

JOINT STATE GOVERNMENT COMMISSION

General Assembly of the Commonwealth of Pennsylvania

ELECTION LAW IN PENNSYLVANIA

Third Annual

*REPORT OF THE ELECTION LAW ADVISORY BOARD
for the year ending June 30, 2023*

August 2023



*Serving the General Assembly of the
Commonwealth of Pennsylvania Since 1937*

REPORT

Act 12 of 2020

Election Law in Pennsylvania

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The Joint State Government Commission was created in 1937 as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.¹

A fourteen-member Executive Committee comprised of the leadership of both the House of Representatives and the Senate oversees the Commission. The seven Executive Committee members from the House of Representatives are the Speaker, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. The seven Executive Committee members from the Senate are the President Pro Tempore, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. By statute, the Executive Committee selects a chairman of the Commission from among the members of the General Assembly. Historically, the Executive Committee has also selected a Vice-Chair or Treasurer, or both, for the Commission.

The studies conducted by the Commission are authorized by statute or by a simple or joint resolution. In general, the Commission has the power to conduct investigations, study issues, and gather information as directed by the General Assembly. The Commission provides in-depth research on a variety of topics, crafts recommendations to improve public policy and statutory law, and works closely with legislators and their staff.

A Commission study may involve the appointment of a legislative task force, composed of a specified number of legislators from the House of Representatives or the Senate, or both, as set forth in the enabling statute or resolution. In addition to following the progress of a particular study, the principal role of a task force is to determine whether to authorize the publication of any report resulting from the study and the introduction of any proposed legislation contained in the report. However, task force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in a report.

Some studies involve an appointed advisory committee of professionals or interested parties from across the Commonwealth with expertise in a particular topic; others are managed exclusively by Commission staff with the informal involvement of representatives of those entities that can provide insight and information regarding the particular topic. When a study involves an advisory committee, the Commission seeks consensus among the members.² Although an advisory committee member may represent a particular department, agency, association, or group, such representation does not necessarily reflect the endorsement of the department, agency, association, or group of all the findings and recommendations contained in a study report.

¹ Act of July 1, 1937 (P.L.2460, No.459); 46 P.S. §§ 65–69.

² Consensus does not necessarily reflect unanimity among the advisory committee members on each individual policy or legislative recommendation. At a minimum, it reflects the views of a substantial majority of the advisory committee, gained after lengthy review and discussion.

Over the years, nearly one thousand individuals from across the Commonwealth have served as members of the Commission's numerous advisory committees or have assisted the Commission with its studies. Members of advisory committees bring a wide range of knowledge and experience to deliberations involving a particular study. Individuals from countless backgrounds have contributed to the work of the Commission, such as attorneys, judges, professors and other educators, state and local officials, physicians and other health care professionals, business and community leaders, service providers, administrators and other professionals, law enforcement personnel, and concerned citizens. In addition, members of advisory committees donate their time to serve the public good; they are not compensated for their service as members. Consequently, the Commonwealth receives the financial benefit of such volunteerism, along with their shared expertise in developing statutory language and public policy recommendations to improve the law in Pennsylvania.

The Commission periodically reports its findings and recommendations, along with any proposed legislation, to the General Assembly. Certain studies have specific timelines for the publication of a report, as in the case of a discrete or timely topic; other studies, given their complex or considerable nature, are ongoing and involve the publication of periodic reports. Completion of a study, or a particular aspect of an ongoing study, generally results in the publication of a report setting forth background material, policy recommendations, and proposed legislation. However, the release of a report by the Commission does not necessarily reflect the endorsement by the members of the Executive Committee, or the Chair or Vice-Chair of the Commission, of all the findings, recommendations, or conclusions contained in the report. A report containing proposed legislation may also contain official comments, which may be used to construe or apply its provisions.³

Since its inception, the Commission has published over 450 reports on a sweeping range of topics, including administrative law and procedure; agriculture; athletics and sports; banks and banking; commerce and trade; the commercial code; crimes and offenses; decedents, estates, and fiduciaries; detectives and private police; domestic relations; education; elections; eminent domain; environmental resources; escheats; fish; forests, waters, and state parks; game; health and safety; historical sites and museums; insolvency and assignments; insurance; the judiciary and judicial procedure; labor; law and justice; the legislature; liquor; mechanics' liens; mental health; military affairs; mines and mining; municipalities; prisons and parole; procurement; state-licensed professions and occupations; public utilities; public welfare; real and personal property; state government; taxation and fiscal affairs; transportation; vehicles; and workers' compensation.

Following the completion of a report, subsequent action on the part of the Commission may be required, and, as necessary, the Commission will draft legislation and statutory amendments, update research, track legislation through the legislative process, attend hearings, and answer questions from legislators, legislative staff, interest groups, and constituents.

³ 1 Pa.C.S. § 1939.

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We welcome our recently appointed members to the Board:

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Appointed May 2023

Amie Downs, Esquire
Appointed May 2023

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Glenn J. Pasewicz
Executive Director
Yvonne M. Hursh
Counsel

To the Members of the General Assembly of Pennsylvania:

We are pleased to release the report, Election Law in Pennsylvania, Third Annual Report of the Election Law Advisory Board, as authorized by Act 12 of 2020. In this edition, the Board proposes legislation to establish training requirements for newly appointed county election directors and a system of continuing education for those already serving in that position. Voter ID requirements were addressed by the Board but extensive deliberations found no consensus in time for publication of this report.

The report also presents the Board's continued support for previous recommendations on pre-canvassing absentee and mail-in ballots, poll worker training, voter list maintenance by the Department of State, drop boxes, absentee and mail-in ballot lists, secrecy envelopes, dating of ballots, and provisions for registration of first-time voters who had been convicted of felonies.

We extend our thanks to Board members for their ongoing work with Commission staff in discussing and developing proposals to improve the electoral process and implement best practices as directed by Act 12.

The full report is available at <http://jsg.legis.state.pa.us>

Respectfully submitted,

Glenn J. Pasewicz
Executive Director

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INTRODUCTION

The Constitution of the Commonwealth of Pennsylvania Article I, § 5. Elections.

Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

The fundamental precept underlying Pennsylvania’s election laws is the Constitutional guarantee of free and equal elections. Pennsylvania’s laws intended to protect that constitutional right can be found in the act of June 3, 1937 (P.L. 1333, No.320), known as the Pennsylvania Election Code (Election Code) and Title 25 of the Pennsylvania Consolidated Statutes, added by the act of January 31, 2002 (P.L. 18, No. 3) (Title 25). Read together, these two statutes form Pennsylvania’s election law.⁴ Additionally, Article VII of the Pennsylvania Constitution provides further details relating to voting rights and procedures.

In 2019, revisions were made to the Election Code, most significant of which for this study are the elimination of straight ticket voting, the addition of mail-in voting, and the replacement of, and funding for, voting machines.⁵ These amendments were specifically intended to create a fairer, more free and equal election process. New voting machines allow for the use of paper ballots so a voter can see his or her completed ballot and verify its accuracy before casting their votes. Elimination of straight ticket voting focused voters’ attention on the candidate, rather than the candidate’s party. Each office and its candidates must be considered separately, which allows Independents and third-party candidates a greater ability to compete against the two major parties, prevents weaker candidates from being elected simply because of their party affiliation, and encourages voters review the entire ballot, which may increase voting on ballot initiatives, constitutional amendments and referenda. Mail-in balloting similarly achieves the goals of a more deliberative voting process, as the voter using a mail-in ballot has ample time to research candidates, review the entire ballot, and vote from a more informed stance. Additionally, persons with transportation issues, including the elderly and persons with physical disabilities, and persons

⁴ Pennsylvania does not have a complete formal statutory code. Laws are found in two places – the Pamphlet Laws and the Consolidated Statutes. A commercial vendor, Purdon’s, has created a compilation with titles identified by topics which can aid the legal practitioner in locating specific laws, but they do not carry the weight of legal citations. If challenged in court and there is a conflict between Purdon’s and the Pamphlet Law or Consolidated Statutes, the Pamphlet Laws or Consolidated Statutes will triumph. In 1972, Pennsylvania began a consolidation process in the which the Pamphlet Laws, which address single topics only and are organized chronologically, are reorganized and codified by topic in the Consolidated Statutes. The process is on-going and more Pamphlet Laws are consolidated each year, and many new enactments are added directly to the Consolidated Statutes at the time of enactment.

⁵ Act of October 31, 2019 (P.L. 552, No. 77), amending the Election Code (Act 77).

whose hours of employment and family responsibilities prevent them from reaching their polling place in the allotted hours for voting can vote from home on a schedule that is convenient to them.⁶

Amendments in 2020 were enacted to provide for temporary emergency general primary election procedures in response to the COVID-19 pandemic, additional revisions to the mail-in voting provisions, and creation of the Election Law Advisory Board (ELAB),⁷ a permanent body within the Joint State Government Commission and directed to:

- Study the election law and identify statutory language to repeal, modify or update.
- Collaborate with other agencies and political subdivisions of the Commonwealth to study election-related issues.
- Study the development of new election technology and voting machines.
- Evaluate and make recommendations on:
 - improving the electoral process in this Commonwealth by amending the election law or through regulations promulgated by the Department of State; and
 - implementing best practices identified to ensure the integrity and efficiency of the electoral process in this Commonwealth.

By the end of each fiscal year, extensive and detailed findings are to be published on the Joint State Government Commission's publicly accessible Internet website and made available in electronic format to the Office of the Governor and members of the General Assembly.⁸

Membership of on the board consists of House and Senate leadership and the Secretary of the Commonwealth or their designees, and 18 individuals appointed by the Governor and confirmed by the Senate, one from each Congressional district in Pennsylvania. The gubernatorial appointees are to include members who represent the following groups: those advocating for individuals with disabilities, those advocating for voting rights, and those representing county commissioners or county election officials. No more than half of the appointees may be registered with the same political party.⁹

The presidential election in November 2020 triggered a number of challenges to the 2019 and 2020 amendments, in particular relating to the interpretation and implementation of the provisions governing mail-in ballots. The COVID-19 pandemic and the public health restrictions developed to attempt to contain the spread of the virus, together with individuals' reluctance to

⁶ Floor debate on Senate Bill 421 (2019), which became Act 77: *see* Senate Legislative Journal June 25, 2019, pp. 721-722; House Legislative Journal October 28, 2019, pp. 1689-1713; House Legislative Journal October 29, 2019, pp. 1738-1741; and Senate Legislative Journal, October 29, 2019, pp. 999-1003.

⁷ Act of March 27, 2020 (P.L. 41, No. 12), amending the 1937 Election Code (Act 12).

⁸ § 1302-E(c) of Act 12.

⁹ § 1302-E(b) of Act 12.

gather publicly and risk exposure to a novel disease whose potency and lethality were evolving and being revealed incrementally, resulted in a demand for mail-in voting that was unanticipated by the drafters of the amendments and the county officials charged with implementing them. Additionally, the primary election of 2020 was the first election held using the new electronic voting systems required under the Commonwealth's settlement in a recount lawsuit stemming from the 2016 presidential election. Concerns over the age and vulnerability to hacking as well as an inability to produce paper ballots for recount and audit purposes contributed to this settlement decision.¹⁰ Continuing problems within the United States Postal Service exacerbated an already challenging surge in mail-in voting. This confluence of major changes and unanticipated delays imposed strains on the election system in Pennsylvania and identified possible shortcomings in the mail-in ballot amendments.

One of the first acts of the Board following its organizational meeting in January 2021 in was to do an internal survey of which issues were priorities among the membership. From that list, five topic areas were designated. They are obtaining mail-in ballots, processing mail-in ballots, election officials and workers, voter registration, and in-person voting. Five workgroups were then assembled to address each umbrella topic. The workgroups reviewed research on approaches to the issues, identifying potential solutions and the pros and cons of each. The full board has reviewed this research and decided on recommendations in several of these topic areas, which are included in this report.

The primary focus of the Board in its first three years of existence has been to propose recommendations and legislation to improve the electoral process and to identify best practices geared toward ensuring the integrity and efficiency of the electoral process (directive number four), as these matters appear most urgent.

Previously, the Board made recommendations concerning pre-canvassing of ballots and the issues surrounding the processing of mail-in ballots. These recommendations are reproduced in this report in Appendix B and the majority of the Board continues to support all of the Board's previous recommendations and encourages the General Assembly to continue consideration of these proposals. Since the release of the board's report on mail-in ballots in January 2023, the board has focused on election official training and voter identification in meetings on March 30 and May 31, 2023. The results of these efforts can be found in this report. This report also provides updates on activities affecting the board's previous recommendations and current issues arising in election law.

Additionally, as staff researched the statutory language affecting these topics, areas of the statute where language should be repealed, modified or updated were identified, and modifications suggested to make the law current and replace the circuitous statutory writing style in vogue in the 1930s with simpler, more plain-meaning-based language. Further, because Pennsylvania's election law is found in two places, the 1937 Pamphlet Laws, and Title 25 of the Pennsylvania Consolidated Statutes, there are areas where the two statutes conflict and need to be reconciled. These efforts are taking place alongside the review of some of the more pressing issues, in accordance with directive number one.

¹⁰ Jill Stein et al., v Pedro A. Cortes, Secretary of the Commonwealth et al., No. 16-CV-6287, E.D. Pa., (November 28, 2018)

The Board's composition ensures that directive number two is accomplished.

The Board has not yet reviewed matters related to directive number three, election technology and voting machines, other than to closely follow the SURE System Modernization Project of the Department of State. The Board is taking a "wait and see" approach to these efforts and will be prepared to comment further after implementation has proceeded to the point that meaningful feedback is available.

The Board has been mindful of three guiding principles throughout this process: (1) the Commonwealth is diverse, and absolute uniformity across all counties would be difficult to achieve and maintain; (2) that any procedural changes would require funding; and (3) that county election officials need significant lead time to implement any changes made.

While the recommendations in this report are the consensus of the members of the ELAB, it should not be assumed by the reader that the agreement was unanimous. Some provisions were the subject of much debate and concerns are noted in context.

This report was the product of the Board's membership during the 2022-2023 fiscal year. Following the election of Josh Shapiro as Pennsylvania's newest governor, the term of the members appointed under Governor Tom Wolf expired. New appointments were made by Governor Shapiro and those persons were given the opportunity to review and comment on this report.

RECOMMENDATION AND CURRENT TOPICS UNDER CONSIDERATION

This chapter represents the work and efforts of the ELAB as composed during the 2022-2023 fiscal year. During 2022-2023, seven vacancies in the board occurred; one person was replaced in February 2023, and the remaining six successors were appointed May 2023. Accordingly, this chapter may not represent the opinions of the new members. The newly reconfigured board may review or revise previously published recommendations or decide to move in other directions in general in the future. However, this chapter encapsulates the general consensus regarding the election director training recommendation as set forth by the 2022-2023 board and reflects the general discussion and debate regarding voter identification during the previous year. The issue of voter identification is far from resolved and the Board expects to continue to research, discuss and debate the issue in the future.

RECOMMENDATION: Election Director Training and Continuing Education

The advisory board is in substantial accord that county election officials should receive some form of training and continuing education to remain current on election laws and practices in the Commonwealth. The proposed legislation set forth below requires new directors receive 12 hours of training within 12 months of their appointment. Experienced election directors, specifically, those who have been hired or appointed after the enactment of Act 77 of 2019, are not required to obtain the initial training, as it is accepted that they have had experience in implementation of the Election Code amendments, and in particular, the use of mail-in ballots. Additionally, election directors who have received formal certification from an approved national program are also exempt from the initial training. All election directors would be subject to the continuing education requirement.

Continuing education of eight hours per year is required, much of which can be completed by instruction from voting equipment manufacturers on the proper use of the county's selected voting system.

AN ACT

Amending the act of June 3, 1937 (P.L. 1333, No. 320) entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing

certain acts and parts of acts relating to elections” providing for qualifications of election directors employed by county boards of election.

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

Section 1. The act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code is amended by adding a new section to read:

§302.1. Qualifications of county elections directors.

(a) Training.—Any individual serving as a county election director shall, within 12 months of their appointment or employment as election director, complete 12 hours of training in the administration of elections.

(b) Exception.—The following training equivalents shall exempt an individual from the initial training requirement:

(1) An individual who has continuously served as an election director since October 31, 2019 shall be exempt from the training requirement set forth in subsection (a). Persons who were appointed or hired after October 31, 2019 and are serving on the effective date of this act shall have 12 months after the effective date to obtain the required training.

(2) An individual who possesses a certificate in election administration from a nationally recognized training program such as the State Registered Election Official Certificate Program offered by the Election Center of the National Association of Election Officials or other certificate program approved by the Secretary of the Commonwealth.

(c) Continuing education.—All county election directors shall participate in eight hours of continuing education annually following completion of their initial training. Individuals exempt from the initial training shall participate annual continuing education beginning one year after the effective date of this act.

(d) Continuance.—For good cause shown by an election director to the county board of elections, an individual shall receive an extension of six months to finish their initial training or continuing education.

(e) Training and continuing education topics.—Topics shall include Pennsylvania-specific information and may include information regarding voter registration, campaign finance filing, conduct of in-person, absentee and mail-in elections, operation of electronic voting machines, election reports and returns, general administration of elections, and any other relevant topics.

(f) Providers.—The Pennsylvania Department of State, through the Elections Bureau, shall offer courses for individuals and shall approve other providers and their materials. The Department of State’s materials shall be prepared in consultation with County Commissioners Association of Pennsylvania, the Association of Eastern Pennsylvania County Election Personnel and the Association of Western Pennsylvania County Election Personnel.

(e) Equipment training.—Up to six hours of training with voting equipment manufacturers on the proper use of the county’s designated electronic voting system or machines can be credited toward the initial training requirement or the continuing education requirement.

(c) Definition. —The following word, when used in this section, shall have the following meaning:

“Election director.” An appointee or employee of a county board of elections who is responsible to supervision and direction of county staff in the day-to-day fulfillment of the board of elections duties and obligations to:

- (1) register voters,
- (2) maintain the electronic voting system, and
- (3) conduct elections.

(4) All other duties statutorily mandated under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code or Title 25 of the Pennsylvania Consolidated Statutes (relating to elections) to be performed by a registrar, registration commission, or chief clerk.

PROPOSAL UNDER CONSIDERATION:

The Board has been considering making a recommendation regarding enactment of a broader voter identification law than currently exists in Pennsylvania. This seems to be a proposition favored by most Pennsylvanians, in at least one poll. A survey conducted by Franklin & Marshall College in June 2021 found that 74 percent of Pennsylvanians favored requiring photo identification for all voters. When broken down by political affiliation, 95 percent of Republicans, 47 percent of Democrats and 77 percent of Independent or other party members favored requiring photo identification for voters.¹¹ Additionally, while the Board does not see evidence of a significant amount of voter fraud, it believes that the perception of voters is that this is a problem. The Board's 2021-2022 report reviewed 27 cases of voter fraud and misconduct that occurred over the 20-year period 2002-2022, averaging one and one-third cases per year.¹² It is unclear from the information available what role mandatory photo identification might have played in any of these cases.

This potential recommendation is as much about improving the confidence of voters in the integrity of our electoral process as it is combatting what has proven to be a nearly non-existent problem. This discussion requires a delicate balancing of the desire to have fraud-free elections and the desire to ensure that all eligible voters are able to vote. If security measures become too stringent, innocent citizens who are not able to produce appropriate documents to verify identity will be denied the opportunity to vote. If measures are too lax, an opportunity exists for ineligible persons to fraudulently vote. At either extreme there are risks and part of the public policy decision must be to determine the tolerable level of exclusion or cheating that would be acceptable for our society.

Four key aspects of the Board's review have been to create a list of acceptable photo identification, to create a list of acceptable non-photo identification, the role of affidavits and provisional ballots, and expiration dates on identification documents.

It should be noted that Pennsylvania already requires proof of identity for first-time voters under the federal Help America Vote Act. First-time voters who registered to vote by mail and did not provide proof of identification with their voter registration application are required (in a uniform and nondiscriminatory manner) to produce either:

- A current and valid photo identification
- A copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.

These requirements are minimum requirements and nothing in HAVA shall be construed to prevent a State from establishing election technology and administration requirements that are more strict than the requirements established under HAVA so long as such State requirements are

¹¹ Franklin & Marshall College, Center for Opinion Research, *Summary of Findings*, June 2021, <https://www.fandmpoll.org/franklin-marshall-poll-release-june-2021/>

¹² Election Law in Pennsylvania: Second Annual Report of the Election Law Advisory Board, pp. 110-114, June 2022, [http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2021-06-08%20ELAB%202022%20final%20Report%20%20\(7.15\).pdf](http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2021-06-08%20ELAB%202022%20final%20Report%20%20(7.15).pdf).

not inconsistent with the Federal requirements under HAVA or the Voting Rights Act of 1965; the Voting Accessibility for the Elderly and Handicapped Act; the Uniformed and Overseas Citizens Absentee Voting Act; the National Voter Registration Act of 1993; the Americans with Disabilities Act of 1990; or the Rehabilitation Act of 1973.¹³

Pennsylvania adopted these minimum standards in 25 Pa.C.S. § 1327(a)(2) (relating to preparation and distribution of applications):

Data required on the voter registration application shall not be more nor less than the minimum data elements permissible for Federal voter registration.

The list of residency items – current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter is found in 4 Pa.Code § 183.3(a)(5).

In addition to these minimum requirements, Pennsylvania law requires voters to produce identification whenever they are voting for the first time in a new precinct,¹⁴ and to verify their identity when applying for an absentee¹⁵ or mail-in ballot.¹⁶

The balance that needs to be struck in this debate, as in many debates revolving around elections, is to protect the integrity of elections while not disenfranchising lawfully registered voters. The Board will continue to consider this topic.

HOUSE RESOLUTION 47

House Resolution 47, Printer's No.666, was adopted on June 21, 2023. The resolution directs the Joint State Government Commission to conduct a study on the voting patterns and knowledge of voting rights among formerly incarcerated individuals. Commission staff will look to the Board members for their knowledge and experience in this area as part of its study.

¹³ 52 U.S.C. §§ 21083(b), 20184, and 21145.

¹⁴ Section 1210(a) of the act of Jun. 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code; 25 P.S. § 3050(a).

¹⁵ Section 1302 of the Pennsylvania Election Code; 25 P.S. § 3146.2.

¹⁶ Sections 1301-D and 1302-D of the Pennsylvania Election Code; 25 P.S. §§ 3150.11 and 3150.12

ELECTION DIRECTOR TRAINING

The training and continuing education recommendation set forth in this report allows for various methods for election directors to receive instruction and guidance.

Training for County Election Officials

The Pennsylvania Department of State and multiple county, regional, and national associations of election directors offer a variety of training opportunities.

Pennsylvania Department of State

The Department of State (DOS) provides election resources in several different forms. For example, the DOS attends the annual conference of the Association of PA County Election Personnel and presents information. DOS also offers periodic state election webinars. The DOS also offers optional online or in-person training to election officials and workers throughout the Commonwealth. In partnership with the County Commissioners Association of Pennsylvania (CCAP), the DOS also offers Security Awareness Training.¹⁷

Accessible from its official website, the DOS provides what it calls “Election Administration Tools.” The Election Administration Tools resource is a collection of guidance manuals on specific topics such as Act 12, Act 77, and administrative matters such as absentee and mail-in return guidance, and proper examination of absentee and mail-in ballot return envelopes. The tools also include guides and manuals on the use, implementation, and operation of electronic voting systems. Other topical guides available in PDF form on the DOS site include:

- Voter identification requirements
- Guidance on voter intimidation
- Guidance on rules in effect at the polling place
- Voting procedures for the elderly and handicapped
- UOCAVA¹⁸ compliance measures
- Voting system certification
- Additional Electronic Voting System (EVS) procedures
- Guidance concerning voter privacy at the polling place

¹⁷ Pennsylvania Department of State, “Voting & Elections,” <https://www.dos.pa.gov/VotingElections/Pages/default.aspx>, Last accessed December 2, 2021.

¹⁸ The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) Pub. L. 99-410, 100 STAT 924; 52 U.S.C. §§ 20301–20311. UOCAVA was enacted by Congress in 1986 and requires that the states and territories allow certain groups of citizens to register and vote absentee in elections for Federal offices.

- Provisional ballot guidance
- Guidance on poll watchers
- Guidance on voter registration
- County election administration preparation checklist
- Other miscellaneous election topics¹⁹

However, there is currently no formalized or standard DOS training manual or guide specifically designed to assist Pennsylvania’s county election directors navigate through their election responsibilities.

County Commissioners Association of Pennsylvania (CCAP)

The County Commissioners Association of Pennsylvania (CCAP) was established in 1886 and is an affiliate of the National Association of Counties. CCAP is a “statewide, nonprofit, bipartisan association representing the commissioners, chief clerks, administrators, their equivalents in home rule counties, and solicitors of Pennsylvania’s 67 counties.”²⁰ In its representation of Pennsylvania county officials, CCAP provides county leaders with information and guidance related to legislation, education, media, insurance, technology, and other issues regarding crucial services impacting residents throughout the state. In doing so, CCAP seeks to “educate and inform the public, administrative, legislative and regulatory bodies, decision makers, and the media about county government.”²¹ As mentioned above, CCAP has also partnered with the DOS to offer Security Awareness Training for elections.

U.S. Election Assistance Commission (EAC)

Established by the Help America Vote Act of 2002 (HAVA), the U.S. Election Assistance Commission (EAC) is an “independent bipartisan commission charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, and serving as a national clearinghouse of information on election administration.”²² The EAC submits an annual report to Congress and its members periodically testify about HAVA progress and related issues. The EAC holds public meetings and hearings to inform the public about its progress and activities. The EAC also provides webinars, best practice guides, and opportunities for local election officials to meet and exchange ideas.²³

¹⁹ Pennsylvania Department of State, “Election Administration Tools,” <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/Election-Administration-Tools.aspx>, Last accessed on December 2, 2021.

²⁰ County Commissioners Association of Pennsylvania, “Mission Statement,” <https://www.pacounties.org/getmedia/1436b364-86c8-4e3e-ab3c-d4c5a3777ac6/CCAPCorporateMission2013Update.pdf>, Last accessed on December 3, 2021.

²¹ County Commissioners Association of Pennsylvania, “Who We Are,” <https://www.pacounties.org/who-we-are>, Last accessed on December 3, 2021.

²² Help America Vote Act, 2002 Pub. L. 107-252, 116 STAT 1666, § 201; 52 USC § 10101; U.S. Election Assistance Commission, “About the U.S. EAC,” <https://www.eac.gov/about-the-useac>, Last accessed on December 2, 2021.

²³ *Ibid.*

In addition to providing general election resources, the EAC also provides online election cybersecurity training for interested election officials. The election cybersecurity training consists of video and written materials separated into three modules. Training content within the modules is intended specifically for election administrative officials. To assist these officials, the program provides foundational knowledge on cybersecurity terminology, best practices in election offices, practical application, and communication.²⁴

The Election Center (National Association of Election Officials)

The Election Center is a nonprofit 501(c)(3) tax-exempt organization. The Election Center's purpose is "to promote, preserve, and improve democracy."²⁵ The Center is also known as the National Association of Election Officials. To serve as a resource to election officials nationwide, the Center conducts conferences, workshops, and seminars. The center also administers the Certified Elections/Registration Administrator (CERA) program, which is the only program of continuing professional education specializing in voter registration and elections administration. Participants receive continuing education units (CEUs) from Auburn University. Between 600 and 1,000 election and voter registration administrators are trained in the program every year.²⁶

In addition, the Center provides an alert service to its members that informs and updates state, city, and other elections and voter registration officials on new legislation, regulations, court decisions, and Justice Department rulings related to voter registration or elections administration. The Center also provides a research-component for governmental units and provides analysis on the differences between state or local laws, regulations, or practices concerning voter registration and elections administration. To highlight beneficial election practices, the Center sponsors an annual Professional Practices contest where government officials all over the U.S. submit a professional paper on the best of their office programs and practices. Such papers are then duplicated and circulated to government officials throughout the U.S.²⁷

Through a partnership with Auburn University's public administration faculty, the Election Center offers a college level instruction program called the Professional Education Program. The program focuses on professional growth and development of government officials in the elections and voter registration process. These classes are conducted in several locations throughout each year. The program was recognized nationally, winning an award as the most outstanding continuing education program in America from the National College and University Continuing Education Association in 1995.²⁸

²⁴ U.S. Election Assistance Commission, "Media: News – U.S. Election Assistance Commission Offers No-Cost Online Cybersecurity Training for Election Officials," <https://www.eac.gov/news/2020/06/22/us-election-assistance-commission-offers-no-cost-online-cybersecurity-training>, Last accessed on December 3, 2021.

²⁵ Election Center, National Association of Election Officials, "About Us," <https://www.electioncenter.org/about-us.html>, Last accessed on December 3, 2021.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

University of Minnesota, Humphrey School of Public Affairs

The Humphrey School of Public Affairs at the University of Minnesota conducts an online certification program for election officials called the “Certificate in Election Administration”. This program was established as a direct response to the 2014 Presidential Commission on Election Administration report urging universities and colleges across the U.S. to integrate election administration into their curriculum with a goal of expanding the professional expertise in the field.²⁹

The program is targeted for experienced individuals already managing state and local election offices, as well as newer officials working in election administration. The 12-credit program is taught by prominent leaders in election administration and is accessible online 24 hours a day from anywhere in the world.³⁰

National Association of Secretaries of State (NASS)

Secretaries of State provide invaluable information on state election procedures and structures. Secretaries of State throughout the U.S. brief the public and the media in their respective states about election administration and election cybersecurity issues. NASS provides membership to these officials.³¹

The NASS was founded in 1904, making it the oldest, nonpartisan professional association for state government officials. NASS describes itself as a “medium for the exchange of information between states and fosters cooperation in the development of public policy.”³² NASS maintains key initiatives for the topics of elections and voting. Membership within NASS is open to all 50 states, the District of Columbia, and all U.S. Territories.³³

National Association of State Election Directors (NASED)

The National Association of State Election Directors (NASED) is a professional organization that represents the interests of state election directors. The NASED was formed in 1989 by a group of state election directors and administrators. In 1990, NASED’s original mission was focused on voting technology certification. In furtherance of this mission, the NASED created and maintained the first voting system certification program in the U.S. According to the NASED, it is the only professional organization specifically for state election directors in existence today. The association currently provides opportunities for state election officials to meet and exchange ideas and best practices.³⁴

²⁹ University of Minnesota, Hubert H. Humphrey School of Public Affairs, “Certificate in Election Administration,” <https://www.hhh.umn.edu/certificate-programs/certificate-election-administration>, Last accessed on December 3, 2021.

³⁰ *Ibid.*

³¹ National Association of Secretaries of State (NASS), “Pillars of Service,” (2004).

³² National Association of Secretaries of State (NASS), “About NASS,” <https://www.nass.org/about-nass>, Last accessed on December 3, 2021.

³³ *Ibid.*

³⁴ National Association of State Election Directors, “About NASED,” <https://www.nased.org/about-nased>, Last accessed on December 3, 2021.

International Association of Government Officials

The International Association of Government Officials focuses on equipping clerks, election officials, recorders, and treasurers with professional training and leadership development through industry specific education. The Association provides an accredited certification program, and offers emerging technology trends, while providing legislative awareness and other initiatives to government officials. The Association also provides general information to support local election officials and holds related events in support of said officials.³⁵

³⁵ International Association of Government Officials, “About Us,” https://iaogo.org/content.aspx?page_id=22&club_id=610929&module_id=397312, Last accessed on December 4, 2021.

UPDATE

OF INFORMATION FROM PREVIOUS REPORTS

The Board has made numerous recommendations in its previous reports. The Board continues to support the proposals set forth, and they are included in their entirety as Appendix B. To the extent there is new information available regarding any of the recommendations or the research supporting them, this chapter will provide an update.

Voter List Maintenance

The Department of State continues its work to update the SURE system, although it has been reported that the project is behind schedule.³⁶

The Board recommended that the Election Code be amended to statutorily permit Pennsylvania to participate in national databases such as the Electronic Registration Information Center (ERIC) or other similar nationwide voter registration bases, both for verify and update voter registration information in the SURE system and to allow the Department of State to access ERIC and the United States Social Security Administration’s Master Death File to determine if a registered voter has died. The use of ERIC in general is accomplished under the authority of the Governor and the Pa. Department of State, and is a voluntary participation, that could be ended by any administration. Pennsylvania’s current use of ERIC does not extend to death records, as reporting of deceased voters is statutorily limited.

ERIC’s stated goals have been to improve the accuracy of voter register rolls, increase access to voter registration to all eligible citizens, reduce election costs, and increase efficiencies. The first has been almost uniformly lauded as a means of allowing states to cooperate in identifying voters who move from one state to another without changing their voter registration and thus prevent voter fraud via double voting.

However, ERIC has come under fire recently because of concerns regarding data privacy, laws and its requirement that states perform outreach to potential voters. Some of these concerns have led to the withdrawal of eight states from the compact, reducing its number from 33 to 25.³⁷ On July 17, 2023, the State of Texas filed its formal intent to withdraw from ERIC pursuant to

³⁶ Sam Dunklau, “Plan to improve Pennsylvania’s voting and licensing databases met with skepticism,” WITF, March 31, 2013. <https://www.witf.org/2023/03/31/plan-to-improve-pennsylvanias-voting-and-licensing-databases-met-with-skepticism/>

³⁷ Wendy Underhill, “More Withdrawals From Voter Data Group ERIC Likely,” National Conference of State Legislatures, *State Legislatures News*, June 20, 2023. <https://www.ncsl.org/state-legislatures-news/details/more-withdrawals-from-voter-data-group-eric-likely>

legislation passed in May 2023.³⁸ This exodus began in July 2022 with Louisiana, followed by Alabama later in the year, and Florida, Iowa, Missouri, Ohio, Virginia and West Virginia in 2023. Kentucky is considering the future of its membership, in part because its annual dues will increase due to the reduced number of members and the database will become of less utility to the state as five of its seven bordering states have left the compact and one was never in the compact.³⁹ Conversely, New York is considering legislation that would authorize the state to join ERIC.⁴⁰ Pennsylvania neighbors New Jersey, Delaware, and Maryland are already part of the compact, while neighbors Ohio and West Virginia are among the states that recently withdrew. In August 2023, Virginia announced that it was also formally terminating its relationship with ERIC.⁴¹

Dating Mail-In Ballots

In the ELAB's January 2023 interim report on mail-in ballots, the Board reviewed the ongoing federal versus state court cases invoking the Election Code and the federal Voting Rights Act in various ways to determine whether requiring a mail-in ballot to be dated in order to be counted and the constitutionality of such a requirement. The Board recommended that the requirement of a date on a mail-in ballot should not be the sole justification for rejecting such a ballot. The following three paragraphs attempt to summarize the status of the debate to date (late July 2023).

In In re Canvass of Absentee and Mail-in Ballot of November 3, 2020 General Election, 241 A.3d 1058, 663 Pa. 283 (2020) the judgment of the Court, per an opinion by Justice Wecht concurring in part and concurring in the judgment and dissenting in part, was that the failure of electors to write the date they filled out the ballot on the outer envelope of their mail-in ballot did not invalidate those ballots for the specific elections before the Court. Those elections were four races for state offices, one of which was a state Senate race between Ziccarelli and Brewer. In this case, three justices opined that failing to date the envelope would not invalidate the ballot. Three justices would have held the opposite. And Justice Wecht stated that, in these specific races, the failure to date the ballot could be overlooked because of the newness of the mail-in voting law, but that in future races, the requirement to date a ballot was a mandatory requirement per the Election Code and cannot be disregarded.

Subsequently, Ziccarelli filed a collateral action in federal court against Allegheny County for counting the undated ballots. Ziccarelli v. Allegheny County Board of Elections, 2021 WL 101683 (W.D. Pa. Jan. 21, 2021) (unreported). Counting the undated ballots caused her to go from being the presumptive winner to the loser of the Senate race. Because Allegheny County counted

³⁸ Natalia Contreras, "Texas begins withdrawal from multistate partnership to clean voter rolls," *The Texas Tribune*, July 20, 2023, <https://www.texastribune.org/2023/07/20/texas-republican-voter-roll-eric/>

³⁹ McKenna Horsley, Kentucky Lantern, "Another state signals its intent to leave the voter data system," *Route Fifty*, June 23, 2023. <https://www.route-fifty.com/digital-government/2023/06/another-state-signals-its-intent-leave-voter-data-system/387836/>

⁴⁰ New York A7052b and S6173.A 7052b was amended and referred to the Assembly election law committee on May 31, 2023. S6173 passed the Senate on June 5, 2023, and was also referred to the Assembly election law committee.

⁴¹ Election Law in Pennsylvania: Second Annual Report of the Election Law Advisory Board, pp. 110-114, June 2022, [http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2021-06-08%20ELAB%202022%20final%20Report%20%20\(7.15\).pdf](http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2021-06-08%20ELAB%202022%20final%20Report%20%20(7.15).pdf).

undated ballots and Westmoreland County did not, she alleged that the disparity violated her due process rights. She attempted to re-argue her position—and the position of the three dissenting Pennsylvania Supreme Court judges—before the Federal District Court. However, the judge in that case held that he cannot overrule the Pennsylvania Supreme Court on a matter of state law. And here, including Justice Wecht’s concurrence in the judgment, the Pennsylvania Supreme Court allowed for those undated Allegheny County ballots to be counted in her race.

Subsequent to this case, the Third Circuit in Migliori v. Cohen, 36 F.4th 153 (3d Cir. 2022), ruled that requiring dates on ballots violated a provision of the Civil Rights Act which makes it illegal to deny the right to vote based on an “error or omission” in a “paper or record.” 52 U.S.C § 10101(a)(2)(B). This decision was later vacated by the United States Supreme Court. Ritter v. Migliori, 143 S.Ct. 297 (mem.). However, in the interim, the Pennsylvania Supreme Court was asked to adopt the Third Circuit’s reasoning or otherwise find that a date on the outer envelope is not a requirement for a mail-in ballot to be valid. The Pennsylvania Supreme Court declined to adopt the Third Circuit’s decision and in a 4-3 ruling determined that the date on the outer envelope of a mail-in ballot is a required part of casting a ballot by mail, per the Election Code. Our Supreme Court stated that “an undeniable majority already has determined that the Election Code’s command is unambiguous and mandatory, and that undated ballots would not be counted in the wake of In re 2020 Canvass.” Ball v. Chapman, 289 A.3d 1, 21-22 (Pa. 2023).

The impact of the Third Circuit’s decision remains unclear. While the Supreme Court vacated that decision, it did not issue an opinion on the merits. The Federal District Court for the Eastern District of Pennsylvania opined that although “the Third Circuit’s favorable judgment is no longer binding law, the effect of vacatur is not equivalent to a reversal on the merits” at least when it comes to adjudicating who is a prevailing party for awarding costs. Migliori v. Lehigh County Board of Elections, 2023 WL 2773534 (E.D. Pa. Apr. 4, 2023) (slip op.).

Because of this lack of clarity, the ACLU has filed a lawsuit against the Secretary of State and every county board of elections in Federal District Court for the Western District of Pennsylvania for declaratory and injunctive relief and is seeking to have the dated ballot requirement, as decided in Ball v. Chapman, declared invalid on the grounds of the Materiality Provision of the Civil Rights Act, 52 U.S.C § 10101(a)(2)(B). Effectively, the ACLU wants the District Court to reinstate the Third Circuit’s decision in Migliori that was vacated by the Supreme Court. Pennsylvania State Conference of the NAACP, et al. v. Schmidt et al., Civil Action No. 1:22-CV-339 (W.D. Pa. Nov. 4, 2022). A motion to dismiss was denied by a Memorandum Opinion issued June 8, 2023.⁴² Documents continued to be filed in the court into June 2023.⁴³ Staff has been unable to find a schedule hearing date as of the end of July 2023.

Ballot Curing via Provisional Ballot

The 2020 election also provided an opportunity to examine the role of provisional ballots in cases where a mail-in ballot was rejected as defective by the county board of elections. Candidate Nicole Zicarelli was a central player in this dispute as well. The Allegheny County

⁴² 2023 WL 3902954.

⁴³ <https://docs.justia.com/cases/federal/district-courts/pennsylvania/pawdce/1:2022cv00339/293690/329>

Board of Elections determined that provisional ballots should be counted from voters whose mail-in ballots were not signed or lacked a secrecy envelope and were rejected, who subsequently voted on Election Day via provisional ballot. The Allegheny Court of Common Pleas upheld the board's decision, and Zicarelli appealed to the Commonwealth Court. The Commonwealth Court reversed the lower court, determining that the provisional ballots could not be counted under the Election Code. (This opinion was not reported, and will hereinafter be referred to as Zicarelli).⁴⁴ The County Board of Elections filed an appeal to the Pennsylvania Supreme Court, which was denied.⁴⁵ Thus, it appeared that, at least in Allegheny County, a voter who submits a defective ballot must follow local "cure" rules and may not vote via provisional ballot to attempt to effect a different cure.

In a related matter, the ACLU and the Public Interest Law Center, together with the law firm Dechert LLP filed suit in the Delaware County Court of Common Pleas on the behalf of three individuals whose attempts to vote were rejected twice. The individuals had submitted mail-in ballots, had their ballots rejected by the County Board of Elections because they were undated, and rather than attempt to cure the mail-in ballots in person before the election at the county offices, chose to vote in person at their local polling places via provisional ballot on Election Day. The County Board of Elections rejected the provisional ballots, citing Zicarelli as precedent. The suit in Delaware County is ongoing, and part of the argument to reject the Zicarelli holding is that as an unpublished case, it is not binding precedence. Further arguments are encompassed in the 105-page petition for "review in the nature of a statutory appeal, and its 18-page accompanying memorandum of law in support of motion for judgment on the pleadings."⁴⁶ Further filings continue in the case through July 2023.

⁴⁴ In Re Allegheny County Provisional Ballots in the 2020 General Election, Appeal of Nicole Zicarelli, No. 1161 C.D. 2020 (Nov. 19, 2020).

⁴⁵ In Re Allegheny County Provisional Ballots in the 2020 General Election, Petition of Allegheny County Board of Elections, No. 338 WAL 2020 (Pa. Nov. 23, 2020).

⁴⁶ Sonja Keohane, Richard Keohane, and Barbara Welsh v Delaware County Board of Elections, No. CV-2023-4458 (Del. C.C.C.P. May 25, 2023), <https://pubintlaw.org/wp-content/uploads/2023/06/23.05.25-Petition-for-Review.pdf>

CURRENT
ELECTION LAW LEGISLATIVE PROPOSALS
IN PENNSYLVANIA

As of July 31, 2023, over 70 bills have been introduced in the General Assembly to amend the Election Law and related statutes. Topics covered include, ballot questions, candidate qualifications, campaign finance, election day, election directors and workers, election investigations, audits, and challenges, mail-in ballots, nominations, pre-canvassing, primaries, polling place security, poll watchers, pre-canvassing, presidential elections, ranked-choice voting, voter access to polls, voter identification, voter list maintenance, voter registration, voting in general and other topics.

The following table provides a brief summary of each bill and its status as of July 31, 2023.

BALLOT QUESTIONS		
Bill No.	Description	Status
SB 408, PN 358	Require Dept of State to post information about constitutional amendment ballot questions on the Dept website	Second consideration & re-rfd to Appropriations May 10, 2023
HB 283, PN 1769	Requires each member of the General Assembly to hold public meeting within their district to receive public comment on upcoming ballot questions	First consideration & re-cmtd to Rules June 28, 2023
HB 1332, PN 1771	Requires all public debt ballot questions be accompanied by a fiscal note	First consideration & re-cmtd to Rules June 28, 2023
HB1488, PN 1772	Moves voting on ballot questions from municipal elections to only at general elections	First consideration & re-cmtd to Rules June 28, 2023

CANDIDATES		
Bill No.	Description	Status
SB 570, PN 578	Allows gubernatorial candidates to select their own running mate	State Govt Cmte March 30, 2023
HB 785, PN 734	Requires all candidates for all elected offices in Pennsylvania to submit criminal background check	State Govt Cmte March 30, 2023
HB 1196, PN 1267	Requires all state-level candidates for elected office to submit to a drug screening prior to running for office	State Govt Cmte May 19, 2023
HB 1270, PN 1387	Provides for ballot slot rotation in elections in multiple counties; proposes a study on precinct rotation system for ordering the list of candidates on primary and general election ballots	State Govt Cmte May 31, 2023

CAMPAIGN FINANCE		
Bill No.	Description	Status
SB 139, PN 117	All candidate and PAC campaign finance reports to be filed electronically	State Govt. Cmte. January 19, 2023
SB 108, PN 150	Require counties to forward all local government campaign finance statements to Sect'y of the Commonwealth to post on State's website	State Govt. Cmte. January 30, 2023
SB 218, PN 187	Permit candidates or PACs to donate residual funds to unaffiliated 501(c)(3) nonprofit	State Govt. Cmte. January 31, 2023
SB 383, PN 732	Prohibit use by candidates of political committees to use pre-checked donation boxes to solicit recurring campaign contributions without express and affirmative consent of donor	Second consideration & re-rfd to Appropriations May 10, 2023
Hb 279, PN 242	Limitation on in-kind contributions	State Govt Cmte March 10, 2023
HB 773, PN 722	Requiring electronic filing of campaign finance reports	State Govt Cmte March 30, 2023
HB 815, PN 772	Authorizes electronic filing of campaign finance reports	Passed H. (102-101) June 6, 2023; to Sen. State Government June 6, 2023

CAMPAIGN FINANCE		
Bill No.	Description	Status
HB 1220, PN 1311	Requires State House and Senate candidates, in addition to filing campaign expense reports on the second Friday before the election, to also file expense reports on or before the sixth Tuesday prior to the election.	State Govt Cmte May 24, 2023
HB 1223, PN 1314	prohibit lobbyists from serving as campaign consultants and will prohibit campaign consultants from lobbying an elected official whom they helped elect for the term to which they were elected.	State Govt Cmte May 24, 2023
HB 1471, PN 1657	Imposes campaign contribution limitations	State Govt Cmte June 21, 2023
HB 1472, PN 1658	require campaign finance reports from civic leagues and 501(c)(4) tax-exempt organizations that independently advocate for or against a particular candidate – any amount is reportable	State Govt Cmte June 21, 2023

ELECTION DAY		
Bill No.	Description	Status
HB 220, PN 180	Authorizes employee voter leave	Labor & Industry Cmte March 8, 2023
SB 470, PN 454	Authorizing up to two hours employment leave for voters on election day	State Govt Cmte March 14, 2023
HB 461, PN 429	Permits civil action against persons who commit voter intimidation	Judiciary Cmte March 16, 2023
SB 642, PN 623	Election Day as a legal holiday for public employees, optional for school districts and counties; private employers to provide two hours unpaid leave – primary, municipal, and general elections	State Govt Cmte April 20, 2023

ELECTION DIRECTORS AND WORKERS		
Bill No.	Description	Status
SB 127, PN 78	Prohibit member of county board of elections from serving as a State party officer of a political party	State Govt. Cmte. January 18, 2023
HR 32, PN 272	Directing JSGC to conduct a study on poll workers, polling places, voting compartments, and voting machines to minimize voting wait times	reported from cmte June 5, 2023
HB 275, PN 238	County boards of elections have the option to recruit poll workers service, similar to the way persons are summoned for jury duty, when polling places are facing a volunteer shortage	State Govt Cmte March 10, 2023
HB276, PN 239	Constitutional amendment to allow government employees to serve as poll workers	State Gvot Cmte March 10, 2023
SB 603, PN 600	Assigns responsibility to coordinate county procedures and election worker training to the Election Law Advisory Board; increases penalties	State Govt Cmte April 17, 2023
SB 604, PN 601	Revises oath of judge of election, inspectors, clerks and machine operators	State Govt Cmte April 17, 2023
HB 1271, PN 1388	Revises the judge of elections oath	State Govt Cmte May 31, 2023

ELECTION INVESTIGATIONS/AUDITS/CHALLENGES		
Bill No.	Description	Status
HB 978, PN 999	Appointment of county election integrity officer, complaint hotline, appointment of independent prosecutor to review and investigate complaints, annual training for district attorney office on election law	State Govt Cmte April 24, 2023
SB 675. PN 701	Requiring post-election reports of complaints received by State to the General Assembly	State Govt. Cmte. May 3, 2023

MAIL-IN BALLOTS		
Bill No.	Description	Status
HB 271, PN 234	Prohibits third party organizations from sending ballot applications to voters	State Govt Cmte March 10, 2023
HB 282, PN 245	Implements the recommendations of JSGC Jan 2023 mail-in ballots report	State Govt Cmte March 10, 2023
SB 99, PN 438	Abolishing satellite offices and drop boxes	State Govt Cmte March 14, 2023
SB 250, PN 250	Ballot production—include multiple security measures	State Govt Cmte March 14, 2023
SB 401, PN 491	Adopting all-mail voting in Pennsylvania	State Govt Cmte March 15, 2023
HB 490, PN 458	Permits ballot curing for signature discrepancies	State Govt Cmte March 16, 2023
HB 500, PN 469	Absentee ballots to be available in braille for blind, visually impaired or disabled voters	State Govt Cmte March 17, 2023
HB 700, PN 644	Constitutional amendment to abolish mail-in ballots	State Govt Cmte March 24, 2023
HB 847, PN 1019	Addresses pre-canvassing, absentee and mail-in ballot due dates, naked and undated or wrongly dated ballots, and curing defective signatures	1 st consideration, then laid on table in House April 24, 2023
SB 857, PN 1011	Due date of absentee and mail-in ballots; presumption of timely mailing; eliminate dating of ballot by voter requirement on mail-in ballots	State Govt Cmte July 6, 2023

NOMINATIONS		
Bill No.	Description	Status
HB 36, PN 25	Eliminates cross-filing by school board candidates	State Govt Cmte March 7, 2023
HB 37, PN 26	Increasing number of nomination signatures for school director from 10 to 100	State Govt Cmte March 7, 2023

NOMINATIONS		
Bill No.	Description	Status
HB 252, PN 215	Eliminates filing fees for delegates to National party convention	State Govt Cmte March 10, 2023

PRE- CANVASSING		
Bill No.	Description	Status
HB 159, PN 136	Pre-canvassing permitted between three and 14 days prior to the election, depending on the class of the county	State Govt Cmte March 8, 2023
SB 426, PN 422	Pre-canvassing permitted up to 21 days prior to the election	State Govt Cmte March 14, 2023
HB 488, PN 456	Pre-canvassing permitted up to 21 days prior to the election	State Govt Cmte March 16, 2023
HB 489, PN 457	Pre-canvassing permitted up to seven days prior to the election	State Govt Cmte March 16, 2023
HB 847, PN 1019	Pre-canvassing permitted up to seven days prior to the election; makes the deadline to apply by mail for an absentee ballot or mail-in ballot earlier; increase transparency for viewing the pre-canvass and canvass of ballots; authorizes county boards to notify electors who had minor defects with ballots so that they can be corrected prior to the election	1 st consideration and laid on the table April 24, 2023
HB 858, PN 834	Pre-canvassing permitted up to 14 days prior to the election	State Govt Cmte April 10, 2023

PRIMARIES		
Bill No.	Description	Status
SB 224, PN 194	Move presidential primaries to the third Tuesday of March	State Govt. Cmte. January 31, 2023

PRIMARIES		
Bill No.	Description	Status
HB 51, PN 40	Move presidential primaries to the third Tuesday of March	Stae Govt Cmte March 7, 2023
HB 976, PN 997	Providing for open primaries	State Govt Cmte April 24, 2023
HB 979, PN 1000	Providing for open primaries	State Govt Cmte April 24, 2023
SB 400, PN 651	Providing for open primaries	State Govt. Cmte. April 26, 2023

VOTER IDENTIFICATION		
Bill No.	Description	Status
HB 772, PN 721	Provides for free initial state identification cards for individuals over the age of 18; no fee for renewal card for low-income or homeless individuals	Transportation Cmte March 30, 2023
HB 1498, PN 1706	Provides a list of acceptable proof of identification and requires the Secty to provide, within one year, a durable voter identification card, including a scannable identification code, and a likeness of the voter's signature	State Govt Cmte June 23, 2023

VOTER LIST MAINTENANCE		
Bill No.	Description	Status
SB 125, PN 971	Authorizes Dept of State to us an interstate voter registration cross-check system with the provider of a private section data system, subject to certain restrictions. The ERIC system would not meet these requirements	On Senate calendar for third consideration on September 18, 2023
SB 193, PN 91	Require Dept of Health to report death of a registered elector within 7 days of receiving notice (current law is 60 days)	State Govt. Cmte. January 19, 2023

VOTER LIST MAINTENANCE		
Bill No.	Description	Status
HB 970, PN 990	Requires PennDOT, DHS, the Dept of Revenue, and the Dept. of State to exchange information about names and addresses of registration applicants – clarifies “motor voter” law	State Govt. Cmte. April 24, 2023

VOTER REGISTRATION		
Bill No.	Subject Matter	Status
SB 40, PN 172	Automatic voter registration with an “opt-out” option	State Govt Cmte January 31, 2023
HB 128, PN 111	Provides for same day registration	State Govt Cmte March 7, 2023
HB 277, PN 240	Dept of Military Affairs to contact incarcerated veterans to encourage voter registration prior to release or discharge (info to be provided by Dept of Corrections)	Veterans Affairs and Emergency Preparedness Cmte March 10, 2023
HB 278, PN 241	Provides incarcerated persons with the opportunity to register to vote prior to release or discharge	State Govt Cmte March 10, 2023
HB 403, PN 371	Establishes Future Voter Program – pre-registration of eligible high school students	State Govt Cmte March 14, 2023
SB 471, PN 455	Requires PennDOT to keep list of driver’s license applicants and notify them of eligibility to register to vote upon attaining age 18	State Govt Cmte March 14, 2023
HB 830, PN 803	Allows eligible voters who are incarcerated in Philadelphia, whether for a misdemeanor or awaiting sentencing for a felony, to use that correctional facility as their place of voter registration	State Govt Cmte April 4, 2023
HB 891, PN 873	Constitutional amendment to require voter ID at all elections	State Govt Cmte April 12, 2023

VOTING		
Bill No.	Description	Status
SB 292, PN 266	Constitutional amendment (1st time): require in-person voting unless by absentee; signature verification for absentee ballots; prohibiting maintenance of permanent mailing list	State Govt Cmte. January 31, 2023
HB 258, PN 221	Provides for early voting	State Govt Cmte March 10, 2023
HB 704, PN 650	Early in-person voting	State Govt Cmte March 27, 2023
HB 806, PN 764	Provides for additional voter assistance, including taking a ballot outside the polling place for persons who are physically unable to enter a polling place	State Govt Cmte April 3, 2023
SB 729, PN 814	Provides for ranked choice voting in municipal elections	State Govt Cmte June 2, 2023

SINGLE BILLS ON SEPARATE ISSUES		
Bill No.	Description	Status
SB 272, PN 235	Voting machines–US made only, sold by a vendor with a primary place of business in the US	State Govt. Cmte. January 31, 2023
SB 287, PN 261	Eliminate cross-filing for court of common pleas and magisterial district justice candidates	State Govt Cmte. January 31, 2023
HB 273, PN 236	Requires county boards of elections maintain a publicly accessible Internet website using a .gov top-level domain (TLD)	State Govt Cmte March 10, 2023
SB 516, PN 486	Poll Watchers Protection Act–eligibility; access to polls	State Govt Cmte March 15, 2023
HB 547, PN 520	Constitutional amendment to make Secretary of the Commonwealth an elected position and establish qualifications	State Govt Cmte March 20, 2023

FEDERAL ELECTION LAW LEGISLATIVE PROPOSALS

During the 117th Congress, covering the years 2021-2022, at least 39 pieces of legislation have been introduced. Topics covered include voting rights, campaign finance, redistricting, and other election-related reforms. These bills are summarized below.

During the 118th Congress, covering the years 2023-2024, 34 bills or resolutions were introduced that would alter how elections are conducted, clarify or add rules for voting, or restrict how states regulate or conduct elections. Bills that would restrict candidates, such as campaign finance-related legislation or proposals for term limits, were not included. The list is accurate as of April 19, 2023.

Some of the proposed legislation from the 117th Congress has been reintroduced without amendment in the 118th Congress. Any legislation currently pending that had also been introduced in the prior Congress is noted.

H.J. Res. 16 — Proposing an Amendment to the Constitution of the United States Extending the Right to Vote to Citizens Sixteen Years of Age or Older

This bill would amend the Constitution to lower the voting age to 16. It was referred to the Committee on the Judiciary on January 11, 2023. It was previously introduced in the 117th Congress as H. J. Res. 23. It was referred to the Subcommittee on the Constitution, Civil, Rights, and Civil Liberties on April 23, 2021, but did not advance further.

H.R. 83 — To Repeal the National Voter Registration Act of 1993

This bill would repeal the National Voter Registration Act of 1993, eliminating among other things the federal requirements relating to registering voters through the states' departments of motor vehicles. It was referred to the House Committee on House Administration on January 9, 2023. It was previously introduced in the 117th Congress as H.R. 36 and referred to the House Committee on House Administration where it died.

H.R. 959 — To Repeal the provisions of the National Voter Registration Act of 1993 other than the provisions requiring States to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters in the State and the provisions imposing criminal penalties for fraudulent voter registration or voting activities.

This bill repeals the NVRA except the provisions which require the states to remove the names of ineligible voters from voter registration lists, require the designation of an official as a Chief State Election Official, and require criminal penalties for fraudulent activities. It was referred to the House Committee on House Administration on February 9, 2023.

H.R. 861 — America Votes Act of 2023

This bill requires states to permit the use of a sworn written statement to meet identification requirements if the state requires that an individual present identification as a condition of receiving and casting a ballot. The bill requires that states include information on the use of sworn written statements on voting information material posted at polling places. An individual wishing to vote by mail may submit the sworn written statement with the ballot, and states must provide them with a regular ballot and not a provisional ballot. It was referred to the House Committee on House Administration on February 7, 2023.

This bill was introduced in the 117th Congress as H.R. 1059, where it was referred to the Committee on House Administration on February 15, 2021.

H.R. 1583 — Alice Paul Voter Protection Act

This bill adds a new section to the federal criminal code to prohibit hindering, interfering with, or preventing registering to vote by making it unlawful to “corruptly hinder, interfere with, or prevent another person from registering to vote or ... aiding another person in registering to vote.”

This bill requires the Election Assistance Commission to develop and publish recommendations for best practices for states to follow to deter and prevent violations of this section. This bill amends the Help America Vote Act of 2002 by including information on how individuals may report allegations of violations of this section in the required voter information provisions of HAVA. On March 14, 2023, the bill was referred to the Committee on the Judiciary and the Committee on House Administration, for a period to be subsequently determined by the Speaker, for consideration of such provisions as fall within the jurisdiction of the committee concerned.

This bill was also introduced in the 117th Congress as H.R. 1245 and was referred to the Committee on Crime, Terrorism, and Homeland Security on April 28, 2021.

H.R. 981 — One Stop Shop Community Reentry Program Act

This bill authorizes the Attorney General to make grants to eligible entities for creating “community reentry centers.” The bill sets forth application requirements for entities, provides a preference for entities which will employ formerly incarcerated individuals, and requires the Attorney General to enter into an agreement with a nonprofit organization to monitor and evaluate each recipient of funds. It also requires that the Attorney General produce a report to Congress. It was referred to the House Committee on the Judiciary on February 10, 2023.

This bill was also introduced in the 117th Congress as S. 1733 in the Senate and H.R. 3372 in the House. S. 1733 was introduced on May 20, 2021, and no further action was taken. In the House the bill was ordered to be reported by the Committee on the Judiciary on July 21, 2021.

H. J. Res. 40 — Proposing an amendment to the Constitution of the United States to prohibit voting in Federal, State, or local elections by individuals who are not citizens of the United States

Proposes a constitutional amendment that prohibits an individual who is not a U.S. citizen from voting in federal, state, or local elections for public office or voting on any ballot initiative or referendum held in the United States.

The resolution was referred to the House Committee on the Judiciary on March 7, 2023.

S. 194 — Protecting Our Democracy by Preventing Foreign Citizens from Voting

This bill would prohibit federal funds from being made available to state or local governments that allow noncitizens to vote in federal, state, or local elections.

It was introduced on January 31, 2023 and no further action has been taken.

S.J. Res. 5 — A joint Resolution Disapproving the Action of the District of Columbia Council in Approving the Local Resident Voting Rights Amendment Act of 2022

This joint resolution nullifies the Local Resident Voting Rights Amendment Act of 2022, enacted by the council of the District of Columbia. The act allows noncitizens who meet residency and other requirements to vote in local elections in the district.

This resolution was read twice and referred to the Committee on Homeland Security and Governmental Affairs on January 31, 2023.

S.J. Res. 6 — A Joint Resolution Disapproving the Action of the District of Columbia Council in Approving the Local Resident Voting Rights Amendment Act of 2022

This joint resolution nullifies the Local Resident Voting Rights Amendment Act of 2022, enacted by the council of the District of Columbia. The act allows noncitizens who meet residency and other requirements to vote in local elections in the district. It is identical to S.J. Res. 5.

This resolution was read twice and referred to the Committee on Homeland Security and Governmental Affairs on February 1, 2023.

H.J. Res 24 — Disapproving the action of the District of Columbia Council in approving the Local Resident Voting Rights Amendment Act of 2022

This is the House version of S.J. Res. 5 and S.J. Res. 6. It passed the House on February 9, 2023, by a vote of 260-162.

H.J. Res. 17 — Disapproving the Action of the District of Columbia Council in Approving the Local Resident Voting Rights Amendment Act of 2022

Appears identical to H.J. Res. 24. It was referred to the House Committee on Oversight and Accountability on January 12, 2023.

H.R. 486 — To Prohibit the District of Columbia from Using Federal Funds to Allow individuals who are not citizens of the United States to vote in any election, and for other purposes.

This bill would prohibit the use of federal funds to allow an individual who is not a U.S. citizen to vote in any election in the District of Columbia (DC). Further, DC must certify that it does not allow noncitizens to vote in elections as a condition of receiving any federal funds.

Federal law bars noncitizens from voting in federal elections; however, the DC Council passed a bill on October 18, 2022, that allows noncitizens who meet residency and other requirements to vote in local elections.

This bill was referred to the House Committee on Oversight and Accountability on January 24, 2023.

S. 12 — To Prohibit the District of Columbia from Using Federal Funds to Allow individuals who are not citizens of the United States to vote in any election, and for other purposes

This is the Senate version of H.4. 486. This bill would prohibit the use of federal funds to allow an individual who is not a U.S. citizen to vote in any election in the District of Columbia (DC). Further, DC must certify that it does not allow noncitizens to vote in elections as a condition of receiving any federal funds.

Federal law bars noncitizens from voting in federal elections; however, the DC Council passed a bill on October 18, 2022, that allows noncitizens who meet residency and other requirements to vote in local elections.

It was read twice in the Senate and referred to the Committee on Homeland Security and Governmental Affairs on January 23, 2023.

H.R. 239 — Same Day Registration Act of 2023

This bill would require states that require voters to register to allow any eligible voter in a Federal election to register on the same day and at the polling location on any day voting is permitted.

This bill was referred to the Committee on House Administration on January 10, 2023.

H.R. 192 — To prohibit individuals who are not citizens of the United States from voting in elections in the District of Columbia

This bill would prohibit an individual who is not a U.S. citizen from voting in any election in Washington, D.C. It was referred to the House Committee on Oversight and Accountability on January 9, 2023.

H.R. 149 — Protecting Our Democracy by Preventing Foreign Citizens from Voting

This bill would prohibit federal funds from being made available to state or local governments that allow noncitizens to vote in federal, state, or local elections. It is the House version of S. 194.

This bill was referred to the House Committee on Oversight and Accountability on January 9, 2023.

H.R. 2566 — Voter Registration Efficiency Act

This bill would amend the National Voter Registration Act of 1993 to require states to inquire whether an applicant for a driver's license already possesses a driver's license issued by another state and if so, which state issued the license. Additionally, it would require individuals applying for a driver's license to indicate whether the individual intends for the State to serve as the individual's residence for purposes of registering to vote in elections for Federal office.

On April 10, 2023, the bill was referred to the House Committee on House Administration.

H.R. 1439 — Vote at Home Act of 2023

This bill would prohibit states from imposing additional conditions or requirements on the eligibility of individuals to cast ballots by mail in federal elections, with the exception that a state may impose a deadline for requesting the ballot and related voting materials and for returning a ballot. It would also require the U.S. Postal Service to carry mail-in ballots free of charge. Additionally, the bill would require automatic voter registration of individuals through state motor vehicle authorities.

On March 8, 2023, the bill was referred to both the Committee on House Administration and the Committee on Oversight and Accountability, for a period to be subsequently determined by the speaker, in each case to consider such portions as fall within the jurisdiction of each committee concerned.

S. 700 — Vote at Home Act of 2023

This bill would prohibit states from imposing additional conditions or requirements on the eligibility of individuals to cast ballots by mail in federal elections, with the exception that a state may impose a deadline for requesting the ballot and related voting materials and for returning a ballot. It would also require the U.S. Postal Service to carry mail-in ballots free of charge. Additionally, the bill would require automatic voter registration of individuals through state motor vehicle authorities.

This bill is the Senate version of H.R. 1439. It was referred to the Committee on Rules and Administration on March 8, 2023.

H.R. 1295 — Early Voting Act

This bill would amend the 2002 Help America Vote Act to require states to allow individuals to vote in an election for Federal office during an early voting period which occurs prior to the date of the election. The length of the early voting period must begin on the 15th day before the date of the election and each polling place used for early voting must be available for no less than 10 hours each day, have uniform hours each day, and allow voting to be held before 9:00 AM and 5:00 PM.

For states that send every voter a ballot by mail, the state may determine “an early voting period that ensures voters are provided the greatest opportunity to cast ballots ahead of election day and which includes at least one consecutive Saturday and Sunday.”

The bill also sets forth exceptions for “small jurisdictions,” prescribes rules for the location of polling places, would require the Election Assistance Commission to issue voluntary standards for the administration of voting during early voting periods, and require each state or jurisdiction to begin processing and scanning ballots cast during in-person early voting for tabulation no later than 14 days prior to the day of the election involved.

This bill was referred to the House Committee on House Administration on March 1, 2023.

H.R. 512 — One Citizen, One Vote Act

This bill would prohibit the Election Assistance Commission from making any payments to any state or jurisdiction unless the state or jurisdiction certifies that it meets certain election standards. The state or jurisdiction must certify that it:

- Requires a photo identification for voting;
- Restricts the delivery of ballots by third parties (i.e., prohibits ballot harvesting);
- Prohibits the use of a drop box for collecting a voted ballot unless it is located at the office of an election official;
- Does not deliver an absentee or other mail-in ballot to any individual who does not request the delivery of such a ballot; and
- Does not allow noncitizens to vote in any election

The bill was referred to the Committee on House Administration on January 25, 2023.

H.R. 466 — Securing America’s Elections Act of 2023

This bill would require voting systems for federal elections to produce paper ballots that the voter may inspect and verify before the vote is cast and counted. The bill would also require the paper ballot to be suitable for manual audits, prescribes approved methods for such audits, and directs the Department of Homeland Security and the Election Assistance Commission to report on the desirability of using open-source software in voting systems.

On January 24, 2023, it was referred to the Committee on House Administration and the Committee on the Budget, for a period to be subsequently determined by the Speaker, for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 2471 — Vote Without Fear Act

This bill would make it a crime to possess a firearm or cause a firearm to be present in or within 100 yards of an entrance to a place that an individual knows or has reasonable cause to believe is a Federal election site, or to attempt to do so. It would also make it a crime to do so with the intent that the firearm be used in the commission of another crime. The bill would also make it a federal crime to kill someone with a firearm at an election site.

This bill was referred to the House Committee on the Judiciary on April 3, 2023.

H.R. 1725 — End Zuckerbucks Act

This bill would prohibit tax-exempt charitable organizations from providing direct or indirect funding (e.g., below-cost services, scholarships, subsidies) to official election organizations, including any state or local government entity or any government election organization. It was referred to the House Committee on Ways and Means on March 22, 2023.

H.R. 980 — Washington, D.C. Residents Voting Act

This bill would extend voting rights to Washington, D.C. residents by ceding most of Washington, D.C. to Maryland. On February 10, 2023, it was referred to the Committee on the Judiciary and the Committees on Oversight and Accountability and Armed Services, for a period to be subsequently determined by the Speaker, for consideration of such provisions as fall within the jurisdiction of the Committee concerned.

H.R. 627 — VOTE Act

This bill would amend the National Voter Registration Act of 1993 to prohibit an individual from registering to vote in elections for Federal office unless the individual provides documentary proof that the individual is a citizen of the United States.

This bill was referred to the House Committee on House Administration on January 30, 2023.

H.R. 487 — Ensuring American Voters Act of 2023

This bill would prohibit a state from registering an individual to vote in federal elections unless the individual provides documentary proof of U.S. Citizenship.

This bill was referred to the House Committee on House Administration on January 24, 2023.

H.R. 157 — CLEAN Elections Act

This bill would require states to conduct congressional redistricting using a plan developed by a nonpartisan independent redistricting commission and hold open primaries for federal elections.

Further, this bill would prohibit a state from using federal funds for election administration unless it certifies to the Election Assistance Commission that it conducts redistricting for its state legislative districts using a plan developed by a nonpartisan independent redistricting commission and holds open primaries for its state and local offices.

On January 9, 2023, this bill was referred to the Committee on House Administration and the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 156 — Restoring Faith in Elections Act

This bill establishes certain requirements for voting by mail in federal elections, including by requiring mail-in ballots to be received by the time the polls close on election day. This bill would make it unlawful to possess or return a mail-in ballot completed by another person (i.e. ballot harvesting), with certain exceptions. Criminal penalties are provided for violations of this provision.

This bill would also require states to count all eligible ballots within 24 hours after an election, require states to automatically register eligible voters, and require the Election Assistance Commission to make grants to states to implement these automatic voter registration programs.

This bill would further amend Section 302 of the Help America Vote Act of 2002 by requiring states to ensure that the procedures used for the administration of elections for Federal office in the state are standardized and uniform for all jurisdictions in the State which administer elections.

This bill would also establish the National Deconfliction Voting Database and Clearinghouse for voter registration records and lists of eligible voters. Each state would be required to certify that it has removed ineligible voters from the official list of eligible voters prior to the federal election.

On January 9, 2023, this bill was referred to the Committee on House Administration and to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 154 — Securing our Elections Act of 2023

This bill would amend the Help America Vote Act of 2002 to require individuals present a valid photo identification when voting in person and, if the individual is voting by mail, a copy of their valid photo identification or the last four digits of the individual's Social Security number and an affidavit attesting that the individual is unable to obtain a copy of a valid photo identification after making reasonable efforts to obtain such a copy.

This bill would also mandate that states provide a valid photo identification to voters at no charge if an individual voter attests in an affidavit that they are unable to pay the costs of obtaining such an identification. It also requires that the appropriate state or local government official shall ensure public access to a digital imaging device such as printer, scanner, or copier, at state and local government buildings in the state for purposes of making copies of photo identification.

This bill specifies five types of identification which would qualify as valid photo identification. This bill would also require the state to notify voters of the photo identification requirement when an individual applies to register to vote.

The bill was referred to the House Committee on House Administration on January 9, 2023.

H.R. 126 — Students Voicing Opinions in Today's Elections (VOTE) Act

This bill will direct the Election Assistance Commission to carry out a pilot program providing funds during fiscal year 2023 to local education agencies for initiatives that provide 12th graders with voter registration information. The local education agencies must consult with their state and local election officials in developing the initiative.

The bill was referred to the House Committee on House Administration on January 9, 2023.

H.R. 90 — Voter Integrity Protection Act

This bill would impose additional immigration-related penalties for non-U.S. nationals who vote in an election for federal office. It would make voting in a federal election by a non-U.S. national who is unlawfully present an aggravated felony. Aggravated felony convictions carry immigration consequences, such as rendering the non-U.S. national inadmissible, deportable, and barred from establishing good moral character for naturalization.

This bill was referred to the House Committee on the Judiciary on January 9, 2023.

H.J. Res. 23 — Proposing an amendment to the Constitution of the United States providing that the Senate is made more representative by adding twelve Senators to be elected nationwide through ranked choice voting, and providing for twelve Electors at-large for President and Vice-President, who shall cast their ballots for the respective winners of the national popular vote.

This bill would amend the Constitution to remake the composition of the Senate and the electoral college. It was referred to the House Committee on the Judiciary on January 31, 2023.

*Statutory Authority
for Election Law Advisory Board*

PENNSYLVANIA ELECTION CODE - OMNIBUS AMENDMENTS
Act of Mar. 27, 2020, P.L. 41, No. 12 Cl. 25
Session of 2020
No. 2020-12

**ARTICLE XIII-E
PENNSYLVANIA ELECTION LAW ADVISORY BOARD**

Section 1301-E. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." The Pennsylvania Election Law Advisory Board established under section 1302-E(a).

Section 1302-E. Pennsylvania Election Law Advisory Board.

(a) Establishment.--The Pennsylvania Election Law Advisory Board is established within the Joint State Government Commission.

(b) Members.--The board shall be comprised of the following members:

- (1) The Secretary of the Commonwealth or a designee.
- (2) The President pro tempore of the Senate or a designee.
- (3) The Minority Leader of the Senate or a designee.
- (4) The Speaker of the House of Representatives or a designee.
- (5) The Minority Leader of the House of Representatives or a designee.

(6) One member from each congressional district, of whom no more than half may be registered with the same political party, appointed by the Governor and confirmed by the Senate and which shall include members who:

- (i) represent groups advocating for individuals with disabilities;²²
- (ii) represent groups advocating for voting rights; and
- (iii) represent county commissioners or county election officials.

(c) Duties.--The board shall have the following duties:

- (1) Study this act and identify statutory language to repeal, modify or update.
- (2) Collaborate with other agencies and political subdivisions of the Commonwealth to study election-related issues.

- (3) Study the development of new election technology and voting machines.
- (4) Evaluate and make recommendations on:
 - (i) improving the electoral process in this Commonwealth by amending this act or through regulations promulgated by the Department of State; and
 - (ii) implementing best practices identified to ensure the integrity and efficiency of the electoral process in this Commonwealth.
- (5) By the end of each fiscal year, publish extensive and detailed findings on the Joint State Government Commission's publicly accessible Internet website and make them available in electronic format to the Office of the Governor and members of the General Assembly.
- (d) Quorum.--A majority of appointed members shall constitute a quorum for the purpose of conducting business.
- (e) Chairperson and vice chairperson.--The members shall select a member to be chairperson and another member to be vice chairperson.
- (f) Transparency and ethics.--The board shall be subject to the following laws:
 - (1) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.
 - (2) The act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.
 - (3) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
 - (4) 65 Pa.C.S. Ch. 7 (relating to open meetings).
- (g) Information gathering.--The board may conduct hearings and otherwise gather relevant information and analysis that it considers appropriate and necessary to fulfill its duties.
- (h) Reimbursement.--Members of the board shall be reimbursed for reasonable expenses.

Prior Recommendations

While the recommendations in this report are the consensus of the members of the ELAB, it should not be assumed by the reader that agreement was unanimous. Some provisions were the subject of much debate and concerns are noted in context. Any proposed legislation in this chapter follows the Legislative Reference Bureau's drafting convention of using brackets to show deleted materials and underscoring all new language.

Recommendations from the First Annual Report, June 2021

Pre-Canvassing Recommendation

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," in preliminary provisions and voting by qualified absentee electors, further providing for processing of official canvassing of official absentee ballots and mail-in ballots.

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

Section 1. Section 102 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, amended March 27, 2020 (P.L.41, No.12), is amended to read:

Section 102. Definitions.—

(a.1) The word “canvass” shall mean the gathering of ballots [after the final pre-canvass meeting] and the counting, computing and tallying of the votes reflected on the ballots.

* * *

(q.1) The word "process" shall mean the inspection and opening of all envelopes containing official absentee ballots or mail-in ballots, the removal of such ballots from the envelopes and [the counting, computing and tallying of the votes reflected on the ballots] the preparation of those ballots for scanning, including unfolding, straightening and duplicating if the ballot is damaged in some way that prevents it from being scanned but where the voter’s intent is still clear. It shall also include scanning the ballot into a voting machine or other automatic tabulating device, if the equipment used by the county board of elections permits a ballot to be scanned without tabulating or counting the votes on the ballot scanned. The term does not include the recording or publishing of the votes reflected on the ballots.

Section 2. Section 1308 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, amended March 27, 2020 (P.L.41, No.12), is amended to read:

Section 1308. [Canvassing] Processing of Official Absentee Ballots and Mail-in Ballots.

(a) The county boards of election, upon receipt of official absentee ballots in sealed official absentee ballot envelopes as provided under this article and mail-in ballots as in sealed official mail-in ballot envelopes as provided under Article XIII-D, shall safely keep the ballots in sealed or locked containers until they are to be [canvassed] processed by the county board of elections. An absentee ballot, whether issued to a civilian, military or other voter during the regular or

emergency application period, shall be [canvassed] processed in accordance with subsection (g).
A mail-in ballot shall be [canvassed] processed in accordance with subsection (g).

* * *

(d) Whenever it shall appear by due proof that any absentee elector or mail-in elector who has returned his ballot in accordance with the provisions of this act has died prior to the opening of the polls on the day of the primary or election, the ballot of such deceased elector shall be rejected by the [canvassers] board of elections but the counting of the ballot of an absentee elector or a mail-in elector thus deceased shall not of itself invalidate any nomination or election.

* * *

(g) (1)

(i) An absentee ballot cast by any qualified absentee elector as defined in section 1301(a), (b), (c), (d), (e), (f), (g) and (h) shall be canvassed in accordance with this subsection if the ballot is cast, submitted and received in accordance with the provisions of 25 Pa.C.S. Ch. 35 (relating to uniform military and overseas voters).

(ii) [An] Subject to the provisions of paragraph (1.1) an absentee ballot cast by any absentee elector as defined in section 1301(i), (j), (k), (l), (m) and (n), an absentee ballot under section [1302(a.3)] 1302.1(a.3) or a mail-in ballot cast by a mail-in elector shall be canvassed in accordance with this subsection if the absentee ballot or mail-in ballot is received in the office of the county board of elections no later than eight o'clock P.M. on the day of the primary or election.

(1.1) The county board of elections [shall meet no earlier than seven o'clock A.M. on election day to pre-canvass all ballots received prior to the meeting.] may begin processing official absentee and mail-in ballots no earlier than seven o'clock A.M. on the 14th day

immediately preceding the election, during the hours of seven o'clock A.M. to seven o'clock P.M. each day, including holidays and weekends, if the number of absentee and mail-in ballots sent by the county to registered voters indicates that extra time will be needed to ensure that all such ballots can be processed, counted and tallied prior to eleven o'clock P.M. on the day of the election. A county board of elections shall provide at least forty-eight hours' notice of [a pre-canvass meeting] the first day that pre-election day ballot processing will begin by publicly posting a notice [of a pre-canvass meeting] of the dates and times processing will occur on its publicly accessible Internet website. One authorized representative of each candidate in an election and one representative from each political party shall be permitted to remain in the room in which the absentee ballots and mail-in ballots are [pre-canvassed] processed. No person observing, attending or participating in [a pre-canvass meeting] any ballot processing activities may disclose the results of any portion of any [pre-canvass meeting] ballot processing prior to the close of the polls on election day. A person who makes an unauthorized disclosure under this paragraph shall be guilty of a misdemeanor of the first degree.

(2) The county board of elections shall meet no earlier than the close of polls on the day of the election and no later than the third day following the election to begin canvassing absentee ballots and mail-in ballots not [included in the pre-canvass meeting] processed under paragraph (1.1). The meeting under this paragraph shall continue until all absentee ballots and mail-in ballots received prior to the close of the polls have been canvassed. The county board of elections shall not record or publish any votes reflected on the ballots prior to the close of the polls. The canvass process shall continue through the eighth day following the election for valid military-overseas ballots timely received under 25 Pa.C.S. § 3511 (relating to receipt of

voted ballot). A county board of elections shall provide at least forty-eight hours' notice of a canvass meeting by publicly posting a notice on its publicly accessible Internet website. One authorized representative of each candidate in an election and one representative from each political party shall be permitted to remain in the room in which the absentee ballots and mail-in ballots are canvassed.

(3) When the county board meets to [pre-canvass] process or canvass absentee ballots and mail-in ballots under paragraphs (1), (1.1) and (2), the board shall examine the declaration on the envelope of each ballot not set aside under subsection (d) and shall compare the information thereon with that contained in the "Registered Absentee and Mail-in Voters File," the absentee voters' list and/or the "Military Veterans and Emergency Civilians Absentee Voters File," whichever is applicable. If the county board has verified the proof of identification as required under this act and is satisfied that the declaration is sufficient and the information contained in the "Registered Absentee and Mail-in Voters File," the absentee voters' list and/or the "Military Veterans and Emergency Civilians Absentee Voters File" verifies his right to vote, the county board shall provide a list of the names of electors whose absentee ballots or mail-in ballots are to be [pre-canvassed] processed or canvassed.

(4) All absentee ballots which have not been challenged under section 1302.2(c) and all mail-in ballots which have not been challenged under section 1302.2-D(a)(2) and that have been verified under paragraph (3) shall be counted and included with the returns of the applicable election district as follows:

(i) The county board shall open the envelope of every unchallenged absentee elector and mail-in elector in such manner as not to destroy the declaration executed thereon.

(ii) If any of the envelopes on which are printed, stamped or endorsed the words "Official Election Ballot" contain any text, mark or symbol which reveals the identity of the elector, the elector's political affiliation or the elector's candidate preference, the envelopes and the ballots contained therein shall be set aside and declared void.

(iii)

(A) In the case of absentee and mail-in ballots processed during the time allotted in paragraph (1.1), after the ballots have been processed, they shall be locked and sealed in tamper-proof containers and secured in a locked secure location at the county board of elections physical location and otherwise retained subject to the provisions of this act regarding retention and safekeeping of canvassed ballots in general.

(B) In the case of absentee and mail-in ballots not processed under paragraph (1.1), the [The] county board shall then break the seals of such envelopes, remove the ballots and count, compute and tally the votes.

(iv) Following the close of the polls, the county board shall record and publish the votes reflected on the ballots.

* * *

Recommendations from the Second Annual Report, June 2022

RECOMMENDATION #1: Voter List Maintenance

Pennsylvania should statutorily permit the Department of State to access national databases to ensure that voter registration lists are up to date, particularly with respect to deceased voters.

AN ACT

Amending Title 25 (Elections) of the Pennsylvania Consolidated Statutes, in changes in records, further providing for Department of State participation in national voter registration databases and for information regarding death of a registered elector.

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

Section 1. Section 1222 of Title 25 of the Pennsylvania Consolidated Statutes is amended by adding a new subsection (f) to read:

§ 1222. SURE system.

* * *

(f) Use of national databases.—The department may participate in national databases that contain official data on voter registration information in order to verify and update voter registration information in the SURE system. These databases may include the Electronic Registration Information Center (ERIC) or other similar nationwide voter registration databases.

Section 2. Section 1505 of Title 25 of the Pennsylvania Consolidated Statutes is amended by adding a new subsection (a.1) to read:

§ 1505. Death of registrant.

* * *

(a.1) Department of State.—The Department of State may access the Electronic Registration Information Center and the United States Social Security Administration’s Master Death File to determine if a registered elector has been reported deceased, and if the records indicated that the person is deceased, remove the name and address of the deceased elector from the SURE system.

* * *

Section 2. This act shall take effect in 60 days.

RECOMMENDATION #2: Voter Registration of Formerly Incarcerated Persons

Pennsylvania’s voter registration provisions for formerly incarcerated individuals should be updated to reflect judicially mandated standards. This proposal addresses formerly incarcerated persons who apply to register to vote for the first time following their release. It does not address individuals who were registered to vote prior to their incarceration, who have had their voting rights suspended during the duration of the incarceration.

Amending Title 25 (Elections) of the Pennsylvania Consolidated Statutes, in changes in records, further providing for qualification of convicted felons to register to vote.

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

Section 1. Sections 1301(a), 1325(b)(4) and 1327(a)(4) of Title 25 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1301. Qualifications to register.

(a) Eligibility.--An individual who will be at least 18 years of age on the day of the next election, who has been a citizen of the United States for at least one month prior to the next election and who has resided in this Commonwealth and the election district where the individual offers to vote for at least 30 days prior to the next ensuing election [and has not been confined in a penal institution for a conviction of a felony within the last five years] shall be eligible to register as provided in this chapter. An individual who has been convicted of a felony shall not be eligible to register to vote if the individual is:

(1) Currently confined in a penal institution for conviction of a felony if you will not be released from confinement before the next election; or

(2) Currently residing in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the date of the next election.

* * *

§ 1325. Government agencies.

(b) Forms.—An agency designated in subsection (a) shall provide a form for office visits or, if the agency provides services to persons with disabilities, for home visits which contains all of the following:

(4) The statement "In order to be qualified to register to vote, you must be at least 18 years of age on the day of the next election, you must have been a citizen of the United States for at least one month prior to the next election and have resided in Pennsylvania and the election district where you plan to vote for at least 30 days prior to the next election [and you must not have been confined in a penal institution for a conviction of a felony within the last five years]. You are not qualified to vote if you are currently confined in a penal institution for conviction of a felony and you will not be released from confinement before the next election or you are in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the day of the next election.

* * *

§ 1327. Preparation and distribution of applications.

(a) Form.—

* * *

(4) A voter registration application shall be printed on stock of good quality and shall be of suitable uniform size. Nothing in this part shall prohibit the design and use of an electronic voter registration application which includes the applicant's digitized or electronic signature. The registration application shall contain the following information; however, the information may be provided on a separate form for voter registration made under section 1323 or 1325:

* * *

(iii) Notice that the applicant must be a citizen of the United States for at least one month prior to the next election and a resident of this Commonwealth and the election district for at least 30 days and must be at least 18 years of age by the day of the next ensuing election [and has not been confined in a penal institution for a conviction of a felony within the last five years].

(iv) Notice that the applicant is not qualified to vote because the applicant is currently confined in a penal institution for conviction of a felony and will not be released from confinement before the next election or is in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the day of the next election.

The notice required in this subparagraph shall be in print identical to the declaration under subsection (b).

(b) Registration declaration.--

(1) The official voter registration application shall contain a registration declaration. On the declaration, the applicant shall state all of the following:

(iv) The applicant [has not been confined in a penal institution for a conviction of a felony within the last five years] is not qualified to vote because the applicant is currently confined in a penal institution for conviction of a felony and will not be released from confinement before the next election or is in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the day of the next election.

RECOMMENDATION #3: Voter Identification

Many members of the Advisory Board believe that expanding the current voter identification requirements in the Election Code to require identification be presented by voters at every election is a reasonable action to take to provide citizen confidence in election integrity. The concern of some members is that the list of acceptable proof of identification be comprehensive enough to ensure that persons are not disenfranchised because of their inability to produce a limited number of forms of identification. Additionally, the *Applewhite* decision in 2014 declared parts of the voter identification provisions of the Election Code unconstitutional, yet those provisions remain in the statute. Staff has advised that such language be removed from the statute to prevent confusion. This includes language providing for a PennDOT issued photo identification card to be used solely for voter identification purposes, the requirement of expiration dates on identification documents, and the requirement of presentation of additional identification to the county board of elections within six days of the election in order for provisional ballots to be counted. The Advisory Committee will continue to study the proposal to expand voter identification in future meetings but has authorized the following proposed legislation to remove language found unconstitutional in the *Applewhite* decision.

The amendments set forth below to accomplish this repeal all involve deletion of statutory language, normally marked by using brackets to enclose the material being repealed. In this particular set of amendments, the bracketing is difficult to recognize on its own. Accordingly, staff has highlighted the text to be repealed in gray, to make the proposal more readable.

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," providing for voter identification at primaries and elections.

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

Section 1. Sections 102 act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

§ 102. Definitions.

(z.5) The words "proof of identification" shall mean:

(1) In the case of an elector who has a religious objection to being photographed, a valid-without-photo driver's license or a valid-without-photo identification card issued by the Department of Transportation.

(2) For an elector who appears to vote under section 1210, a document that:

(i) shows the name of the individual to whom the document was issued and the name substantially conforms to the name of the individual as it appears in the district register;

(ii) shows a photograph of the individual to whom the document was issued;

[(iii) includes an expiration date and is not expired, except:

(A) for a document issued by the Department of Transportation which is not more than twelve (12) months past the expiration date; or

(B) in the case of a document from an agency of the Armed forces of the United States or their reserve components, including the Pennsylvania National Guard, establishing that the elector is a current member of or a veteran of the United States

Armed Forces or National Guard which does not designate a specific date on which the document expires, but includes a designation that the expiration date is indefinite;] and

(iv) was issued by one of the following:

- (A) The United States Government.
- (B) The Commonwealth of Pennsylvania.
- (C) A municipality of this Commonwealth to an employee of that municipality.
- (D) An accredited Pennsylvania public or private institution of higher learning.
- (E) A Pennsylvania care facility.

(3) For a qualified absentee elector under section 1301 or a qualified mail-in elector under section 1301-D:

(i) in the case of an elector who has been issued a current and valid driver's license, the elector's driver's license number;

(ii) in the case of an elector who has not been issued a current and valid driver's license, the last four digits of the elector's Social Security number;

(iii) in the case of an elector who has a religious objection to being photographed, a copy of a document that satisfies paragraph (1); or

(iv) in the case of an elector who has not been issued a current and valid driver's license or Social Security number, a copy of a document that satisfies paragraph (2).

Section 2. The act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended by adding a new section 102.1 to read:

Section 3. Sections 206 and 1210 of act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, are amended to read:

Section 206. Requirements Relating to Voter Identification.-- [(a)] The Secretary of the Commonwealth shall prepare and disseminate information to the public regarding the proof of identification requirements established under sections 1210 and 1302.

[(b) Notwithstanding the provisions of 75 Pa.C.S. § 1510(b) (relating to issuance and content of driver's license) to the contrary, the Department of Transportation shall issue an identification card described in 75 Pa.C.S. § 1510(b) at no cost to any registered elector who has made application therefor and has included with the completed application a statement signed by the elector declaring under oath or affirmation that the elector does not possess proof of identification as defined in section 102(z.5)(2) and requires proof of identification for voting purposes.

(c) The Secretary of the Commonwealth shall prepare the form of the statement described in subsection (b) and shall distribute the form to the counties and the Department of Transportation. The Secretary of the Commonwealth, the Secretary of Transportation and the county boards of election shall disseminate information to the public regarding the availability of identification cards under subsection (b).]

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

(a) At every primary and election each elector who appears to vote and who desires to vote shall first present to an election officer proof of identification. The election officer shall examine the proof of identification presented by the elector and sign an affidavit stating that this has been done.

(a.2) If any of the following apply, the elector shall be permitted to cast a provisional ballot in accordance with subsection (a.4):

(1) The elector is unable to produce proof of identification [:

(i) on the grounds that the elector is indigent and unable to obtain proof of identification without the payment of a fee; or

(ii) on any other grounds].

(2) The elector's proof of identification is challenged by the judge of election.

(a.4)(5)

(ii) A provisional ballot shall not be counted if:

(A) either the provisional ballot envelope under clause (3) or the affidavit under clause (2) is not signed by the individual;

(B) the signature required under clause (3) and the signature required under clause (2) are either not genuine or are not executed by the same individual;

(C) a provisional ballot envelope does not contain a secrecy envelope; or

[(D) in the case of a provisional ballot that was cast under subsection (a.2)(1)(i), within six calendar days following the election the elector fails to appear before the county board of elections to execute an affirmation or the county board of elections does not receive an electronic, facsimile or paper copy of an affirmation affirming, under penalty of perjury, that the elector is the same individual who personally appeared before the district election board on the day of the election and cast a provisional ballot and that the elector is indigent and unable to obtain proof of identification without the payment of a fee;

(E) in the case of a provisional ballot that was cast under subsection (a.2)(1)(ii), within six calendar days following the election, the elector fails to appear before the county board of elections to present proof of identification and execute an affirmation or the county board of

elections does not receive an electronic, facsimile or paper copy of the proof of identification and an affirmation affirming, under penalty of perjury, that the elector is the same individual who personally appeared before the district election board on the day of the election and cast a provisional ballot; or]

(F) the elector's absentee ballot or mail-in ballot is timely received by a county board of elections.

RECOMMENDATION #4: Election Official and Poll Worker Training

The consensus of the ELAB is that while a “one-size-fits-all” approach to election worker training is burdensome to a Commonwealth consisting of 67 diverse counties, some degree of uniformity with respect to certain topic areas would be useful. In particular, the areas of processing nomination petitions and campaign finance disclosures, developing timetables for pre-Election Day activities, determining the number of employees needed to canvass and pre-canvass ballots, and the number of paper ballots to be provided seem ripe for some general standards. The members of the ELAB believe that the development of guidelines may best be accomplished by the County Commissioners Association of Pennsylvania, the Association of Eastern Pennsylvania County Election Personnel and the Association of Western Pennsylvania County Election Personnel, working in conjunction with the Department of State, as these types of details are not necessarily appropriate for statutory enactment.

Recommendations from the Interim Report on Mail-in Ballots, January 2023

RECOMMENDATION #1: Permanent Mailing Lists

The term “permanent,” when used to refer to mailing lists for absentee and mail-in ballots should be changed to “annual” to more accurately reflect their operation and purpose.

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," providing for annual voter mailing lists for absentee and mail-in ballots.

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

Section 1. Sections 1302 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

§ 1302. Applications for Official Absentee Ballots.—

* * *

(e.1) Any qualified registered elector who is unable because of illness or physical disability to attend his polling place on the day of any primary or election or operate a voting machine and state distinctly and audibly that he is unable to do so as required by section 1218 of this act may, with the certification by his attending physician that he is permanently disabled, and physically unable to attend the polls or operate a voting machine and make the distinct and audible statement required by section 1218 appended to the application hereinbefore required, be placed on [a permanently] an annual disabled absentee ballot list file. An absentee ballot application shall be mailed to every such person otherwise eligible to receive one, by the first Monday in February each year, so long

as he does not lose his voting rights by failure to vote as otherwise required by this act. Such person shall not be required to file a physician's certificate of disability with each application as required in subsection (e) of this section. Should any such person lose his disability he shall inform the county board of elections of the county of his residence. An absentee ballot application mailed to a voter under this section, which is completed and timely returned by the voter, shall serve as an application for any and all primary, general or special elections to be held in the remainder of that calendar year and for all special elections to be held before the third Monday in February of the succeeding year.

* * *

(k) The Secretary of the Commonwealth may develop an electronic system through which all qualified electors may apply for an absentee ballot and request [permanent] annual absentee voter status under subsection (e.1), provided the system is able to capture a digitized or electronic signature of the applicant. A county board of elections shall treat any application or request received through the electronic system as if the application or request had been submitted on a paper form or any other format used by the county.

Section 2. Sections 1302-D of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

§1302-D Applications for official mail-in ballots.—

* * *

(g) Permanent mail-in voting list.—

(1) Any qualified registered elector may request to be placed on [a permanent] an annual mail-in ballot list file. A mail-in ballot application shall be mailed to every person otherwise eligible to receive a mail-in ballot application by the first

Monday in February each year, so long as the person does not lose the person's voting rights by failure to vote as otherwise required by this act. A mail-in ballot application mailed to a voter under this section, which is completed and timely returned by the voter, shall serve as an application for any and all primary, general or special elections to be held in the remainder of that calendar year and for all special elections to be held before the third Monday in February of the succeeding year.

(2) The Secretary of the Commonwealth may develop an electronic system through which all qualified electors may apply for a mail-in ballot and request [permanent] annual mail-in voter status under this section, provided the system is able to capture a digitized or electronic signature of the applicant. A county board of elections shall treat an application or request received through the electronic system as if the application or request had been submitted on a paper form or any other format used by the county.

RECOMMENDATION #2: Deadline to Apply for a Mail-in Ballot

The deadline to apply for a mail-in or absentee ballot by mail or online should be changed from the current deadline of seven days prior to Election Day to between 12 and 15 days prior to Election Day. This move would grant more time for the postal service to deliver ballots to voters and return them to the county elections office in a timely manner. The deadline to apply in person for a mail-in or absentee ballot should remain the current seven days, as less mail-time would be involved and would still permit voters who wait to closer to election day to vote the opportunity to still vote by mail. For purposes of this draft proposal, the mail/online deadline is set at 12 days, which has been reported to be the most common deadline among the states.

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth,

courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," providing for date to submit absentee and mail-in ballot request.

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

Section 1. Sections 1302.1 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

Section 1302.1. Date of Application for Absentee Ballot.—

(a) Except as provided in subsection (a.3), applications for absentee ballots shall be received in the office of the county board of elections not earlier than fifty (50) days before the primary or election, except that if a county board of elections determines that it would be appropriate to its operational needs, any applications for absentee ballots received more than fifty (50) days before the primary or election may be processed before that time. Applications for absentee ballots that are made in person at a county board of elections office shall be processed if received not later than five o'clock P.M. of the first Tuesday prior to the day of any primary or election. All other applications for absentee ballots shall be processed if received not later than the twelfth (12th) day prior to the day of any primary or election.

* * *

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

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

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

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

(iv) An elector who, because of the conduct of the elector's business, duties or occupation, will necessarily be absent from the elector's municipality of residence on the day of the primary or election, which fact was not and could not reasonably be known to the elector on or before five o'clock P.M. on the first Tuesday prior to the day of the primary or election.

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

* * *

Section 2. Sections 1302.1-D of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

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

(a) General rule.--Applications for mail-in ballots shall be received in the office of the county board of elections not earlier than 50 days before the primary or election, except that if a county board of elections determines that it would be appropriate to the county board of elections' operational needs, any applications for mail-in ballots received more than 50 days before the primary or election may be processed before that time. Applications for mail-in ballots that are made in person at a county board of elections office shall be processed if received not later than five o'clock P.M. of the first Tuesday prior to the day of any primary or election. All other applications for mail-in ballots that are received via U.S. mail or online shall be processed if received not later than the twelfth (12th) day prior to the day of any primary or election.

* * *

Section 3. Sections 1302.2-D of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

Section 1302.2-D. Approval of application for mail-in ballot.

* * *

(b) Duties of county boards of elections and registration commissions.--The duties of the county boards of elections and the registration commissions with respect to the insertion of the mail-in voter's record shall include only the applications as are received in person on or before the first Tuesday prior to the primary or election and applications as are received via U.S. mail or online on or before the twelfth (12th) day prior to the primary or election.

RECOMMENDATION #3: Use of Secrecy Envelopes

Secrecy envelopes should be provided to all mail-in and absentee voters, but it should be in their discretion if they choose to use them or not. This continues to bolster the constitutionally mandated privacy of an individual's vote but leaves the voter the choice to waive that extra precaution by not using the envelope.

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," providing for use of secrecy envelopes to return absentee and mail-in ballots.

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

Section 1. Sections 1304 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

Section 1304. Envelopes for Official Absentee Ballots.—

The county boards of election shall provide two additional envelopes for each official absentee ballot of such size and shape as shall be prescribed by the Secretary of the Commonwealth, in order to permit the placing of one within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed, stamped or endorsed the words "Official Election Ballot," and nothing else. On the larger of the two envelopes, to be enclosed within the mailing envelope, shall be printed the form of the declaration of the elector, and the name and address of the county board of election of the proper county. The larger envelope shall also contain information indicating the local election district of the absentee voter. Said form of declaration and envelope shall be as prescribed by the Secretary of the Commonwealth and shall contain among other things a statement of the electors qualifications,

together with a statement that such elector has not already voted in such primary or election. The mailing envelope addressed to the elector shall contain the two envelopes, the official absentee ballot, lists of candidates, when authorized by section 1303 subsection (b) of this act, the uniform instructions in form and substance as prescribed by the Secretary of the Commonwealth and nothing else. Use of the inner envelope is in the discretion of the voter. Failure to use the inner envelope shall not be an acceptable reason for disqualifying the ballot.

* * *

Section 2. Sections 1304-D of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

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

(a) Additional envelopes.—The county boards of election shall provide two additional envelopes for each official mail-in ballot of a size and shape as shall be prescribed by the Secretary of the Commonwealth, in order to permit the placing of one within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed, stamped or endorsed the words "Official Election Ballot," and nothing else. On the larger of the two envelopes, to be enclosed within the mailing envelope, shall be printed the form of the declaration of the elector and the name and address of the county board of election of the proper county. The larger envelope shall also contain information indicating the local election district of the mail-in voter. Use of the inner envelope is in the discretion of the voter. Failure to use the inner envelope shall not be an acceptable reason for disqualifying the ballot.

RECOMMENDATION #4: Dating the Ballot

The requirement that an absentee or mail-in ballot be signed and dated by the voter should be amended to clarify that the date required is the date of the signature. Further, failure to date the ballot should not be the sole grounds to disqualify the ballot.

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," addressing the import of the requirement that signature declarations on the return envelopes of absentee and mail-in ballots include the date of the signature.

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

Section 1. Sections 1306 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

Section 1306. Voting by Absentee Electors.—

(a) Except as provided in paragraphs (2) and (3), at any time after receiving an official absentee ballot, but on or before eight o'clock P.M. the day of the primary or election, the elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Election Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. The date written on the envelope shall be the date the elector has signed the declaration. Failure to sign the envelope or signing the envelope with a date that is not within the time period between

the date the ballot was received by the voter and when it was received by the county board of election shall not disqualify the ballot if the declaration is otherwise properly executed. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election.

* * *

(3) Any elector who has filed his application in accordance with section 1302 subsection (e)(2), and is unable to sign his declaration because of illness or physical disability, shall be excused from signing upon making a declaration which shall be witnessed by one adult person in substantially the following form:

I hereby declare that I am unable to sign my declaration for voting my absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or received assistance in making my mark in lieu of my signature.

* * *

Section 2. Sections 1306-D of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

Section 1306-D. Voting by mail-in electors.

(a) General rule.--At any time after receiving an official mail-in ballot, but on or before eight o'clock P.M. the day of the primary or election, the mail-in elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Election Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector

shall then fill out, date and sign the declaration printed on such envelope. The date written on the envelope shall be the date the elector has signed the declaration. Failure to sign the envelope or signing the envelope with a date that is not within the time period between the date the ballot was received by the voter and when it was received by the county board of election shall not disqualify the ballot if the declaration is otherwise properly executed. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election.

(a.1) Signature.--Any elector who is unable to sign the declaration because of illness or physical disability, shall be excused from signing upon making a declaration which shall be witnessed by one adult person in substantially the following form:

I hereby declare that I am unable to sign my declaration for voting my mail-in ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or received assistance in making my mark in lieu of my signature.

.....

(Mark)

.....

(Date Mark Made)

.....

(Complete Address of Witness)

.....

(Signature of Witness)

* * *

RECOMMENDATION #5: Use of Drop Boxes

The authority of counties to use drop boxes should be statutorily provided. The use of drop boxes should be at the discretion of the county. If drop boxes are used, minimum requirements should be established.

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," authorizing the use of drop boxes by counties for the return of absentee and mail-in ballots and providing minimum standards for their use.

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

Section 1. Section 1308.1 is added to the of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, to read:

Section 1308.1. Ballot return receptacles.

(a) Use authorized.—Any county board of elections may establish multiple ballot return locations where voters may return their own absentee or mail-in ballot to a secure ballot return receptacle, subject to the terms and conditions included in this section.

(b) Notice.—If a county board of elections decides to establish ballot return sites, the board shall provide notice to the electors the county in at least 30 days prior to the election in the following formats:

(1) On a poster in the county elections office.

(2) In a highly visible location on the county's website.

(3) On posters in locations in the county in the county where voters may congregation. The following locations are advisory only, and not required: the county courthouse, other county

offices, student centers at local universities and colleges, senior citizen centers, retirement and nursing home community rooms, and the like.

(4) A copy of the notice in any absentee or mail-in voting materials sent to voters.

(c) Notice contents. Notices shall include:

(1) Ballot return deadline.

(2) List of county election offices and ballot return sites, including building names and street addresses.

(3) Days and hours of operation, including election day hours, or if the boxes will be available 24 hours per day, seven days per week.

(4) Contact information for the county board of elections.

(5) Accessibility information.

(d) Locations.—Ballot receptacle sites shall be fully ADA compliant and in a well-lit fixed location.

(e) Hours of operation.—The county board of elections shall determine the hours of operation, which shall begin no later than 30 days prior to the election and include election day. Hours of operation shall include at a minimum one weeknight and one weekend time period during the five days prior to the primary or election.

(f) Security.—Receptacles must be tamper-resistant, locked and secured to ensure immobility while in use.

(g) Monitoring.—Staff authorized by the county board of elections shall monitor the receptables during hours of operation, either in person or via video surveillance. Video recording must be retained for one year.

(h) Signage.—Receptacles shall have a sign posted on or near the receptacle that includes the following:

(1) A label that states “Official Ballot Return Site.”

(2) A notice that the voter should return only his or her own ballot and that third-party return of ballots (including those of family members) is prohibited unless the person is officially authorized to return another person’s ballot.

(3) The penalties for tampering with the ballots or receptacles or intimidating voters, including forging or destroying ballots.

(i) Ballot collection.-- Ballots shall be collected at the end of operating hours of each day that the receptacle is available for use. Ballots shall be collected at the same time each day, as determined by the county elections office, if receptacles are available for use on a 24 hour per day, seven day a week schedule. Two county employees shall be appointed to collect ballots. At least one shall be an employee assigned to the board of elections and the other may be a member of law enforcement, including a constable. The county board of elections shall use a chain of custody log approved by the Department of State and deposit the collected ballots in a secure container within the county board of elections office.