

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 847 Session of 2023

INTRODUCED BY CONKLIN, APRIL 10, 2023

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 24, 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 voting by qualified absentee electors,
13 further providing for date of application for absentee
14 ballot, FOR APPROVAL OF APPLICATION FOR ABSENTEE BALLOT, FOR <--
15 ENVELOPES FOR OFFICIAL ABSENTEE BALLOTS, FOR VOTING BY
16 ABSENTEE ELECTORS and for canvassing of official absentee
17 ballots and mail-in ballots; in voting by qualified mail-in
18 electors, further providing for date of application for mail-
19 in ballot, FOR ENVELOPES FOR OFFICIAL MAIL-IN BALLOTS AND FOR <--
20 VOTING BY MAIL-IN ELECTORS; and, in Election Integrity Grant
21 Program, further providing for funding for elections.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 ~~Section 1. Section 1302.1(a) and (a.3)(1) and (2) of the act <--~~
25 ~~of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania~~
26 ~~Election Code, are amended to read:~~

27 SECTION 1. SECTION 102(Q.1) OF THE ACT OF JUNE 3, 1937 <--

1 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA ELECTION CODE, IS
2 AMENDED TO READ:

3 SECTION 102. DEFINITIONS.--THE FOLLOWING WORDS, WHEN USED IN
4 THIS ACT, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS OTHERWISE
5 CLEARLY APPARENT FROM THE CONTEXT:

6 * * *

7 (Q.1) THE WORD "PRE-CANVASS" SHALL MEAN THE INSPECTION AND
8 OPENING OF ALL ENVELOPES CONTAINING OFFICIAL ABSENTEE BALLOTS OR
9 MAIL-IN BALLOTS, THE REMOVAL OF SUCH BALLOTS FROM THE ENVELOPES
10 AND [THE COUNTING, COMPUTING AND TALLYING OF THE VOTES REFLECTED
11 ON THE BALLOTS.] THE PREPARATION OF THOSE BALLOTS FOR SCANNING,
12 INCLUDING UNFOLDING, STRAIGHTENING AND DUPLICATING IF THE BALLOT
13 IS DAMAGED IN SOME WAY THAT PREVENTS IT FROM BEING SCANNED BUT
14 WHERE THE VOTER'S INTENT IS STILL CLEAR. IT SHALL ALSO INCLUDE
15 SCANNING THE BALLOT INTO A VOTING MACHINE OR OTHER AUTOMATIC
16 TABULATING DEVICE, IF THE EQUIPMENT USED BY THE COUNTY BOARD OF
17 ELECTIONS PERMITS A BALLOT TO BE SCANNED WITHOUT TABULATING OR
18 COUNTING THE VOTES ON THE BALLOT SCANNED. THE TERM DOES NOT
19 INCLUDE THE RECORDING OR PUBLISHING OF THE VOTES REFLECTED ON
20 THE BALLOTS.

21 * * *

22 SECTION 2. SECTION 1302.1(A) AND (A.3)(1) AND (2) OF THE ACT
23 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
24 READ:

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

26 (a) Except as provided in subsection (a.3), applications for
27 absentee ballots shall be received in [the] AN office of the <--
28 county board of elections not earlier than fifty (50) days
29 before the primary or election, except that if a county board of
30 elections determines that it would be appropriate to its

1 operational needs, any applications for absentee ballots
2 received more than fifty (50) days before the primary or
3 election may be processed before that time. Applications for
4 absentee ballots shall be processed if received not later than
5 five o'clock P.M. of the [first Tuesday] ~~fourteenth~~ ELEVENTH day <--
6 prior to the day of any primary or election.

7 (a.3) (1) The following categories of electors may apply
8 for an absentee ballot under this subsection, if otherwise
9 qualified:

10 (i) An elector whose physical disability or illness
11 prevented the elector from applying for an absentee ballot
12 before five o'clock P.M. on the [first Tuesday] ~~fourteenth~~ <--
13 ELEVENTH day prior to the day of the primary or election. <--

14 (ii) An elector who, because of the elector's business,
15 duties or occupation, was unable to apply for an absentee ballot
16 before five o'clock P.M. on the [first Tuesday] ~~fourteenth~~ <--
17 ELEVENTH day prior to the day of the primary or election. <--

18 (iii) An elector who becomes so physically disabled or ill
19 after five o'clock P.M. on the [first Tuesday] ~~fourteenth~~ <--
20 ELEVENTH day prior to the day of the primary or election that <--
21 the elector is unable to appear at the polling place on the day
22 of the primary or election.

23 (iv) An elector who, because of the conduct of the elector's
24 business, duties or occupation, will necessarily be absent from
25 the elector's municipality of residence on the day of the
26 primary or election, which fact was not and could not reasonably
27 be known to the elector on or before five o'clock P.M. on the
28 [first Tuesday] ~~fourteenth~~ ELEVENTH day prior to the day of the <--
29 primary or election.

30 (2) An elector described in paragraph (1) may submit an

1 application for an absentee ballot at any time up until the time
2 of the closing of the polls on the day of the primary or
3 election. The application shall include a declaration describing
4 the circumstances that prevented the elector from applying for
5 an absentee ballot before five o'clock P.M. on the [first
6 Tuesday] ~~fourteenth~~ ELEVENTH day prior to the day of the primary <--
7 or election or that prevent the elector from appearing at the
8 polling place on the day of the primary or election, and the
9 elector's qualifications under paragraph (1). The declaration
10 shall be made subject to the provisions of 18 Pa.C.S. § 4904
11 (relating to unsworn falsification to authorities).

12 * * *

13 (E) IN-PERSON REQUEST FOR ABSENTEE BALLOT.--A QUALIFIED <--
14 ELECTOR MAY SUBMIT AN APPLICATION FOR AN ABSENTEE BALLOT IN
15 PERSON AT AN OFFICE OF THE COUNTY BOARD OF ELECTIONS NOT LATER
16 THAN FIVE O'CLOCK P.M. OF THE DAY PRIOR TO THE DAY OF A PRIMARY
17 OR ELECTION AND THE FOLLOWING PROCESS SHALL APPLY:

18 (1) THE COUNTY BOARD OF ELECTIONS SHALL IMMEDIATELY
19 DETERMINE THE QUALIFICATIONS OF THE APPLICANT BY VERIFYING THE
20 PROOF OF IDENTIFICATION AND COMPARING THE INFORMATION PROVIDED
21 ON THE APPLICATION WITH THE INFORMATION CONTAINED ON THE
22 APPLICANT'S PERMANENT REGISTRATION CARD.

23 (2) IF THE BOARD IS SATISFIED THAT THE APPLICANT IS
24 QUALIFIED TO RECEIVE AN OFFICIAL ABSENTEE BALLOT, THE
25 APPLICATION SHALL BE MARKED "APPROVED."

26 (3) THE ELECTOR SHALL RECEIVE AN OFFICIAL ABSENTEE BALLOT
27 AND THE TWO ENVELOPES FOR THE OFFICIAL ABSENTEE BALLOT.

28 (4) THE ABSENTEE BALLOT SHALL BE PROCESSED IN ACCORDANCE
29 WITH THE OTHER PROCEDURES OUTLINED IN THIS ARTICLE.

30 SECTION 3. SECTIONS 1302.2(C) AND 1304 OF THE ACT ARE

1 AMENDED TO READ:

2 SECTION 1302.2. APPROVAL OF APPLICATION FOR ABSENTEE
3 BALLOT.--

4 * * *

5 (C) THE COUNTY BOARD OF ELECTIONS, UPON RECEIPT OF ANY
6 APPLICATION OF A QUALIFIED ELECTOR REQUIRED TO BE REGISTERED
7 UNDER THE PROVISIONS OF PRECEDING SECTION 1301, SHALL DETERMINE
8 THE QUALIFICATIONS OF SUCH APPLICANT BY VERIFYING THE PROOF OF
9 IDENTIFICATION AND COMPARING THE INFORMATION SET FORTH ON SUCH
10 APPLICATION WITH THE INFORMATION CONTAINED ON THE APPLICANT'S
11 PERMANENT REGISTRATION CARD. IF THE BOARD IS SATISFIED THAT THE
12 APPLICANT IS QUALIFIED TO RECEIVE AN OFFICIAL ABSENTEE BALLOT,
13 THE APPLICATION SHALL BE MARKED "APPROVED." SUCH APPROVAL
14 DECISION SHALL BE FINAL AND BINDING, EXCEPT THAT CHALLENGES MAY
15 BE MADE ONLY ON THE GROUND THAT THE APPLICANT WAS NOT A
16 QUALIFIED ELECTOR. SUCH CHALLENGES MUST BE MADE TO THE COUNTY
17 BOARD OF ELECTIONS [PRIOR TO FIVE O'CLOCK P.M. ON THE FRIDAY]
18 EIGHT DAYS PRIOR TO THE ELECTION: PROVIDED, HOWEVER, THAT A
19 CHALLENGE TO AN APPLICATION FOR AN ABSENTEE BALLOT SHALL NOT BE
20 PERMITTED ON THE GROUNDS THAT THE ELECTOR USED AN APPLICATION
21 FOR AN ABSENTEE BALLOT INSTEAD OF AN APPLICATION FOR A MAIL-IN
22 BALLOT OR ON THE GROUNDS THAT THE ELECTOR USED AN APPLICATION
23 FOR A MAIL-IN BALLOT INSTEAD OF AN APPLICATION FOR AN ABSENTEE
24 BALLOT.

25 * * *

26 SECTION 1304. ENVELOPES FOR OFFICIAL ABSENTEE BALLOTS.--

27 THE COUNTY BOARDS OF ELECTION SHALL PROVIDE TWO ADDITIONAL
28 ENVELOPES FOR EACH OFFICIAL ABSENTEE BALLOT OF SUCH SIZE AND
29 SHAPE AS SHALL BE PRESCRIBED BY THE SECRETARY OF THE
30 COMMONWEALTH, IN ORDER TO PERMIT THE PLACING OF ONE WITHIN THE

1 OTHER AND BOTH WITHIN THE MAILING ENVELOPE. ON THE SMALLER OF
2 THE TWO ENVELOPES TO BE ENCLOSED IN THE MAILING ENVELOPE SHALL
3 BE PRINTED, STAMPED OR ENDORSED THE WORDS "OFFICIAL ELECTION
4 BALLOT," AND NOTHING ELSE. ON THE LARGER OF THE TWO ENVELOPES,
5 TO BE ENCLOSED WITHIN THE MAILING ENVELOPE, SHALL BE PRINTED THE
6 FORM OF THE DECLARATION OF THE ELECTOR, AND THE NAME AND ADDRESS
7 OF THE COUNTY BOARD OF ELECTION OF THE PROPER COUNTY. THE LARGER
8 ENVELOPE SHALL ALSO CONTAIN INFORMATION INDICATING THE LOCAL
9 ELECTION DISTRICT OF THE ABSENTEE VOTER. SAID FORM OF
10 DECLARATION AND ENVELOPE SHALL BE AS PRESCRIBED BY THE SECRETARY
11 OF THE COMMONWEALTH AND SHALL CONTAIN AMONG OTHER THINGS A
12 STATEMENT OF THE ELECTORS QUALIFICATIONS, TOGETHER WITH A
13 STATEMENT THAT SUCH ELECTOR HAS NOT ALREADY VOTED IN SUCH
14 PRIMARY OR ELECTION. THE MAILING ENVELOPE ADDRESSED TO THE
15 ELECTOR SHALL CONTAIN THE TWO ENVELOPES, THE OFFICIAL ABSENTEE
16 BALLOT, LISTS OF CANDIDATES, WHEN AUTHORIZED BY SECTION 1303
17 SUBSECTION (B) OF THIS ACT, THE UNIFORM INSTRUCTIONS IN FORM AND
18 SUBSTANCE AS PRESCRIBED BY THE SECRETARY OF THE COMMONWEALTH AND
19 NOTHING ELSE. USE OF THE INNER ENVELOPE IS AT THE DISCRETION OF
20 THE VOTER. A FAILURE TO USE THE INNER ENVELOPE SHALL NOT BE AN
21 ACCEPTABLE REASON FOR DISQUALIFYING THE BALLOT.

22 SECTION 4. SECTION 1306 OF THE ACT IS AMENDED BY ADDING A
23 SUBSECTION TO READ:

24 SECTION 1306. VOTING BY ABSENTEE ELECTORS.--* * *

25 (D) THE DATE WRITTEN ON THE ENVELOPE SHALL BE THE DATE THE
26 ELECTOR HAS SIGNED THE DECLARATION. FAILURE TO DATE THE ENVELOPE
27 OR SIGNING THE ENVELOPE WITH A DATE THAT IS NOT WITHIN THE TIME
28 PERIOD BETWEEN THE DATE THE BALLOT WAS RECEIVED BY THE VOTER AND
29 WHEN IT WAS RECEIVED BY THE COUNTY BOARD OF ELECTION SHALL NOT
30 DISQUALIFY THE BALLOT IF THE DECLARATION IS OTHERWISE PROPERLY

1 EXECUTED.

2 Section 2 5. Section 1308(g)(1)(ii), (1.1), (2) and (3) of <--
3 the act are amended, PARAGRAPH (1) IS AMENDED BY ADDING A <--
4 SUBPARAGRAPH and the subsection is amended by adding paragraphs
5 to read:

6 Section 1308. Canvassing of Official Absentee Ballots and
7 Mail-in Ballots.--* * *

8 (g) (1) * * *

9 (ii) An absentee ballot cast by any absentee elector as
10 defined in section 1301(i), (j), (k), (l), (m) and (n), an
11 absentee ballot under section [1302(a.3)] 1302.1(a.3) or a mail-
12 in ballot cast by a mail-in elector shall be canvassed in
13 accordance with this subsection if the absentee ballot or mail-
14 in ballot is received in the office of the county board of
15 elections no later than eight o'clock P.M. on the day of the
16 primary or election.

17 (III) FOR AN ABSENTEE BALLOT OR MAIL-IN BALLOT THAT THE <--
18 DECLARATION OF THE ELECTOR IS UNSIGNED, THE COUNTY BOARD OF
19 ELECTIONS SHALL:

20 (A) NOTIFY THE ELECTOR BY MAIL THAT THE BALLOT WILL NOT BE
21 COUNTED UNLESS ACTION IS TAKEN BY THE ELECTOR WITHIN SIX DAYS
22 FOLLOWING THE CLOSING OF POLLS ON ELECTION DAY. THE COUNTY BOARD
23 SHALL ALSO ATTEMPT TO NOTIFY THE ELECTOR BY EMAIL, TELEPHONE OR
24 TEXT MESSAGE.

25 (B) DIRECT THE ELECTOR TO EITHER APPEAR BEFORE THE BOARD OF
26 ELECTIONS TO EXECUTE AN AFFIRMATION ATTESTING, UNDER PENALTY OF
27 PERJURY, THAT THE ELECTOR IS THE SAME INDIVIDUAL WHO REMITTED
28 THE ABSENTEE BALLOT OR MAIL-IN BALLOT, OR TO PROVIDE AN
29 ELECTRONIC, FACSIMILE OR PAPER COPY OF THE AFFIRMATION TO THE
30 COUNTY BOARD OF ELECTIONS.

1 (1.1) The county board of elections shall meet no earlier
2 than [seven o'clock A.M. on] seven (7) days prior to election
3 day to pre-canvass all ballots received prior to the meeting. A
4 county board of elections shall provide at least forty-eight
5 hours' notice of a pre-canvass meeting by publicly posting a
6 notice of a pre-canvass meeting on its publicly accessible
7 Internet website. [One] In accordance with paragraph (1.2), one
8 authorized representative of each candidate in an election, one
9 authorized representative of the county chairperson of each
10 political party and one representative [from] of each political
11 party shall be permitted to remain in the room in which the
12 absentee ballots and mail-in ballots are pre-canvassed. No
13 person observing, attending or participating in a pre-canvass
14 meeting may disclose the results of any portion of any pre-
15 canvass meeting prior to the close of the polls.

16 (1.2) An authorized representative under paragraph (1.1)
17 shall be provided meaningful access to view and observe the
18 entire process of pre-canvassing or canvassing. A county board
19 of elections shall designate an official to respond to concerns
20 reported by an authorized representative. The Department of
21 State shall establish a procedure for an authorized
22 representative to report a concern arising from a pre-canvass
23 meeting and then investigate and report on the concern raised.

24 (1.3) A county board of elections shall record the pre-
25 canvassing and canvassing meetings with audio and visual
26 recordings. The recordings under this paragraph shall MAY be <--
27 stored as an encrypted file. The recording may be posted on the
28 county's publicly accessible Internet website in the encrypted
29 format. The password or encryption software may be distributed
30 as necessary.

1 (2) The county board of elections shall meet no earlier than
2 the close of polls on the day of the election and no later than
3 eight o'clock A.M. the [third] day following the election to
4 begin canvassing absentee ballots and mail-in ballots not
5 included in the pre-canvass meeting. The meeting under this
6 paragraph shall continue until all absentee ballots and mail-in
7 ballots received prior to the close of the polls have been
8 canvassed. The county board of elections shall not record or
9 publish any votes reflected on the ballots prior to the close of
10 the polls. The canvass process shall continue through the eighth
11 day following the election for valid military-overseas ballots
12 timely received under 25 Pa.C.S. § 3511 (relating to receipt of
13 voted ballot). A county board of elections shall provide at
14 least forty-eight hours' notice of a canvass meeting by publicly
15 posting a notice on its publicly accessible Internet website.
16 One authorized representative of each candidate in an election
17 and one representative from each political party shall be
18 permitted to remain in the room in which the absentee ballots
19 and mail-in ballots are canvassed.

20 (3) When the county board meets to pre-canvass or canvass
21 absentee ballots and mail-in ballots under paragraphs (1), (1.1)
22 and (2), the board shall [examine]:

23 (i) Examine the declaration on the envelope of each ballot
24 not set aside under subsection (d) and shall compare the
25 information thereon with that contained in the "Registered
26 Absentee and Mail-in Voters File," the absentee voters' list
27 and/or the "Military Veterans and Emergency Civilians Absentee
28 Voters File," whichever is applicable.

29 (ii) If the county board has verified the proof of
30 identification as required under this act and is satisfied that

1 the declaration is sufficient and the information contained in
2 the "Registered Absentee and Mail-in Voters File," the absentee
3 voters' list and/or the "Military Veterans and Emergency
4 Civilians Absentee Voters File" verifies his right to vote, [the
5 county board shall] provide a list of the names of electors
6 whose absentee ballots or mail-in ballots are to be pre-
7 canvassed or canvassed.

8 (iii) For an absentee ballot or mail-in ballot that the
9 declaration of the elector is incomplete, unsigned, WRONGLY <--
10 DATED or undated, notify the elector by mail, email, telephone
11 or text message that the elector's ballot is incomplete and will
12 not be counted unless action is taken by the elector prior to
13 the closing of polls on election day.

14 (iv) Place and seal an absentee ballot or mail-in ballot
15 that does not have a ballot envelope or has unidentifiable marks
16 on the envelope into an empty official election ballot envelope
17 and secure the envelope with the other removed official election
18 ballot envelopes to be tabulated.

19 (3.1) A county board of elections may use an automated
20 sorting or extracting machine to assist in the processing of
21 absentee ballots and mail-in ballots.

22 * * *

23 Section 3 6. Section 1302.1-D(a) of the act is amended and <--
24 the section is amended by adding a subsection to read:

25 Section 1302.1-D. Date of application for mail-in ballot.

26 (a) General rule.--Applications for mail-in ballots shall be
27 received in the office of the county board of elections not
28 earlier than 50 days before the primary or election, except that
29 if a county board of elections determines that it would be
30 appropriate to the county board of elections' operational needs,

1 any applications for mail-in ballots received more than 50 days
2 before the primary or election may be processed before that
3 time. Applications for mail-in ballots shall be processed if
4 received not later than five o'clock P.M. of the [~~first Tuesday~~]
5 ~~fourteenth~~ ELEVENTH day prior to the day of any primary or <--
6 election.

7 * * *

8 (c) In-person request for mail-in ballot.--A qualified
9 elector may submit an application for a mail-in ballot in person
10 at the AN office of the county board of elections not later than <--
11 five o'clock P.M. of the ~~first Tuesday~~ DAY prior to the day of a <--
12 primary or election and the following process shall apply:

13 (1) The county board of elections shall immediately
14 determine the qualifications of the applicant by verifying
15 the proof of identification and comparing the information
16 provided on the application with the information contained on
17 the applicant's permanent registration card.

18 (2) If the board is satisfied that the applicant is
19 qualified to receive an official mail-in ballot, the
20 application shall be marked "approved."

21 (3) The elector shall receive an official mail-in ballot
22 and the two envelopes for the official mail-in ballot.

23 (4) The mail-in ballot shall be processed in accordance
24 with the other procedures outlined in this article.

25 SECTION 7. SECTIONS 1304-D AND 1306-D OF THE ACT ARE AMENDED <--
26 BY ADDING SUBSECTIONS TO READ:

27 SECTION 1304-D. ENVELOPES FOR OFFICIAL MAIL-IN BALLOTS.

28 * * *

29 (E) INNER ENVELOPE.--USE OF THE INNER ENVELOPE IS AT THE
30 DISCRETION OF THE VOTER. A FAILURE TO USE THE INNER ENVELOPE

1 SHALL NOT BE AN ACCEPTABLE REASON FOR DISQUALIFYING THE BALLOT.

2 SECTION 1306-D. VOTING BY MAIL-IN ELECTORS.

3 * * *

4 (D) DATE.--THE DATE WRITTEN ON THE ENVELOPE SHALL BE THE
5 DATE THE ELECTOR HAS SIGNED THE DECLARATION. FAILURE TO DATE THE
6 ENVELOPE OR SIGNING THE ENVELOPE WITH A DATE THAT IS NOT WITHIN
7 THE TIME PERIOD BETWEEN THE DATE THE BALLOT WAS RECEIVED BY THE
8 VOTER AND WHEN IT WAS RECEIVED BY THE COUNTY BOARD OF ELECTION
9 SHALL NOT DISQUALIFY THE BALLOT IF THE DECLARATION IS OTHERWISE
10 PROPERLY EXECUTED.

11 Section ~~4~~ 8. Section 1602-A(j)(1) of the act, added July 11, <--
12 2022 (P.L.1577, No.88), is amended to read:

13 Section 1602-A. Funding for elections.

14 * * *

15 (j) Grant agreement.--The grant agreement between the
16 department and the county under this section shall include the
17 following requirements for counties:

18 [(1) The county shall begin pre-canvassing at 7 a.m. on
19 election day and shall continue without interruption until
20 each mail-in ballot and absentee ballot received by 7 a.m. on
21 election day is pre-canvassed.]

22 * * *

23 Section ~~5~~ 9. This act shall take effect in 60 days. <--