

No. 1985-4

AN ACT

SB 3

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," further providing for affidavits of candidates for election to the General Assembly; and clarifying provisions relative to candidate affidavits.

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 section to read:

Section 630.1. Affidavits of Candidates.—*Each candidate for any State, county, city, borough, incorporated town, township, school district or poor district office, or for the office of United States Senator or Representative in Congress, selected as provided in section 630 of this act, shall file with the nomination certificate an 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 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 board in a district where that office is elective or for the office of justice of the peace, that he is not a candidate for the same office of any party or political body other than the one designated in such certificate; and (g) that he is aware of the provisions of section 1626 of this act requiring election and post-election reporting of campaign contributions and expenditures. In cases of certificates for candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2) (i) that, in the case of a candidate for the office of Senator in the General Assembly, the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that, in the case of a candidate for the office of Representative in the General Assembly, the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have been a citizen and an inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United*

States or of this State); and (4) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime.

Section 2. Section 632 of the act, amended May 23, 1949 (P.L.1656, No.504) and repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 632. Objections to Certificates of Nomination and Nomination Papers Filed for a Special Election; Hearing; Determination.—All certificates of nomination and nomination papers to fill a vacancy as herein provided, which have been accepted and filed shall be deemed to be valid, unless objections thereto are duly made in writing and filed in the court and with the officer or board with whom said nomination certificates or papers were filed, and within three (3) days next succeeding the last day for filing such certificates or papers. *For purposes of this section, a certificate shall include all affidavits required to be filed with such certificate under this act.* Any objections shall set forth specifically the matters objected to. Upon the filing of the objections, the court shall make an order fixing a time for hearing, which shall not be later than seven (7) days after the last day for filing nomination certificates or papers, and specifying the time and manner of notice that shall be given to the candidate named in the nomination certificate or paper objected to. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over any other business before it, and shall finally determine said matter not later than twelve (12) days after the last day for filing said nomination certificates or papers. In determining such matter, the court shall be governed in its order or decree by the provisions of section 977 of this act.

Section 3. Section 910 of the act, amended July 11, 1980 (P.L.591, No.127), 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; (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 candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2) (i) that in the case of a candidate for the office of Senator in the General Assembly that the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that in the case of a candidate for the office of Representative in the General Assembly that the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have been a citizen and inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (4) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime.* 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 4. Section 951(e) of the act, amended July 12, 1980 (P.L.649, No.134), is amended to read:

Section 951. Nominations by Political Bodies.—* * *

(e) There shall be appended to each nomination paper offered for filing an affidavit of each candidate nominated therein, stating—(1) the election district in which he resides; (2) the name of the office for which he consents to be a candidate; (3) that he is eligible for such office; (4) that he will not knowingly violate any provision of this act, or of any law regulating and limiting election expenses, and prohibiting corrupt practices in connection therewith; (5) that his name has not been presented as a candidate by nomination petitions for any public office to be voted for at the ensuing primary election, nor has he been nominated by any other nomination papers filed for any such office; (6) that in the case where he is a candidate for election at a general or municipal election, he was not a registered and enrolled member of a party thirty (30) days before the primary held prior to the general or municipal election in that same year; (7) that, in the case where he is a candidate for election at a special election, he is not a registered and enrolled member of a party. *In cases of papers for candidates for the General Assembly, the candidate's affidavit shall state (i) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (ii) (a) that in the case of a candidate for the office of Senator in the General Assembly that the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (b) that in the case of a candidate for the office of Rep-*

representative in the General Assembly that the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (iii) that the candidate shall have been a citizen and inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (iv) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime.

Section 5. Section 977 of the act, amended December 10, 1974 (P.L.835, No.280) and repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 977. **Objections to Nomination Petitions and Papers.**—All nomination petitions and papers received and filed within the periods limited by this act shall be deemed to be valid, unless, within seven days after the last day for filing said nomination petition or paper, a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition or paper be set aside. A copy of said petition shall, within said period, be served on the officer or board with whom said nomination petition or paper was filed. Upon the presentation of such a petition, the court shall make an order fixing a time for hearing which shall not be later than ten days after the last day for filing said nomination petition or paper, and specifying the time and manner of notice that shall be given to the candidate or candidates named in the nomination petition or paper sought to be set aside. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over other business before it, and shall finally determine said matter not later than fifteen (15) days after the last day for filing said nomination petitions or papers. If the court shall find that said nomination petition or paper is defective under the provisions of section 976, or does not contain a sufficient number of genuine signatures of electors entitled to sign the same under the provisions of this act, or was not filed by persons entitled to file the same, *or if any accompanying or appended affidavit contains a material defect or error*, it shall be set aside. *For purposes of this section, a nomination petition or paper shall include all affidavits required to be filed with such nomination petition or paper under this act.* If the objections relate to material errors or defects apparent on the face of the nomination petition or paper, or on the face of the accompanying or appended affidavits, the court, after hearing, may, in its discretion, permit amendments within such time and upon such terms as to payment of costs, as the said court may specify. In case any such petition is dismissed, the court shall make such order as to the payment of the costs of the proceedings, including witness fees, as it shall deem just. If a person shall sign any nomination petitions or papers for a greater number of candidates than he is permitted under the provisions of this act, if said signatures bear the same date, they shall, upon objections filed thereto, not be counted on any petition or paper and if they bear different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated or elected. The office of the

Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth and the various offices of prothonotary of the court of common pleas shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to withdraw after filing nomination petitions and on the last day to file objections to nomination petitions.

Section 6. The act is amended by adding a section to read:

Section 981.1. Affidavits of Candidates.—*Each candidate for any State, county, city, borough, incorporated town, township, ward, school district, poor district or election district office, or for the office of United States Senator or Representative in Congress, selected as provided in sections 979 and 980 of this act, shall file with the substituted nomination certificate an 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 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 board in a district where that office is elective or for the office of justice of the peace, that he is not a candidate for the same office of any party or political body other than the one designated in such certificate; and (g) that he is aware of the provisions of section 1626 of this act requiring election and post-election reporting of campaign contributions and expenditures. In cases of certificates for candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania; (2) (i) that, in the case of a candidate for the office of Senator in the General Assembly, the candidate will be twenty-five (25) years of age on or before the first day of the term for which the candidate seeks election or (ii) that, in the case of a candidate for the office of Representative in the General Assembly, the candidate will be twenty-one (21) years of age on or before the first day of the term for which the candidate seeks election; (3) that the candidate shall have been a citizen and an inhabitant of Pennsylvania four (4) years and an inhabitant of the respective district one (1) year next before the election (unless absent on the public business of the United States or of this State); and (4) that the candidate has not been convicted of embezzlement of public moneys, bribery, perjury or other infamous crime.*

Section 7. Section 982 of the act is amended to read:

Section 982. Objections to Substituted Nomination Certificates.—All substituted nomination certificates may be objected to, as provided in section 977 of this act, except objections to substituted nomination certificates must, in any case, be filed within three (3) days after the filing of the substituted nomination certificate: Provided, however, That no objections as to form and conformity to law, shall be received after the day on which the printing of ballots is started. *For purposes of this section, a certificate shall include all affidavits required to be filed with such certificate under this act.*

Section 8. This act shall take effect immediately.

APPROVED—The 18th day of April, A. D. 1985.

DICK THORNBURGH