

JOINT STATE GOVERNMENT COMMISSION

General Assembly of the Commonwealth of Pennsylvania

ELECTION LAW IN PENNSYLVANIA

Fourth Annual

*REPORT OF THE ELECTION LAW ADVISORY BOARD
for the year ending June 30, 2024*

August 2024



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

REPORT

*2020 Act No. 12
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.

ELECTION LAW ADVISORY BOARD

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We thank the members who previously served on the board and resigned in 2023:

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2020-2023

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2020-2023

Jonathan M. Marks

2020-2023

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2020-2023

Daniel J. Vogler

2020-2023

Randall O. Wenger

2020-2023



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Executive Committee

August 2024

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Ryan P. Aument
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Christine M. Tartaglione
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Kristin Phillips-Hill
Chair, Majority Caucus
Wayne D. Fontana
Chair, Minority Caucus

House Members

Joanna E. McClinton
Speaker
Matthew D. Bradford
Majority Leader
Bryan D. Cutler
Minority Leader
Dan L. Miller
Majority Whip
Timothy J. O'Neal
Minority Whip
Michael H. Schlossberg
Chair, Majority Caucus
George Dunbar
Chair, Minority Caucus

Administrative Staff

Glenn J. Pasewicz
Executive Director
Yvonne M. Hursh
Counsel

To the Members of the General Assembly of Pennsylvania:

We are pleased to release *Election Law in Pennsylvania, Fourth Annual Report of the Election Law Advisory Board*, as authorized by Act 12 of 2020. The Board last met in September 2023 agreed to a recommendation for the date of the Spring 2024 primary election (letter to Leadership included in Recommendation chapter). Over the next several months, the Board lost five members for a variety of reasons, including redistricting. While the Governor's Office has initiated a search for replacements, they have not yet been appointed and confirmed. The Board is thus left with only 12 congressional district representatives. Commission staff had concerns about the ability to convene a quorum given the vacancies, but more importantly, felt it unwise to debate issues and make recommendations with one-third of the district representatives not yet seated.

All previously adopted recommendations are reproduced along with updates on their status. Additionally, current issues arising in election law are discussed in detail.

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

Originally, 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

There are currently 17 congressional districts in Pennsylvania, so the total membership of the Board is 22 if all appointees are seated. The Board met on September 22, 2023 with a majority of the members present and was able to agree to a recommendation for the date of the Spring 2024 primary election (letter to leadership included in Recommendation chapter). Other issues were

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.

discussed, but no additional recommendations were made pending further research by Joint State staff. However, between October and December 2023, the Board lost five members for a variety of reasons. The loss of the state's 18th congressional district and the ensuing redistricting caused some members to no longer live in the district they were originally appointed from. Others moved, and others left positions with advocacy groups and county posts. While the Governor's Office has initiated a search for replacements, they have not yet been appointed and confirmed. This has left the Board with only 12 congressional district representatives remaining. Staff had concerns about the ability to convene a quorum with the reduced numbers, but even more importantly, felt it was unfair to debate issues and make recommendations with one-third of the district representatives not yet appointed or confirmed.

All previously adopted recommendations are reproduced. Additionally, this report also provides updates on activities affecting the board's previous recommendations and current issues arising in election law.

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 reproduced 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.

RECOMMENDATION

Since at least 1937, the Pennsylvania primary election has been held on the third Tuesday of May, except in Presidential election years.¹⁰ Presidential primaries are to be held on the fourth Tuesday of April. Previously, the presidential primary date was moved in 1984 to April 10, 1984, and in 2000 to April 4, 2000.¹¹ Discussions have occurred in and around the General Assembly for many years regarding the advisability of permanently changing Pennsylvania’s primary date to late March or early April. Reasons frequently cited are that by the time Pennsylvanians vote for potential presidential candidates, the decision has already been set by primaries in states with earlier primary dates, thereby diluting the potential impact of the Commonwealth’s primary.

One January 31, 2023, a bill was introduced to move the presidential primary election date to the third Tuesday of March. By the time Senate Bill 224 had passed the Senate and reached the House of Representatives on September 21, 2023, the “third Tuesday of March” language had been amended out and a date of March 19, 2024 was set for the 2024 presidential primary. This change caused considerable alarm to the Election Law Advisory Board members, who voted to share their concerns with the leadership of the Senate and House over such a move at a time so close to the original primary date of April 23, 2024. Accordingly, the letter set forth below was sent to leadership to express the Board’s recommendation on this primary date move.

¹⁰ Act of June 3, 1937 (P.L.1333, No. 320), known as the Election Code of 1937, § 603(a).

¹¹ §§ 603(b.1) and (b.2) of the Election Code of 1937, as amended, respectively, by the act of November 3, 1983 (P.L.208, No.59) and by the act of act of November 24, 1999 (P.L.543, No.51).



FILE COPY

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Executive Committee

September 28, 2023

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President Pro Tempore
Joseph A. Pittman
Majority Leader
Jay Costa, Jr.
Minority Leader
Ryan P. Aument
Majority Whip
Christine M. Tartaglione
Minority Whip
Kristin Phillips-Hill
Chair, Majority Caucus
Wayne D. Fontana
Chair, Minority Caucus

To:

President Pro Tempore, Sen. Kim Ward
Senate Majority Leader, Sen. Joseph Pittman
Senate Minority Leader, Sen. Jay Costa, Jr.

Speaker of the House of Representatives, Rep. Joanna McClinton
House Majority Leader, Rep. Matthew Bradford
House Republican Leader, Rep. Bryan Cutler

Dear Leaders:

The Election Law Advisory Board wishes express its reservations with the ongoing legislative discussion about changing the date of the 2024 Primary Election.

House Members

Joanna E. McClinton
Speaker
Matthew D. Bradford
Majority Leader
Bryan D. Cutler
Minority Leader
Dan L. Miller
Majority Whip
Timothy J. O’Neal
Minority Whip
Michael H. Schlossberg
Chair, Majority Caucus
George Dunbar
Chair, Minority Caucus

The Board’s principal concern with this date change for 2024 is the impact it would have on Pennsylvania’s county election boards and administrations. Enacting this change now would give counties fewer than six months to prepare for the election. In many instances, contracts to reserve polling places are made a year in advance. Clerks, inspectors, and volunteers have already been recruited and planned their schedules around the anticipated primary date. Furthermore, schools that serve as polling places have already scheduled days off so that the students are not on the premises when the building is open to the public.

In general, the Board would advise that if an election date is to be changed, it be done at least a year before the election. In the present circumstance, the Board urges the General Assembly to act expeditiously. Each passing day without a certain date will impact the ability to secure polling locations and workers.

Administrative Staff

Glenn J. Pasewicz
Executive Director
Yvonne M. Hursh
Counsel

The motion to authorize sending this letter received the unanimous consent of the members present at the Board’s September 22, 2023 meeting except for three abstentions: the representatives of the two senators who are members of the board, and the representative of the Department of State.

Thank you for your consideration of the Board’s recommendation. Please do not hesitate to contact me if you have any questions.

Respectfully submitted,

Glenn J. Pasewicz
Executive Director

cc:

Pa Election Law Advisory Board: Commissioner Kenneth Lawrence, Jr., Chair and Commissioner Joseph Kantz, Vice-Chair
Senate State Government Committee: Senator Cris Dush, Chair and Senator Amanda Cappelletti, Minority Chair
House State Government Committee: Representative Scott Conklin, Chair and Representative Brad Roae, Republican Chair

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.

Audits

Pennsylvania has different types of audits to verify election results: post-election statistical analysis and risk-limiting audits. Two recount provisions can also be found in the statute. One, by order of the Secretary, may be conducted if a candidate for a statewide office or a statewide ballot initiative is defeated, based on unofficial returns, by one-half of one percent or less of the votes cast.¹² Additionally, recounts may be ordered by a county court of common pleas upon the petition of a sufficient number of electors. For example, three electors must file a petition in each district where votes for the relevant office were cast, verified by affidavit and alleging that they believe fraud or error, although not manifest on the general return of votes, was committed. Electors can seek a recount of only a single district's votes but must allege a particular act of fraud or error and support their allegations with prima facie evidence.¹³

Post-Election Statistical Analysis

Under the provisions of the Election Code of 1937, the county board of elections is required to conduct a statistical recount of a random sample of ballots. The sample must include at least two percent of the votes cast or 2,000 votes, whichever number is the smaller number. Additionally, the recount must use manual, mechanical, or electronic devices of a type different from those used for that specific election.¹⁴

¹² Election Code of 1937, §§ 1404(g) and (h); 25 P.S. 3154(g) and (h). See also Pennsylvania Department of State, “Directive and Procedures for Statewide Returns and Recounts Under §1404(e); Directive 5 of 2023, September 23, 2023. <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2023-Statewide-Return-and-Recount-Directive.pdf>

¹³ Election Code of 1937, Article XVII, § 1701 et seq.; 25 P.S. 3261 et seq.

¹⁴ Election Code of 1937, § 1117-A; 25 P.S. § 3031.17.

Risk-Limiting Audits

The Department of State conducted pilot audits during the years 2019-2021. In September 2022, the department directed all Pennsylvania counties to participate in a statewide risk-limiting audit for every primary and general election beginning November 8, 2022.¹⁵ Each audit looks at a different contest, and counties and batches of ballots are randomly selected. The scope of the audit is determined statistically based on the number of votes separating the candidates in the chosen race; in other words, the audit of a closer race will involve a greater sample of ballots in order to provide sufficient.

| Table 1 | | | | |
|---|-----------------|------------------------|-----------------------|--------------------------|
| Statewide Risk-Limiting Audits in Pennsylvania | | | | |
| 2022-2024 | | | | |
| Election Date | Contest | No. of Counties | No. of Ballots | No. of Variations |
| November 8, 2022 | Governor | 15 | 10,209 | 7 discrepancies |
| May 16, 2023 | Supreme Court | 14 | 2,637 | No variations |
| November 7, 2023 | Superior Court | 33 | 201,715 | 24 discrepancies |
| April 23, 2023 | State Treasurer | 27 | +14,000 | 2 discrepancies |

Source: Pa. Department of State, Auditing Election Results, “Nov. 8, 2022, Risk-Limiting Audit Report,” “May 16, 2023, Risk-Limiting Audit Report,” and “Nov. 7, 2023, Risk-Limiting Audit Report,” <https://www.pa.gov/en/agencies/vote/elections/post-election-audits.html> and “Secretary of the Commonwealth Certifies 2024 Primary Election Results; Post-Election Audits Confirm Election’s Accuracy,” June 3, 2024, <https://www.pa.gov/en/agencies/dos/newsroom/secretary-of-the-commonwealth-certifies-2024-primary-election-re.html> .

¹⁵ Pennsylvania Department of State, Risk Limiting Audit Directive, Directive 1 of 2022, September 30, 2022. 2022-09-30-Risk-Limiting-Audit-Directive.pdf (pa.gov). The directive was issued under the Department’s authority in the Election Code of 1937 to ensure accuracy and reliability of voting systems, and to require specific reports on issues as the Secretary determines. §§201E and 1105-A(a); 25 P.S. 2621(e) and 3031.5.

Election Administration

Electioneering

At the Board's September 2023 meeting, members discussed the distance from the polling place that electioneering may be conducted. Pennsylvania's 10-foot restriction is the smallest in the country among states that provide a fixed distance (New Hampshire and Vermont do not identify a specific distance). Most states' restrictions are in the 25-to-150-foot range, although Louisiana's buffer is an outlier at 600 feet. The Board was not ready to make a recommendation, and expressed concerns about differences in polling place locations that might make a longer fixed distance unworkable. Possible alternatives could be adopted such as Illinois' exception that churches or private schools can ban any electioneering on their property, or North Carolina's rule, allowing the county board of elections to set the buffer zone at between 25 and 50 feet from the door of entrance to the voting place.¹⁶

Equipment

Electronic voting systems proposed for use in Pennsylvania must be approved by the United States Election Assistance Commission. The Secretary of the Commonwealth is required to examine the electronic voting system and shall file a report, as to his/her opinion, that the system can be safely used by voters at elections and meets all the requirements set forth in the Election Code of 1937. Further, upon petition of 10 or more qualified voters, or at any time in the Secretary's discretion, the Secretary may reexamine any system.¹⁷ In 2024, county boards of elections have 15 different electronic voting systems options they may use.¹⁸

Challenge to Election Systems & Software (ES&S) EpressVote XL machine

On November 30, 2018, Secretary of the Commonwealth Kathy Bookvar certified the Election Systems & Software's (ES&S) electronic voting system (EVS), which included the ExpressVote XL machines. ExpressVoteXL machines are all-in-one hybrid voting machines that combine two tasks: marking a voter's choices on a piece of paper, and tabulating votes from a piece of paper in a single device. On July 16, 2019, election security advocates from the National Election Defense Coalition (NEDC) and the Pennsylvania-based Citizens for Better Elections (CBE) filed a petition with the Secretary requesting reexamination of the ExpressVote XL machines on ten separate grounds.¹⁹

¹⁶ National Conference of State Legislature, "Electioneering Prohibitions Near Polling Places," December 31, 2023. <https://www.ncsl.org/elections-and-campaigns/electioneering-prohibitions>. See also, Kansas Legislative Research Department, "Electioneering Distances in All 50 States," October 28, 2022, https://www.kslegresearch.org/KLRD-web/Publications/ElectionsEthics/electioneering-distances_2022-update.pdf

¹⁷ § 1105-A, Election Code of 1937

¹⁸ Commonwealth of Pennsylvania, Voting Systems in Pennsylvania, Certified Voting Systems, website visited August 8, 2024.

<https://www.pa.gov/en/agencies/dos/resources/voting-and-elections-resources/voting-systems.html>

¹⁹ *National Election Defense Coalition v. Boockvar*, 266 A.3rd 76 (Pa. Cmmw. Ct. 2021). Original petition found at 674 MD 2019 with Exhibits attached. Secretary's certification found at Exhibit C; NEDC petition found at Appendix A.

On September 3, 2019, following a reexamination by a vote testing lab, the Secretary issued a report dismissing seven of the ten grounds asserted by NEDC and CBE. As to the remaining grounds, the Secretary concluded that the ExpressVote XL machines did not violate the Election Code but listed several “additional conditions” that jurisdictions must implement.²⁰

In the November 2019 general election, Northampton and Philadelphia Counties experienced problems with these machines, and NEDC and CBE filed a lawsuit challenging the November 2018 certification, alleging it violated multiple provisions of the Election Code and effectively impaired Pennsylvania citizens’ rights under the state Constitution. Further, petitioners argued that the Secretary did not have statutory authority to enforce her listed additional conditions nor a mechanism to enforce them or to penalize counties that did not follow them. Additionally, petitioners raised several concerns regarding the ExpressVote XL machines.

In 2021, the Commonwealth Court of Pennsylvania denied the Secretary’s Motion to Dismiss the lawsuit and on July 18, 2023, the NEDC and CBE entered a settlement with current Pennsylvania Secretary of State Al Schmidt. The settlement does not require court approval (but upon execution requests the court to enter an order to dismiss the lawsuit but retain jurisdiction to enforce the agreement) and is intended to resolve the lawsuit and expressly stipulates that the Secretary will require the following:

- **LATEST SYSTEM UPGRADE** - Require counties using the ExpressVote XL machines to upgrade to the latest system software (ES&S 6.3.0.0 - which corrects some of the issues identified in the lawsuit), and to abide by the additional security procedures added as conditions of certification, by March 1, 2024. Counties will have to sign a Voting System Implementation Attestation to affirm the upgrade.

- **MALFUNCTION AND CERTIFICATION REPORT** - Require all 67 counties to submit to the Department of State, within 60 days after each election, a Malfunction and Certification Report detailing all the performance and malfunctions of their voting systems which must include:
 - A description of each malfunction, including source(s).
 - Time span.
 - Location (including precincts affected).
 - Nature of the issue.
 - Voting system components affected.
 - Approximate number of voters or ballots affected.
 - Whether the malfunction was resolved.
 - Any actions taken to resolve the malfunction.
 - The Department will post all Malfunction and Certification Reports on its website within 105 days after an election.

²⁰ *Ibid.*, Secretary’s report found at Exhibit B.

- **PUBLIC ACCESS TO VOTER SYSTEM EXAMINATIONS** - Require the Department to provide public notice on its website of the functionality component of an electronic voting system examination. The public notice must be published at least 30 days before the examination is performed, and the notice must provide the date, time, and any additional information the public and press would need to attend and observe. Examinations will focus on security, functionality, and accessibility. The public and press will be permitted to attend the functionality component of an electronic-voting-system examination, which will include a demonstration of the system.

The Department will make reasonable, good-faith efforts to enable the public to observe the demonstration, from 20 feet or less from the voting system. In addition, the Department will make an audiovisual recording of the public demonstration portion of each examination publicly available on the Department's website within 30 days of completion of said demonstration. These demonstrations can be found on the Department's website.²¹

If the Secretary certifies an electronic voting system for use, it will retain the audiovisual recording of the public demonstration for the entire period during which the voting system is certified and for two years after any revocation or withdrawal of its certification. If the Secretary does not certify the system, the Department will retain the audiovisual recording for two years following the completion of the demonstration.

While the public and press will be allowed to attend and observe the examinations and demonstrations as mentioned above, the Department may exclude the public and press if the examination involves a disclosure of confidential or proprietary information that, in the Department's view, would jeopardize election security.²² The Department of State has published the agreed upon reports from recent elections on their website.

Third-Party Access to Voting Equipment

An on-going dispute between Fulton County and the Department of State is winding its way through the courts over the ability of counties to allow third-party organizations to access voting equipment and the Secretary of the Commonwealth's authority to decertify equipment. Fulton County was found to have ignored an injunction and sanctions were imposed by the Pennsylvania Supreme Court.²³ Fulton County filed an appeal with the U.S. Supreme Court on May 24, 2024, and the case is scheduled for conference on September 30, 2024.²⁴

²¹ Commonwealth of Pennsylvania, Department of State, Voting System Demos, visited August 8, 2024. <https://www.pa.gov/en/agencies/vote/voter-support/voting-system-demos.html#sortCriteria=%40copapwptitle%20ascending>

²² *National Election Defense Coalition v. Schmidt*, Settlement Agreement and Release, 674 MD 2019 (Pa.Cmmw. Ct.), <https://freespeechforpeople.org/wp-content/uploads/2023/08/settlement-agreement-fully-executed-1.pdf>

²³ *County of Fulton v. Secretary of the Commonwealth*, 292 A.3d 974 (Pa. 2023).

²⁴ *County of Fulton v. Al Schmidt, Secretary of Pennsylvania, et al.*, No.23-1237 (U.S. 2024).

Poll Security

The security of poll workers and election officials continues to be an important issue. The Federal Justice Departments' Election Threats Task Force was formed in 2021 to investigate and prosecute instances of threats against election administrators and election-related intimidation. Threats are to be reported to local FBI field offices. As of May 2024, the task force had initiated 16 enforcement actions in ten states. The list of actions did not include cases where an acquittal was entered. No federal cases were listed for Pennsylvania.²⁵

In February 2024, Governor Shapiro created the Pennsylvania Election Threats Task Force to “mitigate threats to the election process, protect voters from intimidation, and provide voters with accurate, trusted election information.” The task force consists of federal, state, and local security, law enforcement, and election administration representatives.²⁶ In July 2024, the Shapiro administration announced the creation of a new telephone hotline, 1-877-VOTESPA to report voter intimidation, election fraud, or other election crimes.²⁷

Federal funding is available for election security from several sources.²⁸ For the 2023-2024 fiscal year, Pennsylvania received \$1 million in Helping America Vote Act (HAVA) election security grants. The grants are intended to assist states to improve federal election administration, including enhancing technology and make election security improvements.²⁹ The 2024 federal budget allocated \$55 million for HAVA grants, a decrease of \$20 million from the levels allocated in 2022 and 2023. Efforts have been made by some members of Congress to eliminate the program.³⁰

The Department of Homeland Security, through the Federal Emergency Management Agency (FEMA), provides grants under its Homeland Security Grant Program, including its Urban Area Security Initiative (UASI). Of the \$553.5 million allocated for the UASI program for 2024, Pennsylvania was authorized to receive grants for its two largest urban areas. The Philadelphia area grant allocation was \$14,941,233 and the Pittsburgh area grant allocation was \$1,476,785.³¹

²⁵ U.S. Department of Justice, Election Threats, updated July 25, 2024. <https://www.justice.gov/voting/election-threats#report>

²⁶ Commonwealth of Pennsylvania, Governor's Office, Press Release, “Governor Shapiro Launches Pennsylvania Election Threats Task Force to Ensure Safe, Secure, Free, & Fair Election this November,” February 29, 2024. <https://www.pa.gov/en/governor/newsroom/2024-press-releases/governor-shapiro-launches-pennsylvania-election-threats-task-for.html>

²⁷ Commonwealth of Pennsylvania, Governor's Office, Press Release, “Shapiro Administration Makes Election Hotline Available to Support Pennsylvanians' Right to Peacefully, Safely Participate in Democratic Process,” July 19, 2024. <https://www.pa.gov/en/governor/newsroom/2024-press-releases/shapiro-administration-makes-election-hotline-available-to-suppo.html>

²⁸ Chris Teale, “These federal grants can help ease multiply election threats,” *Route Fifty*, May 16, 2024. <https://www.route-fifty.com/infrastructure/2024/05/these-federal-grants-can-help-ease-multiplying-election-threats/396649/>

²⁹ United States Election Assistance Commission, Election Security Grants, July 16, 2024. <https://www.eac.gov/sites/default/files/2024-04/State%20by%20State%20Allocation%20FY%202024.pdf>

³⁰ Jennifer Shutt, “States struggle with unreliable federal funding for making sure elections are secure,” *Stateline*, June 1, 2024. <https://stateline.org/2024/06/19/states-struggle-with-unreliable-federal-funding-for-making-sure-elections-are-secure/>

³¹ Department of Homeland Security, Notice of Funding Opportunity Fiscal Year 2024 Homeland Security Grant Program, April 16, 2024. <https://www.fema.gov/grants/preparedness/homeland-security/fy-24-nofo>

Of those allocations, 30 percent of the awards must address the six priority areas of cybersecurity, soft target and crowded places, information and intelligence sharing, domestic violent extremism, community preparedness and resilience, and election security.³²

In 2022, the U.S. Department of Justice, Office of Justice Programs, sent a letter to all state Justice Assistance Grant (JAG) administering agency directors informing them that the Edward Byrne Memorial Justice Assistance Grant Program funding could be “used to deter, detect and protect against threats of violence against election workers, administrators, officials, and others associated with the electoral process.”³³ In 2023, more than \$3 million was allocated to 39 local governments in Pennsylvania.³⁴

Mail-In and Absentee Ballots

Dating Mail-In Ballots

The litigation over mail-in ballots has continued unabated for the past four years. In its January 2023 interim report on mail-in ballots, the Board reviewed the on-going 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 be dated 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.

Keeping track of the cases, their background, and their progress through the courts is serpentine. In order to fully provide an update to the status of litigation as of mid-August 2024, it is advisable to reiterate the history of these cases before addressing developments over the past 12 months.

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 for 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 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 race, the requirement to date a ballot was a mandatory requirement per the Election Code and could not disregarded.

³² Homeland Security, “DHS Announces \$1.8 Billion in Preparedness Grants,” April 16, 2024. <https://www.dhs.gov/news/2024/04/16/dhs-announces-18-billion-preparedness-grants>

³³ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, letter dated January 26, 2022. <https://bja.ojp.gov/JAG-funding-to-combat-threats-against-election-workers.pdf>

³⁴ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2023 Allocations, 2023 Pennsylvania Local JAC Allocations. <https://bja.ojp.gov/funding/fy23-jag-local-allocations-PA.pdf>

Subsequently, Zicarelli filed a collateral action in federal court against Allegheny County for counting the undated ballots. *Zicarelli 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 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).

While the U.S. 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.³⁵

Because of this lack of clarity, the ACLU filed a lawsuit in Federal District Court for the Western District of Pennsylvania against the Secretary of the Commonwealth and every county board of elections 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 wanted the District Court to reinstate the Third Circuit’s decision in *Migliori* that was vacated by the U.S. Supreme Court.³⁶ A motion to dismiss was denied by a Memorandum Opinion issued June 8, 2023.³⁷ In November 2023, the U.S. District ruled that the Materiality Provision was violated by the ballot dating requirement, and the case was dismissed against most of the counties named for lack of standing. Pleadings continued through July 2024 on the remaining counties and issues.³⁸

³⁵ *Migliori v. Lehigh County Board of Elections*, 2023 WL 2773534 (E.D. Pa. Apr. 4, 2023) (slip op.).

³⁶ *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). (*NAACP v. Schmidt*).

³⁷ *NAACP v Schmidt*, Memorandum Opinion Re: Motion to Dismiss, ECF. No.193 (2023 WL 3902954) (June 8, 2023).

³⁸ *NAACP v Schmidt*, Memorandum Opinion Re: Cross Motions on Summary Judgment, ECF. Nos. 267, 241, 272, and 274 (November 21, 2023).

The ruling of the U.S. District Court relative to the Materiality Provision was appealed to the Third Circuit Court of Appeals. The Third Circuit reversed the district court opinion and ruled that the Materiality Provision was not violated and that the ballot dating requirement was constitutional.³⁹ A petition for rehearing was denied April 30, 2024.⁴⁰

In May 2024 an alliance of advocacy groups filed suit in Commonwealth Court challenging the dating requirement on the grounds that the requirement violates the Pennsylvania constitutional guarantee of free and equal elections.

As multiple courts have found in recent prior lawsuits, the voter written date is meaningless, necessary neither to establish voter eligibility or timely ballot receipt. While the date requirement has nevertheless survived previous court challenges, none of the lawsuits thus far have tested the date requirement under the Pennsylvania Constitution's Free and Equal Elections Clause, Pa. Const. art. I, § 5. Until now.⁴¹

Originally filed May 28, 2024, pleadings continued to be filed through July 8, 2024.⁴²

To reduce the likelihood of a voter making a disqualifying error when completing their mail-in ballot, the Department of State, in late November 2023, issued a directive requiring counties to use redesigned mail ballot materials that featured, among other changes, clearer instructions, consistent coloring, and a date section with the last two digits of the year pre-filled.⁴³ Post-primary informal interviews with election officials by Spotlight PA and Votebeat staff indicated that although the number of rejected ballots decreased, some voters still failed to fill in the appropriate year.⁴⁴

In June 2024, the Department of State redesigned the online mail-in ballot application to simplify the process and provide clearer instructions to voters.⁴⁵ Additionally, the Department issued a directive in July 2024 instructing counties to print on the outer envelope the full year on the date line on mail-in ballots.⁴⁶

³⁹ *NAACP v Schmidt*, Case 23-3166, March 27, 2024.

⁴⁰ ACLU Summary of *NAACP v. Schmidt*, <https://www.aclu.org/cases/pennsylvania-state-conference-of-the-naacp-v-schmidt>.

⁴¹ *Black Political Empowerment Project et al., v. Schmidt et al.*, 283 MD 2024 (Pa. Cmwlth). Petition to Review, Summary of Lawsuit, Item 6.

⁴² Protect the Vote, <https://protectthevote.com/litigation/black-political-empowerment-project-v-schmidt/>

⁴³ Commonwealth of Pennsylvania, "Shapiro Administration Introduces Redesigned Mail Ballot Materials to Give Voters Clearer Instructions, Decrease Number of Rejected Ballots, and Ensure Every Legal Vote is Counted, November 29, 2023. <https://www.media.pa.gov/pages/state-details.aspx?newsid=584>

⁴⁴ Carter Walker, "Redesigned envelope leads to fewer rejected mail ballots, but a new type of error sticks out," Votebeat, May 31, 2024. <https://www.spotlightpa.org/news/2024/05/pennsylvania-election-2024-mail-ballot-rejection-reasons-incorrect-date/>

⁴⁵ Commonwealth of Pennsylvania, "Department of State Launches Redesigned, User-Friendly Online Mail Ballot Application to Streamline Application Process and Provide Clearer Instructions For Voters," June 11, 2024. <https://www.media.pa.gov/pages/state-details.aspx?newsid=607>

⁴⁶ Pennsylvania Department of State, "Directive Concerning the Form of Absentee and Mail-in Ballot Materials, July 18, 2024. <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2024-Directive-Absentee-Mail-in-Ballot-Materials-v2.0.pdf>

Rejection of mail-in ballots for lack of a date has been challenged in Washington County as an unconstitutional disenfranchisement because no opportunity to cure the ballot has been offered.⁴⁷ Ballot curing, the practice of notifying a voter if their mail-in or absentee voters that their returned ballots have disqualifying errors, if not specifically addressed in the Election Code of 1937. Whether a voter can cure a defective ballot or not is decided on a county-by-county basis. It has been reported that approximately 17 Pennsylvania counties allow ballot curing in some form.⁴⁸ On August 23, 2024, Justice Brandon P. Neuman released an opinion and order in this case. The plaintiffs in the case have reported:

The court ordered Washington County to, at minimum, enter accurate codes in a statewide voter database upon receiving a mail ballot with disqualifying errors, which triggers an email alert to voters, allows voters to check ballot status on a state website, and permits political parties and get-out-the vote groups to contact people and alert them that their mail ballots will not be counted. The court also ordered that Washington County’s poll books on Election Day must indicate if a voter’s mail ballot has been segregated for a disqualifying error and allow that person to cast a provisional ballot.⁴⁹

Provisional Ballots

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 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).⁵⁰ The County Board of Elections filed an appeal to the Pennsylvania Supreme Court, which was denied.⁵¹ 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.

⁴⁷ *Center for Coalfield Justice et al. v. Washington County Board of Elections*, Washington County Court of Common Pleas, Docket No.2024-3953, July 1, 2024.

⁴⁸ Chris Potter, “Civil rights groups allege 'disenfranchisement' in suit over Washington County mail-in ballot policy,” 90.5 WESA, July 1, 2024.

⁴⁹ Lisa DiPaoli, Center for Coalfield Justice, Press Release, “Voting Rights Groups Respond to Decision In Washington County Court Over Disenfranchised Mail Voters,” August 26, 2024. <https://centerforcoalfieldjustice.org/2024/08/voting-rights-groups-respond-to-decision-in-washington-county-court-over-disenfranchised-mail-voters/>.

⁵⁰ *In Re Allegheny County Provisional Ballots in the 2020 General Election*, Appeal of Nicole Zicarelli, No. 1161 C.D. 2020 (Nov. 19, 2020).

⁵¹ *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).

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 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 Delaware County Court of Common Pleas ordered the ballots to be counted. It found that the provision relied on in Zicarelli, that a provisional ballot cannot be counted if another ballot had been timely received, needed to be read in conjunction with other provisions and interpreted liberally to protect a voter's right to vote. Specifically, the court found that the plaintiffs' original mail-in ballots were not "timely received" as they were rejected for errors and not counted; consequently, the plaintiffs could cast provisional ballots.⁵²

In a lawsuit filed in April 2024, voters in Butler County are challenging the county's ballot curing process. Mail-in ballots that are missing signatures or dates can be "cured" via a provisional ballot. The plaintiffs in this case failed to use the security envelope and their provisional ballots to cure that error were rejected.⁵³ The Butler County Court of Common Pleas dismissed the plaintiffs appeal on August 16, 2024. The plaintiffs appealed to Commonwealth Court on August 23, 2024.⁵⁴

Pre-canvassing

The Board's first report recommended amending the Election Code of 1937 to allow pre-canvassing of mail-in ballots to expedite the availability of final vote counts. This continues to be an important concern of the Board. House Bill 847, which provides for pre-canvassing, was introduced in April 2023. It has gone through three amendments but retains its core proposition that county election officials be able to pre-canvass ballots. The bill allows for seven days of pre-canvassing and repeals the Election Integrity Grant program provision that addresses continuous canvassing. The latest version, Printer's No. 3018, passed the House (102-99) on May 1, 2024 and was referred to the Senate State Government Committee on May 17, 2024, where it remains.

⁵² *Sonja Keohane, Richard Keohane and Barbara Welsh v. Delaware County Board of Elections*, No. 2023-004458 Delaware County Court of Common Pleas, September 21, 2023.

⁵³ *Genser and Matis v. Butler County Board of Elections*, Butler County Court of Common Pleas, No. 24-40116, April 29, 2024.

⁵⁴ *Ibid.* No. 1074 C.D. 2024 (Pa. Cmmw. Ct. 2024).

Voter List Maintenance

Statewide Uniform Registry of Electors (SURE)

Pennsylvania's SURE was established in 2003. In 2020, the Department of State recommended that the system be updated and entered into a \$10.7 million contract to do so. As the project lagged behind schedule, it became apparent that the vendor could not meet necessary timelines and contractual standards, and the contract was mutually terminated December 2023. An RFP was issued in Spring 2024 with a deadline of August 1 for submission of proposals. In the interim, the Department of State has addressed some of the outdated aspects of the current system with patches and upgrades to both hardware and software in each county. Secretary of the Commonwealth Al Schmidt, in testimony before the House State Government Committee, emphasized that Pennsylvania's elections in 2024 will be "free, fair, safe, and secure."⁵⁵

Electronic Registration Information Center (ERIC)

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 similar nationwide voter registration databases, both to 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 possible under the authority of the Governor and the Department of State and is a voluntary participation that could be ended by any administration. Pennsylvania law limits the sources counties can use to determine that a voter can be removed from the rolls because they are deceased and does not currently permit counties to use data from ERIC for this purpose.

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 efficiency. 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 but don't change their voter registration, and thus prevent a voter fraud via double voting. Following the 2020 Presidential election, membership in ERIC fell from 33 states to 25 by the summer of 2023.⁵⁶ The exodus has appeared to stall, and membership has been stable in 2024.

⁵⁵ Peter Hall, "Pa.'s voter registration and election management system is ready for 2024, Schmidt tells lawmakers," *Pennsylvania Capital-Star*, March 27, 2024. <https://penncapital-star.com/election-2024/pa-s-voter-registration-and-election-management-system-is-ready-for-2024-schmidt-tells-lawmakers/>. See also, Carter Walker, "Shapiro administration cancels \$10.7 million contract for Pa. voter Roll system upgrade," *Spotlight PA*, December 15, 2023, <https://www.spotlightpa.org/news/2023/12/voter-roll-pennsylvania-sure-contract-canceled-election-mail-ballots/>, and Jordan Wilkie, Pa. restarts plan to upgrade voter registration and election management systems," *WITF*, July 10, 2024, <https://www.witf.org/2024/07/03/pa-restarts-plan-to-upgrade-voter-registration-and-election-management-systems/>. To view the RFP, use this link: <https://www.emarketplace.state.pa.us/Solicitations.aspx?SID=6100060103>.

⁵⁶ Current members of ERIC are: Alaska, Arizona, Colorado, Connecticut, Delaware, the District of Columbia, Georgia, Illinois, Kentucky, Maine, Massachusetts, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Washington, and Wisconsin. About ERIC: Which States are Members of ERIC," visited July 24, 2024. <https://ericstates.org/about/>

Pennsylvania's neighbors New Jersey, Delaware, and Maryland are part of the compact, while neighbors Ohio and West Virginia are among the states that recently withdrew. New York is considering legislation that would authorize the state to join ERIC.⁵⁷

Alabama, the second of the states to leave the group in 2022, announced the launch of its own voter list maintenance program, called the Alabama Voter Integrity Database (AVID) in 2023.⁵⁸ AVID has entered memorandum of understanding (MOU) agreements with the states of Arkansas, Florida, Georgia, Louisiana, Mississippi, and Tennessee.⁵⁹

Ohio enacted the Data Analysis Transparency Archive Act as part of its 2024-2025 budget bill effective July 4, 2023. The bill created the Office of Data Analytics and Archives in the Ohio Department of State, which was charged with maintaining election data, including the statewide voter registration database.⁶⁰ The bill authorized the Department to enter into agreements with other states, and in September 2023, the Ohio Secretary of State announced that election integrity agreements had been entered into with Florida, Virginia, and West Virginia.

Voter Registration

The Board has discussed automatic voter registration but has not made any recommendations to date.

Under the “Motor Voter Act,” also known as the National Voter Registration Act of 1993 (NVRA), state governments are required to offer voter registration for federal elections for any eligible person who applies for or renews a driver's license.⁶¹ The act additionally provided designation of government agencies to provide voter registration applications to public assistance recipients and individuals with disabilities. Two separate sections (5 and 7) established slightly different requirements.⁶² States were required to comply with the law by January 1, 1995.⁶³ Pennsylvania failed to enact its version of motor voter by the deadline and did not enact it until June 1995.⁶⁴ According to the legislative history, the U.S. Department of Justice and several citizen action groups had filed federal lawsuits against the Commonwealth for its failure to comply

⁵⁷ New York S6173b passed the Senate on January 8, 2024, and ordered to third reading in the Assembly on June 4, 2024.

⁵⁸ Ralph Chapoco, “New voter roll system unveiled after ERIC withdrawal,” *Alabama Reflector* article reproduced on *Route Fifty*, September 19, 2023. <https://www.route-fifty.com/digital-government/2023/09/new-voter-roll-system-unveiled-after-eric-withdrawal/390416/?oref=rf-related-article>

⁵⁹ Alabama Secretary of State, “AVID MOU Agreements,” visited July 24, 2024. <https://www.sos.alabama.gov/avid/mou-agreements>

⁶⁰ Ohio House Bill 33 (2023), § 735.10. https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_135/bills/hb33/EN/06/hb33_06_EN?format=pdf

⁶¹ 52 U.S.C. § 20504.

⁶² 52 U.S.C. §§ 20504 and 20506.

⁶³ § 13, NVRA, Pub.L. 103-31, effective May 20, 1993.

⁶⁴ Act of June 30, 1995 (P.L.170, No. 25), known as the Pennsylvania Voter Registration Act (PVRA). The PVRA was codified as part of the Pennsylvania Consolidated Statutes in 2002, and the motor voter provisions can now be found at 25 Pa.C.S. § 1323.

within the deadline.⁶⁵ When the statute was drafted, the language of NVRA sections 5 and 7 were incorporated virtually verbatim. Despite amendments resulting in six different printer's numbers, the bill as finally adopted retained that original language.

For the 28 years following the adoption of motor voter registration, Pennsylvania's registration was designated as an "opt-in" process. That is, Department of Transportation employees assisting individuals with driver's license applications or renewals would offer the individual the opportunity to register to vote, but it was not an automatic process. In September 2023, Governor Shapiro announced that Pennsylvania would switch to automatic voter registration, by which an individual is automatically registered to vote at PennDOT, unless they affirmatively "opt-out" of voter registration.⁶⁶

In January 2024, 26 members of the Pennsylvania House of Representatives and one Senator filed suit against President Biden, various federal election officials, Governor Shapiro, and various state election officials challenging the constitutionality of three separate executive actions affecting voter registration in Pennsylvania. Of primary interest to this section was the switch to automatic voter registration announced by Governor Shapiro in September 2023. To generally summarize, the argument raised was that the executive actions usurped legislative authority to regulate elections. The United States District Court for the Middle District of Pennsylvania issued a memorandum decision in March 2024 dismissing the suit, declaring that the plaintiffs (individual members of the General Assembly) did not have standing to pursue a claim for what is characterized as an institutional injury. The court stated, "as individual legislators, [they] do not have standing because they have not alleged any particular injury that is not also suffered by each member of the Pennsylvania General Assembly."⁶⁷ The court did not determine if any executive action usurpation had occurred. The court noted that a challenge to the executive actions could be achieved via litigation by the General Assembly as a whole for an institutional injury, or the General Assembly could overturn the executive action via legislation.

Litigation filed in federal court in June 2024 seeks a writ of mandamus (an order to perform duties) to address what the plaintiffs allege are voter registration errors that occurred in the 2022 general election.⁶⁸

⁶⁵ House Legislative Journal, April 26, 1995, p. 991, remarks by Rep. David K. Levdansky, who served in the House of Representatives from 1985-2010.

⁶⁶ Commonwealth of Pennsylvania, Press Release, "Governor Shapiro Implements Automatic Voter Registration in Pennsylvania, Joining Bipartisan Group of States That Have Taken Commonsense Step to Make Voter Registration More Streamlined and Secure," September 19, 2023, <https://www.pa.gov/en/governor/newsroom/press-releases/governor-shapiro-implements-automatic-voter-registration-in-penn.html>

⁶⁷ *Dawn Keefer et al. v. Joseph R. Biden et al.*, Civil No. 1 :24-CV-00147 (M.D. Pa. Mar. 26, 2024), p. 25.

⁶⁸ *United Sovereign Americans, Inc. et al. v. Commonwealth of Pennsylvania et al.* Case No. 1:2024cv01003 (M.D. Pa., June 18, 2024).

CURRENT ELECTION LAW LEGISLATIVE PROPOSALS IN PENNSYLVANIA

As of July 31, 2023, over 120 bills have been introduced in the General Assembly to amend the election law and related statutes (both the 1937 act and Title 25 of the Consolidated 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 June 30, 2024. References to standing committees refer to those committees in the chamber of origin unless specifically noted otherwise.

| BALLOT QUESTIONS | | |
|-------------------------|--|--|
| Bill No. | Description | Status |
| SB 408, PN 358 | Requires Dept of State to post information about constitutional amendment ballot questions on the Dept website | 2 nd consideration & rerfd to Appropriations May 10, 2023 |
| HB 283, PN 1769 | Requires each member of the General Assembly to hold a public meeting within their district to receive public comment on upcoming ballot questions | Recmtd to Rules Sept. 22, 2023 |
| HB 1332, PN 1771 | Requires all public debt ballot questions be accompanied by a fiscal note | Recmtd to Rules Sept. 22, 2023 |
| HB1488, PN 1772 | Moves voting on ballot questions from municipal elections to only at general elections | Recmtd to Rules Sept. 22, 2023 |

| CANDIDATES | | |
|---------------------|---|-------------------------------------|
| Bill No. | Description | Status |
| SB 570, PN 578 | Allows gubernatorial candidates to select their own running mate. | State Government March 30, 2023 |
| HB 785, PN 734 | Requires all candidates for all elected offices in Pennsylvania to submit criminal background check | State Government 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 Government 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 Government May 31, 2023 |
| HB 1644, PN 1928 | Provides that candidates may only run for one public office at a time, except president or vice-president | State Government August 29, 2023 |
| HB 1709, PN 2023 | Provides that candidates must aver on nomination petitions that they are not filing a petition for more than one office to be elected at the same election | State Government Sept. 25, 2023 |
| SB 1217, PN 1650 | Prohibiting fraudulent misrepresentation of candidates through use of artificial intelligence | State Government May 29, 2024 |

| CAMPAIGN FINANCE | | |
|-------------------------|--|--------------------------------------|
| Bill No. | Description | Status |
| SB 139, PN 117 | All candidate and PAC campaign finance reports to be filed electronically | State Government January 19, 2023 |
| SB 108, PN 150 | Requires counties to forward all local government campaign finance statements to Sect'y of the Commonwealth to post on State's website | State Government January 30, 2023 |

| CAMPAIGN FINANCE | | |
|-------------------------|---|---|
| Bill No. | Description | Status |
| SB 218, PN 187 | Permits candidates or PACs to donate residual funds to unaffiliated 501(c)(3) nonprofit | State Government January 31, 2023 |
| SB 383, PN 736 | Prohibits use by candidates of political committees to use pre-checked donation boxes to solicit recurring campaign contributions without express and affirmative consent of donor | 2 nd consideration & rerfd to Appropriations May 10, 2023 |
| HB 279, PN 242 | Limitation on in-kind contributions | State Government March 10, 2023 |
| HB 773, PN 722 | Requires electronic filing of campaign finance reports | State Government March 30, 2023 |
| HB 815, PN 772 | Authorizes electronic filing of campaign finance reports | Passed H. (102-101) June 6, 2023; to S. State Government June 6, 2023 |
| HB 1220, PN 2940 | 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. | Passed H. (190-11) April 16, 2024; to S. State Government April 22, 2024 |
| 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 Government May 24, 2023 |
| HB 1471, PN 1657 | Imposes campaign contribution limitations | State Government June 21, 2023 |
| HB 1472, PN 2941 | Requires campaign finance reports from 501(c) tax-exempt organizations that independently advocate for or against a particular candidate – any amount is reportable | Passed H. (127-74) April 14, 2024; to S. State Government April 22, 2024 |
| HB 1733, PN 2078 | Adds penalties for failure to promptly file vouchers for campaign expenditures | State Government Oct. 2, 2023 |

| CAMPAIGN FINANCE | | |
|-------------------------|--|--------------------------------------|
| Bill No. | Description | Status |
| HB 1831, PN 2267 | Provides that members of the General Assembly or local Government officials who resign because of conviction or plea of nolo contendere for a felony forfeits all campaign funds and may pay a fine up to \$100K | State Government Nov. 8, 2023 |
| HR 317, PN 2585 | U.S. constitutional amendment proposes to assign federal election spending to federal Government and state election spending to State Government. | State Government February 7, 2024 |
| HB 2072, PN 2646 | Requires all campaign finance reports to be filed with Dept of State and repeals requirement to file with county | State Government Feb 28, 2024 |
| HB 2099, PN 2683 | Revises campaign finance reporting; amends definition of independent expenditure; regulations corporate political activities | State Government March 12, 2024 |
| HB 2433, PN 3351 | Corporations making contributions must certify that they are not a foreign-influenced corporation | State Government June 20, 2024 |

| ELECTION DAY | | |
|---------------------|---|---|
| Bill No. | Description | Status |
| HB 220, PN 180 | Authorizes employee voter leave | Labor & Industry March 8, 2023 |
| SB 470, PN 454 | Authorizes up to two hours employment leave for voters on election day | State Government March 14, 2023 |
| HB 461, PN 429 | Permits civil action against persons who commit voter intimidation | 1 st consideration & laid on table March 26, 2024 |
| 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 Government April 20, 2023 |

| ELECTION DIRECTORS AND WORKERS | | |
|---------------------------------------|--|--------------------------------------|
| Bill No. | Description | Status |
| SB 127, PN 78 | Prohibits members of county board of elections from serving as a State party officer of a political party | State Government 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 | Laid on table July 6, 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 Government March 10, 2023 |
| HB276, PN 239 | Constitutional amendment to allow government employees to serve as poll workers | State Government 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 Government April 17, 2023 |
| SB 604, PN 601 | Revises oath of judge of election, inspectors, clerks and machine operators | State Government April 17, 2023 |
| HB 1271, PN 1388 | Revises the judge of elections oath | State Government May 31, 2023 |
| HB 1683, PN 1991 | Provides that compensation for individuals hired to tabulate returns is exempt from PA income tax | Finance Sept. 19, 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 Government April 24, 2023 |

| ELECTION INVESTIGATIONS/AUDITS/CHALLENGES | | |
|--|---|-----------------------------------|
| SB 675, PN 701 | Requires post-election reports of complaints received by State to the General Assembly | State Government May 3, 2023 |
| HB 1263, PN 1373 | Provides for voting system audits by counties | State Government. May 30, 2023 |
| HB 1264, PN 1374 | Provides for SURE system performance audit | State Government May 30, 2023 |
| SB 1081, PN 1397 | Provides for post-election audits by counties | State Government Feb. 23, 2024 |
| HB 2059, PN 2628 | Provides for remedial plans by counties to rectify technical or administrative deficiencies with an election; authorizes use of Election Integrity Grants to finance plan | State Government Feb. 23, 204 |

| MAIL-IN BALLOTS | | |
|------------------------|--|--|
| Bill No. | Description | Status |
| HB 271, PN 234 | Prohibits third party organizations from sending ballot applications to voters | State Government March 10, 2023 |
| HB 282, PN 245 | Implements the recommendations of JSGC January 2023 mail-in ballots report | State Government March 10, 2023 |
| SB 99, PN 438 | Abolishes satellite offices and drop boxes | 2 nd consideration and rerrfd to Appropriations May 8, 2024 |
| SB 250, PN 1432 | Ballot production – includes multiple security measures | 2 nd consideration & rerrfd to Rules and Executive Nominations May 8, 2024 |
| SB 401, PN 491 | Adopts all-mail voting in Pennsylvania | State Government March 15, 2023 |
| HB 490, PN 458 | Permits ballot curing for signature discrepancies | State Government March 16, 2023 |

| MAIL-IN BALLOTS | | |
|------------------------|--|------------------------------------|
| Bill No. | Description | Status |
| HB 500, PN 469 | Absentee ballots to be available in braille for blind, visually impaired or disabled voters | State Government March 17, 2023 |
| HB 700, PN 644 | Constitutional amendment to abolish mail-in ballots | State Government March 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 Government July 6, 2023 |
| SB 929, PN 1096 | Clarifies that provisional ballots cast by electors whose absentee or mail-in ballot was rejected for a material defect should be counted | State Government Sept. 14, 2023 |
| HB 1827, PN 2263 | Prohibits rejection or challenge of absentee or mail-in ballots solely on the basis of signature analysis | State Government Nov. 8, 2023 |
| HB 1831, PN 2267 | Provides for automatic issuance of mail-in ballots by county to all registered electors. Begin sending mail-in ballots 60 days before the election | State Government Nov. 8, 2023 |
| SB 1038, PN 1320 | Allows mail-in voters to vote in-person if they choose; sets deadline for receipt of absentee and mail in ballots at 5 pm Friday before the election; provides for continuous counting after polls close | State Government Jan. 10, 2024 |
| SB 1050, PN 1532 | Prohibits distribution of unofficial mail-in forms and provides penalties | State Government April 22, 2024 |

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

| NOMINATIONS | | |
|---------------------|---|------------------------------------|
| HB 252, PN 215 | Eliminates filing fees for delegates to National party convention | State Government March 10, 2023 |
| HB 1829, PN 2265 | Increases the number of signatures needed on a nomination petition for all offices; amends filing fees to eliminate a set amount and substitute with a one percent of the annual salary of the office; provides for Dept. of State to create a system to allow electronic signature of nominating petitions | State Government Nov. 8, 2023 |
| HB 1831, PN 2267 | Increases the number of signatures needed on nomination petitions for all offices | State Government Nov. 8, 2023 |
| HB 2090, PN 2670 | Decreases the number of signatures needed on a nomination petition for all offices and abolishes filing fees for nomination petitions | State Government March 8, 2024 |

| PRECANVASSING | | |
|----------------------|--|--|
| 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 Government March 8, 2023 |
| SB 426, PN 422 | Pre-canvassing permitted up to 21 days prior to the election | State Government March 14, 2023 |
| HB 488, PN 456 | Pre-canvassing permitted up to 21 days prior to the election | State Government March 16, 2023 |
| HB 489, PN 457 | Pre-canvassing permitted up to seven days prior to the election | State Government March 16, 2023 |
| HB 847, PN 3018 | Allows for seven days of pre-canvassing; repeals Election Integrity Grant program provision that addresses canvassing time | Passed H. (102-99) May 1, 2024; Sen State Government May 17, 2024 |
| HB 858, PN 834 | Pre-canvassing permitted up to 14 days prior to the election | State Government April 10, 2023 |

| PRIMARIES | | |
|---------------------|---|---|
| Bill No. | Description | Status |
| SB 224, PN 1171 | Moves 2024 presidential primary to April 16, 2024 es to the 4 th Tuesday of April (six amendments) | Passed S (45-2) Sept. 20, 2023; passed H (104-99) as amended Oct. 18, 2023; to S. Rules and Executive Nominations Oct. 23, 2023 |
| HB 51, PN 40 | Moves presidential primaries to the third Tuesday of March | State Government March 7, 2023 |
| HB 976, PN 2157 | Provides for open primaries; verification of # of registered voters to # of counts voted | 1 st consideration and laid on table Oct. 18, 2023 |
| HB 979, PN 2158 | Provides for open primaries; verification of # of registered voters to # of counts voted | 1 st consideration and laid on table Oct. 18, 2023 |
| SB 400, PN 651 | Provides for open primaries | State Government April 26, 2023 |
| HB 1634, PN 1918 | Moves presidential primaries to the first Tuesday of April | Passed H. (102-100) Oct. 5, 2023; to S. State Government Oct. 13, 2023 |
| HB 1830, PN 2266 | Provides for randomized ballot positions for primary elections that vary from polling place to polling place | State Government Nov. 8, 2023 |
| HB 1857, PN 2329 | Moves presidential primaries to the third Tuesday of March | State Government Nov. 15, 2023 |

| VOTER LIST MAINTENANCE | | |
|-------------------------------|--|--------------------------------|
| Bill No. | Description | Status |
| SB 125, PN 971 | Authorizes Dept of State to use an interstate voter registration cross-check system with the provider of a private section data system, subject to certain restrictions. | Laid on table Oct. 16, 2023 |

| VOTER LIST MAINTENANCE | | |
|-------------------------------|---|--------------------------------------|
| SB 193, PN 91 | Requires Dept of Health to report death of a registered elector within 7 days of receiving notice (current law is 60 days) | State Government January 19, 2023 |
| 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 Government. April 24, 2023 |
| HB 1758, PN 2142 | Provides for coordination of death records and address changes between counties and SURE system | State Government Oct. 16, 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 March 30, 2023 |
| HB 1498, PN 1706 | Provides a list of acceptable proof of identification and requires the Sect’y to provide, within one year, a durable voter identification card, including a scannable identification code, and a likeness of the voter’s signature | State Government June 23, 2023 |
| HB1883, PN 2364 | Use of jury duty records to verify citizenship | State Government Dec. 6, 2023 |

| VOTER REGISTRATION | | |
|---------------------------|--|--|
| Bill No. | Description | Status |
| SB 40, PN 172 | Automatic voter registration with an “opt-out” option | State Government January 31, 2023 |
| HB 128, PN 111 | Provides for same day registration | State Government 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 March 10, 2023 |
| HB 278, PN 241 | Provides incarcerated persons with the opportunity to register to vote prior to release or discharge | State Government March 10, 2023 |
| HB 403, PN 371 | Establishes Future Voter Program – pre-registration of eligible high school students | State Government 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 Government 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 Government April 4, 2023 |
| HB 891, PN 873 | Constitutional amendment to require voter ID at all elections | State Government April 12, 2023 |
| SB 904, PN 1070 | Allows pre-registration of 16-year-olds | State Government Sept. 7, 2023 |
| HB 1703, PN 2010 | Provides for electronic voter registration | State Government Sept. 21, 2023 |
| SB 953, PN 1163 | Provides for election day registration | State Government Oct. 13, 2023 |
| HB 1771, PN 2177 | Establishes an automatic registration process and procedure which allows individuals to opt-out | State Government Oct. 19. 2023 |

| VOTER REGISTRATION | | |
|---------------------------|---|-----------------------------------|
| Bill No. | Description | Status |
| HB 1827, PN 2263 | Provides for preregistration of 16-year-olds and same day registration | State Government Nov. 8, 2023 |
| HB 1937, PN 2472 | Provides that U.S. citizens born abroad may vote in state and local elections in the precinct where their parent or guardian lived before moving abroad | State Government Jan. 2, 2024 |
| HB 2058, PN 2627 | Provides for automatic registration with drivers' license application unless opt-out | State Government Feb. 23, 2024 |

| 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 Government. January 31, 2023 |
| HB 258, PN 221 | Provides for early voting | State Government March 10, 2023 |
| HB 704, PN 650 | Provides for early in-person voting | State Government 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 Government April 3, 2023 |
| SB 729, PN 814 | Authorize municipalities to adopt an ordinance or resolution permitting ranked choice voting for municipal elections | State Government June 2, 2023 |
| HB 1178, PN 1889 | Authorizes ranked choice voting | State Government Aug. 8, 2023 |

| VOTING | | |
|---------------------|--|-----------------------------------|
| Bill No. | Description | Status |
| HB 1756, PN 2135 | Provides for Dept of State to establish procedure for education and absentee voting by incarcerated individuals (other than those convicted of a felony) | Stat Government Oct. 16, 2023 |
| HB 1757, PN 2136 | Amends language disenfranchising persons convicted of felonies to remove language extending the disenfranchisement five years after release (codifies the Mixon decision that found the five year period unconstitutional) | State Government Oct. 16, 2023 |
| HB 1828, PN 2264 | Constitutional amendment lowering the voting age to 16 | State Government Nov. 8, 2023 |
| SB 1038, PN 1320 | Revises absentee ballot rules to promote in-person voting | State Government Jan. 10, 2024 |
| HB 2060, PN 2629 | Provides that if a precinct's electronic voting system is inoperable, election officers must provide suitable private locations for people to vote | State Government Feb. 23, 2024 |
| HB 2061, PN 2061 | Provides for number of emergency ballots to be printed in case an electronic voting system is inoperable | State Government Feb. 23, 2024 |
| SB 1205, PN 1635 | Amends Pa. Constitution to state that no non-citizen resident may vote | State Government May 28, 2024 |
| HB 2369, PN 3207 | Provides for electronic pollbooks; same day voter registration; in-person early voting | State Government June 3, 2024 |

| 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 Government January 31, 2023 |

| SINGLE BILLS ON SEPARATE ISSUES | | |
|--|---|--------------------------------------|
| Bill No. | Description | Status |
| SB 287, PN 261 | Eliminate cross-filing for court of common pleas and magisterial district justice candidates | State Government 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 Government March 10, 2023 |
| SB 516, PN 486 | Poll Watchers Protection Act – eligibility; access to polls | State Government March 15, 2023 |
| HB 547, PN 520 | Constitutional amendment to make Secretary of the Commonwealth an elected position and establish qualifications | State Government March 20, 2023 |
| HB 1826, PN 2262 | Amends the Public School Code to provide for voting rights education and civic knowledge assessments | Education Nov. 8, 2023 |
| HB 1831, PN 2267 | Establishes rules and procedures for conduct of special elections for member of the General Assembly or local government official | State Government Nov. 8, 2023 |
| HB 1832, PN 2268 | Provides for reapportionment of wards in Philadelphia | State Government Nov. 8, 2023 |
| HB 2077, PN 2653 | Prohibits possession of a firearm in a polling place with exceptions for law enforcement | State Government March 5, 2024 |
| HB 2144, PN 2766 | Prohibits the use of AI-generated voice facsimiles in campaign advertising and imposes additional penalties | State Government March 25, 2024 |
| HB 2492, PN 3508 | Permit counties to canvass ballots at multiple offices | State Government July 11, 2024 |

FEDERAL ELECTION LAW LEGISLATIVE PROPOSALS

During the 118th Congress, covering the years 2023-2024, over 160 pieces of election-related legislation in the form of bills and resolutions have been introduced (as of June 21, 2024) one bill was enacted into law. Many of the bills or resolutions proposed during the 118th Congress would alter how elections are conducted, clarify, or add rules for voting, or restrict how states regulate or conduct federal elections. Topics covered include voting rights, campaign finance, redistricting, primaries, polling place security, ranked-choice voting, disclosing the use of AI in political ads, election integrity, election workers, voter maintenance lists, and other election-related reforms. Many of these bills are summarized below. Not included in this list are any bills pertaining to specific elected offices, the District of Columbia, redistricting or support for foreign nations attempting to improve or build upon their democratic systems. The following tables provides a summary of each Congressional bill and its status as of June 21, 2024.

| BALLOT QUESTIONS | | |
|-------------------------|--|---|
| Bill No. | Description | Status |
| S. 1638 | <i>Protecting Ballot Measures from Foreign Influence Act.</i> Prohibits contributions or donations by foreign nationals in connection with state or local ballot initiatives or referenda. | Rules and Administration May 17, 2023 |
| H.R. 4484 | Similar to S. 1638 | Judiciary July 6, 2023 |
| H.R. 3229 | <i>Stop Foreign Funds in Elections Act.</i> Prohibits contributions or donations provided by foreign nationals in connection with state or local ballot initiatives, referenda, or recall elections. | House Administration May 11, 2023; Placed on the Union Calendar No. 257 by December 14, 2023 |
| H.R. 3463 | Similar as S. 1638 | House Administration May 18, 2023 |
| H.R. 6471 | Similar to H.R. 3229 | House Administration November 21, 2023 |

| CANDIDATES | | |
|-------------------|--|--|
| Bill No. | Description | Status |
| H.R. 350 | <i>Stopping Another Non-Truthful Office Seeker (SANTOS) Act.</i> Requires congressional candidates to file additional personal information with their principal campaign committees and the Federal Election Commission. Imposes criminal penalties for knowingly and willfully violating the requirement or by providing false information. | House Administration January 12, 2023 |
| H.R. 946 | <i>Dual Loyalty Disclosure Act.</i> Requires a candidate for federal office (other than a nominee for Vice President) who is a citizen of any country other than the U.S. to disclose such citizenship in the candidate’s statement of candidacy. | House Administration February 9, 2023 |
| H.R. 3704 | <i>One Vote Once Choice Act.</i> Prohibits states from using ranked-choice voting in federal elections. | House Administration May 25, 2023 |
| H.R. 4491 | <i>Solving an Overlooked Loophole in Votes for Executives (SOLVE) Act.</i> Establishes a panel to recommend to Congress model legislation to resolve any vacancy created by the death of a candidate in a contingent presidential or vice-presidential election. | Judiciary July 6, 2023 |
| H.R. 4611 | <i>Candidate Voice Fraud Prohibition Act.</i> Prohibits the distribution, with actual malice, of certain political communications that contain materially deceptive audio generated by AI which impersonate a candidate’s voice and are intended to injure a candidate’s reputation or deceive a voter. | House Administration July 13, 2023 |
| H.R. 7210 | <i>Help America Run Act.</i> Permit payments for childcare and other personal use services as an authorized campaign expenditure to allow a candidate to participate in campaign-connected activities. | House Administration February 1, 2024 |

| CAMPAIGN FINANCE | | |
|-------------------------|--|---|
| Bill No. | Description | Status |
| H.J.Res. 13 | Proposes a constitutional amendment authorizing Congress and the state to regulate and impose reasonable viewpoint-neutral limitations on the raising and spending of money by candidates and others to influence election and regulate and enact public campaign financing systems. | Judiciary January 9, 2023 |
| H.R. 153 | <i>Family Integrity to Reform Elections (FIRE) Act.</i> Prohibits use of campaign funds to compensate an immediate family member of a candidate or an individual holding federal office. Also requires disclosure of payments made to immediate family members. | House Administration January 9, 2023 |
| S. 500 | <i>Eliminating Leftover Expenses for Campaigns from Taxpayers (ELECT) Act of 2023.</i> Eliminates the taxpayer election to designate \$3 of income tax liability for financing presidential campaigns, the Presidential Election Campaign Fund, and the Presidential Primary Matching Payment Account and transfer funds to treasury to reduce the deficit | Finance February 16, 2023 |
| S. 512 | <i>Democracy is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act of 2023</i> Expands prohibition on expenditures and campaign spending (for paid web-based or digital communications and federal judicial nomination communications) by foreign nationals | Rules and Administration February 16, 2023 |
| H.R. 988 | <i>Shell Company Abuse Act.</i> Prohibits the establishment or use of a corporation, company, or other entity with the intent to conceal an election contribution or donation by a foreign national. | Judiciary February 14, 2023 |
| H.R. 1118 | Similar to S. 512. | House Administration, Ways and Means, and Judiciary February 21, 2023; prime sponsor changed July 11, 2023 |

| CAMPAIGN FINANCE | | |
|-------------------------|---|--|
| Bill No. | Description | Status |
| H.R. 1725 | <i>End Zuckerbucks Act.</i> Prohibits tax-exempt charitable organizations from providing direct or indirect funding to official election organizations, including any state or local government entity or any government election organization. | Ways and Means March 22, 2023 |
| H.J.Res. 48 | Proposes a constitutional amendment providing that the rights protected by the Constitution are the rights of natural persons only. Requires that entities such as corporations have no rights under the Constitution and shall be subject to regulation. Requires federal, state, and local governments to regulate, limit, or prohibit election contributions and expenditures, including a candidate's own contributions and expenditures, to ensure equal access of citizens to the political process, regardless of economic status, and require that any permissible contributions and expenditures be publicly disclosed. | Judiciary March 30, 2023 |
| H.R. 2522 | <i>Campaign Spending Integrity Act.</i> Prohibits a candidate for federal office from using campaign money to pay vendors owned or controlled by the candidate or by an immediate family member. | House Administration April 6, 2023 |
| H.J.Res. 54 | Similar to H.J.Res. 48 | Judiciary April 10, 2023 |
| H.R. 2934 | <i>Protect American Election Administration Act of 2023.</i> Prohibits states from soliciting, receiving, or expending payment or donations funds, property, or personal services from a private entity to administer federal elections. | House Administration April 27, 2023 |
| H.J.Res. 78 | Amends the U.S. Constitution to set limits on Federal campaign contributions and spending, prohibit corporate spending in the political process, require Congress to establish system of public campaign financing for all federal candidates, and allow the states to set reasonable campaign contribution limits and spending in state and local elections. | Judiciary June 22, 2023 |

| CAMPAIGN FINANCE | | |
|-------------------------|--|---|
| Bill No. | Description | Status |
| H.R. 4501 | Similar to H.R. 1725. | Ways and Means July 6, 2023 |
| H.R. 4863 | <i>Shareholder Political Transparency Act of 2023.</i> Requires issuers to disclose quarterly any political expenditure, including by identifying any candidate the expenditure was made in relation to and any trade association or other tax-exempt organization that received dues or other payments that may be used for political activities. Annually, issuers must report on expenditures for political activities made in the previous year over \$10,000. | Financial Services July 25, 2023 |
| H.R. 2452 | <i>Oversight of Members and Relatives (OMAR) Act.</i> Prohibits use of campaign funds to compensate the spouse of a candidate or an individual holding federal office. The bill also requires disclosure of all payments made to spouses or immediate family members; does not apply to a political committee of a political party. | House Administration Subcommittee on Elections September 12, 2023 |
| S.J.Res. 45 | Proposes an amendment to the U.S. Constitution relating to contributions and expenditures intended to affect elections. Includes distinguishing between natural persons and artificial entities and allowing prohibitions on contributions by non-natural persons | Judiciary September 14, 2023 |
| H.R. 5771 | <i>People Before Politics Act.</i> Prohibits members of Congress from engaging in direct and personal solicitations of campaign funds when a government shutdown is in effect. | House Administration September 27, 2023 |
| H. Res. 731 | Amends the Rules of the House of Representatives to modify the period before the date of any primary election or general election during which a mass mailing is not frankable by a Member of the House who is a candidate in such election. | Rules and House Administration September 27, 2023; Adopted and then Motion to reconsider laid on the table December 5, 2023 |
| H.R. 5941 | <i>Ban Corporate PACs Act.</i> Prohibits for-profit corporations from creating or operating a separate segregated political fund (a PAC). | House Administration October 25, 2023 |

| CAMPAIGN FINANCE | | |
|-------------------------|---|---|
| Bill No. | Description | Status |
| S. 3173 | <i>Ending Corporate Influence on Elections Act of 2023.</i> Prohibits campaign contributions and donations by publicly traded corporations. | Rule and Administration October 31, 2023 |
| H.R. 6312 | <i>Inaugural Fund Integrity Act.</i> Prohibits donations to Inaugural Committees by corporations or foreign nationals. Establishes limitations on individual donations and requires reporting by Inaugural Committees. | House Administration and Oversight and Accountability November 8, 2023 |
| H.R. 6893 | <i>Stopping Corrupt Actors from Making Political Action Committees (SCAM PAC) Act.</i> Prohibits the disbursement of funds to entities owned or controlled by individuals with executive or managerial authority over the operations of political committees. | House Administration December 22, 2023 |
| H.R. 6894 | <i>Stop Scam PACS Act.</i> Expands prohibition on use of federal campaign funds to misrepresentation of actions on behalf of candidates, political parties, and political committees and organizations by eliminate need for action to be fraudulent. | House Administration December 22, 2023 |
| H.R. 6913 | <i>Openness in Political Expenditures Now (OPEN) Act.</i> Requires corporations to disclose to their shareholders the amounts disbursed for political activity. | House Administration January 9, 2024 |
| H.R. 6930 | <i>Stopping Hidden Interests and Non-disclosure in Elections (SHINE) Act.</i> Requires political committees to file separate reports for contributions of \$1,000 or more which are received fewer than 20 days before the date of any election in which the committee contributes to, or an expenditure, or electioneering communication on behalf of or in opposition to, a candidate or political party in the election. | House Administration January 10, 2024 |
| H.R. 6996 | <i>Block Foreign-Funded Political Ads Act.</i> Requires broadcast stations, providers of cable and satellite television, and online platforms to reasonably ensure that political advertisements are not purchases by a foreign national. | House Administration January 16, 2024 |

| CAMPAIGN FINANCE | | |
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| Bill No. | Description | Status |
| S. 3599 | <i>Ban Corporate PACs Act.</i> Limits the authority of corporations to establish and operate separate segregated funds utilized for political purposes, including the establishment or operation of a political committee. Only nonprofits may do so. | Rules and Administration January 17, 2024 |
| S. 3616 | <i>Inaugural Committee Transparency Act of 2024.</i> Requires the presidential inaugural committee to disclose to the Federal Election Commission any disbursement made in an amount equal to or greater than \$200 and the purpose of each disbursement. Requires disclosure of the name and address of the person to whom it was made, the date of the disbursement, and the total amount and purpose of it. | Judiciary January 18, 2024 |
| H.R. 7319 | <i>End Zuckerbucks Act of 2024.</i> Amends the Internal Revenue Code to prohibit 501(c)(3) non-profit organizations from providing direct funding to official election organizations | House Administration February 13, 2024 Reported out as amended May 14, 2024 |
| H.R. 7321 | <i>Electronic Filing of Electioneering Communication Reports Act.</i> Modernizes reporting requirements for electioneering communications. | House Administration February 13, 2024; Placed on Union Calendar No. 444 June 3, 2024 |
| H.R. 7723 | Prohibits the solicitation and acceptance of a recurring contribution or donation in a campaign for federal election by any method which does not require the contributor or donor to give affirmative consent to making the contribution or donation on a recurring basis, and for other purposes. | House Administration March 19, 2024 |
| S. 4145 | <i>Preventing Foreign Interference in American Elections Act.</i> Restricts campaign contributions by foreign nationals. | Rules and Administration April 17, 2024 |
| H.R. 8175 | <i>Crack Down on Dark Money Act.</i> Amends the Internal Revenue Code to prohibit 501(c)(4) entities from using more than 10 percent of total expenditures on certain political expenditures. | Ways and Means April 30, 2024 |

| CAMPAIGN FINANCE | | |
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| Bill No. | Description | Status |
| H.R. 8176 | <i>Fighting Foreign Influence Act.</i> Provides for the disclosures of certain foreign contributions. | Committee on House Administration, Ways and Means, and Judiciary April 30, 2024 |
| H.R. 8291 | <i>End Zuckerbucks Act.</i> Amends the Internal Revenue Code to prohibit certain tax-exempt organizations from providing funding for election administration. | Ways and Means May 8, 2024 Ordered to be Reported as Amended May 15, 2024 |
| H.R. 8293 | <i>American Donor Privacy and Foreign Funding Transparency Act.</i> Amends the Internal Revenue Code to provide for the public reporting of data on certain contributions received by tax-exempt organizations from foreign sources. | Ways and Means May 8, 2024; Ordered to be Reported as amended May 15, 2024 |

| ELECTION DAY | | |
|---------------------|--|---|
| Bill No. | Description | Status |
| H.R. 6267 | <i>Election Day Act.</i> Establishes Election Day as a federal holiday. | Oversight and Accountability November 7, 2023 |
| H.R. 7329 | <i>Election Day Holiday Act of 2024.</i> Establishes Election Day as a legal public holiday. | Oversight and Accountability February 13, 2024 |

| ELECTION DIRECTORS AND POLL WORKERS | | |
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| Bill No. | Description | Status |
| S. 630 | <i>Sustaining Our Democracy Act.</i> Establishes the Democracy Advancement and Innovation Program, to make allocations to states for improving the administration of federal elections, recruiting and training nonpartisan election officials and poll workers, and increasing voting access. | Rules and Administration March 2, 2023 |
| S. 1318 | <i>Election Worker Protection Act of 2023.</i> Establishes protections for elections workers. Makes it a crime to intimidate, threaten, coerce, or harass an election worker. Prohibits intimidation related to the processing of ballots or tabulating, canvassing, or certifying votes and prohibits the public disclosure of personal information about election officials, poll workers, or election volunteers in connection with a federal election. Provides for federal election assistance grant funds for recruiting and training individuals to serve as poll workers and election volunteers and security. | Rules and Administration April 26, 2023 |
| S. 1609 | <i>Support Our Election Workers Act.</i> Directs the creation of a program to make payments to states for increased pay to election workers such as poll workers and election officials. | Rules and Administration May 16, 2023 |
| H.R. 3436 | Similar to S. 1609 | House Administration May 17, 2023 |
| H.R. 4521 | <i>Election Workers Tax Benefits Act.</i> Excludes certain compensation of election workers from gross income, for income tax purposes. | Ways and Means July 10, 2023 |
| S. 2575 | <i>Preventing Election Subversion Act of 2023.</i> Limits grounds for removal of a local election administrator; prohibits challenges to voter registration or voting from persons other than election officials unless the challenger is supported by personal knowledge. | Rules and Administration July 27, 2023 |
| H.R. 5046 | Similar to S. 2575. | House Administration and Judiciary July 27, 2023 |

| ELECTION DIRECTORS AND POLL WORKERS | | |
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| Bill No. | Description | Status |
| H.R. 5292 | Similar to S. 630. | House Administration August 25, 2023 |
| H.R. 7413 | <i>Election Worker Recruitment and Safety Act.</i> Requires the Election Assistance Commission to perform ongoing studies of state programs for recruiting poll workers with safety training. | House Administration February 20, 2024 |
| S. 3897 | <i>Preparing Election Administrators for AI Act.</i> Requires the development of voluntary guidelines by the EAC addressing the use and risks of artificial intelligence when administering elections. Requires EAC to conduct a study on use of AI in 2024 election. | Rules and Administration March 11, 2024; placed on Legislative Calendar No. 390. May 15, 2024 |
| S. 3912 | <i>Election Worker and Polling Place Protection Act.</i> Prohibits interference and intimidation of election workers and voters casting a vote and sets criminal penalties for violations of the Act. | Rules and Administration March 12, 2024 |
| H.R. 7640 | <i>No Foreign Persons Administering Our Elections Act.</i> Prohibits the hiring of noncitizens to administer an election for federal office in a state or local jurisdiction. | House Administration March 12, 2024 |

| ELECTION INVESTIGATIONS/AUDITS/CHALLENGES | | |
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| Bill No. | Description | Status |
| H.R. 4555 | <i>Federal Election Audit Act.</i> Permits the use of requirements payments from the Election Assistance Commission to conduct post-election audits for elections for federal office in a state. | House Administration July 11, 2023; Placed on Union Calendar No. 385 April 17, 2024 |

| MAIL-IN BALLOTS | | |
|------------------------|---|---|
| Bill No. | Description | Status |
| H.R. 2987 | <i>Election Mail Act.</i> Establishes standards for mail-in ballots for USPS. | Rules and Administration May 1, 2023 |
| S. 1391 | Similar to H.R. 2987. | House Administration and Oversight and Accountability April 27, 2023 |
| H.R. 4544 | <i>No Federal Funds for Ballot Harvesting Act.</i> Prohibits use of federal funds for election administration in states that allow ballot harvesting | House Administration July 11, 2023 |
| H.R. 4553 | <i>Prohibiting U.S. Postmark Abuse Act.</i> Imposes penalties for forging or counterfeiting any postmarking stamp or impression thereof with respect to a mailed ballot for an election for federal, state, or local office. | Judiciary July 11, 2023 |
| H.R. 5658 | <i>Vote by Mail Tracking Act.</i> Requires mail-in ballots to contain a USPS barcode enabling tracking, as well as satisfying USPS requirements for ballot envelope design and machinable letters, and the official election mail logo. | Oversight and Accountability September 21, 2023 ordered to be reported as amended February 6, 2024 |
| H.R. 7960 | <i>Preventing Ballot Drop Box and Mail Fraud Act.</i> Provides for enhanced penalties for transmitting fraudulent ballots in elections for federal office through use of post offices, authorized depositories of mail, or ballot drop boxes. | House Administration and Judiciary April 11, 2024 |

| PRIMARIES | | |
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| Bill No. | Description | Status |
| H.R. 157 | <i>Citizen Legislature Anti-Corruption Reform of Elections (CLEAN ELECTIONS) Act.</i> Establishes requirements for nonpartisan redistricting and open primary elections. Requires states to conduct congressional redistricting using a plan developed by a nonpartisan independent commission and states must hold open primaries for federal elections. | House Administration and Judiciary January 9, 2023 |

| VOTER IDENTIFICATION | | |
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| Bill No. | Description | Status |
| H.R. 154 | <i>Securing Our Elections Act of 2023.</i> Establishes photo identification requirements for federal elections. Outlines the availability of provisional ballots and the requirements for counting those ballots. | House Administration January 9, 2023 |
| H.R. 512 | <i>One Citizen One Vote Act.</i> To receive payments from the Election Assistance Commission, states must require photo identification for voting, restrict the delivery of ballots by third parties (i.e. ballot harvesting), prohibit the use of a drop box unless located at 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. | House Administration January 25, 2023 |
| H.R. 861 | <i>America Votes Act of 2023.</i> 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. | House Administration February 7, 2023 |
| H.R. 4563 | <i>American Confidence in Elections Act.</i> Provides states with tools to use voter ID as proof of citizenship. Repeals Presidential Executive Order 14019 and thus prohibits federal agencies from engaging in political activities. Prohibits the use of federal funding of ballot harvesting and noncitizen voting. | House Administration July 13, 2023 |
| H.R. 5189 | <i>Voter Integrity and Defense Act.</i> Conditions eligibility for a state to receive federal funds to support the administration of elections for federal office in the state on having voter photo ID requirements to receive or cast a ballot. | House Administration August 11, 2023 |

| VOTER LIST MAINTENANCE | | |
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| Bill No. | Description | Status |
| H.R. 3162 | <i>Protection American Voters Act.</i> Requires the Dept. of Homeland Security and the Social Security Administration to provide certain information to state election officials, upon official's request, to verify citizenship status of voters in federal elections. Agencies must provide the state official with such information necessary to verify that an applicant for voter registration or a registrant on the official list of eligible voters is a U.S. citizen. | House Administration May 9, 2023; Placed on Union Calendar No. 318 February 14, 2024 |
| H.R. 4317 | Requires states to submit voter list maintenance activity reports to the Election Assistance Commission. | House Administration June 23, 2023 |
| H.R. 4318 | Removes the power of states to rely on the change-of-address information provided by the USPS for the purpose of removing the names of ineligible voters from the official lists of eligible voters. | House Committee on House Administration June 23, 2023 |
| S. 2842 | <i>Save Voters Act.</i> Prohibits states from removing voter registrants from the official eligible voter list unless it meets certain verification and notice requirements. For example, state must have a basis of objective and reliance evidence that registrant is ineligible. | Rules and Administration September 19, 2023 |

| VOTER REGISTRATION | | |
|---------------------------|---|---|
| Bill No. | Description | Status |
| H.R. 83 | Repeals 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 (Motor Voter). | House Administration January 9, 2023 |
| H.R. 126 | <i>Students Voicing Opinions in Today's Elections (VOTE) Act.</i> Requires the Election Assistance Commission to execute a pilot program to local education agencies for initiatives that provide 12 th graders with voter registration information. | House Administration January 9, 2023 |

| VOTER REGISTRATION | | |
|---------------------------|--|--|
| Bill No. | Description | Status |
| H.R. 239 | <i>Same Day Registration Act of 2023.</i> Requires states with a voter registration requirement to make same-day voter registration available at the polling place on any day voting is permitted. | House Administration January 10, 2023 |
| H.R. 487 | <i>Ensuring American Voters Act of 2023.</i> Prohibits a state from registering an individual to vote in federal elections unless the individual provides documentary proof of U.S. citizenship. | House Administration January 24, 2023 |
| H.R. 627 | <i>Verification of the Electorate (VOTE) Act.</i> Requires documentary proof of U.S. citizenship to register to vote in federal elections and imposes criminal penalties for violations, which shall be fines, imprisonment for up to five years, or both. | House Administration January 30, 2023 |
| H.R. 959 | Repeals the provisions of the National Voter Registration Act of 1993 except 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. | House Administration February 9, 2023 |
| H.R. 981 | <i>One Stop Shop Community Reentry Program Act.</i> Authorizes the Attorney General to make grants to eligible entities for creating “community reentry centers.” Re-entry services include assisting formerly incarcerated individuals to register to vote, and apply for voting rights to be restored | Judiciary February 10, 2023 |
| H.R. 1583 | <i>Alice Paul Voter Protection Act.</i> Establishes a new criminal offense for conduct or attempts to corruptly hinder, interfere with, or prevent another person from registering to vote or helping someone register to vote. | Judiciary, and House Administration March 14, 2023 |

| VOTER REGISTRATION | | |
|---------------------------|---|---|
| Bill No. | Description | Status |
| H.R. 2629 | <i>Filer Voter Act.</i> Treats certain tax return preparers as voter registration agencies. Specifically, the bill requires tax return preparers who prepare at least 100 individual tax returns in a taxable year to provide voter registration application forms to their customers. The form must be made available by displaying copies of the form in the preparer’s office for customers who receive in-person services and must provide a hyperlink to the form for customers who receive online services. | House Administration and Ways and Means April 13, 2023 |
| S. 1398 | <i>Promoting Free and Fair Elections Act.</i> Prohibits federal agencies from using funds made available for salaries and expenses to solicit or enter into agreements with nongovernmental organizations to perform voter registration or voter mobilization on the agency’s property or website. Also prohibits institutions of higher education that operate federal work-study programs from registering or mobilizing on or off campus. | Rules and Administration May 2, 2023 |
| H.R. 3072 | Similar to S. 1398 | House Administration, Judiciary, Oversight and Accountability, Science, Space, and Technology, and Education and the Workforce May 2, 2023 |
| H.R. 4316 | <i>Citizen Ballot Protection Act.</i> Permits States to require proof of citizenship as part of its mail voter registration application. | House Administration June 23, 2023; Placed on Union Calendar No. 316 February 13, 2024 |
| H.R. 4500 | Similar to S. 1398 | House Administration, Judiciary, Oversight and Accountability, Science, Space, and Technology, and Education and the Workforce July 6, 2023 |

| VOTER REGISTRATION | | |
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| Bill No. | Description | Status |
| H.R. 2566 | <i>Voter Registration Efficiency Act.</i> Requires a state motor vehicle authority to require everyone applying for a motor vehicle driver's license in the state to indicate whether they reside in another state or resided in another state before applying for the license and to indicate whether they intend for the new state to serve as their residence for federal voter registration purposes. | Elections September 12, 2023 |
| H.R. 5290 | <i>Voters on the Move Registration Act of 2023.</i> Requires the inclusion of voter registration information with certain leases and vouchers for federally assisted rental housing and mortgage applications. | Financial Services August 25, 2023 |
| S. 2841 | <i>Register America to Vote Act of 2023.</i> Increases voter access to the ballot box through automatic voter registration. | Rules and Administration September 19, 2023 |
| S. 2843 | <i>Same Day Registration Act.</i> Requires states with a voter registration requirement to make same-day voter registration available at the polling place on any day voting is permitted. | Rules and Administration September 19, 2023 |
| H.R. 5294 | <i>Unhoused Voter Opportunity Through Elections (Unhoused VOTE) Act.</i> Eliminates obstacles that prevent homeless people from registering to vote and voting in federal elections. Requires that no U.S. citizen be denied the right to vote because they live in shelters, non-designated sleeping areas, or prison (where applicable). Identifies best practices and establishes a grant program to improve voting access to homeless individuals. | House Administration, Financial Services, and Judiciary August 25, 2023 |
| S. 2971 | Similar to H.R. 5294 | Rules and Administration September 28, 2023 |
| H.R. 6493 | <i>Safeguarding Electoral Integrity Act of 2023.</i> Similar to S. 1398. | House Administration November 29, 2023; Placed on Union Calendar No. 478 July 8, 2024 |

| VOTER REGISTRATION | | |
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| Bill No. | Description | Status |
| S. 3470 | Similar to H.R. 4316. | Rules and Administration December 12, 2023 |
| S. 4211 | <i>High School Voter Empowerment Act of 2024.</i> Requires States to designate public high schools as voter registration agencies, to direct such schools to conduct voter registration drives for students attending such schools, and to direct the Secretary of Education to make grants to reimburse such schools for said costs of conducting such voter registration drives. | Health, Labor, Education, and Pensions April 30, 2024 |
| H.R. 8281 | <i>Safeguard American Voter Eligibility (SAVE) Act.</i> Requires proof of U.S. citizenship to register an individual to vote in elections for federal office. | House Administration May 7, 2024; Passed H.(221-198) July 10, 2024; 2 nd reading and Placed on S. Legislative Calendar No. 439. |
| S. 4292 | Similar to H.R.8281. | Rules and Administration May 8, 2024 |

| VOTING | | |
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| Bill No. | Description | Status |
| H.R. 90 | <i>Voter Integrity Protection Act.</i> Imposes additional immigration-related penalties for non-U.S. nationals who vote in an election for federal office. | Judiciary January 9, 2023 |
| H.J.Res. 16 | Proposes a constitutional amendment extending the right to vote to citizens sixteen years of age or older. | Judiciary January 11, 2023 |
| S. 194 | <i>Protecting Our Democracy by Preventing Foreign Citizens from Voting Act of 2023.</i> Prohibits federal funds from being made available to state or local governments that allow noncitizens to vote in federal, state, or local elections. | Homeland Security and Governmental Affairs January 31, 2023 |

| VOTING | | |
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| Bill No. | Description | Status |
| H.R. 1295 | <i>Early Voting Act.</i> Expands early in-person voting. Requires each state to permit individuals to vote in federal elections during an early voting period of at least 15 days. This does not apply to jurisdictions that send mail-in ballots to every registered voter. Requires states to ensure that polling places are accessible by public transportation, located in rural areas, and located on each branch campus of an institution of higher education. | House Administration March 1, 2023 |
| H.J.Res. 40 | Proposes a constitutional amendment that would prohibit a non-U.S. citizen from voting in federal, state, or local elections or for any ballot initiative or referendum in the U.S. | Judiciary March 7, 2023 |
| H.R. 2471 | <i>Vote Without Fear Act.</i> Establishes new criminal offenses for possessing a firearm or causing a firearm to be present in or within 100 yards of a federal election site. | Judiciary April 3, 2023 |
| S. 1677 | <i>Democracy Restoration Act.</i> Limits criminal disenfranchisement to individuals is serving a felony sentence at the time of the election. Establishes requirements for state and federal notification of individuals of the restoration of their voting rights and prohibits federal funding of construction or improvement of a place of incarceration unless U.S. citizens incarcerated in that jurisdiction are notified, upon release, of their voting rights. | Judiciary May 18, 2023 |
| S. 2197 | <i>Supporting Military Voters Act.</i> Requires the Government Accountability Office (GAO) to study and report on access to voting for uniformed services voters. Includes efforts to improve access voter registration information assistance to Armed Forces members and their families, and absentee voting by personnel stationed outside the United States. | Rules and Administration June 22, 2023 |
| H.R. 4460 | <i>Non-citizens: Outlawed from Voting in Our Trusted Elections Act of 2023 (NO VOTE for Non-Citizens Act of 2023).</i> Ensures that only eligible U.S. citizens vote in elections for federal office. | House Administration and Judiciary July 3, 2023; Placed on the Union Calendar No. 383 April 15, 2024 |

| VOTING | | |
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| Bill No. | Description | Status |
| H.R. 4597 | <i>Citizens Vote Protection Act.</i> Prohibits federal agencies from accepting a state-issued driver's license or identification card unless the document includes the individual's citizenship status. | Oversight and Accountability July 13, 2023 |
| H.R. 4987 | Similar to S. 1677. | Judiciary July 27, 2023 |
| H.R. 5291 | <i>People Over Long Lines (POLL) Act.</i> Requires states ensure that voters wait no more than 30 minutes at any polling place, establishes a private right of action for voters who experience longer waiting times, and directs the Election Assistance Commission to make payments to eligible states to prevent unreasonable waiting times. Requires each state to provide for the minimum required number of voting systems, poll workers, and other election resources for each polling location on the day of any federal election and each day of early voting. | House Administration August 25, 2023 |
| H.R. 5293 | Similar to S. 2985. | House Administration and Judiciary August 25, 2023 |
| H.R. 5295 | Similar to S. 2960. | Judiciary, and House Administration August 25, 2023 |
| H.R. 5322 | <i>Time Off to Vote Act.</i> Requires employers to provide employees with a minimum of two consecutive hours of paid leave to vote in federal elections | Education and the Workforce September 1, 2023 |
| H.R. 149 | Similar to S. 194 | Oversight and Accountability September 9, 2023 |
| H.R. 14 | <i>John R. Lewis Voting Rights Advancement Act of 2023.</i> Revises the criteria determining which states and political subdivisions are subject to section 4 of the Voting Rights Act regarding voting rights violations. | Judiciary September 19, 2023 |
| S. 2960 | <i>Expanding the Voluntary Opportunities for Translations in Elections (Expanding the VOTE) Act.</i> Expands access to voting materials for individuals with limited proficiency in the English language. | Rules and Administration September 27, 2023 |

| VOTING | | |
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| Bill No. | Description | Status |
| S. 2985 | <i>Youth Voting Rights Act.</i> Expands voting access for youth. Authorizes the DOJ to enforce the Twenty-Sixth Amendment against age-based restrictions for voting by mail. Directs each state to designate as voter registration agencies all offices within public institutions of higher education (IHEs) that provide assistance to students, implement a preregistration process to allow minors who are 16 years or older to register to vote in federal elections that take place when or after the preregistered individual turns age 18, and ensure the availability of polling places on campuses of IHEs (with the availability of waivers). | Rules and Administration September 28, 2023 |
| H.R. 6242 | <i>Voting Overseas Treated Equally for Servicemembers Act of 2023 (VOTES Act of 2023).</i> Amends the Uniformed and Overseas Citizens Absentee Voting Act to expand coverage of the definition of absent uniformed services voter, to include active service or inactive duty-training, as well as active duty. | House Administration November 6, 2023 |
| S. 3313 | <i>Voter Choice Act.</i> Directs EAC to support State and local governments making a transition to ranked choice voting. | Rules and Administration November 15, 2023 |
| S. 3423 | <i>Inclusive Democracy Act of 2023.</i> Guarantees the right of all citizens to vote, regardless of criminal conviction. | Judiciary December 6, 2023 |
| H.R. 6643 | Similar to S. 3423 | Judiciary and House Administration December 6, 2023 |
| S. 3517 | Similar to H.R. 5291. | Rules and Administration December 14, 2023 |
| H.R. 6924 | <i>Federal Bureau of Prisons Voting Assistance Act.</i> Requires the Director of the Bureau of Prisons to provide certain information to inmates with respect to voter registration and absentee voting. | Judiciary January 9, 2024 |
| S. 3748 | <i>Accessible Voting Act of 204.</i> Increases voting accessibility for individuals with disabilities and older individuals. | Rules and Administration February 7, 2024 |
| H.R. 7389 | Similar to S. 3748. | House Administration February 15, 2024 |

| VOTING | | |
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| Bill No. | Description | Status |
| S. 4 | <i>John R. Lewis Voting Rights Advancement Act of 2024.</i> Revises the criteria determining which states and political subdivisions are subject to section 4 of the Voting Rights Act regarding voting rights violations. | Judiciary February 29, 2024 |
| S. 3901 | .Similar to H.R. 5322 | Health, Education, Labor, and Pensions March 11, 2024 |
| S. 3916 | <i>Right to Vote Act.</i> Protects the right to vote in federal elections by prohibiting substantial impairment of an eligible voter’s right to vote by the government via a law, rule, standard, practice, procedure, or other governmental action | Rules and Administration March 12, 2024 |
| S. 4217 | <i>Next Step Home Act.</i> Secures the federal voting rights of individuals released from incarceration under the First Step Act. | Judiciary April 30, 2024 |

| VOTING SYSTEMS | | |
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| Bill No. | Description | Status |
| S. 1487 | <i>Protection Election Administration from Interference Act of 2023.</i> Extends 22-month record retention period for records or papers to includes electronic records and electronic equipment. Adds criminal penalties related to violations of election records and interference in ballot processing. | Rules and Administration May 9, 2023 |
| H.R. 3130 | Similar to S. 1487 | Judiciary and House Administration May 9, 2023 |
| S. 1500 | <i>Strengthening Election Cybersecurity to Uphold Respect for Elections through Independent Testing (SECURE IT) Act.</i> Requires the EAC to conduct penetration testing (an evaluation method enabling researchers to search for vulnerabilities) as part of testing, certification, decertification, and recertification of voting systems. Directs the EAC create five-year pilot program for participating cybersecurity | Rules and Administration May 9, 2023 |

| VOTING SYSTEMS | | |
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| Bill No. | Description | Status |
| | researchers to test for vulnerabilities in election systems. | |
| H.R. 3257 | <i>Election Integrity Act of 2023.</i> Prohibits use of voting systems in federal elections that are produced by foreign entity, connects to the internet, directly tabulates a ballot that was transmitted online, or has hardware not manufactured in the U.S. | House Administration May 11, 2023 |
| H.R. 4457 | <i>Protect American Voters Act.</i> Directs the EAC to adopt voluntary guidelines for elections officials on the use of nonvoting election technology in elections for federal office (e.g., electronic pollbooks or election result reporting systems). | House Administration July 3, 2023 |
| H.R. 4462 | <i>Election Security Assistance Act.</i> Requires the submission of a joint report from the Secretary of Homeland Security and the Director of National Intelligence on foreign threats to elections and the establishment of procedures to test for and monitor cybersecurity vulnerabilities in certain election administration equipment. | Cybersecurity and Infrastructure Protection July 3, 2023 |
| H.R. 7447 | Similar to S. 1500. | House Administration, Science, Space, and Technology February 23, 2024 |

| SINGLE BILLS ON MULTIPLE ISSUES | | |
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| Bill No. | Description | Status |
| H.R. 156 | <i>Restoring Faith in Elections Act.</i> Mail-in voting. Voter registration. Voter list maintenance. Ballot harvesting prohibited. Deadline of 24 hours to count all ballots. Automatic voter registration. Signature verification standards. Creates national voter registration database and clearinghouse. | House Administration and Science, Space, and Technology January 9, 2023 |
| H.R. 466 | <i>Securing America's Elections Act of 2023.</i> Use of paper ballots. Methods for manual audits. Study on desirability of open-source software in voting systems. | House Administration and Budget January 24, 2023 |

| SINGLE BILLS ON MULTIPLE ISSUES | | |
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| Bill No. | Description | Status |
| S. 700 | <i>Vote at Home Act of 2023.</i> Mail-in voting. Automatic registration (motor voter). Postage free ballot returns. | Rules and Administration March 8, 2023 |
| H.R. 1439 | Similar to S. 700. | House Administration and Oversight and Accountability March 8, 2023 |
| H.R. 4494 | <i>Ensuring Faith on Our Elections Act.</i> Voter list maintenance re non-citizens. Election observers. Income tax exclusion for election workers compensation. Requirements for election mail. Voter registration similar to S. 1398. Ballot harvesting. Voting in the District of Columbia. Foreign influence in ballot questions similar to S. 1638. Death of a candidate similar to H.. 4491. | House Administration et al. July 6, 2023 |
| H.R.11 | <i>Freedom to Vote Act.</i> Expands voter registration. Automatic registration. Same day registration. Mail-in voting. Early voting. Voter list maintenance. Election Day as a federal holiday. New criminal offense of interfering with a person registering to vote or voting. Post-election audits. Prohibitions on campaign financing by foreign nationals. Redistricting. Limits criminal disenfranchisement to persons serving felony sentences on election day. | Cyber Security and Infrastructure Protection July 18, 2023 |
| S. 2344 | Similar to H.R.11. | Rules and Administration July 18, 2023 |
| S.1 | Similar to H.R.11 | Rules and Administration July 25, 2023 |

| SINGLE BILLS ON MULTIPLE ISSUES | | |
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| Bill No. | Description | Status |
| H.R. 5048 | <i>Protection Our Democracy Act.</i> Protects democracy by preventing abuses of Presidential power, restoring checks and balances and accountability and transparency in government, and defending elections against foreign interference, and for other purposes. | Oversight and Accountability et al. July 27, 2023; Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management July 28, 2023 |
| H.R. 7740 | <i>Fair Representation Act.</i> Ranked choice voting for Senators and Representatives in Congress. Requires redistricting according to nonpartisan criteria. | Judiciary and House Administration March 20, 2024 |

| SINGLE BILLS ON SINGLE ISSUES | | |
|--------------------------------------|--|--|
| Bill No. | Description | Status |
| S. 486 | <i>Honest Ads Act</i> Establishes requirements, limitations, and protections for political ads in traditional media, paid internet, or digital advertising. Requires each television or radio station, provider of cable or satellite television, or online platform to ensure that the political ads it hosts are not directly or indirectly purchased by a foreign national. | Committee on Rules and Administration February 16, 2023 |
| H.R. 2599 | Similar to S. 486. | House Administration April 13, 2023 |
| H.R. 3044 | <i>Require the Exposure of AI-Led (REAL) Political Advertisements Act.</i> Expands certain disclosure and disclaimer requirements for political campaigns, including by requiring disclaimers on ads containing content generated by artificial intelligence. | House Administration May 2, 2023 |
| S. 1596 | Similar to H.R. 3044. | Rules and Administration May 15, 2023 |

| SINGLE BILLS ON SINGLE ISSUES | | |
|--------------------------------------|--|--|
| Bill No. | Description | Status |
| H.R. 4476 | <i>Election Integrity Mail Reform Act of 2023.</i> Establishes standards related to the processing and delivery of election mail. | Oversight and Accountability and Judiciary July 6, 2023 |
| H.R. 4407 | <i>Voluntarily Offered Tools for Election Reforms by States Act.</i> Directs the release of voluntary considerations from states regarding the administration of federal elections. Requires Election Assistance Commission’s Standards Board to examine and consolidate information provided by states and release considerations with respect to specified categories. | House Administration July 30, 2023 |
| S. 2770 | <i>Protect Elections from Deceptive AI Act.</i> Prohibits the distribution of materially deceptive AI-generated audio or visual media relating to candidates for federal office. | Rules and Administration September 12, 2023; place on Legislative Calendar No. 388 May 15, 2024 |
| H.R. 5495 | <i>Political Bias In Algorithm Sorting (BIAS) Emails Act of 2023.</i> Prohibits email provider services from utilizing filtering algorithms to flag emails from political campaigns that consumers have elected to receive as spam. | Energy and Commerce, Subcommittee on Innovation, Data, and Commerce September 15, 2023 |
| H.R. 6513 | <i>Confirmation of Congressional Observer Access (COCOA) Act of 2023.</i> Confirms the requirement that states allow access to designated congressional election observers to observe the election administration procedures in congressional elections. | House Administration November 30, 2023; placed on Union Calendar No. 296 January 29, 2024 |
| H.R. 6885 | <i>Presidential Ballot Integrity Act.</i> Provides that the vote of an elector of a state shall not be counted if, with respect to the election for President, the state did not include a candidate for President who was nominated by a major political party on the state ballot. | House Administration December 22, 2023 |
| S. 3588 | <i>Constitutional Election Integrity Act.</i> Prohibits use of federal election administration funds for states applying the Fourteenth Amendment, Section 3 “insurrection or rebellion” clause to keep a presidential candidate off the ballot. | Rules and Administration January 11, 2024 |

| SINGLE BILLS ON SINGLE ISSUES | | |
|--------------------------------------|---|--|
| Bill No. | Description | Status |
| S. 3875 | <i>AI Transparency in Elections Act of 2024.</i> Provides increased transparency for use of AI-generated content in political advertisements by specifically requiring said advertisements to include a statement informing that it was generated by AI. | Rules and Administration March 6, 2024; placed on Legislative Calendar No. 389 May 15, 2024 |
| H.R. 8172 | <i>Consistent Labeling for Political Ads Act.</i> Requires certain platforms displaying political ads to display a notice with the ad identifying the sponsor of the ad and to ensure that the notice is continuously provides and displayed with the ad. | House Administration April 30, 2024 |

*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.

Previous Recommendations from the Board

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.

*Recommendations from the
Third Annual Report, July 2023*

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.