

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 979 Session of 2023

INTRODUCED BY SOLOMON, RABB, SAPPEY, MADDEN, ZABEL, HADDOCK, VENKAT, GUENST, HILL-EVANS, SCHWEYER, KHAN, FLEMING, ISAACSON, McNEILL, GAYDOS, FRANKEL, CERRATO AND FRIEL, APRIL 24, 2023

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 17, 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 preliminary provisions, further providing for
12 definitions; in qualifications of electors, further providing
13 for qualifications of electors at primaries; in party
14 organization, further providing for only enrolled electors to
15 vote at primaries or hold party offices; in nomination of
16 candidates, further providing for candidates to be nominated
17 and party officers to be elected at primaries and providing
18 for procedure for unenrolled electors to cast primary
19 ballots; and, in preparation for and conduct of primaries and <--
20 elections, further providing for manner of applying to vote,
21 persons entitled to vote, voter's certificates, entries to be
22 made in district register, numbered lists of voters and
23 challenges-; IN VOTING BY QUALIFIED ABSENTEE ELECTORS, <--
24 FURTHER PROVIDING FOR APPLICATIONS FOR OFFICIAL ABSENTEE
25 BALLOTS; IN VOTING BY QUALIFIED MAIL-IN ELECTORS, FURTHER
26 PROVIDING FOR APPLICATIONS FOR OFFICIAL MAIL-IN BALLOTS; IN
27 RETURNS OF PRIMARIES AND ELECTIONS, FURTHER PROVIDING FOR
28 COMPUTATION OF RETURNS BY COUNTY BOARD, CERTIFICATION AND
29 ISSUANCE OF CERTIFICATES OF ELECTION; AND, IN PENALTIES,
30 FURTHER PROVIDING FOR ELECTION OFFICERS REFUSING TO PERMIT
31 ELECTOR TO VOTE IN PROPER PARTY AT PRIMARIES AND REPEALING

1 PROVISIONS RELATING TO ELECTOR VOTING BALLOT OF WRONG PARTY
2 AT PRIMARY.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Section 102 of the act of June 3, 1937 (P.L.1333,
6 No.320), known as the Pennsylvania Election Code, is amended by
7 adding a definition to read:

8 Section 102. Definitions.--The following words, when used in
9 this act, shall have the following meanings, unless otherwise
10 clearly apparent from the context:

11 * * *

12 (z.7) The words "unenrolled elector" shall mean a person who
13 is registered to vote within an election district having
14 selected "none" or "no affiliation" in regard to a political
15 party on their Pennsylvania voter registration application.

16 Section 2. Sections 702, 802 and 902 of the act are amended
17 to read:

18 Section 702. Qualifications of Electors at Primaries.--(a)
19 The qualifications of electors entitled to vote at primaries
20 shall be the same as the qualifications of electors entitled to
21 vote at elections within the election district where the primary
22 is held[, provided that no elector who is not registered and
23 enrolled as a member of a political party, in accordance with
24 the provisions of this act, shall be permitted to vote the
25 ballot of such party or any other party ballot at any primary].

26 (b) Unenrolled electors shall be permitted to vote in
27 primary elections FOR THE NOMINATION FOR CANDIDATES FOR PUBLIC <--
28 OFFICE in accordance with the procedures specified in sections
29 902.1 and 1231, 1231, 1302 AND 1302-D. <--

30 Section 802. Only Enrolled Electors to [Vote at Primaries
31 or] Hold Party Offices OR VOTE FOR PARTY OFFICE.--No person who <--

1 is not registered and enrolled as a member of a political party
2 shall be entitled to [vote at any primary of such party or to]
3 be elected or serve as OR VOTE FOR a party officer, or a member <--
4 or officer of any party committee, or delegate or alternate
5 delegate to any party convention.

6 Section 902. Candidates to Be Nominated and Party Officers
7 to Be Elected at Primaries.--All candidates of political
8 parties, as defined in section 801 of this act, for the offices
9 of President of the United States, United States Senator,
10 Representative in Congress and for all other elective public
11 offices within this State, except that of presidential electors,
12 shall be nominated, and party delegates and alternate delegates,
13 committeemen and officers who, under the provisions of Article
14 VIII of this act or under the party rules, are required to be
15 elected by the party electors, shall be elected at primaries
16 held in accordance with the provisions of this [act, except as
17 otherwise provided in this act. In the years when candidates for
18 the office of President of the United States are to be
19 nominated, every registered and enrolled member of a political
20 party shall have the opportunity at the Spring primary in such
21 years to vote his preference for one person to be the candidate
22 of his political party for President.] act. In a primary
23 election conducted in this Commonwealth, all unenrolled electors
24 shall have the opportunity to vote in accordance with the
25 procedures provided under section 902.1.

26 Section 3. The act is amended by adding a section to read:

27 Section 902.1. Procedure for Unenrolled Electors to Cast
28 Primary Ballots.--Upon confirming an unenrolled elector's status
29 as a registered elector, the elections officer shall ask the
30 unenrolled elector in which political party's primary the

1 unenrolled elector desires to vote, and the elections officer
2 upon reply shall record the unenrolled elector's selection upon
3 the unenrolled elector's certificate and for the purpose of that
4 ballot only shall be deemed enrolled in that party. THE <--
5 UNENROLLED ELECTOR'S CERTIFICATE SHALL BE A FORM PRESCRIBED BY
6 THE SECRETARY OF THE COMMONWEALTH. The unenrolled elector shall
7 not sign the voter's certificate until the elections officer has
8 recorded the unenrolled elector's desired political party on the
9 certificate.

10 ~~Section 4. Section 1210(d) of the act is amended to read:~~ <--

11 SECTION 4. SECTIONS 1210(D), 1302(B) AND (B.1), 1302-D(B), <--
12 1404(B) AND 1824 OF THE ACT ARE AMENDED TO READ:

13 Section 1210. Manner of Applying to Vote; Persons Entitled
14 to Vote; Voter's Certificates; Entries to Be Made in District
15 Register; Numbered Lists of Voters; Challenges.--* * *

16 (d) No person, except a qualified elector who is in actual
17 military or naval service under a requisition of the President
18 of the United States or by the authority of this Commonwealth,
19 and who votes under the provisions of Article XIII of this act,
20 shall be entitled or permitted to vote at any primary or
21 election at any polling place outside the election district in
22 which he resides, nor shall he be permitted to vote in the
23 election district in which he resides, unless he has been
24 personally registered as an elector and his registration card
25 appears in the district register of such election district,
26 except by order of the court of common pleas as provided in this
27 act, and any person, although personally registered as an
28 elector, may be challenged by any qualified elector, election
29 officer, overseer, or watcher at any primary or election as to
30 his identity, as to his continued residence in the election

1 district or as to any alleged violation of the provisions of
2 section 1210 of this act, and if challenged as to identity or
3 residence, he shall produce at least one qualified elector of
4 the election district as a witness, who shall make affidavit of
5 his identity or continued residence in the election district:
6 Provided, however, That no person shall be entitled to vote as a
7 member of a party at any primary, unless he is:

8 (1) registered and enrolled as a member of such party upon
9 the district register, which enrollment shall be conclusive as
10 to [his] party membership and shall not be subject to challenge
11 on the day of the primary[.]; or

12 (2) an unenrolled elector, in which case the person may vote
13 for the candidates of the party of the unenrolled elector's
14 choice in accordance with the procedures provided under section
15 902.1. The unenrolled elector's choice of party at one primary
16 election shall not preclude the unenrolled elector from choosing
17 a different party in a subsequent primary election.

18 * * *

19 ~~Section 5. This act shall take effect in 60 days.~~ <--

20 SECTION 1302. APPLICATIONS FOR OFFICIAL ABSENTEE BALLOTS.--* <--

21 * *

22 (B) AN APPLICATION FOR A QUALIFIED ELECTOR UNDER SUBSECTION
23 (A) SHALL CONTAIN THE FOLLOWING INFORMATION: HOME RESIDENCE AT
24 THE TIME OF ENTRANCE INTO ACTUAL MILITARY SERVICE OR FEDERAL
25 EMPLOYMENT, LENGTH OF TIME A CITIZEN, LENGTH OF RESIDENCE IN
26 PENNSYLVANIA, DATE OF BIRTH, LENGTH OF TIME A RESIDENT OF VOTING
27 DISTRICT, VOTING DISTRICT IF KNOWN, PARTY CHOICE IN CASE OF
28 PRIMARY, NAME AND, FOR A MILITARY ELECTOR, HIS STATESIDE
29 MILITARY ADDRESS, FPO OR APO NUMBER AND SERIAL NUMBER. ANY
30 ELECTOR OTHER THAN A MILITARY ELECTOR SHALL IN ADDITION SPECIFY

1 THE NATURE OF HIS EMPLOYMENT, THE ADDRESS TO WHICH BALLOT IS TO
2 BE SENT, RELATIONSHIP WHERE NECESSARY, AND SUCH OTHER
3 INFORMATION AS MAY BE DETERMINED AND PRESCRIBED BY THE SECRETARY
4 OF THE COMMONWEALTH. UNENROLLED ELECTORS WHO WISH TO VOTE IN A
5 PRIMARY SHALL SPECIFY WHICH POLITICAL PARTY'S BALLOT THEY ARE
6 SEEKING. UPON CONFIRMING AN UNENROLLED ELECTOR'S STATUS AS A
7 REGISTERED ELECTOR, THE COUNTY BOARD SHALL RECORD AND PROCESS
8 THE APPLICATION ACCORDINGLY. WHEN SUCH APPLICATION IS RECEIVED
9 BY THE SECRETARY OF THE COMMONWEALTH IT SHALL BE FORWARDED TO
10 THE PROPER COUNTY BOARD OF ELECTION.

11 (B.1) AN APPLICATION FOR A QUALIFIED ELECTOR OTHER THAN
12 UNDER SUBSECTION (A) SHALL CONTAIN THE FOLLOWING INFORMATION:
13 DATE OF BIRTH, LENGTH OF TIME A RESIDENT OF VOTING DISTRICT,
14 VOTING DISTRICT IF KNOWN, PARTY CHOICE IN CASE OF PRIMARY AND
15 NAME. THE ELECTOR SHALL IN ADDITION SPECIFY THE NATURE OF HIS OR
16 HER EMPLOYMENT, THE ADDRESS TO WHICH BALLOT IS TO BE SENT,
17 RELATIONSHIP WHERE NECESSARY, AND OTHER INFORMATION AS MAY BE
18 DETERMINED AND PRESCRIBED BY THE SECRETARY OF THE COMMONWEALTH.
19 UNENROLLED ELECTORS WHO WISH TO VOTE IN A PRIMARY SHALL SPECIFY
20 WHICH POLITICAL PARTY'S BALLOT THEY ARE SEEKING. UPON CONFIRMING
21 AN UNENROLLED ELECTOR'S STATUS AS A REGISTERED ELECTOR, THE
22 COUNTY BOARD SHALL RECORD AND PROCESS THE APPLICATION
23 ACCORDINGLY. WHEN THE APPLICATION IS RECEIVED BY THE SECRETARY
24 OF THE COMMONWEALTH IT SHALL BE FORWARDED TO THE PROPER COUNTY
25 BOARD OF ELECTION.

26 * * *

27 SECTION 1302-D. APPLICATIONS FOR OFFICIAL MAIL-IN BALLOTS.

28 * * *

29 (B) CONTENT.--THE FOLLOWING SHALL APPLY:

30 (1) THE QUALIFIED ELECTOR'S APPLICATION SHALL CONTAIN

1 THE FOLLOWING INFORMATION:

2 (I) DATE OF BIRTH.

3 (II) LENGTH OF TIME A RESIDENT OF VOTING DISTRICT.

4 (III) VOTING DISTRICT, IF KNOWN.

5 (IV) PARTY CHOICE IN CASE OF PRIMARY.

6 (V) NAME.

7 (2) A QUALIFIED ELECTOR SHALL, IN ADDITION, SPECIFY THE
8 ADDRESS TO WHICH THE BALLOT IS TO BE SENT, THE RELATIONSHIP
9 WHERE NECESSARY AND OTHER INFORMATION AS MAY BE DETERMINED BY
10 THE SECRETARY OF THE COMMONWEALTH.

11 (3) WHEN AN APPLICATION IS RECEIVED BY THE SECRETARY OF
12 THE COMMONWEALTH IT SHALL BE FORWARDED TO THE PROPER COUNTY
13 BOARD OF ELECTION.

14 (4) UNENROLLED ELECTORS WHO WISH TO VOTE IN A PRIMARY
15 SHALL SPECIFY WHICH POLITICAL PARTY'S BALLOT THEY ARE
16 SEEKING. UPON CONFIRMING AN UNENROLLED ELECTOR'S STATUS AS A
17 REGISTERED ELECTOR, THE COUNTY BOARD SHALL RECORD AND PROCESS
18 THE APPLICATION ACCORDINGLY.

19 * * *

20 SECTION 1404. COMPUTATION OF RETURNS BY COUNTY BOARD;
21 CERTIFICATION; ISSUANCE OF CERTIFICATES OF ELECTION.--

22 * * *

23 (B) IT SHALL BE THE DUTY OF EACH BOARD OF REGISTRATION
24 COMMISSIONERS IN EACH COUNTY, BEFORE THE TIME FIXED FOR THE
25 COUNTY BOARD TO CONVENE FOR PURPOSE OF COMPUTING AND CANVASSING
26 RETURNS OF ANY PRIMARY OR ELECTION, TO CERTIFY TO SAID COUNTY
27 BOARD THE TOTAL REGISTRATION OF EACH ELECTION DISTRICT WITHIN
28 ITS JURISDICTION, AND THE ENROLLMENT OF EACH DISTRICT BY
29 POLITICAL PARTIES AT PRIMARIES. THE COUNTY BOARD, BEFORE
30 COMPUTING THE VOTES CAST IN ANY ELECTION DISTRICT, SHALL COMPARE

1 SAID REGISTRATION AND ENROLLMENT FIGURES WITH THE CERTIFICATES
2 RETURNED BY THE ELECTION OFFICERS SHOWING THE NUMBER OF PERSONS
3 WHO VOTED IN EACH DISTRICT OR THE NUMBER OF BALLOTS CAST. IF,
4 UPON CONSIDERATION BY SAID RETURN BOARD OF THE RETURNS BEFORE IT
5 FROM ANY ELECTION DISTRICT AND THE CERTIFICATES AFORESAID, IT
6 SHALL APPEAR THAT THE TOTAL VOTE RETURNED FOR ANY CANDIDATE OR
7 CANDIDATES FOR THE SAME OFFICE OR NOMINATION OR ON ANY QUESTION
8 EXCEEDS THE NUMBER OF REGISTERED OR ENROLLED ELECTORS IN SAID
9 ELECTION DISTRICT OR EXCEEDS THE TOTAL NUMBER OF PERSONS WHO
10 VOTED IN SAID ELECTION DISTRICT OR THE TOTAL NUMBER OF BALLOTS
11 CAST THEREIN, [OR, IF IT SHALL APPEAR THAT THE TOTAL NUMBER OF
12 PARTISAN VOTES RETURNED FOR ANY CANDIDATE OR CANDIDATES FOR THE
13 SAME OFFICE OR NOMINATION AT ANY PRIMARY EXCEEDS THE NUMBER OF
14 ELECTORS REGISTERED OR ENROLLED IN SAID DISTRICT AS MEMBERS OF
15 THAT POLITICAL PARTY, OR EXCEEDS THE TOTAL NUMBER OF PERSONS
16 BELONGING TO THAT PARTY WHO VOTED IN SAID DISTRICT OR THE TOTAL
17 NUMBER OF BALLOTS OF THAT PARTY CAST THEREIN, IN ANY SUCH CASE,]
18 SUCH EXCESS SHALL BE DEEMED A DISCREPANCY AND PALPABLE ERROR,
19 AND SHALL BE INVESTIGATED BY THE RETURN BOARD, AND NO VOTES
20 SHALL BE RECORDED FROM SUCH DISTRICT UNTIL SUCH INVESTIGATION
21 SHALL BE HAD, AND SUCH EXCESS SHALL AUTHORIZE-- (A) THE SUMMONING
22 OF THE ELECTION OFFICERS, OVERSEERS, MACHINE INSPECTORS, AND
23 CLERKS TO APPEAR FORTHWITH WITH ANY ELECTION PAPERS IN THEIR
24 POSSESSION; (B) THE PRODUCTION OF THE BALLOT BOX BEFORE THE
25 RETURN BOARD, AND THE EXAMINATION AND SCRUTINY OF ALL OF ITS
26 CONTENTS, AND ALL OF THE REGISTRATION AND ELECTION DOCUMENTS
27 WHATEVER, RELATING TO SAID DISTRICT, IN THE PRESENCE OF
28 REPRESENTATIVES OF EACH PARTY AND CANDIDATE INTERESTED WHO ARE
29 ATTENDING THE CANVASS OF SUCH VOTES; AND THE RECOUNT OF THE
30 BALLOTS CONTAINED IN SAID BALLOT BOX, EITHER GENERALLY OR

1 RESPECTING THE PARTICULAR OFFICE, NOMINATION, OR QUESTION AS TO
2 WHICH THE EXCESS EXISTS, IN THE DISCRETION OF THE RETURN BOARD;
3 (C) THE CORRECTION OF THE RETURNS IN ACCORDANCE WITH THE RESULT
4 OF SAID RECOUNT; (D) IN THE DISCRETION OF THE RETURN BOARD, THE
5 EXCLUSION OF THE POLL OF THAT DISTRICT, EITHER AS TO ALL
6 OFFICES, CANDIDATES, QUESTIONS, AND PARTIES, OR AS TO ANY
7 PARTICULAR OFFICES, CANDIDATES, QUESTIONS, OR PARTIES AS TO
8 WHICH SAID EXCESS EXISTS, IF THE BALLOT BOX BE FOUND TO CONTAIN
9 MORE BALLOTS THAN THERE ARE ELECTORS REGISTERED OR ENROLLED IN
10 SAID ELECTION DISTRICT, OR MORE BALLOTS OF ONE PARTY THAN THERE
11 ARE ELECTORS REGISTERED OR ENROLLED IN SAID DISTRICT AS MEMBERS
12 OF THAT PARTY, OR MORE BALLOTS THAN THE NUMBER OF VOTERS WHO
13 VOTED AT SAID ELECTION, OR MORE BALLOTS OF ONE PARTY THAN THE
14 NUMBER OF VOTERS OF THAT PARTY WHO VOTED AT SAID ELECTION; (E) A
15 REPORT OF THE FACTS OF THE CASE TO THE DISTRICT ATTORNEY WHERE
16 SUCH ACTION APPEARS TO BE WARRANTED.

17 * * *

18 SECTION 1824. ELECTION OFFICERS REFUSING TO PERMIT ELECTOR
19 TO VOTE IN PROPER PARTY AT PRIMARIES.--ANY JUDGE, INSPECTOR OR
20 CLERK OF ELECTION WHO REFUSES TO PERMIT AN ELECTOR AT ANY
21 PRIMARY AT WHICH BALLOTS ARE USED TO RECEIVE THE BALLOT OF THE
22 PARTY WITH WHICH HE IS [ENROLLED] ENTITLED TO VOTE, OR WHO GIVES
23 TO ANY SUCH ELECTOR THE BALLOT OF ANY PARTY IN WHICH HE IS NOT
24 [ENROLLED] ENTITLED TO VOTE, OR ANY JUDGE, OR INSPECTOR OF
25 ELECTION, OR MACHINE INSPECTOR WHO, AT ANY PRIMARY AT WHICH
26 VOTING MACHINES ARE USED, ADJUSTS ANY VOTING MACHINE ABOUT TO BE
27 USED BY AN ELECTOR SO AS NOT TO PERMIT HIM TO VOTE FOR THE
28 CANDIDATES OF THE PARTY IN WHICH HE IS [ENROLLED] ENTITLED TO
29 VOTE, OR SO AS TO PERMIT HIM TO VOTE FOR THE CANDIDATES OF ANY
30 PARTY IN WHICH HE IS NOT [ENROLLED] ENTITLED TO VOTE, SHALL BE

1 GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE, AND, UPON
2 CONVICTION THEREOF, SHALL BE SENTENCED TO PAY A FINE NOT
3 EXCEEDING TEN THOUSAND (\$10,000) DOLLARS, OR TO UNDERGO AN
4 IMPRISONMENT OF NOT MORE THAN FIVE (5) YEARS, OR BOTH, IN THE
5 DISCRETION OF THE COURT.

6 SECTION 5. SECTION 1834 OF THE ACT IS REPEALED:

7 [SECTION 1834. ELECTOR VOTING BALLOT OF WRONG PARTY AT
8 PRIMARY.--ANY ELECTOR WHO SHALL WILFULLY VOTE AT ANY PRIMARY THE
9 BALLOT OF A PARTY IN WHICH HE IS NOT ENROLLED, IN VIOLATION OF
10 THE PROVISIONS OF THIS ACT, SHALL BE GUILTY OF A MISDEMEANOR OF
11 THE SECOND DEGREE, AND, UPON CONVICTION THEREOF, SHALL BE
12 SENTENCED TO PAY A FINE NOT EXCEEDING FIVE THOUSAND (\$5,000)
13 DOLLARS, OR TO UNDERGO AN IMPRISONMENT OF NOT MORE THAN TWO (2)
14 YEARS, OR BOTH, IN THE DISCRETION OF THE COURT.]

15 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.