

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 847 Session of 2023

INTRODUCED BY CONKLIN, WAXMAN, GREEN, WEBSTER AND TAKAC, APRIL 10, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 30, 2024

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 AMENDING THE ACT OF JUNE 3, 1937 (P.L.1333, NO.320), ENTITLED <--
23 "AN ACT CONCERNING ELECTIONS, INCLUDING GENERAL, MUNICIPAL,
24 SPECIAL AND PRIMARY ELECTIONS, THE NOMINATION OF CANDIDATES,
25 PRIMARY AND ELECTION EXPENSES AND ELECTION CONTESTS; CREATING
26 AND DEFINING MEMBERSHIP OF COUNTY BOARDS OF ELECTIONS;
27 IMPOSING DUTIES UPON THE SECRETARY OF THE COMMONWEALTH,
28 COURTS, COUNTY BOARDS OF ELECTIONS, COUNTY COMMISSIONERS;
29 IMPOSING PENALTIES FOR VIOLATION OF THE ACT, AND CODIFYING,
30 REVISING AND CONSOLIDATING THE LAWS RELATING THERETO; AND
31 REPEALING CERTAIN ACTS AND PARTS OF ACTS RELATING TO
32 ELECTIONS," IN VOTING BY QUALIFIED ABSENTEE ELECTORS, FURTHER
33 PROVIDING FOR CANVASSING OF OFFICIAL ABSENTEE BALLOTS AND

1 MAIL-IN BALLOTS; AND, IN ELECTION INTEGRITY GRANT PROGRAM,
2 FURTHER PROVIDING FOR FUNDING FOR ELECTIONS.

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

5 ~~Section 1. Section 102(q.1) of the act of June 3, 1937~~ <--
6 ~~(P.L.1333, No.320), known as the Pennsylvania Election Code, is~~
7 ~~amended 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 ~~(q.1) The word "pre canvass" shall mean the inspection and~~
13 ~~opening of all envelopes containing official absentee ballots or~~
14 ~~mail in ballots, the removal of such ballots from the envelopes~~
15 ~~and [the counting, computing and tallying of the votes reflected~~
16 ~~on the ballots.] the preparation of those ballots for scanning,~~
17 ~~including unfolding, straightening and duplicating if the ballot~~
18 ~~is damaged in some way that prevents it from being scanned but~~
19 ~~where the voter's intent is still clear. It shall also include~~
20 ~~scanning the ballot into a voting machine or other automatic~~
21 ~~tabulating device, if the equipment used by the county board of~~
22 ~~elections permits a ballot to be scanned without tabulating or~~
23 ~~counting the votes on the ballot scanned. The term does not~~
24 ~~include the recording or publishing of the votes reflected on~~
25 ~~the ballots.~~

26 * * *

27 ~~Section 2. Section 1302.1(a) and (a.3)(1) and (2) of the act~~
28 ~~are amended and the section is amended by adding a subsection to~~
29 ~~read:~~

30 ~~Section 1302.1. Date of Application for Absentee Ballot.~~
31 ~~(a) Except as provided in subsection (a.3), applications for~~

1 ~~absentee ballots shall be received in [the] an office of the~~
2 ~~county board of elections not earlier than fifty (50) days~~
3 ~~before the primary or election, except that if a county board of~~
4 ~~elections determines that it would be appropriate to its~~
5 ~~operational needs, any applications for absentee ballots~~
6 ~~received more than fifty (50) days before the primary or~~
7 ~~election may be processed before that time. Applications for~~
8 ~~absentee ballots shall be processed if received not later than~~
9 ~~five o'clock P.M. of the [first Tuesday] elevventh day prior to~~
10 ~~the day of any primary or election.~~

11 ~~(a.3) (1) The following categories of electors may apply~~
12 ~~for an absentee ballot under this subsection, if otherwise~~
13 ~~qualified:~~

14 ~~(i) An elector whose physical disability or illness~~
15 ~~prevented the elector from applying for an absentee ballot~~
16 ~~before five o'clock P.M. on the [first Tuesday] elevventh day~~
17 ~~prior to the day of the primary or election.~~

18 ~~(ii) An elector who, because of the elector's business,~~
19 ~~duties or occupation, was unable to apply for an absentee ballot~~
20 ~~before five o'clock P.M. on the [first Tuesday] elevventh day~~
21 ~~prior to the day of the primary or election.~~

22 ~~(iii) An elector who becomes so physically disabled or ill~~
23 ~~after five o'clock P.M. on the [first Tuesday] elevventh day~~
24 ~~prior to the day of the primary or election that the elector is~~
25 ~~unable to appear at the polling place on the day of the primary~~
26 ~~or election.~~

27 ~~(iv) An elector who, because of the conduct of the elector's~~
28 ~~business, duties or occupation, will necessarily be absent from~~
29 ~~the elector's municipality of residence on the day of the~~
30 ~~primary or election, which fact was not and could not reasonably~~

1 ~~be known to the elector on or before five o'clock P.M. on the~~
2 ~~{first Tuesday} eleventh day prior to the day of the primary or~~
3 ~~election.~~

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

16 * * *

17 ~~(c) In person request for absentee ballot. A qualified~~
18 ~~elector may submit an application for an absentee ballot in~~
19 ~~person at an office of the county board of elections not later~~
20 ~~than five o'clock P.M. of the day prior to the day of a primary~~
21 ~~or election and the following process shall apply:~~

22 ~~(1) The county board of elections shall immediately~~
23 ~~determine the qualifications of the applicant by verifying the~~
24 ~~proof of identification and comparing the information provided~~
25 ~~on the application with the information contained on the~~
26 ~~applicant's permanent registration card.~~

27 ~~(2) If the board is satisfied that the applicant is~~
28 ~~qualified to receive an official absentee ballot, the~~
29 ~~application shall be marked "approved."~~

30 ~~(3) The elector shall receive an official absentee ballot~~

1 ~~and the two envelopes for the official absentee ballot.~~

2 ~~(4) The absentee ballot shall be processed in accordance~~
3 ~~with the other procedures outlined in this article.~~

4 ~~Section 3. Sections 1302.2(c) and 1304 of the act are~~
5 ~~amended to read:~~

6 ~~Section 1302.2. Approval of Application for Absentee~~
7 ~~Ballot.~~

8 ~~* * *~~

9 ~~(c) The county board of elections, upon receipt of any~~
10 ~~application of a qualified elector required to be registered~~
11 ~~under the provisions of preceding section 1301, shall determine~~
12 ~~the qualifications of such applicant by verifying the proof of~~
13 ~~identification and comparing the information set forth on such~~
14 ~~application with the information contained on the applicant's~~
15 ~~permanent registration card. If the board is satisfied that the~~
16 ~~applicant is qualified to receive an official absentee ballot,~~
17 ~~the application shall be marked "approved." Such approval~~
18 ~~decision shall be final and binding, except that challenges may~~
19 ~~be made only on the ground that the applicant was not a~~
20 ~~qualified elector. Such challenges must be made to the county~~
21 ~~board of elections [prior to five o'clock p.m. on the Friday]~~
22 ~~eight days prior to the election: Provided, however, That a~~
23 ~~challenge to an application for an absentee ballot shall not be~~
24 ~~permitted on the grounds that the elector used an application~~
25 ~~for an absentee ballot instead of an application for a mail in~~
26 ~~ballot or on the grounds that the elector used an application~~
27 ~~for a mail in ballot instead of an application for an absentee~~
28 ~~ballot.~~

29 ~~* * *~~

30 ~~Section 1304. Envelopes for Official Absentee Ballots.~~

1 ~~The county boards of election shall provide two additional~~
2 ~~envelopes for each official absentee ballot of such size and~~
3 ~~shape as shall be prescribed by the Secretary of the~~
4 ~~Commonwealth, in order to permit the placing of one within the~~
5 ~~other and both within the mailing envelope. On the smaller of~~
6 ~~the two envelopes to be enclosed in the mailing envelope shall~~
7 ~~be printed, stamped or endorsed the words "Official Election~~
8 ~~Ballot," and nothing else. On the larger of the two envelopes,~~
9 ~~to be enclosed within the mailing envelope, shall be printed the~~
10 ~~form of the declaration of the elector, and the name and address~~
11 ~~of the county board of election of the proper county. The larger~~
12 ~~envelope shall also contain information indicating the local~~
13 ~~election district of the absentee voter. Said form of~~
14 ~~declaration and envelope shall be as prescribed by the Secretary~~
15 ~~of the Commonwealth and shall contain among other things a~~
16 ~~statement of the electors qualifications, together with a~~
17 ~~statement that such elector has not already voted in such~~
18 ~~primary or election. The mailing envelope addressed to the~~
19 ~~elector shall contain the two envelopes, the official absentee~~
20 ~~ballot, lists of candidates, when authorized by section 1303-~~
21 ~~subsection (b) of this act, the uniform instructions in form and~~
22 ~~substance as prescribed by the Secretary of the Commonwealth and~~
23 ~~nothing else. Use of the inner envelope is at the discretion of~~
24 ~~the voter. A failure to use the inner envelope shall not be an~~
25 ~~acceptable reason for disqualifying the ballot.~~

26 ~~Section 4. Section 1306 of the act is amended by adding a~~
27 ~~subsection to read:~~

28 ~~Section 1306. Voting by Absentee Electors. * * *~~

29 ~~(d) The date written on the envelope shall be the date the~~
30 ~~elector has signed the declaration. Failure to date the envelope~~

~~1 or signing the envelope with a date that is not within the time
2 period between the date the ballot was received by the voter and
3 when it was received by the county board of election shall not
4 disqualify the ballot if the declaration is otherwise properly
5 executed.~~

~~6 Section 5. Section 1308(g)(1)(ii), (1.1), (2) and (3) of the
7 act are amended, paragraph (1) is amended by adding a
8 subparagraph and the subsection is amended by adding paragraphs
9 to read:~~

~~10 Section 1308. Canvassing of Official Absentee Ballots and
11 Mail in Ballots. * * *~~

~~12 (g) (1) * * *~~

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

~~21 (iii) For an absentee ballot or mail in ballot that the
22 declaration of the elector is unsigned, the county board of
23 elections shall:~~

~~24 (A) Notify the elector by mail that the ballot will not be
25 counted unless action is taken by the elector within six days
26 following the closing of polls on election day. The county board
27 shall also attempt to notify the elector by email, telephone or
28 text message.~~

~~29 (B) Direct the elector to either appear before the Board of
30 Elections to execute an affirmation attesting, under penalty of~~

1 ~~perjury, that the elector is the same individual who remitted~~
2 ~~the absentee ballot or mail in ballot, or to provide an~~
3 ~~electronic, facsimile or paper copy of the affirmation to the~~
4 ~~county board of elections.~~

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

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

28 ~~(1.3) A county board of elections shall record the pre~~
29 ~~canvassing and canvassing meetings with audio and visual~~
30 ~~recordings. The recordings under this paragraph may be stored as~~

~~1 an encrypted file. The recording may be posted on the county's
2 publicly accessible Internet website in the encrypted format.
3 The password or encryption software may be distributed as
4 necessary.~~

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

~~24 (3) When the county board meets to pre canvass or canvass
25 absentee ballots and mail in ballots under paragraphs (1), (1.1)
26 and (2), the board shall [examine]:~~

~~27 (i) Examine the declaration on the envelope of each ballot
28 not set aside under subsection (d) and shall compare the
29 information thereon with that contained in the "Registered
30 Absentee and Mail in Voters File," the absentee voters' list~~

1 and/or the "Military Veterans and Emergency Civilians Absentee
2 Voters File," whichever is applicable.

3 ~~(ii) If the county board has verified the proof of~~
4 ~~identification as required under this act and is satisfied that~~
5 ~~the declaration is sufficient and the information contained in~~
6 ~~the "Registered Absentee and Mail in Voters File," the absentee~~
7 ~~voters' list and/or the "Military Veterans and Emergency~~
8 ~~Civilians Absentee Voters File" verifies his right to vote, [the~~
9 ~~county board shall] provide a list of the names of electors~~
10 ~~whose absentee ballots or mail in ballots are to be pre-~~
11 ~~canvassed or canvassed.~~

12 ~~(iii) For an absentee ballot or mail in ballot that the~~
13 ~~declaration of the elector is incomplete, unsigned, wrongly~~
14 ~~dated or undated, notify the elector by mail, email, telephone~~
15 ~~or text message that the elector's ballot is incomplete and will~~
16 ~~not be counted unless action is taken by the elector prior to~~
17 ~~the closing of polls on election day.~~

18 ~~(iv) Place and seal an absentee ballot or mail in ballot~~
19 ~~that does not have a ballot envelope or has unidentifiable marks~~
20 ~~on the envelope into an empty official election ballot envelope~~
21 ~~and secure the envelope with the other removed official election~~
22 ~~ballot envelopes to be tabulated.~~

23 ~~(3.1) A county board of elections may use an automated~~
24 ~~sorting or extracting machine to assist in the processing of~~
25 ~~absentee ballots and mail in ballots.~~

26 * * *

27 Section 6. Section 1302.1 D(a) of the act is amended and the
28 section is amended by adding a subsection to read:

29 Section 1302.1 D. Date of application for mail in ballot.

30 (a) General rule. Applications for mail in ballots shall be

1 ~~received in the office of the county board of elections not~~
2 ~~earlier than 50 days before the primary or election, except that~~
3 ~~if a county board of elections determines that it would be~~
4 ~~appropriate to the county board of elections' operational needs,~~
5 ~~any applications for mail in ballots received more than 50 days~~
6 ~~before the primary or election may be processed before that~~
7 ~~time. Applications for mail in ballots shall be processed if~~
8 ~~received not later than five o'clock P.M. of the [first Tuesday]~~
9 ~~eleventh day prior to the day of any primary or election.~~

10 * * *

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

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

21 ~~(2) If the board is satisfied that the applicant is~~
22 ~~qualified to receive an official mail in ballot, the~~
23 ~~application shall be marked "approved."~~

24 ~~(3) The elector shall receive an official mail in ballot~~
25 ~~and the two envelopes for the official mail in ballot.~~

26 ~~(4) The mail in ballot shall be processed in accordance~~
27 ~~with the other procedures outlined in this article.~~

28 Section 7. Sections 1304 D and 1306 D of the act are amended
29 by adding subsections to read:

30 Section 1304 D. Envelopes for official mail in ballots.

1 * * *

2 ~~(e) Inner envelope. Use of the inner envelope is at the~~
3 ~~discretion of the voter. A failure to use the inner envelope~~
4 ~~shall not be an acceptable reason for disqualifying the ballot.~~

5 Section 1306 D. Voting by mail in electors.

6 * * *

7 ~~(d) Date. The date written on the envelope shall be the~~
8 ~~date the elector has signed the declaration. Failure to date the~~
9 ~~envelope or signing the envelope with a date that is not within~~
10 ~~the time period between the date the ballot was received by the~~
11 ~~voter and when it was received by the county board of election~~
12 ~~shall not disqualify the ballot if the declaration is otherwise~~
13 ~~properly executed.~~

14 Section 8. Section 1602 A(j)(1) of the act, added July 11,
15 2022 (P.L.1577, No.88), is amended to read:

16 Section 1602 A. Funding for elections.

17 * * *

18 ~~(j) Grant agreement. The grant agreement between the~~
19 ~~department and the county under this section shall include the~~
20 ~~following requirements for counties:~~

21 ~~{(1) The county shall begin pre canvassing at 7 a.m. on~~
22 ~~election day and shall continue without interruption until~~
23 ~~each mail in ballot and absentee ballot received by 7 a.m. on~~
24 ~~election day is pre canvassed.}~~

25 * * *

26 Section 9. This act shall take effect in 60 days.

27 SECTION 1. SECTION 1308(G)(1.1) OF THE ACT OF JUNE 3, 1937 <--
28 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA ELECTION CODE, IS
29 AMENDED TO READ:

30 SECTION 1308. CANVASSING OF OFFICIAL ABSENTEE BALLOTS AND

1 MAIL-IN BALLOTS.--* * *

2 (G) * * *

3 (1.1) THE COUNTY BOARD OF ELECTIONS SHALL MEET NO EARLIER
4 THAN [SEVEN O'CLOCK A.M. ON] SEVEN (7) DAYS PRIOR TO ELECTION
5 DAY TO PRE-CANVASS ALL BALLOTS RECEIVED PRIOR TO THE MEETING. A
6 COUNTY BOARD OF ELECTIONS SHALL PROVIDE AT LEAST FORTY-EIGHT
7 HOURS' NOTICE OF A PRE-CANVASS MEETING BY PUBLICLY POSTING A
8 NOTICE OF A PRE-CANVASS MEETING ON ITS PUBLICLY ACCESSIBLE
9 INTERNET WEBSITE. ONE AUTHORIZED REPRESENTATIVE OF EACH
10 CANDIDATE IN AN ELECTION AND ONE REPRESENTATIVE FROM EACH
11 POLITICAL PARTY SHALL BE PERMITTED TO REMAIN IN THE ROOM IN
12 WHICH THE ABSENTEE BALLOTS AND MAIL-IN BALLOTS ARE PRE-
13 CANVASSED. NO PERSON OBSERVING, ATTENDING OR PARTICIPATING IN A
14 PRE-CANVASS MEETING MAY DISCLOSE THE RESULTS OF ANY PORTION OF
15 ANY PRE-CANVASS MEETING PRIOR TO THE CLOSE OF THE POLLS.

16 * * *

17 SECTION 2. SECTION 1602-A(J) (1) OF THE ACT, ADDED JULY 11,
18 2022 (P.L.1577, NO.88), IS AMENDED TO READ:

19 SECTION 1602-A. FUNDING FOR ELECTIONS.

20 * * *

21 (J) GRANT AGREEMENT.--THE GRANT AGREEMENT BETWEEN THE
22 DEPARTMENT AND THE COUNTY UNDER THIS SECTION SHALL INCLUDE THE
23 FOLLOWING REQUIREMENTS FOR COUNTIES:

24 [(1) THE COUNTY SHALL BEGIN PRE-CANVASSING AT 7 A.M. ON
25 ELECTION DAY AND SHALL CONTINUE WITHOUT INTERRUPTION UNTIL
26 EACH MAIL-IN BALLOT AND ABSENTEE BALLOT RECEIVED BY 7 A.M. ON
27 ELECTION DAY IS PRE-CANVASSED.]

28 * * *

29 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.