

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 287 Session of 2023

INTRODUCED BY GEBHARD AND STEFANO, JANUARY 31, 2023

REFERRED TO STATE GOVERNMENT, JANUARY 31, 2023

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 statement 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), 998(a) and (b), 1004 and 1405 of the act of June  
2 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election  
3 Code, are 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 1004. Form of Ballots; Printing Ballots.--From the  
16 lists furnished by the Secretary of the Commonwealth under the  
17 provisions of sections 915 and 984, and from petitions and  
18 papers filed in their office, the county election board shall  
19 print the official primary and election ballots in accordance  
20 with the provisions of this act: Provided, however, That in no  
21 event, shall the name of any person consenting to be a candidate  
22 for nomination for any one office, except [the office of judge  
23 of a court of common pleas,] the Philadelphia Municipal Court or  
24 the office of school director in districts where that office is  
25 elective [or the office of justice of the peace] be printed as a  
26 candidate for such office upon the official primary ballot of  
27 more than one party. All ballots for use in the same election  
28 district at any primary or election shall be alike.

29 Section 1405. Manner of Computing Irregular Ballots.--The  
30 county board, in computing the votes cast at any primary or

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

28 Section 2. This act shall take effect in 60 days.