
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1318 Session of
2005

Report of the Committee of Conference

To the Members of the House of Representatives and Senate:

We, the undersigned, Committee of Conference on the part of the House of Representatives and Senate for the purpose of considering House Bill No. 1318, entitled:
"An act amending the act of June 3, 1937 (P.L.1333, No.320), entitled 'An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections,' providing for requirements relating to voter identification; * * * for canvassing of official absentee ballots and for violation of provisions relating to absentee voting,"

respectfully submit the following bill as our report:

STEPHEN E. BARRAR

MIKE TURZAI

(Committee on the part of the House of Representatives.)

DAVID J. BRIGHTBILL

CHARLES D. LEMMOND

(Committee on the part of the Senate.)

This page intentionally left blank

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 requirements relating to voter
12 identification; further providing for powers and duties of
13 county boards, for compensation of district election
14 officers, for polling places selected by county boards, for
15 public buildings to be used where possible and portable
16 polling places and for prohibiting polling places in
17 buildings where malt or brewed beverages or liquors are sold;
18 providing for polling places in other buildings; further
19 providing for nominations by political bodies and for
20 affidavits of candidates; and further providing for opening
21 of polls, posting cards of instruction and notices of
22 penalties and voters' rights and examination of voting
23 machines, for voting procedures, for manner of applying to
24 vote, for date of application for absentee ballots, for
25 canvassing of official absentee ballots and for violation of
26 provisions relating to absentee voting.

27 The General Assembly of the Commonwealth of Pennsylvania
28 hereby enacts as follows:

29 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known
30 as the Pennsylvania Election Code, is amended by adding a
31 section to read:

32 Section 206. Requirements Relating to Voter
33 Identification.--(a) The Secretary of the Commonwealth shall
34 prepare and disseminate information to the public regarding the
35 identification requirements established under section 1210.

36 (b) Notwithstanding the provisions of 75 Pa.C.S. § 1510(b)
37 (relating to issuance and content of driver's license) to the
38 contrary, the Department of Transportation shall issue an
39 identification card described in 75 Pa.C.S. § 1510(b) at no cost
40 to any registered elector who has made application therefor and
41 has included with the completed application a signed affidavit

1 stating that the elector is unable to obtain another form of
2 photo identification, including a driver's license, that the
3 elector is unable to pay the required fee for the identification
4 card and that the elector is a registered elector as defined in
5 25 Pa.C.S. § 1102 (relating to definitions).

6 (c) The Secretary of the Commonwealth shall prepare the form
7 of the affidavit described in subsection (b) and shall
8 distribute the form to the counties and the Department of
9 Transportation. The Secretary of the Commonwealth, the Secretary
10 of Transportation and the county boards of election shall
11 disseminate information to the public regarding the availability
12 of identification cards under subsection (b).

13 Section 2. Section 302(b) of the act, amended October 8,
14 2004 (P.L.807, No.97), is amended to read:

15 Section 302. Powers and Duties of County Boards.--The county
16 boards of elections, within their respective counties, shall
17 exercise, in the manner provided by this act, all powers granted
18 to them by this act, and shall perform all the duties imposed
19 upon them by this act, which shall include the following:

20 * * *

21 (b) To select and equip polling places that meet the
22 requirements of this act.

23 * * *

24 Section 2.1. Section 412.2 of the act, added December 9,
25 2002 (P.L.1246, No.150), is amended to read:

26 Section 412.2. Compensation of District Election Officers.--

27 (a) In all counties regardless of class, the compensation of
28 judges of election, inspectors of election, clerks and machine
29 operators shall be fixed by the county board of elections for
30 each election in accordance with the following:

1	Election Officers	Minimum	Maximum
2		Compensation	Compensation
3	Judges of election	[\$45] <u>\$75</u>	\$200
4	Inspectors of election	[\$45] <u>\$75</u>	\$195
5	Clerks and machine operators	[\$40] <u>\$70</u>	\$195

6 (b) If a county board of elections authorizes that the
7 duties of a clerk of elections or machine operator may be
8 performed by two individuals who each perform such duties for
9 one-half of an election day, such individuals shall each be
10 compensated at one-half of the rate authorized for a single
11 individual who performs the duties for the entire election day.

12 (c) The county board of elections may, in its discretion,
13 establish different per diem rates within the minima and maxima
14 provided for in subsection (a) based on the number of votes cast
15 for the following groups:

- 16 (1) 150 votes or fewer.
- 17 (2) 151 to 300 votes.
- 18 (3) 301 to 500 votes.
- 19 (4) 501 to 750 votes.
- 20 (5) 751 votes and over.

21 (d) For transmitting returns of elections and the ballot box
22 or boxes, all judges of election shall be entitled to receive
23 the additional sum of twenty dollars (\$20).

24 (e) The county board of elections may, in its discretion,
25 require the minority inspector of election to accompany the
26 judge of election in transmitting the returns of elections, in
27 which case the minority inspector of election shall be entitled
28 to receive the additional sum of twenty dollars (\$20).

29 (f) The person furnishing transportation to the judge of
30 election and the minority inspector in transmitting returns and

1 ballot boxes shall be entitled to a minimum of thirty-five cents
2 (35¢) per circular mile from the polling place to the county
3 court house. The name of such person shall appear on the voucher
4 of the judge of election, and only one person shall receive
5 mileage compensation.

6 (g) A constable or deputy constable performing duties under
7 section 1207 of this act shall receive compensation at the same
8 rate payable to an inspector.

9 (h) When a primary and special election or a special
10 election and a general or municipal election take place on the
11 same date, they shall be construed as one election for the
12 purpose of receiving compensation.

13 (i) Compensation and other payments received by election
14 officials pursuant to this section shall not be deemed income
15 classified and categorized under section 303 of the act of March
16 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

17 Section 2.2. Section 526 of the act is amended to read:

18 Section 526. Polling Places to Be Selected by County
19 Board.--

20 (a) The county board of elections shall select and fix the
21 polling place within each new election district and may, at any
22 time, for any reason that may seem proper to it, either on its
23 own motion or on petition of ten qualified registered electors
24 of an election district, change the polling place within any
25 election district. Except in case of an emergency or unavoidable
26 event occurring within [ten] twenty days of a primary or
27 election, which renders any polling place unavailable for use at
28 such primary or election, the county board shall not change any
29 polling place until at least five days after notice of the
30 proposed change shall have been posted on the existing polling

1 place and in the immediate vicinity thereof, and until at least
2 five days after written notice of the proposed change shall have
3 been given to the occupant or owner of said polling place, or
4 their agent.

5 (b) Except in case of emergency or unavoidable event,
6 occurring within [ten] twenty days of a primary or election,
7 which renders any polling place unavailable for use, if a
8 petition be presented to the county board on or before the day
9 set for hearing of the petition for change of polling place,
10 signed by a majority of the registered electors of the district,
11 objecting to the proposed change, said change shall not be
12 ordered.

13 (c) The county board of elections shall publicly announce,
14 not less than twenty days prior to the primary election, special
15 election, municipal election or general election, by posting at
16 its office in a conspicuous place, a list of the places at which
17 the election is to be held in the various election districts of
18 the county. The list shall be available for public inspection at
19 the office of the county board of elections.

20 Section 3. Section 527(a) of the act, amended July 1, 1987
21 (P.L.178, No.20), is amended to read:

22 Section 527. Public Buildings to Be Used Where Possible;
23 Portable Polling Places.--(a) In selecting polling places, the
24 county board of elections shall, wherever possible and
25 practicable, select schoolhouses, municipal buildings or rooms,
26 or other public buildings for that purpose. Any board of public
27 education or school directors, or county or the municipal
28 authorities shall, upon request of the county board, make
29 arrangements for the use of school property, or of county or
30 municipal property for polling places. In selecting polling

1 places, the county board of elections shall make every effort to
2 select polling places that provide all electors with an
3 environment that is free from intimidation and violence.

4 In the event no available public building as contemplated
5 under this section is situated within the boundaries of any
6 election district, the county board of elections may, not less
7 than [ten] twenty days prior to any election, designate as the
8 polling place for such election district any such public
9 building situated in another election district within the same
10 or immediately adjacent ward, or, if there are no wards, then
11 within the same borough or township as the case may be, provided
12 such other building is located in an election district which is
13 immediately adjacent to the boundary of the election district
14 for which it is to be the polling place and is directly
15 accessible therefrom by public street or thoroughfare. Two or
16 more polling places may be located in the same public building
17 under this section. A polling place may be selected and
18 designated hereunder less than [ten] twenty days prior to any
19 election, with the approval of a court of competent
20 jurisdiction.

21 * * *

22 Section 4. Section 529 of the act is amended to read:

23 Section 529. Polling Places in Buildings or Rooms Where Malt
24 or Brewed Beverages or Liquors [Sold] Dispensed Prohibited.--
25 [No] (a) Except as provided in subsection (c), no election
26 shall be held in any room [or building, any part of which is
27 used for the sale or serving of] where malt or brewed beverages
28 or liquors[.] are dispensed. No malt or brewed beverages or
29 liquors may be served in a building where a polling place is
30 located during the hours that the polling place is open.

1 (b) The polling place must be accessible from an outside
2 entrance that does not require passageway through the room where
3 malt or brewed beverages or liquors are dispensed.

4 (c) In the case of an establishment licensed as a club under
5 the act of April 12, 1951 (P.L.90, No.21), known as the Liquor
6 Code, which is located in a building with only one room, an
7 election may be held in the room if no malt or brewed beverages
8 or liquors are served during the hours that the polling place is
9 open.

10 Section 5. The act is amended by adding a section to read:

11 Section 529.1. Polling Places in Other Buildings.--No
12 election shall be held in any of the following:

13 (1) A private residence not situated within the boundaries
14 of the election district.

15 (2) A private residence of an elected or appointed party
16 official.

17 (3) A private residence, that is not otherwise prohibited
18 under paragraphs (1), (2), (6) and (7), unless the county board
19 of elections certifies in writing and at a public hearing that:

20 (i) the polling place located within the private residence
21 is accessible to persons with disabilities; and

22 (ii) the private residence is a location free of
23 intimidation and harassment.

24 (4) An abandoned building.

25 (5) A vacant lot.

26 (6) An office, building or private residence of a candidate
27 for political office.

28 (7) An office, building or private residence of an elected
29 official.

30 (8) A building utilized by a ward or political party as

1 headquarters.

2 Section 6. Sections 630.1, 910, 951(e) and 981.1 of the act,
3 amended February 13, 1998 (P.L.72, No.18), are amended to read:

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

29 Section 910. Affidavits of Candidates.--Each candidate for
30 any State, county, city, borough, incorporated town, township,

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

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

10 Section 951. Nominations by Political Bodies.--* * *

11 (e) There shall be appended to each nomination paper offered
12 for filing an affidavit of each candidate nominated therein,
13 stating--(1) the election district in which he resides; (2) the
14 name of the office for which he consents to be a candidate; (3)
15 that he is eligible for such office; (4) that he will not
16 knowingly violate any provision of this act, or of any law
17 regulating and limiting election expenses, and prohibiting
18 corrupt practices in connection therewith; (5) that his name has
19 not been presented as a candidate by nomination petitions for
20 any public office to be voted for at the ensuing primary
21 election, nor has he been nominated by any other nomination
22 papers filed for any such office; (6) that in the case where he
23 is a candidate for election at a general or municipal election,
24 he was not a registered and enrolled member of a party thirty
25 (30) days before the primary held prior to the general or
26 municipal election in that same year; (7) that, in the case
27 where he is a candidate for election at a special election, he
28 is not a registered and enrolled member of a party[.]; (8) that
29 he is not a candidate for an office which he already holds, the
30 term of which is not set to expire in the same year as the

1 office subject to the affidavit.

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 the Traffic Court of Philadelphia, or for the
18 office of school board in a district where that office is
19 elective or for the office of justice of the peace, that he is
20 not a candidate for the same office of any party or political
21 body other than the one designated in such certificate; [and]
22 (g) that he is aware of the provisions of section 1626 of this
23 act requiring election and post-election reporting of campaign
24 contributions and expenditures[.]; and (h) that he is not a
25 candidate for an office which he already holds, the term of
26 which is not set to expire in the same year as the office
27 subject to the affidavit.

28 Section 6.1. Section 1209 heading and (a) of the act,
29 amended May 16, 1945 (P.L.596, No.250), are amended and the
30 section is amended by adding a subsection to read:

1 Section 1209. Opening of Polls; Posting Cards of Instruction
2 and Notices of Penalties and Voters' Rights; Examination of
3 Voting Machines.--(a) In districts in which ballots are used,
4 the election officers shall, after taking the oath, open the
5 ballot boxes which have been furnished to them, and burn and
6 totally destroy all the ballots and other papers which they may
7 find therein, before the opening of the polls.

8 Whenever during any emergency, it becomes necessary to save
9 waste paper on account of a shortage thereof, the Governor of
10 the Commonwealth may, by proclamation, suspend the foregoing
11 provisions relating to the destruction of ballots and papers,
12 and in that case, the election board shall set the ballots and
13 other papers aside and they shall be collected and disposed of
14 by such means and in such manner as may be determined by the
15 county election board. When the polling place is opened, the
16 ballot box shall be securely locked, and shall not be opened
17 until the close of the polls, as provided in section 1221. At
18 the opening of the polls the seals of the packages furnished by
19 the county board shall be publicly broken, and the said packages
20 shall be opened by the judge of election. The cards of
21 instruction and notices of penalties shall be immediately posted
22 in each voting compartment, and not less than three such cards
23 and notices of penalties and voters' rights, and not less than
24 five specimen ballots (at primaries five of each party), shall
25 be immediately posted in or about the voting room outside the
26 enclosed space, and such cards of instruction, notices of
27 penalties and specimen ballots shall be given to any elector at
28 his request, so long as there are any on hand.

29 (a.1) The notice pertaining to voters' rights shall contain
30 the following in boldface type:

1 An elector shall have the right to cast his or her vote:
2 without the use or threat of force, violence or restraint;
3 without the infliction or threat of infliction of injury;
4 without any intimidation or coercion upon or against his or
5 her person; or
6 without any other action intended to deny any individual's
7 right to vote.

8 * * *

9 Section 7. Section 1210(a), (a.1), (a.2), (a.3) and (a.4) of
10 the act, amended October 8, 2004 (P.L.807, No.97), are amended
11 to read:

12 Section 1210. Manner of Applying to Vote; Persons Entitled
13 to Vote; Voter's Certificates; Entries to Be Made in District
14 Register; Numbered Lists of Voters; Challenges.--(a) At every
15 primary and election each elector who appears to vote [in that
16 election district for the first time] and who desires to vote
17 shall first present to an election officer the original of one
18 of the following forms of photo identification:

19 (1) a valid driver's license or identification card issued
20 by the Department of Transportation;

21 (2) a valid identification card issued by any other agency
22 of the Commonwealth;

23 (3) a valid identification card issued by the United States
24 Government;

25 (4) a valid United States passport;

26 (5) a valid student identification card;

27 (6) a valid employe identification card; or

28 (7) a valid armed forces of the United States identification
29 card.

30 The election officer shall examine the identification presented

1 by the elector and sign an affidavit stating that this has been
2 done.

3 (a.1) Where the elector does not have a photo identification
4 as provided for in subsection (a), the elector shall present for
5 examination the original of one of the following forms of
6 identification that shows the name and address of the elector:

7 (1) nonphoto identification issued by the Commonwealth, or
8 any agency thereof;

9 (2) nonphoto identification issued by the United States
10 Government, or agency thereof;

11 (3) a firearm permit;

12 (4) a current utility bill;

13 (5) a current bank statement;

14 (6) a paycheck;

15 (7) a government check.

16 (2.1) a voter registration card issued by the county board
17 of elections.

18 The election officer shall examine the identification presented
19 by the elector and sign an affidavit stating that this has been
20 done.

21 (a.2) If the elector is unable to produce identification
22 pursuant to subsection (a) or (a.1) or the elector's
23 identification is challenged by the judge of elections, the
24 elector shall be permitted to cast a provisional ballot in
25 accordance with subsection (a.4).

26 (a.3) All electors, including any elector that shows
27 identification pursuant to subsection (a), shall subsequently
28 sign a voter's certificate in blue, black or blue-black ink with
29 a fountain pen or ball point pen, and, unless he is a State or
30 Federal employe who has registered under any registration act

1 without declaring his residence by street and number, he shall
2 insert his address therein, and hand the same to the election
3 officer in charge of the district register. Such election
4 officer shall thereupon announce the elector's name so that it
5 may be heard by all members of the election board and by all
6 watchers present in the polling place and shall compare the
7 elector's signature on his voter's certificate with his
8 signature in the district register. If, upon such comparison,
9 the signature upon the voter's certificate appears to be
10 genuine, the elector who has signed the certificate shall, if
11 otherwise qualified, be permitted to vote: Provided, That if the
12 signature on the voter's certificate, as compared with the
13 signature as recorded in the district register, shall not be
14 deemed authentic by any of the election officers, such elector
15 shall not be denied the right to vote for that reason, but shall
16 be considered challenged as to identity and required to make the
17 affidavit and produce the evidence as provided in subsection (d)
18 of this section. When an elector has been found entitled to
19 vote, the election officer who examined his voter's certificate
20 and compared his signature shall sign his name or initials on
21 the voter's certificate, shall, if the elector's signature is
22 not readily legible, print such elector's name over his
23 signature, and the number of the stub of the ballot issued to
24 him or his number in the order of admission to the voting
25 machines, and at primaries a letter or abbreviation designating
26 the party in whose primary he votes shall also be entered by one
27 of the election officers or clerks. As each voter is found to be
28 qualified and votes, the election officer in charge of the
29 district register shall write or stamp the date of the election
30 or primary, the number of the stub of the ballot issued to him

1 or his number in the order of admission to the voting machines,
2 and at primaries a letter or abbreviation designating the party
3 in whose primary he votes, and shall sign his name or initials
4 in the proper space on the registration card of such voter
5 contained in the district register.

6 As each voter votes, his name in the order of voting shall be
7 recorded in two (2) numbered lists of voters provided for that
8 purpose, with the addition of a note of each voter's party
9 enrollment after his name at primaries.

10 (a.4) (1) At all elections an individual who claims to be
11 properly registered and eligible to vote at the election
12 district but whose name does not appear on the district register
13 and whose registration cannot be determined by the inspectors of
14 election or the county election board shall be permitted to cast
15 a provisional ballot. [Individuals who are voting for the first
16 time at the election district] Individuals who appear to vote
17 shall be required to produce identification pursuant to
18 subsection (a) or (a.1) and if unable to do so shall be
19 permitted to cast a provisional ballot. An individual presenting
20 a judicial order to vote shall be permitted to cast a
21 provisional ballot.

22 (2) Prior to voting the provisional ballot, the elector
23 shall be required to sign an affidavit stating the following:

24 I do solemnly swear or affirm that my
25 name is _____, that my date of birth is _____,
26 and at the time that I registered I resided at _____ in
27 the municipality of _____ in _____ County of
28 the Commonwealth of Pennsylvania and that this is the only
29 ballot that I cast in this election.

30 Signature of Voter/Elector

1 Current Address

2 Check the Reason for Casting the Provisional Ballot.

3 Signed by Judge of Elections and minority inspector

4 (3) After the provisional ballot has been cast, the
5 individual shall place it in a secrecy envelope. The individual
6 shall place the secrecy envelope in the provisional ballot
7 envelope and shall place his signature on the front of the
8 provisional ballot envelope. All provisional ballots shall
9 remain sealed in their provisional ballot envelopes for return
10 to the county board of elections.

11 (4) Within seven calendar days of the election, the county
12 board of elections shall examine each provisional ballot
13 envelope that is received to determine if the individual voting
14 that ballot was entitled to vote at the election district in the
15 election. One authorized representative of each candidate in an
16 election and one representative from each political party shall
17 be permitted to remain in the room in which the determination is
18 being made. Representatives shall be permitted to keep a list of
19 those persons who cast a provisional ballot and shall be
20 entitled to challenge any determination of the county board of
21 elections with respect to the counting or partial counting of
22 the ballot under this section. Upon challenge of any provisional
23 ballot under this clause, the ballot envelope shall be marked
24 "challenged" together with the reason for the challenge, and the
25 provisional ballot shall be set aside pending final
26 determination of the challenge according to the following
27 procedure:

28 (i) Provisional ballots marked "challenged" shall be placed
29 unopened in a secure, safe and sealed container in the custody
30 of the county board of elections until it shall fix a time and

1 place for a formal hearing of all such challenges, and notice
2 shall be given where possible to all provisional electors thus
3 challenged and to every attorney, watcher or candidate who made
4 the challenge.

5 (ii) The time for the hearing shall not be later than seven
6 days after the date of the challenge.

7 (iii) On the day fixed for the hearing, the county board
8 shall proceed without delay to hear the challenges and, in
9 hearing the testimony, the county board shall not be bound by
10 the Pennsylvania Rules of Evidence.

11 (iv) The testimony presented shall be stenographically
12 recorded and made part of the record of the hearing.

13 (v) The decision of the county board in upholding or
14 dismissing any challenge may be reviewed by the court of common
15 pleas of the county upon a petition filed by any petitioner
16 aggrieved by the decision of the county board. The appeal shall
17 be taken, within two days after the decision was made, whether
18 the decision was reduced to writing or not, to the court of
19 common pleas setting forth the objections to the county board's
20 decision and praying for an order reversing the decision.

21 (vi) Pending the final determination of all appeals, the
22 county board shall suspend any action in canvassing and
23 computing all challenged provisional ballots irrespective of
24 whether or not an appeal was taken from the county board's
25 decision.

26 (vii) Upon completion of the computation of the returns of
27 the county, the votes cast upon the challenged official
28 provisional ballots shall be added to the other votes cast
29 within the county.

30 (5) (i) Except as provided in subclause (ii), if it is

1 determined that the individual was registered and entitled to
2 vote at the election district where the ballot was cast, the
3 county board of elections shall compare the signature on the
4 provisional ballot envelope with the signature on the elector's
5 registration form and, if the signatures are determined to be
6 genuine, shall count the ballot if the county board of elections
7 confirms that the individual did not cast any other ballot,
8 including an absentee ballot, in the election.

9 (ii) A provisional ballot shall not be counted if:

10 (A) either the provisional ballot envelope under clause (3)
11 or the affidavit under clause (2) is not signed by the
12 individual;

13 (B) the signature required under clause (3) and the
14 signature required under clause (2) are either not genuine or
15 are not executed by the same individual; [or]

16 (C) a provisional ballot envelope does not contain a secrecy
17 envelope[.]; or

18 (D) in the case of a provisional ballot that was cast under
19 subsection (a.2)(1) because the individual was unable to produce
20 identification, the individual is challenged under clause (4)
21 and fails to present to the county board of elections, at the
22 challenge hearing or prior thereto, a form of identification
23 described in subsection (a) or (a.1).

24 (iii) One authorized representative of each candidate in an
25 election and one representative from each party shall be
26 permitted to remain in the room in which deliberation or
27 determination of subclause (ii) is being made.

28 (6) If it is determined that the individual voting the
29 provisional ballot was not registered, the provisional ballot
30 shall not be counted and the ballot shall remain in the

1 provisional ballot envelope and shall be marked "Rejected as
2 Ineligible."

3 (7) The following shall apply:

4 (i) Except as provided in subclause (ii), if it is
5 determined that the individual voting the provisional ballot was
6 eligible to vote in the county in which the ballot was cast but
7 not at the election district where the ballot was cast, the
8 county board of elections shall open the envelope and only count
9 that portion of the ballot that the individual would have been
10 eligible to vote in his proper election district and at the
11 election district where the vote was cast if:

12 (A) the county board of elections confirms that the
13 individual did not cast any other ballot, including an absentee
14 ballot, in the election; and

15 (B) the individual casting the provisional ballot is a
16 resident of the county in which the provisional ballot was cast.

17 (ii) In the event that the individual casting the
18 provisional ballot is not found to be a resident of the county
19 in which the provisional ballot was cast, the ballot shall not
20 be counted.

21 (iii) In the event that the board of elections determines,
22 based on an evidentiary record, that the individual
23 intentionally and wilfully cast a provisional ballot in an
24 election district in which the individual was not eligible to
25 vote, the ballot shall not be counted.

26 (8) On election night, immediately upon completion of the
27 count and tabulation of the votes cast, the judge of election
28 shall prepare and certify under oath a tally displaying the
29 number of provisional ballots received from the election board
30 and the number of provisional ballots cast and transmitted to

1 the county board of elections. The judge of election shall
2 record on the tabulation the name of the individual into whose
3 possession the provisional ballots were passed for transmission
4 to the county board of elections.

5 (9) All provisional ballots and the tally of provisional
6 ballots tabulated under clause (8) in the possession of an
7 election board official shall be promptly returned by the judge
8 of election to the custody of the proper county election board
9 in accordance with sections 1113-A(j), 1225(b) and 1228(a).

10 (10) One authorized representative of each candidate in an
11 election and one representative from each political party shall
12 be permitted to remain in the room where provisional ballots are
13 received by the county board of elections.

14 (11) The department shall establish a World Wide Web site
15 and a toll-free telephone number to permit an individual who
16 cast a provisional ballot to determine whether the vote of that
17 individual was counted and, if the vote was not counted, the
18 reason that it was not counted.

19 (12) For purposes of this subsection, "provisional ballot"
20 means a ballot issued to an individual who claims to be a
21 registered elector by the judge of elections on election day
22 when the individual's name does not appear on the general
23 register and the individual's registration cannot be verified.

24 * * *

25 Section 8. Section 1302.1 of the act, amended February 13,
26 1998 (P.L.72, No.18), is amended to read:

27 Section 1302.1. Date of Application for Absentee Ballot.--

28 (a) Applications for absentee ballots unless otherwise
29 specified shall be received in the office of the county board of
30 elections not earlier than fifty (50) days before the primary or

1 election and not later than five o'clock P.M. of the first
2 Tuesday prior to the day of any primary or election: Provided,
3 however, That in the event any elector otherwise qualified who
4 is so physically disabled or ill on or before the first Tuesday
5 prior to any primary or election that he is unable to file his
6 application or who becomes physically disabled or ill after the
7 first Tuesday prior to any primary or election and is unable to
8 appear at his polling place or any elector otherwise qualified
9 who because of the conduct of his business, duties or occupation
10 will necessarily be absent from the municipality of his
11 residence on the day of the primary or election, which fact was
12 not and could not reasonably be known to said elector on or
13 before the first Tuesday prior to any primary or election, shall
14 be entitled to an absentee ballot at any time prior to five
15 o'clock P.M. on the first Friday preceding any primary or
16 election upon execution of an Emergency Application in such form
17 prescribed by the Secretary of the Commonwealth.

18 (b) In the case of an elector whose application for an
19 absentee ballot is received by the office of the county board of
20 elections earlier than fifty (50) days before the primary or
21 election, the application shall be held and processed upon
22 commencement of the fifty (50) day period.

23 (c) In the case of an elector who is physically disabled or
24 ill on or before the first Tuesday prior to a primary or
25 election or becomes physically disabled or ill after the first
26 Tuesday prior to a primary or election, such Emergency
27 Application shall contain a supporting affidavit from his
28 attending physician stating that due to physical disability or
29 illness said elector was unable to apply for an absentee ballot
30 on or before the first Tuesday prior to the primary or election

1 or became physically disabled or ill after that period.

2 (d) In the case of an elector who is necessarily absent
3 because of the conduct of his business, duties or occupation
4 under the unforeseen circumstances specified in this subsection,
5 such Emergency Application shall contain a supporting affidavit
6 from such elector stating that because of the conduct of his
7 business, duties or occupation said elector will necessarily be
8 absent from the municipality of his residence on the day of the
9 primary or election which fact was not and could not reasonably
10 be known to said elector on or before the first Tuesday prior to
11 the primary or election.

12 Section 9. Section 1308(a) of the act, amended December 11,
13 1968 (P.L.1183, No.375), is amended and the section is amended
14 by adding a subsection to read:

15 Section 1308. Canvassing of Official Absentee Ballots.--

16 (a) The county boards of election, upon receipt of official
17 absentee ballots in such envelopes, shall safely keep the same
18 in sealed or locked containers until they distribute same to the
19 appropriate local election districts in a manner prescribed by
20 the Secretary of the Commonwealth.

21 The county board of elections shall then distribute the
22 absentee ballots, unopened, to the absentee voter's respective
23 election district concurrently with the distribution of the
24 other election supplies. Absentee ballots shall be canvassed
25 immediately and continuously without interruption until
26 completed after the close of the polls on the day of the
27 election in each election district. The results of the canvass
28 of the absentee ballots shall then be included in and returned
29 to the county board with the returns of that district. [No]

30 Except as provided in subsection (g), no absentee ballot shall

1 be counted which is received in the office of the county board
2 of election later than five o'clock P. M. on the Friday
3 immediately preceding the primary or November election.

4 * * *

5 (g) (1) An absentee ballot cast by any absentee elector as
6 defined in section 1301(a), (b), (c), (d), (e), (f), (g) and
7 (h), who is outside of the territorial limits of the several
8 states of the United States and the District of Columbia, which
9 is received in the office of the county board of elections after
10 five o'clock P. M. on the Friday immediately preceding the
11 election and no later than five o'clock P. M. on the seventh day
12 following an election shall be canvassed in accordance with this
13 subsection if the absentee ballot is postmarked no later than
14 the day immediately preceding the election.

15 (2) The county board of elections shall meet on the eighth
16 day following the election to canvass the absentee ballots
17 received under this subsection. One authorized representative of
18 each candidate in an election and one representative from each
19 political party shall be permitted to remain in the room in
20 which the absentee ballots are canvassed. Representatives shall
21 be permitted to challenge any absentee elector in accordance
22 with the provisions of paragraph (3).

23 (3) When the county board meets to canvass absentee ballots
24 under paragraph (2) the board shall examine the declaration on
25 the envelope of each ballot not set aside under subsection (d)
26 and shall compare the information thereon with that contained in
27 the "Registered Absentee Voters File," the absentee voters' list
28 and/or the "Military Veterans and Emergency Civilians Absentee
29 Voters File," whichever is applicable. If the county board is
30 satisfied that the declaration is sufficient and the information

1 contained in the "Registered Absentee Voters File," the absentee
2 voters' list and/or the "Military Veterans and Emergency
3 Civilians Absentee Voters File" verifies his right to vote, the
4 county board shall announce the name of the elector and shall
5 give any candidate representative or party representative
6 present an opportunity to challenge any absentee elector upon
7 the ground or grounds (i) that the absentee elector is not a
8 qualified elector; or (ii) that the absentee elector was within
9 the municipality of his residence on the day of the primary or
10 election during the period the polls were open, except where he
11 was in the military service or except in the case where his
12 ballot was obtained for the reason that he was unable to appear
13 personally at the polling place because of illness or physical
14 disability; or (iii) that the absentee elector was able to
15 appear personally at the polling place on the day of the primary
16 or election during the period the polls were open in the case
17 his ballot was obtained for the reason that he was unable to
18 appear personally at the polling place because of illness or
19 physical disability. Upon challenge of any absentee elector, as
20 set forth herein, the board shall mark "challenged" on the
21 envelope together with the reasons therefor, and the same shall
22 be set aside unopened pending final determination of the
23 challenge according to the procedure described in paragraph (5).

24 (4) All absentee ballots not challenged for any of the
25 reasons provided in paragraph (3) shall be counted and included
26 with the returns of the applicable election district, as
27 follows. The county board shall open the envelope of every
28 unchallenged absentee elector in such manner as not to destroy
29 the declaration executed thereon. If any of the envelopes on
30 which are printed, stamped or endorsed the words "Official

1 Absentee Ballot" contain any extraneous marks or identifying
2 symbols the envelopes and the ballots contained therein shall be
3 set aside and declared void. The county board shall then break
4 the seals of such envelopes, remove the ballots and record the
5 votes.

6 (5) With respect to the challenged ballots, they shall be
7 placed unopened in a secure, safe and sealed container in the
8 custody of the county board until it shall fix a time and place
9 for a formal hearing of all such challenges and notice shall be
10 given where possible to all absentee electors thus challenged
11 and to every individual who made a challenge. The time for the
12 hearing shall not be later than five (5) days after the date of
13 the challenge. On the day fixed for said hearing, the county
14 board shall proceed without delay to hear said challenges and,
15 in hearing the testimony, the county board shall not be bound by
16 the Pennsylvania Rules of Evidence. The testimony presented
17 shall be stenographically recorded and made part of the record
18 of the hearing.

19 (6) The decision of the county board in upholding or
20 dismissing any challenge may be reviewed by the court of common
21 pleas of the county upon a petition filed by any person
22 aggrieved by the decision of the county board. The appeal shall
23 be taken, within two (2) days after the decision was made,
24 whether the decision was reduced to writing or not, to the court
25 of common pleas setting forth the objections to the county
26 board's decision and praying for an order reversing the
27 decision.

28 (7) Pending the final determination of all appeals, the
29 county board shall suspend any action in canvassing and
30 computing all challenged ballots received under this subsection

1 irrespective of whether or not appeal was taken from the county
2 board's decision. Upon completion of the computation of the
3 returns of the county, the votes cast upon the challenged
4 official absentee ballots that have been finally determined to
5 be valid shall be added to the other votes cast within the
6 county.

7 Section 10. Section 1331 of the act, added December 11, 1968
8 (P.L.1183, No.375), is amended to read:

9 Section 1331. Violation of Provisions Relating to Absentee
10 Voting.--[Any] (a) Except as provided in subsection (b), any
11 person who shall violate any of the provisions of this act
12 relating to absentee voting shall, unless otherwise provided, be
13 subject to the penalties provided for in section 1850 of this
14 act.

15 (b) Any person who knowingly assists another person who is
16 not a qualified absentee elector in filling out an absentee
17 ballot application or absentee ballot commits a misdemeanor of
18 the third degree.

19 Section 11. The amendment of section 412.2 shall apply to a
20 district election officer in accordance with Article III,
21 Section 27 of the Constitution of Pennsylvania.

22 Section 12. This act shall take effect as follows:

23 (1) The amendment of section 412.2 of the act shall take
24 effect January 1, 2007.

25 (2) The amendment of sections 1302.1, 1308(a) and 1331
26 of the act shall take effect in 30 days.

27 (3) This section shall take effect immediately.

28 (4) The remainder of this act shall take effect July 1,
29 2006.