
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 10 Session of
2021

INTRODUCED BY DUSH, JANUARY 20, 2021

REFERRED TO RULES AND EXECUTIVE NOMINATIONS, JANUARY 20, 2021

A CONCURRENT RESOLUTION

1 Declaring, in response to significant activities contravening
2 the Pennsylvania Election Code, that the November 3, 2020,
3 Pennsylvania General Election to appoint electors of
4 President and Vice President was unlawful, void ab initio and
5 invalid, and that the Commonwealth has failed to appoint
6 electors of President and Vice President on the day
7 prescribed by law and exercising the plenary power of the
8 General Assembly, under the Constitution of the United
9 States, to appoint electors of President and Vice President.

10 WHEREAS, Article II, Section 1, Clause 2 of the Constitution
11 of the United States empowers state legislatures, including the
12 General Assembly of the Commonwealth of Pennsylvania, to direct
13 the manner of appointing electors of President and Vice
14 President of the United States; and

15 WHEREAS, The authority to conduct elections is further
16 prescribed in Article VII of the Constitution of Pennsylvania;
17 and

18 WHEREAS, Section 5 of Article I of the Constitution of
19 Pennsylvania states "Elections shall be free and equal"; and

20 WHEREAS, Section 6 of Article VII of the Constitution of
21 Pennsylvania states "All laws regulating the holding of
22 elections by the citizens, or for the registration of electors,

1 shall be uniform throughout the State"; and

2 WHEREAS, Section 1 of Article II of the Constitution of
3 Pennsylvania states "The legislative power of this Commonwealth
4 shall be vested in a General Assembly, which shall consist of a
5 Senate and a House of Representatives"; and

6 WHEREAS, The General Assembly has exercised its authority to
7 establish election administration procedures for the
8 Commonwealth under the act of June 3, 1937 (P.L.1333, No.320),
9 known as the Pennsylvania Election Code; and

10 WHEREAS, The Pennsylvania Election Code requires all mail-in
11 ballots to be received by eight o'clock P.M. on the day of the
12 election; and

13 WHEREAS, The Pennsylvania Election Code requires election
14 officials at polling places to authenticate the signatures of
15 in-person voters; and

16 WHEREAS, The Pennsylvania Election Code requires that county
17 boards of elections shall not meet to conduct a pre-canvass of
18 all absentee and mail-in ballots until seven o'clock A.M. on
19 Election Day, during which time defects on mail-in ballots would
20 be identified; and

21 WHEREAS, The Pennsylvania Election Code prohibits the
22 counting of defective absentee or mail-in ballots; and

23 WHEREAS, The Pennsylvania Election Code authorizes watchers,
24 persons selected by candidates and political parties to observe
25 the process of canvassing absentee and mail-in ballots; and

26 WHEREAS, The Commonwealth conducted an election on November
27 3, 2020, for the purpose of appointing electors of President and
28 Vice President of the United States; and

29 WHEREAS, On September 17, 2020, less than seven weeks before
30 the November 3, 2020, election, the Supreme Court of

1 Pennsylvania unlawfully and unilaterally extended the deadline
2 for mail-in ballots to be received and mandated that ballots
3 mailed without a postmark would be presumed to be received
4 timely and could be accepted without a verified voter signature;
5 and

6 WHEREAS, On October 23, 2020, less than two weeks before the
7 November 3, 2020, election and upon a petition from the
8 Secretary of the Commonwealth of Pennsylvania, the Supreme Court
9 of Pennsylvania ruled that county boards of election need not
10 authenticate signatures for mail-in ballots, thereby treating
11 in-person and mail-in voters dissimilarly and eliminating a
12 critical safeguard against potential election crime; and

13 WHEREAS, On November 2, 2020, the night before the November
14 3, 2020, election and prior to the prescribed time for pre-
15 canvassing mail-in ballots, the office of the Secretary of the
16 Commonwealth of Pennsylvania encouraged certain counties to
17 notify party and candidate representatives of mail-in voters
18 whose ballots contained defects; and

19 WHEREAS, Predominantly Democratic counties permitted mail-in
20 voters to cure defective ballot submissions while predominantly
21 Republican counties followed the law and invalidated defective
22 ballot submissions; and

23 WHEREAS, In certain counties in the Commonwealth, watchers
24 were not permitted to meaningfully observe the pre-canvassing
25 and canvassing activities relating to absentee and mail-in
26 ballots; and

27 WHEREAS, Officials in the Executive and Judicial branches of
28 the Commonwealth infringed upon the General Assembly's authority
29 under the Constitution of the United States and the Constitution
30 of Pennsylvania by issuing decisions and providing guidance

1 contravening the express provisions of the Pennsylvania Election
2 Code; and

3 WHEREAS, Election officials in certain counties of the
4 Commonwealth acted upon those decisions and guidance by the
5 Executive and Judicial branches of the Commonwealth; and

6 WHEREAS, Election officials in certain counties of the
7 Commonwealth took further actions to contravene the provisions
8 of the Pennsylvania Election Code; and

9 WHEREAS, 3 U.S.C. § 1 states "The electors of President and
10 Vice President shall be appointed, in each State, on the Tuesday
11 next after the first Monday in November, in every fourth year
12 succeeding every election of a President and Vice President";
13 and

14 WHEREAS, The aforementioned events tainted and doomed the
15 entirety of the process of appointing electors of President and
16 Vice President on the day prescribed by law; and

17 WHEREAS, 3 U.S.C. § 2 states "Whenever any State has held an
18 election for the purpose of choosing electors, and has failed to
19 make a choice on the day prescribed by law, the electors may be
20 appointed on a subsequent day in such a manner as the
21 legislature of such State may direct"; and

22 WHEREAS, Article VI, Section 2, Clause 2 of the Constitution
23 of the United States states "This Constitution, and the Laws of
24 the United States which shall be made in Pursuance thereof; and
25 all Treaties made, or which shall be made, under the Authority
26 of the United States, shall be the supreme Law of the Land; and
27 the Judges in every State shall be bound thereby, any Thing in
28 the Constitution or Laws of any State to the Contrary
29 notwithstanding"; and

30 WHEREAS, The Secretary of the Commonwealth purported to

1 certify the returns of Pennsylvania's election to appoint
2 electors of President and Vice President on November 24, 2020,
3 and the Governor issued a certificate of ascertainment of
4 presidential electors on the same day; and

5 WHEREAS, There are significant outstanding issues regarding
6 the public's ability to confirm the returns as certified
7 regarding electors of President and Vice President; therefore be
8 it

9 RESOLVED (the Senate concurring), That the General Assembly
10 of the Commonwealth of Pennsylvania do the following:

11 (1) Declare the aforementioned to be findings of fact.

12 (2) Condemn all infringement on the General Assembly's
13 authority to establish election law pursuant to the
14 Constitution of the United States and the Constitution of
15 Pennsylvania.

16 (3) Declare the November 3, 2020, election process for
17 appointing electors of President and Vice President for the
18 Commonwealth of Pennsylvania as neither equal nor uniform,
19 but instead as unlawful, void ab initio and the results
20 thereof invalid.

21 (4) Dispute the certification of election returns
22 regarding electors of President and Vice President by the
23 Governor and the Secretary of the Commonwealth.

24 (5) Declare that the Commonwealth of Pennsylvania has
25 failed to appoint electors of President and Vice President on
26 the day prescribed by law in 3 U.S.C. § 1.

27 (6) Exercise its plenary power regarding electors of
28 President and Vice President as provided in Article II,
29 Section 1, Clause 2 of the Constitution of the United States.

30 (7) Affirm the authority to pursue the aforementioned

1 under the provisions of Article VI, Section 2, Clause 2 of
2 the Constitution of the United States.

3 (8) Rescind and withdraw the certification of electors
4 of President and Vice President by the Secretary of the
5 Commonwealth and the Governor following the November 3, 2020,
6 election.

7 (9) Reserve its right to appoint electors of President
8 and Vice President on a subsequent day in accordance with 3
9 U.S.C. § 2.

10 (10) Urge the Congress of the United States to object to
11 and reject the Commonwealth of Pennsylvania's electoral votes
12 for President and Vice President as certified by the Governor
13 and the Secretary of the Commonwealth;
14 and be it further

15 RESOLVED, That upon adoption of this concurrent resolution by
16 both chambers of the General Assembly, the Chief Clerk of the
17 House of Representatives shall transmit a copy of this
18 resolution to the Governor, the Congress of the United States
19 and the Vice President of the United States.