

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILLNo. **178** Session of
2019

INTRODUCED BY BROWNE, GORDNER, MENSCH, YAW, FOLMER, BAKER,
SCAVELLO, AUMENT, DiSANTO, COSTA, HUGHES, BOSCOLA, FONTANA,
SANTARSIERO, BREWSTER, HAYWOOD, FARNESE, SCHWANK, KEARNEY,
TARTAGLIONE AND J. WARD, FEBRUARY 1, 2019

AS AMENDED ON THIRD CONSIDERATION, APRIL 30, 2019

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 primary and election expenses, further
12 providing for reporting by candidate and political committees
13 and other persons, for late contributions and independent
14 expenditures, for oath of compliance, perjury,
15 disqualification from office and commercial use, FOR RESIDUAL <--
16 FUNDS and for place of filing, providing for manner of filing
17 and for inability to file reports or statements
18 electronically by deadline and further providing for late
19 filing fee and certificate of filing, for additional powers
20 and duties of the Secretary of the Commonwealth and for
21 reports by business entities and publication by Secretary of
22 the Commonwealth.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Section 1626(a) and (h) of the act of June 3,
26 1937 (P.L.1333, No.320), known as the Pennsylvania Election
27 Code, are amended and the section is amended by adding a

1 subsection to read:

2 Section 1626. Reporting by Candidate and Political
3 Committees and other Persons.--

4 (a) Each treasurer of a political committee and each
5 candidate for election to public office shall file with the
6 appropriate supervisor reports of receipts and expenditures on
7 forms, designed by the Secretary of the Commonwealth, if the
8 amount received or expended or liabilities incurred shall exceed
9 the sum of two hundred fifty dollars (\$250). Should such an
10 amount not exceed two hundred fifty dollars (\$250), then the
11 candidate or the treasurer of the committee shall file a [sworn]
12 statement to that effect with the appropriate supervisor rather
13 than the report required by this section.

14 * * *

15 (h) All reports or statements required to be filed pursuant
16 to this section shall be filed pursuant to [section 1630]
17 sections 1629 and 1631.1. All reports and statements required by
18 this section shall cover the campaign activity of a candidate
19 only from the last prior report or statement.

20 * * *

21 (k) (1) All reports or statements required to be filed with
22 the Secretary of the Commonwealth shall be filed electronically
23 using the electronic filing system developed by the Secretary of
24 the Commonwealth that is consistent with the purposes of this
25 subsection. A report or statement submitted electronically must:
26 (i) require an electronic signature from the treasurer or
27 assistant treasurer at the time of the filing of the report or
28 statement. In addition, a report filed by a political committee,
29 authorized by a candidate and created solely for the purpose of
30 influencing an election on behalf of that candidate must be

1 signed, using an electronic signature, stating that, to the best
2 of the candidate's knowledge, the political committee has not
3 violated a provision of this act; and

4 (ii) be made subject to the penalties of 18 Pa.C.S. § 4904
5 (relating to unsworn falsification to authorities).

6 (2) (i) A candidate or political committee not able to file
7 electronically the report or statement required by this
8 subsection shall request an exemption from the Secretary of the
9 Commonwealth. The candidate or political committee upon approval
10 of the Secretary of the Commonwealth shall file reports and
11 statements on forms developed by the Secretary of the
12 Commonwealth.

13 (ii) In order to request an exemption for electronic
14 submissions or reports or statements, the candidate or political
15 committee must demonstrate technological hardship. As used in
16 this subclause, the term "technological hardship" means a lack
17 of computer or Internet access or a disability that prevents
18 electronic filing.

19 Section 2. Sections 1628, 1629 heading, (a) and (b), 1630 <--
20 and 1631(1) of the act are amended to read:

21 Section 1628. Late Contributions and Independent
22 Expenditures.--Any candidate or political committee, authorized
23 by a candidate and created solely for the purpose of influencing
24 an election on behalf of that candidate, which receives any
25 contribution or pledge of five hundred dollars (\$500) or more,
26 and any person making an independent expenditure, as defined by
27 this act, of five hundred dollars (\$500) or more after the final
28 pre-election report has been deemed completed shall report such
29 contribution, pledge or expenditure to the appropriate
30 supervisor. Such report shall be sent by the candidate, chairman

1 or treasurer of the political committee within twenty-four (24)
2 hours of receipt of the contribution. It shall be the duty of
3 the supervisor to confirm the substance of such report. [The
4 report shall be made by telegram, mailgram, overnight mail or
5 facsimile transmission. Any] The reports filed with the
6 Secretary of the Commonwealth shall be filed electronically in
7 accordance with section 1631.1. If the candidate or political
8 committee is not required to file electronically, the report
9 shall be filed by facsimile, electronic mail or overnight mail
10 courier service. Except for reports required to be filed
11 electronically, a candidate in his own behalf, or chairman,
12 treasurer or candidate [in] on behalf of the political committee
13 may also comply with this section by appearing personally before
14 such supervisor and reporting such late contributions or
15 pledges.

16 Section 1629. [Oath of Compliance] Unsworn Falsification;
17 Perjury; Disqualification from Office; Commercial Use.--

18 [(a) Each report shall be subscribed and sworn to by the
19 individual submitting the report. In addition, any report filed
20 by a political committee, authorized by a candidate and created
21 solely for the purpose of influencing an election on behalf of
22 that candidate, must be accompanied by an affidavit from that
23 candidate which provides that, to the best of the candidate's
24 knowledge, the political committee has not violated any
25 provision of this act.]

26 (b) Any wilfully false, fraudulent or misleading statement
27 or entry made by any candidate or treasurer in any statement or
28 report [under oath] as required by this article, shall
29 constitute the crime of [perjury] unsworn falsification to
30 authorities, and be punishable as such according to the laws of

1 this Commonwealth.

2 * * *

3 SECTION 1630. RESIDUAL FUNDS.--

<--

4 (A) IN THE EVENT THAT A CANDIDATE OR POLITICAL COMMITTEE
5 TERMINATES ITS FINANCIAL ACTIVITY AS SUCH, THEN THE DISBURSEMENT
6 OF ANY RESIDUAL FUNDS REMAINING IN SUCH AN ACCOUNT SHALL BE MADE
7 IN THE FOLLOWING MANNER:

8 (1) ANY SUCH FUNDS MAY BE USED FOR ANY EXPENDITURE AS
9 DEFINED BY THIS ARTICLE; [AND]

10 (2) MAY BE RETURNED, PRO RATA, TO THE CONTRIBUTORS BY THE
11 CANDIDATE OR TREASURER OF THE POLITICAL COMMITTEE [. A FINAL
12 REPORT MUST BE MADE BY THE NEXT JANUARY 31 IN ACCORDANCE WITH
13 SECTION 1627.]; OR

14 (3) MAY BE DONATED TO A NONPROFIT ORGANIZATION.

15 (B) A FINAL REPORT MUST BE MADE BY THE NEXT JANUARY 31 IN
16 ACCORDANCE WITH SECTION 1627.

17 (C) FOR PURPOSES OF THIS SECTION:

18 (1) "AFFILIATED" MEANS SERVING AS AN OFFICER OF, ON THE
19 BOARD OF DIRECTORS OF, AS A PAID EMPLOYEE OF OR A CONTRACTOR OF
20 A NONPROFIT ORGANIZATION.

21 (2) "FAMILY MEMBER" MEANS A SPOUSE OR CHILD.

22 (3) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION THAT IS
23 QUALIFIED BY THE INTERNAL REVENUE SERVICE AS MEETING THE
24 REQUIREMENTS OF SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE
25 OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. 501(C)(3)) ORGANIZED UNDER
26 THE LAWS OF THIS COMMONWEALTH AND IS NOT AFFILIATED WITH A
27 CANDIDATE OR THE CHAIRMAN OR TREASURER OF A POLITICAL COMMITTEE,
28 INCLUDING A FAMILY MEMBER OF THE CANDIDATE, CHAIRMAN OR
29 TREASURER.

30 Section 1631. Place of Filing.--

1 Any statement or report required by this article to be filed,
2 shall be done in the following manner:

3 (1) (i) Any candidate, individual, or committee required to
4 file a report concerning any candidate shall file that statement
5 or report in the office of the supervisor with whom the
6 candidate filed a nomination paper, nomination certificate,
7 nomination petitions or with the supervisor with whom the
8 candidate would have filed such if he had sought nomination in
9 that manner.

10 [(ii) All candidates and political committees, authorized by
11 candidates and created solely for the purpose of influencing the
12 election of such candidates, who must file reports with the
13 Secretary of the Commonwealth, shall also file copies of their
14 reports in the county in which the candidate resides.]

15 (ii) All candidates and political committees, authorized by
16 candidates and created solely for the purpose of influencing the
17 election of such candidates, who must file reports with the
18 Secretary of the Commonwealth as required by this subsection,
19 must only file reports electronically with the Secretary of the
20 Commonwealth.

21 * * *

22 Section 3. The act is amended by adding sections to read:

23 Section 1631.1. Manner of Filing.--

24 (a) All reports and statements required to be filed with the
25 Secretary of the Commonwealth pursuant to sections 1626, 1627,
26 1628 and 1641 shall be filed with the Secretary of the
27 Commonwealth using the electronic filing system developed by the
28 Secretary of the Commonwealth.

29 (b) A report or statement filed electronically shall:

30 (1) be made subject to the penalties of 18 Pa.C.S. § 4904

1 (relating to unsworn falsification to authorities);

2 (2) include the electronic signature of the treasurer or
3 assistant treasurer of the political committee serving at the
4 time of the filing of the report or statement; and

5 (3) for a report or statement filed by a candidate or a
6 candidate's political committee, include the electronic
7 signature of the candidate, stating that, to the best of the
8 candidate's knowledge, the political committee has not violated
9 a provision of this act.

10 (c) (1) A principal may authorize another person to prepare
11 the contents of the report or statement, including entry of data
12 into the electronic filing system as required under subsection
13 (a).

14 (2) Each principal authorizing another to act under clause
15 (1) must:

16 (i) review the contents of the report or statement prepared
17 under clause (1); and

18 (ii) file with the electronic filing system the approval of
19 the contents of the report or statement and verification of its
20 accuracy, in accordance with subsection (b). The approval shall
21 be transmitted personally by the principal and not on the
22 principal's behalf by any other person.

23 (3) No report or statement shall be considered complete or
24 filed until all necessary approvals and verifications shall have
25 been submitted by each principal required to file.

26 (4) As used in this subsection, "principal" shall mean any
27 person required to file any report or statement electronically
28 with the Secretary of the Commonwealth in accordance with this
29 section.

30 Section 1631.2. Inability to File Reports or Statements

1 Electronically by Deadline.--

2 (a) All reports or statements filed with the Secretary of
3 the Commonwealth under section 1631.1 are subject to the
4 following:

5 (1) If a candidate or political committee cannot file a
6 report or statement on the day the report or statement is due
7 because of the unavailability of the Department of State's
8 electronic filing system at the time the candidate or political
9 committee attempts to file the report or statement, the
10 principal shall immediately notify the Department of State in a
11 manner designated by the Secretary of the Commonwealth. If the
12 website is unavailable and the candidate or political committee
13 has notified the department, the candidate or political
14 committee shall have until 11:59 o'clock P.M. on the next day
15 following the deadline to file the report or statement
16 electronically and the principal shall file a statement
17 affirming that the principal was unable to file the report or
18 statement on time because of the unavailability of the
19 Department of State's electronic filing system at the time the
20 principal attempted to file the report or statement on the day
21 the report or statement was due. The affirmation statement shall
22 be due at the same time as the statement or report filed under
23 this subsection. The report or statement shall not be considered
24 filed until the affirmation statement is filed.

25 (2) If a candidate or political committee is unable to file
26 as required under clause (1) because the Department of State's
27 electronic filing system remains unavailable, the principal
28 shall notify the Department of State each day a report or
29 statement cannot be filed due to the unavailability of the
30 Department of State's electronic filing system. The candidate or

1 political committee shall have until 11:59 o'clock P.M. on the
2 next day to electronically file the report or statement or
3 notify the Department of State a second time of the
4 inaccessibility of the department's electronic filing system.
5 The principal shall file a statement affirming that the
6 principal was unable to file the report or statement on time
7 because of the unavailability of the Department of State's
8 electronic filing system. The affirmation statement shall be
9 due at the same time as the statement or report filed under this
10 subsection. The report or statement shall not be considered
11 filed until the affirmation statement is filed.

12 (b) The Department of State may provide for an alternative
13 method of electronic filing if the department's electronic
14 filing system remains unavailable.

15 (c) For cause shown, the Secretary of the Commonwealth may
16 waive late filing fees for reports or statements filed after the
17 deadline but which are the subject of notifications as
18 prescribed by this section.

19 (d) As used in this section, "unavailability of the
20 Department of State's electronic filing system" shall mean a
21 failure of the system within the Department of State's technical
22 environment that does not allow access to the system by an
23 individual. The term does not include:

24 (1) a network issue between the user's computer and the
25 Department of State's environment; or

26 (2) a failure of any part of the user's computer or internal
27 network.

28 Section 4. Section 1632(a) of the act is amended and the
29 section is amended by adding a subsection to read:

30 Section 1632. Late Filing Fee; Certificate of Filing.--

1 (a) A late filing fee for each report or statement of
2 expenditures and contributions required to be filed with the
3 county board of elections which is not filed within the
4 prescribed period shall be imposed as follows. Such fee shall be
5 ten dollars (\$10) for each day or part of a day excluding
6 Saturdays, Sundays and holidays that a report or statement is
7 overdue. An additional fee of ten dollars (\$10) is due for each
8 of the first six (6) days that a report or statement is overdue.
9 The maximum fee payable with respect to a single report or
10 statement is two hundred fifty dollars (\$250). [A supervisor]
11 The county board of elections shall receive an overdue report or
12 statement even if any late filing fee due has not been paid but
13 the report or statement shall not be considered filed until all
14 fees have been paid upon the receipt by the [supervisor] county
15 board of elections of an overdue report. No further late filing
16 fees shall be incurred notwithstanding the fact that the report
17 or statement is not considered filed. The late filing fee is the
18 personal liability of the candidate or treasurer of a political
19 committee and cannot be paid from contributions to the candidate
20 or committee, nor may such fee be considered an expenditure. A
21 report or statement of expenditures and contributions shall be
22 deemed to have been filed within the prescribed time if the
23 letter transmitting the report or statement which is received by
24 the [supervisor] county board of elections is transmitted by
25 first class mail and is postmarked by the United States Postal
26 Service on the day prior to the final day on which the report or
27 statement is to be received: Provided, That this sentence shall
28 not be applicable to the reporting requirements contained in
29 section 1628.

30 (a.1) For reports or statements required to be

1 electronically filed with the Secretary of the Commonwealth, the
2 penalty for each report or statement that is not filed within
3 the prescribed period shall be fifty dollars (\$50) a day for the
4 first six (6) days the report or statement is late and one
5 hundred dollars (\$100) a day for day seven (7) and each day
6 thereafter. The maximum penalty for late reports or statements
7 is two thousand dollars (\$2,000) for each required filing. The
8 late filing fee shall be the personal responsibility of the
9 candidate or treasurer of a political committee and cannot be
10 paid from contributions to the candidate or committee nor may
11 the fee be considered an expenditure. The Secretary of the
12 Commonwealth shall receive an overdue report or statement
13 notwithstanding whether a late filing fee due has not been paid.
14 A report or statement shall not be considered filed until all
15 fees have been paid upon the receipt by the Secretary of the
16 Commonwealth of an overdue report or statement.

17 * * *

18 Section 5. Sections 1640 and 1641(a) of the act are amended
19 to read:

20 Section 1640. Additional Powers and Duties of the Secretary
21 of the Commonwealth.--The Secretary of the Commonwealth shall
22 have the following additional powers and duties:

23 (1) To serve as the State clearing house for information
24 concerning the administration of this act.

25 (2) To prescribe suitable rules and regulations to carry out
26 the provisions of this act.

27 (3) To develop the prescribed forms required by the
28 provisions of this article for the making of the reports and
29 statements required to be filed with the supervisor.

30 (4) To prepare a manual setting forth recommended uniform

1 methods of bookkeeping and reporting which shall be furnished by
2 the supervisor to the person required to file such reports and
3 statements as required by this article.

4 (5) To examine the contributions to State legislative and
5 Statewide candidates and publish a list of all those political
6 committees who have contributed to candidates and who have
7 failed to file reports as required by this act within six (6)
8 days of their failure to comply.

9 (6) To maintain a searchable computer database and
10 electronic reporting system that contains the information
11 necessary for the proper administration of this article,
12 including information on contributions and expenditures by all
13 candidates and all political committees and distribution of
14 money, and including public access through the Internet. The
15 database must be designed with an emergency recovery system to
16 ensure that campaign expense records are not lost in the case of
17 an emergency, natural disaster or other event that could cause
18 the system to malfunction.

19 (7) To establish a training program on the electronic
20 reporting system and make it available to a candidate or
21 political committee.

22 (8) To ensure all information contained in a statement or
23 report filed, that is not on the electronic reporting system, be
24 entered into the electronic reporting system as soon as
25 practicable but no later than four (4) business days after its
26 receipt by the Secretary of the Commonwealth.

27 (9) The Department of State shall issue to the registrant an
28 electronic receipt that includes a confirmation number and the
29 date and time of filing.

30 Section 1641. Reports by Business Entities; Publication by

1 Secretary of the Commonwealth.--

2 (a) Any business entity including but not limited to a
3 corporation, company, association, partnership or sole
4 proprietorship, which has been awarded non-bid contracts from
5 the Commonwealth or its political subdivisions during the
6 preceding calendar year, shall report electronically in
7 accordance with section 1631.1 by February 15 of each year to
8 the Secretary of the Commonwealth an itemized list of all
9 political contributions known to the business entity by virtue
10 of the knowledge possessed by every officer, director,
11 associate, partner, limited partner or individual owner that has
12 been made by:

13 (1) any officer, director, associate, partner, limited
14 partner, individual owner or members of their immediate family
15 when the contributions exceed an aggregate of one thousand
16 dollars (\$1,000) by any individual during the preceding year; or

17 (2) any employe or members of his immediate family whose
18 political contribution exceeded one thousand dollars (\$1,000)
19 during the preceding year.

20 For the purposes of this subsection, "immediate family" means a
21 person's spouse and any unemancipated child.

22 * * *

23 Section 6. The Secretary of the Commonwealth shall transmit
24 notice to the Legislative Reference Bureau for publication in
25 the Pennsylvania Bulletin when the electronic filing system
26 developed by the Secretary of the Commonwealth is available for
27 use.

28 Section 7. This act shall take effect as follows:

29 (1) The following provisions shall take effect
30 immediately:

1 (i) This section.

2 (ii) Section 6 of this act.

3 (2) The remainder of this act shall take effect 120 days
4 after publication in the Pennsylvania Bulletin of the notice
5 under section 6 of this act.