sworn in the presence of each other and of the watchers and
8 overseers, if any. The judge shall first be sworn by the
9 minority inspector or by a magistrate, alderman or [justice of
10 the peace] magisterial district judge, and the inspectors,
11 clerks and machine inspectors shall then be sworn by the judge.
12 Each of them shall forthwith sign in duplicate the oath taken by
13 him upon forms to be furnished by the county board, and the same
14 shall be attested by the officer who administered the oath.

15 Section 630.1. Affidavits of Candidates.--Each candidate for
16 any State, county, city, borough, incorporated town, township,
17 school district or poor district office, or for the office of
18 United States Senator or Representative in Congress, selected as
19 provided in section 630 of this act, shall file with the
20 nomination certificate an affidavit stating--(a) his residence,
21 with street and number, if any, and his post-office address; (b)
22 his election district, giving city, borough, town or township;
23 (c) the name of the office for which he consents to be a
24 candidate; (d) that he is eligible for such office; (e) that he
25 will not knowingly violate any provision of this act, or of any
26 law regulating and limiting election expenses and prohibiting
27 corrupt practices in connection therewith; (f) unless he is a
28 candidate for [judge of a court of common pleas,] the
29 Philadelphia Municipal Court or for the office of school board
30 in a district where that office is elective [or for the office

1 of justice of the peace,] that he is not a candidate for the
2 same office of any party or political body other than the one
3 designated in such certificate; (g) that he is aware of the
4 provisions of section 1626 of this act requiring election and
5 post-election reporting of campaign contributions and
6 expenditures; and (h) that he is not a candidate for an office
7 which he already holds, the term of which is not set to expire
8 in the same year as the office subject to the affidavit.

9 Section 909. Petition May Consist of Several Sheets;

10 Statement of Circulator.--Said nomination petition may be on one
11 or more sheets, and different sheets must be used for signers
12 resident in different counties. If more than one sheet is used,
13 they shall be bound together when offered for filing if they are
14 intended to constitute one petition, and each sheet shall be
15 numbered consecutively beginning with number one, at the foot of
16 each page. In cases of petitions for delegate or alternate
17 delegate to National conventions, each sheet shall contain a
18 notation indicating the presidential candidate to whom he is
19 committed or the term "uncommitted." Each sheet shall have
20 appended thereto the statement of the circulator of each sheet,
21 setting forth, subject to the penalties of 18 Pa.C.S. § 4904
22 (relating to unsworn falsification to authorities)--(a) that he
23 or she is a qualified elector of the Commonwealth, who is duly
24 registered and enrolled as a member of the party designated in
25 said petition, unless said petition relates to the nomination of
26 a candidate [for a court of common pleas,] for the Philadelphia
27 Municipal Court [or for justice of the peace], in which event
28 the circulator need not be a duly registered and enrolled member
29 of the designated party; (b) his residence, giving city, borough
30 or township, with street and number, if any; (c) that the

1 signers thereto signed with full knowledge of the contents of
2 the petition; (d) that their respective residences are correctly
3 stated therein; (e) that they all reside in the county named in
4 the statement; (f) that each signed on the date set opposite his
5 name; and (g) that, to the best of the circulator's knowledge
6 and belief, the signers are qualified electors and duly
7 registered and enrolled members of the designated party of the
8 State, or of the political district, as the case may be.

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

1 he is a candidate for delegate or alternate delegate the
2 presidential candidate to whom he is committed or the term
3 "uncommitted"; (i) that he is aware of the provisions of section
4 1626 of this act requiring pre-election and post-election
5 reporting of campaign contributions and expenditures; and (j)
6 that he is not a candidate for an office which he already holds,
7 the term of which is not set to expire in the same year as the
8 office subject to the affidavit. In cases of petitions for
9 delegate and alternate delegate to National conventions, the
10 candidate's affidavit shall state that his signature to the
11 delegate's statement, as hereinafter set forth, if such
12 statement is signed by said candidate, was affixed to the sheet
13 or sheets of said petition prior to the circulation of same. In
14 the case of a candidate for nomination as President of the
15 United States, it shall not be necessary for such candidate to
16 file the affidavit required in this section to be filed by
17 candidates, but the post-office address of such candidate shall
18 be stated in such nomination petition.

19 Section 976. Examination of Nomination Petitions,
20 Certificates and Papers; Return of Rejected Nomination
21 Petitions, Certificates and Papers.--When any nomination
22 petition, nomination certificate or nomination paper is
23 presented in the office of the Secretary of the Commonwealth or
24 of any county board of elections for filing within the period
25 limited by this act, it shall be the duty of the said officer or
26 board to examine the same. No nomination petition, nomination
27 paper or nomination certificate shall be permitted to be filed
28 if--(a) it contains material errors or defects apparent on the
29 face thereof, or on the face of the appended or accompanying
30 affidavits; or (b) it contains material alterations made after

1 signing without the consent of the signers; or (c) it does not
2 contain a sufficient number of signatures as required by law;
3 Provided, however, That the Secretary of the Commonwealth or the
4 county board of elections, although not hereby required so to
5 do, may question the genuineness of any signature or signatures
6 appearing thereon, and if he or it shall thereupon find that any
7 such signature or signatures are not genuine, such signature or
8 signatures shall be disregarded in determining whether the
9 nomination petition, nomination paper or nomination certificate
10 contains a sufficient number of signatures as required by law;
11 or (d) in the case of nomination petitions, if nomination
12 petitions have been filed for printing the name of the same
13 person for the same office, except [the office of judge of a
14 court of common pleas,] the Philadelphia Municipal Court or the
15 office of school director in districts where that office is
16 elective [or the office of justice of the peace] upon the
17 official ballot of more than one political party; or (e) in the
18 case of nomination papers, if the candidate named therein has
19 filed a nomination petition for any public office for the
20 ensuing primary, or has been nominated for any such office by
21 nomination papers previously filed; or (f) if the nomination
22 petitions or papers are not accompanied by the filing fee or
23 certified check required for said office; or (g) in the case of
24 nomination papers, the appellation set forth therein is
25 identical with or deceptively similar to the words used by any
26 existing party or by any political body which has already filed
27 nomination papers for the same office, or if the appellation set
28 forth therein contains part of the name, or an abbreviation of
29 the name or part of the name of an existing political party, or
30 of a political body which has already filed nomination papers

1 for the same office. The invalidity of any sheet of a nomination
2 petition or nomination paper shall not affect the validity of
3 such petition or paper if a sufficient petition or paper remains
4 after eliminating such invalid sheet. The action of said officer
5 or board in refusing to receive and file any such nomination
6 petition, certificate or paper, may be reviewed by the court
7 upon an application to compel its reception as of the date when
8 it was presented to the office of such officer or board:

9 Provided, however, That said officer or board shall be entitled
10 to a reasonable time in which to examine any petitions,
11 certificates or papers, and to summon and interrogate the
12 candidates named therein, or the persons presenting said
13 petitions, certificates or papers, and his or their retention of
14 same for the purpose of making such examination or interrogation
15 shall not be construed as an acceptance or filing.

16 Upon completion of any examination, if any nomination
17 petition, certificate or paper is found to be defective, it
18 shall forthwith be rejected and returned to the candidate or one
19 of the candidates named therein, together with a statement of
20 the reasons for such rejection:

21 Provided further, That no nomination petition, nomination
22 paper or nomination certificate shall be permitted to be filed,
23 if the political party or political body referred to therein
24 shall be composed of a group of electors whose purposes or aims,
25 or one of whose purposes or aims, is the establishment, control,
26 conduct, seizure or overthrow of the Government of the
27 Commonwealth of Pennsylvania or the United States of America by
28 the use of force, violence, military measure or threats of one
29 or more of the foregoing. The authority to reject such
30 nomination petition, paper or certificate for this reason shall,

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

1 with a copy of said application upon the Secretary of the
2 Commonwealth or the county board of elections, as the case may
3 be. At the time so fixed, the court, or any judge thereof
4 assigned for the purpose, shall hear the case de novo. If after
5 such hearing the said court shall find that the decision of the
6 committee or the board was erroneous, it shall issue its mandate
7 to the committee or board to correct its decision and to accept
8 and file the nomination paper, petition or certificate. From any
9 decision of the court an appeal may be taken within two days
10 after the entry thereof. It shall be the duty of the said court
11 to fix the hearing and to announce its decision within such
12 period of time as will permit the Secretary of the Commonwealth
13 or the county board of elections to permit the names of the
14 candidates affected by the court's decision to be printed on the
15 ballot, if the court should so determine.

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

1 general or municipal election at which such candidate's name
2 would appear on the ballot. Failure to pay such fee or file such
3 oath within the time herein prescribed shall result in a vacancy
4 in such party nomination. Such vacancy shall be filled in the
5 manner hereinafter provided for the filling of such vacancies
6 happening by reason of the death or withdrawal of any candidate.

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

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

2 Section 993. Filling of Certain Vacancies in Public Office
3 by Means of Nomination Certificates and Nomination Papers.--(a)

4 In all cases where a vacancy shall occur for any cause in an
5 elective public office, including that of judge of a court of
6 record, at a time when such vacancy is required by the

7 provisions of the Constitution or the laws of this Commonwealth
8 to be filled at the ensuing election but at a time when

9 nominations for such office cannot be made under any other

10 provision of this act, nominations to fill such vacancies shall

11 be made by political parties in accordance with party rules

12 relating to the filling of vacancies by means of nomination

13 certificates in the form prescribed in section nine hundred

14 ninety-four of this act, and by political bodies by means of

15 nomination papers in accordance with the provisions of sections

16 nine hundred fifty-one, nine hundred fifty-two and nine hundred

17 fifty-four of this act. No such nomination certificate shall

18 nominate any person who has already been nominated by any other

19 political party or by any political body for the same office

20 unless such person is a candidate for [the office of judge of a

21 court of common pleas,] the Philadelphia Municipal Court or for

22 the office of school director in districts where that office is

23 elective [or for the office of justice of the peace]. No such

24 nomination papers shall nominate any person who has already been

25 nominated by any political party or by any other political body

26 for any office to be filled at the ensuing November election,

27 unless such person is a candidate for [the office of judge of a

28 court of common pleas,] the Philadelphia Municipal Court or for

29 the office of school director in districts where that office is

30 elective [or for the office of justice of the peace].

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

11 * * *

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

28 (b) In case of the death or withdrawal of any candidate
29 nominated by a political body for an election, the committee
30 named in the original nomination papers may nominate a

1 substitute in his place by filing a substituted nomination
2 certificate in the form and manner prescribed by section nine
3 hundred eighty of this act. In the case of a vacancy caused by
4 the death of any candidate, said nomination certificate shall be
5 accompanied by a death certificate properly certified. No
6 substituted nomination certificate shall nominate any person who
7 has already been nominated by any political party or by any
8 other political body for any office to be filled at the ensuing
9 November election, unless such person is a candidate for [the
10 office of judge of a court of common pleas,] the Philadelphia
11 Municipal Court or for the office of school director in
12 districts where that office is elective [or for the office of
13 justice of the peace].

14 * * *

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

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

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

2 Section 1405. Manner of Computing Irregular Ballots.--The
3 county board, in computing the votes cast at any primary or
4 election, shall compute and certify votes cast on irregular
5 ballots exactly as such names were written, stamped or deposited
6 in or on receptacles for that purpose, and as they have been so
7 returned by the election officers. In districts in which paper
8 ballots or ballot cards are electronically tabulated, stickers
9 or labels may not be used to mark ballots. A vote cast by means
10 of a sticker or label affixed to a ballot or ballot card shall
11 be void and may not be counted. In the primary the Secretary of
12 the Commonwealth shall not certify the votes cast on irregular
13 ballots for any person for a National office including that of
14 the President of the United States, United States Senator and
15 Representative in Congress; or for any State office including
16 that of Governor and Lieutenant Governor, Auditor General, State
17 Treasurer, Senator and Representative in the General Assembly,
18 justices and judges of courts of record or for any party office
19 including that of delegate or alternate delegate to National
20 conventions and member of State committee unless the total
21 number of votes cast for said person is equal to or greater than
22 the number of signatures required on a nomination petition for
23 the particular office. In the primary the county board shall not
24 certify the votes cast on irregular ballots for any person for a
25 [justice of the peace] magisterial district judge, constable,
26 National, State, county, city, borough, town, township, ward,
27 school district, election or local party office unless the total
28 number of votes cast for said person is equal to or greater than
29 the number of signatures required on a nomination petition for
30 the particular office.

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