

application within three (3) months of receipt thereof shall be deemed to be an approval of such application.

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APPROVED—The 17th day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 692

AN ACT

Amending the act of June 3, 1937 (P. L. 1333), 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 deposit of cash, or a bond with sufficient surety, upon petition for the recanvassing of a voting machine, and prescribing the procedure therefor.

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

Pennsylvania
Election Code.

Section 1. Section 1702, act of June 3, 1937 (P. L. 1333), known as the "Pennsylvania Election Code," is amended to read:

Section 1702,
act of June 3,
1937, P. L. 1333,
amended.

Section 1702. Recanvassing Voting Machines upon Petition of Electors Alleging Fraud or Error.—(a) The court of common pleas, or a judge thereof, of the county in which any election district is located, shall make visible the registering counters of the voting machine or machines used in such election district at any primary or election, and without unlocking the machine against voting, shall recanvass the vote cast therein, if three qualified electors of the election district shall file a petition, duly verified by them, alleging that, upon information which they consider reliable, they believe that fraud or error, although not manifest on the general return of votes made therefrom, was committed in the canvassing of the votes cast on such machine or machines. It shall not be necessary for the petitioners to specify in their petition the particular act of fraud or error they believe to have been committed, nor to offer evidence to substantiate the allegations of their petition.

(a.1) *Every petition for the recanvassing of votes cast in the voting machine, or voting machines of an election district, under the provisions of this section, shall be filed in the office of the prothonotary of the proper county accompanied by a deposit of cash in the amount of fifty (\$50) dollars, or by a bond signed by the petitioners as principals and by a corporate surety to be approved by the court in the amount of one hundred (\$100) dollars, conditioned upon the payment to the county treasurer*

for the use of the county of the sum of fifty (\$50) dollars, in the event that upon the recanvassing of the votes cast in a voting machine or voting machines, it does not appear that fraud or substantial error was committed in the canvassing of the votes cast on such machine or otherwise in connection with such voting machines.

(b) Before the votes cast on any voting machine are recanvassed under the provisions of this section, the court shall direct that notice of the time and place of the proposed recanvass be given, either personally or by registered mail, to each candidate whose name appears on the ballot labels, and each such candidate may be present at such recanvass, either in person or by his attorney, or by his duly authorized representative, under such regulations as the court may prescribe.

(b.1) If, upon the recanvassing of the votes in any voting machine, it shall appear that fraud or substantial error was committed in the computation of the votes cast on the voting machine or otherwise in connection with such voting machine, it shall be the duty of the court to certify such fact to the prothonotary, and thereupon the prothonotary shall return to the petitioners the said sum of fifty (\$50) dollars, or if the petitioners shall have filed a bond, in lieu of cash, to mark said bond cancelled and notify the petitioners that he has done so.

(b.2) If, upon the recanvassing of the votes in any voting machine under the provisions of this section, it shall not appear that fraud or substantial error was committed in the computation of the votes cast in the voting machine or otherwise in connection with such voting machine, the persons upon whose petition such voting machine was recanvassed shall forfeit to the county the sum of fifty (\$50) dollars. If said petitioners shall have deposited the said sum in cash with the prothonotary at the time of filing the petition, the prothonotary, upon certification of the court that fraud or substantial error or otherwise in connection with such machine was not discovered, shall pay said sum deposited with him to the county treasurer, and if the petitioners shall have filed with their petition a bond in the sum of one hundred (\$100) dollars, it shall be the duty of the county treasurer forthwith to collect from the principals or surety on said bond the sum of fifty (\$50) dollars and costs of suit, and for this purpose he is hereby authorized to institute any necessary legal proceedings. When so collected, the said sum of fifty (\$50) dollars shall be paid over to the county treasurer.

(c) Voting machines may be recanvassed under the provisions of this section at any time within twenty days after the date of the primary or election at which they were used.

APPROVED—The 17th day of December, A. D. 1959.

DAVID L. LAWRENCE