

## No. 1980-127

## AN ACT

## SB 543

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," amending a definition and providing for election expenses, earnings on investments, withdrawal of candidates, filing of reports and affidavits and for certain audits.

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

Section 1. Section 633, act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code," amended May 23, 1949 (P.L.1656, No.504), is amended to read:

Section 633. Withdrawals of Candidates Nominated for a Special Election.—Any person who has been nominated by any political party or political body for a special election as herein provided, may withdraw his name from nomination by a request in writing signed by him and acknowledged before an officer qualified and empowered to administer oaths, and filed in the office of the officer or board with whom the nomination certificate or nomination paper was filed within [three (3)] *seven (7)* days next succeeding the last day for filing nomination certificates or papers. Such withdrawals to be effective must be received at the office of the Secretary of the Commonwealth or county board of elections, as the case may be, not later than five (5) o'clock P. M. on the last day for filing same. No name, so withdrawn, shall be printed on the ballot or ballot labels. No candidate may withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination.

Section 2. Section 910 of the act, amended June 27, 1974 (P.L.413, No.146), is amended to read:

Section 910. Affidavits of Candidates.—Each candidate for any State, county, city, borough, incorporated town, township, ward, school district, poor district, election district, party office, party delegate or alternate, or for the office of United States Senator or Representative in Congress, shall file with his nomination petition his affidavit stating—(a) his residence, with street and number, if any, and his post-office address; (b) his election district, giving city, borough, town or township; (c) the name of the office for which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will

not knowingly violate any provision of this act, or of any law regulating and limiting nomination and election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of record, or for the office of school director in a district where that office is elective or for the office of justice of the peace that he is not a candidate for nomination for the same office of any party other than the one designated in such petition; (g) if he is a candidate for a delegate, or alternate delegate, member of State committee, National committee or party officer, that he is a registered and enrolled member of the designated party; **[and]** (h) if he is a candidate for delegate or alternate delegate the presidential candidate to whom he is committed or the term "uncommitted"; **and (i) that he is aware of the provisions of section 1626 of this act requiring pre-election and post-election reporting of campaign contributions and expenditures.** In cases of petitions for delegate and alternate delegate to National conventions, the candidate's affidavit shall state that his signature to the delegate's statement, as hereinafter set forth, if such statement is signed by said candidate, was affixed to the sheet or sheets of said petition prior to the circulation of same. In the case of a candidate for nomination as President of the United States, it shall not be necessary for such candidate to file the affidavit required in this section to be filed by candidates, but the post-office address of such candidate shall be stated in such nomination petition.

Section 3. Section 914 of the act, amended May 21, 1943 (P.L.353, No.165), is amended to read:

Section 914. **Withdrawal of Candidates.**—Any of the candidates for nomination or election at any primary may withdraw his name as a candidate by a request in writing, signed by him and acknowledged before an officer empowered to administer oaths, and filed in the office in which his nomination petition was filed. Such withdrawals, to be effective, must be received in the office of the Secretary of the Commonwealth not later than 5 o'clock P. M. on the **[seventh] fifteenth** day next succeeding the last day for filing nomination petitions in said office, and in the office of any county board of elections, not later than the ordinary closing hour of said office on the **[seventh] fifteenth** day next succeeding the last day for filing nomination petitions in said office. No name so withdrawn shall be printed on the ballot or ballot labels. No candidate may withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination petition.

Section 4. Section 978 of the act, amended August 13, 1963 (P.L.707, No.379), is amended to read:

Section 978. **Withdrawal of Nominated Candidates.**—(a) Any person who has been nominated by any political party **[or political body,]** in accordance with the provisions of this act, as a candidate for the office of presidential elector, United States Senator, Representative in Congress or for any State office, including that of senator, repre-

sentative and judge of court of record, may withdraw his name from nomination by request in writing, signed by him and acknowledged before an officer qualified to take acknowledgement of deeds, and filed in the office of the Secretary of the Commonwealth. Any person who has been similarly nominated as a candidate for any other office may withdraw his name from nomination by similar request, filed with the county board of elections of the proper county. Such written withdrawals shall be filed with the Secretary of the Commonwealth or the county board of elections, as the case may be, at least eighty-five (85) days previous to the day of the general or municipal election. Such withdrawals to be effective must be received in the office of the Secretary of the Commonwealth not later than five (5) o'clock P. M. on the last day for filing same, and in the office of any county board of elections not later than the ordinary closing hour of said office on the last day for filing same. No name so withdrawn shall be printed upon the ballot or ballot labels. No candidate may withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination.

*(b) Any person who has been nominated by any political body in accordance with the provisions of this act, as a candidate for the office of presidential elector, United States Senator, Representative in Congress or for any State office, including that of senator, representative and judge of a court of record, may withdraw his name from nomination by request in writing, signed by him and acknowledged before an officer qualified to take acknowledgement of deeds and filed in the office of the Secretary of the Commonwealth. Any person who has been similarly nominated as a candidate for any other office may withdraw his name from nomination by a similar request, filed with the county board of elections of the proper county. Such written withdrawals shall be filed with the Secretary of the Commonwealth or the county board of elections, as the case may be, not later than the ordinary closing hour of said office on the seventh day next succeeding the last day for filing nomination papers for said office. No name so withdrawn shall be printed upon the ballot or ballot labels. No candidate may withdraw any withdrawal notice already received and filed and thereby reinstate his nomination.*

Section 5. The act is amended by adding a section to read:

*Section 978.4. Withdrawal; Order of Court.—Upon petition to the court of common pleas, or the Commonwealth Court, when a court of common pleas is without jurisdiction, by a candidate for nomination or election, or, in the case of the death of such candidate by the treasurer of his political committee, the court shall order the withdrawal of said candidate's name for nomination or election, except upon a showing of special circumstances.*

Section 6. Subsection (k) of section 1621, subsection (c) of section 1622 and subsections (c) and (h) of section 1626 of the act, added October 4, 1978 (P.L.893, No.171), are amended to read:

Section 1621. Definitions.—As used in this article, the following words have the following meanings:

\* \* \*

(k) The words “valuable thing” shall mean all securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially or other in-kind contributions provided without compensation, [except voluntary personal services provided by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee,] or at compensation which is below the usual and normal compensation for the items. The dollar value of a contribution of a valuable thing is the difference between the usual and normal charge for goods or services at the time of the contribution and the amount charged the candidate or political committee.

*Any of the categories hereinafter excluded from the definition of “valuable thing” shall not be deemed a contribution or expenditure for purposes of reporting or record keeping. The words “valuable thing” shall not include such de minimus items as the following:*

*(1) Voluntary personal services provided by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.*

*(2) The operation of a motor vehicle owned or leased by a candidate or a member of his immediate family or for consumption of food or beverages by a candidate or his immediate family.*

*(3) The use of real or personal property, including a community room or a church used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food and beverages voluntarily provided by an individual to any candidate in rendering voluntary personal services on the individual’s residential premises or in the church or community room for candidate related activities, to the extent that the cumulative value of such invitations, food and beverages provided by such individual on behalf of any single candidate does not exceed two hundred fifty dollars (\$250), with respect to any single election.*

*(4) The sale of any food or beverage by a vendor other than a corporation or unincorporated association for use in any candidate’s campaign at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor to the extent that the cumulative value of such reduced charge by such vendor on behalf of any single candidate does not exceed two hundred fifty dollars (\$250) with respect to any single election.*

*(5) Any unreimbursed payment for travel expenses made by any individual on behalf of any candidate to the extent that the cumulative value of such travel activity by such individual on behalf of any single candidate does not exceed two hundred fifty dollars (\$250) with respect to any single election.*

*(6) The use of the personal residence or the business or office space of the candidate other than a corporation or unincorporated association and the use of personal property owned or leased by the candidate: Provided, however, That the cumulative value of the use of such personal property does not exceed one thousand dollars (\$1,000) with respect to any single election.*

*(7) The use of the personal residence or the business or office space of any volunteer, other than a corporation or unincorporated association, and the use of personal property owned or leased by a volunteer: Provided, however, That the cumulative value of the use of such personal property does not exceed two hundred fifty dollars (\$250) with respect to any single election. Nothing in this section shall be construed to permit any matter prohibited in sections 1633 and 1843.*

\* \* \*

Section 1622. Organization of Political Committees; Treasurer and Assistant Treasurer; Records of Candidate and Committees.—

\* \* \*

*(c) Each candidate and committee shall keep records of the names and addresses of each person from whom a contribution of over ten dollars (\$10) has been received and a record of all other information required to be reported pursuant to this act. All such records shall be retained by the candidate or treasurer for a period of [five (5) years] three (3) years after such information is reported as required by this act.*

\* \* \*

Section 1626. Reporting by Candidate and Political Committees and Other Persons.—\* \* \*

*(c) [A report filed under the provisions of this act shall be accompanied by vouchers for all sums expended amounting to more than twenty-five dollars (\$25).] Vouchers or copies of vouchers for all sums expended amounting to more than twenty-five dollars (\$25) shall be retained by the candidate or the committee treasurer and shall be available for public inspection and copying as herein provided. Any person may inspect or copy such vouchers or copies thereof by filing a written request with the appropriate supervisory office which shall notify the candidate or political committee of such request. The candidate or political committee shall have the option of either forwarding such vouchers or copy of the same to the supervisor for such purpose or making the vouchers or copy of the same available to the requesting person. If a candidate or a treasurer of a political committee shall fail to make said vouchers or copies thereof available for inspection and copying when requested by the appropriate supervisory officer, such officer shall direct the candidate or political committee to promptly deliver the vouchers or copies thereof to the supervisory office for purposes of inspection and copying. Costs of copying and costs of delivery by the candidate or treasurer of the*

*requested vouchers or copies thereof shall be borne by the person requesting same.*

\* \* \*

(h) All reports required to be filed pursuant to this section shall be filed pursuant to section 1630. *All reports and statements required by this section shall cover the campaign activity of a candidate only from the last prior report or statement.*

\* \* \*

Section 7. The act is amended by adding a section to read:

*Section 1626.1. Waiver of Reporting by Local Candidates Upon Filing of Additional Affidavits.—*

*(a) In lieu of filing the reports or statements required by sections 1626 and 1627, a candidate for local office (which shall include county, township, city, school district, magisterial district, town and borough offices), who does not form a political committee, shall file an additional affidavit on the form required in section 910 or 951 attesting to the following:*

*(1) that the candidate for local office does not intend to receive contributions or make expenditures in excess of two hundred fifty dollars (\$250) during any reporting period;*

*(2) that the candidate for local office will keep records of contributions and expenditures, as required by this act;*

*(3) that the candidate for local office will file reports in accord with sections 1626 and 1627 for any reporting period during which he receives contributions or makes expenditures in excess of two hundred fifty dollars (\$250).*

*(b) Any candidate for local office filing an affidavit pursuant to this section, who exceeds the two hundred fifty dollar (\$250) limit herein specified, during a reporting period shall file the report required by section 1626 which shall be cumulative from the beginning of the reporting period. No further report shall be required for any subsequent period unless a candidate for local office receives contributions or makes expenditures in excess of two hundred fifty dollars (\$250) during said reporting period.*

Section 8. Section 1627 and subsection (a) of section 1632 of the act, added October 4, 1978 (P.L.893, No.171), are amended to read:

Section 1627. Annual Reports.—

(a) All political committees and candidates, including those committees and candidates filing reports under section 1626 (d) and (e), shall file a report on January 31 of each year which shall be complete as of **[January 15] December 31** of **[each] the prior** year. Such reports shall be filed annually at this time until there is no balance or debt in the report of the candidate or political committee. Such reports shall be cumulative. However, if there has been no change in the account, then the candidate or political committee shall file a statement to that effect with the appropriate supervisor. *Each form designated by the Secretary of the Commonwealth for filing a*

*report or statement required by section 1626(e) shall contain a block which may be marked by the candidate or political committee designating it a termination report or statement. If such report or statement is so designated, or if an authorized candidate elects to file no report or statement pursuant to section 1626.1, no annual report need be filed under this section unless contributions were received or expenditures made subsequent to the time period for filing of such termination report. However, no candidate or political committee may terminate by way of a statement where the unpaid balance indicated in the previous report was greater than two hundred fifty dollars (\$250). In the case of annual reports said report shall cover the campaign activity of a candidate or political committee from the last prior report or statement.*

(b) Any political committee required to be registered under this act and not reporting under section 1626 shall file an annual report under this section. *However, if a political committee makes aggregate expenditures as defined in section 1621 in an amount less than two hundred fifty dollars (\$250) or incurs aggregate debt in an amount less than two hundred fifty dollars (\$250) during the calendar year to influence an election, it need not file an annual report; provided that this exception shall not be applicable to a candidate's political committee or to a State or county committee of a political party or political body or to a political action committee of a corporation or unincorporated association.*

Section 1632. Late Filing Fee; Certificate of Filing.—

(a) A late filing fee for each report or statement of expenditures and contributions which is not filed within the prescribed period shall be imposed as follows. Such fee shall be ten dollars (\$10) for each day or part of a day excluding *Saturdays*, Sundays and holidays that a report is overdue. An additional fee of ten dollars (\$10) is due for each of the first six (6) days that a report is overdue. The maximum fee payable with respect to a single report is two hundred fifty dollars (\$250). A supervisor shall receive an overdue report or statement even if any late filing fee due has not been paid but the report or statement shall not be considered [officially] filed until all fees have been paid upon the receipt by the supervisor of an overdue report. No further late filing fees shall be incurred notwithstanding the fact that the report or statement is not considered [officially] filed. The late filing fee is the personal liability of the candidate or treasurer of a political committee and cannot be paid from contributions to the candidate or committee, nor may such fee be considered an expenditure. *A report or statement of expenditures and contributions shall be deemed to have been filed within the prescribed time if the letter transmitting the report or statement which is received by the supervisor is transmitted*

*by first class mail and is postmarked by the United States Postal Service on the day prior to the final day on which the report or statement is to be received: Provided, That this sentence shall not be applicable to the reporting requirements contained in section 1628.*

\* \* \*

Section 9. Subsection (b) of section 1633 of the act, amended November 26, 1978 (P.L.1313, No.318), is amended to read:

Section 1633. Contributions or Expenditures by National Banks, Corporations or Unincorporated Associations.—

\* \* \*

(b) No provision of the laws of this Commonwealth shall be deemed to prohibit a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations in the ordinary course of business; however, any such loans shall be included in the reports filed by the candidates and political committees. *No provision of the laws of this Commonwealth shall be deemed to prohibit the receipt of interest or dividends on investments where the interest or dividends are received in accordance with the applicable banking laws and in the ordinary course of business. Any such interest and dividends shall be included in the financial records maintained by the candidate and political committees and reported where appropriate under the filing requirements of this act.*

\* \* \*

Section 10. Section 1634.1 of the act, added November 26, 1978 (P.L.1313, No.318), is amended to read:

Section 1634.1. Lawful Election Expenses.—No candidate, chairman or treasurer of any political committee shall make or agree to make any expenditure or incur any liability [except for the following purposes:

(1) For printing and traveling expenses and personal expenses incident thereto, stationery, advertising, postage, expressage, freight, telegraph, telephone and public messenger service.

(2) For the rental of radio facilities and amplified systems.

(3) For political meetings, demonstrations and conventions and for the pay and transportation of speakers.

(4) For the rent, maintenance and furnishing of offices.

(5) For the payment of clerks, typewriters, stenographers, janitors and messengers actually employed.

(6) For the transportation of electors to and from the polls.

(7) For the employment of watchers at primaries and elections to the number and in the amount permitted by this act.

(8) For expenses, legal counsel, incurred in good faith in connection with any primary or elections.

(9) For contributions to other political committees], *except as provided in section 1621(d).*

Section 11. Subsections (b), (c) and (e) of section 1635 of the act, added October 4, 1978 (P.L.893, No.171), are amended to read:



## Section 1635. Independent Audit.—

\* \* \*

(b) The Secretary of the Commonwealth shall select by lottery, at a public drawing, forty (40) days after each [election the names of ten (10) per cent of all candidates filing with the Secretary of the Commonwealth] *primary, general and municipal election three (3) per cent of all public offices for which candidates must file nominating petitions or papers with the Secretary of the Commonwealth. For the purpose of this subsection, a legislative or senatorial district shall be considered a public office. Any public office filled at a special election occurring other than at a primary, general or municipal election shall be placed in the lottery of public offices for audit at the next succeeding primary, general or municipal election whichever occurs first. Any public office filled at a special election held at the same time as any other election shall be included in the lottery for that election.*

(c) The certified public accountant shall audit the reports of all [such] candidates *for each public office selected in accordance with subsection (b) and those committees, authorized and created solely for the purposes of influencing an election on behalf of those candidates.*

\* \* \*

(e) The accountant shall report his or her findings to the Secretary of the Commonwealth who shall make public the report of the accountants. *The results of the primary election audit shall not be released to the public until after the general or municipal election. Nothing in this subsection shall be construed to prohibit the initiation of prosecution for criminal violations by the appropriate agencies.*

\* \* \*

Section 12. This act shall take effect immediately.

APPROVED—The 11th day of July, A. D. 1980.

DICK THORNBURGH