

No. 1978-58

## AN ACT

HB 1854

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 the composition of board of elections in home rule counties.

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

Section 1. Subsection (b) of section 301, act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code," amended December 2, 1976 (P.L.1221, No.269), is amended to read:

Section 301. County Boards of Elections; Membership.—

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(b) In each county of the Commonwealth, the county board of elections shall consist of the county commissioners of such county ex officio, or any officials or board who are performing or may perform the duties of the county commissioners, who shall serve without additional compensation as such. *Except in counties of the first class, in counties which have adopted home rule charters or optional plans the board of elections shall consist of the members of the county body which performs legislative functions unless the county charter or optional plan provides for the appointment of the board of elections. In either case, there shall be minority representation on the board. The county body which performs legislative functions shall in the case where the board does not contain minority representation appoint such representation from a list submitted by the county chairman of the minority party.*

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Section 2. Section 405 of the act, amended April 22, 1959 (P.L.55, No.29), is amended to read:

Section 405. Vacancies in Election Boards; Appointment; Judge and Majority Inspector to Be Members of Majority Party; Minority Inspector to Be Member of Minority Party.—(a) Vacancies in election boards existing by reason of the disqualification, removal, resignation or death of an election officer, or from any other cause, occurring prior to the day of any primary or election, shall, in all cases, be filled by appointment, by the court [of quarter sessions] of the proper county, of competent persons, qualified in accordance with the provisions of this act, who shall serve for

the unexpired term of the person whose place he is appointed to fill: Provided, however, That any district election officer who, after his election or appointment, changes his political affiliation, shall not thereby become disqualified to serve on said election board, and shall not thereby be subject to removal. In making such appointments, the court **[of quarter sessions]** shall receive and consider any petitions filed by qualified electors of the district affected, and shall make no appointment to fill any vacancy occurring more than five days before any primary or election, unless notice of the time at which they will make such appointment shall have been posted on the polling place of such district, and in the immediate vicinity thereof, at least five days prior thereto. In the appointment of inspectors in any election district, both shall not be of the same political party at the time of said appointment, but one shall be of the party having the largest number of votes and the other shall be of the party having the second largest number of votes in said district at the last preceding November election, as nearly as the judge or judges can ascertain the fact. The judge of election shall, in all cases of appointment, be of the political party having the majority of votes in said district at the last preceding November election, as nearly as the judge or judges can ascertain the fact. Immediately upon the entry of an order of court filling any vacancy on an election board, the clerk of said court shall forthwith transmit a certified copy of said order to the county board, giving the name and address of said appointee. *Notwithstanding any provisions to the contrary, in counties which have adopted home rule charters or optional plans and which appoint the members of the county election board under section 301(b), vacancies in the county board of elections shall be filled consistent with the provisions for appointment of county election board members under that section.*

(b) The first election board for any new district shall be selected, by the court **[of quarter sessions]** of the proper county, of competent persons, qualified in accordance with the provisions of this act, who shall serve until the next municipal election at which all election officials are elected under the provisions of section 401 **[of this act]**.

Section 3. This act shall take effect immediately.

APPROVED—The 1st day of June, A. D. 1978.

MILTON J. SHAPP