



General Assembly of the Commonwealth of Pennsylvania
Joint State Government Commission
Room 108 Finance Building, 613 North Street
Harrisburg, PA 17120
717-787-4397

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Short summary in response to Act 12 of 2020
ELECTION LAW IN PENNSYLVANIA
Report of the Election Law Advisory Board for the Fiscal Year 2020-2021

In 2019, revisions were made to the Election Code, including the elimination of straight ticket voting, the addition of mail-in voting, and the replacement of, and funding for, voting machines. These amendments were specifically intended to create a fairer, more free and equal election process. Amendments in 2020 were enacted to provide for temporary emergency general and 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), a permanent body within the Joint State Government Commission.

Among the board's responsibilities is the directive to evaluate and make recommendations on improving the electoral process in this Commonwealth by amending the election law, 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.

The Presidential Election of November 2020 was the first presidential election to occur under Pennsylvania's new mail-in ballot law. Mail-in ballots proved to be very popular, in part because of the convenience for voters, but also driven by health and safety concerns regarding the COVID-19 pandemic. Counties found themselves faced with the prospect of counting mail-in and absentee ballots in unanticipated and unsurpassed numbers. Unofficial vote totals that in prior elections were available late on election night sometimes took days to be released because of the amount of time needed to process and count the influx of mail-in ballots. These delays helped contribute to fears that something irregular was occurring with the vote counts and reinforced feelings of mistrust and doubt about the vote counting process among some members of the electorate.

It is the belief of many of the ELAB members that many of the problems that contributed to concerns about the validity of Pennsylvania's votes would be resolved if advanced mail-in ballot processing is permitted. Accordingly, the proposed amendments in this report permit ballot processing by counties to begin up to 14 days prior to Election Day. Counties would have discretion in determining how much advance time they would need in order to complete counts by 11 pm on Election Day. Ballot processing is defined to include all steps necessary to verify, open, review, prepare for scanning, and scan completed ballots. Pennsylvania's electronic voting systems allow scanning to occur without a final tally of the votes, which would not be permitted to occur until the polls closed on Election Day. Release of vote counts before the close of the polls would be a criminal offense. Security of the processed ballots is also addressed.

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.

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