

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 400 Session of 2023

INTRODUCED BY LAUGHLIN, BOSCOLA, COLLETT, DiSANTO, HAYWOOD,  
PENNYCUICK, CAPPELLETTI, SANTARSIERO, COMMITTA, STEFANO,  
COSTA, KEARNEY, BARTOLOTTA, SCHWANK AND STREET,  
APRIL 26, 2023

REFERRED TO STATE GOVERNMENT, APRIL 26, 2023

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled  
2 "An act concerning elections, including general, municipal,  
3 special and primary elections, the nomination of candidates,  
4 primary and election expenses and election contests; creating  
5 and defining membership of county boards of elections;  
6 imposing duties upon the Secretary of the Commonwealth,  
7 courts, county boards of elections, county commissioners;  
8 imposing penalties for violation of the act, and codifying,  
9 revising and consolidating the laws relating thereto; and  
10 repealing certain acts and parts of acts relating to  
11 elections," in preliminary provisions, further providing for  
12 definitions; in qualifications of electors, further providing  
13 for qualifications of electors at primaries; in party  
14 organization, further providing for only enrolled electors to  
15 vote at primaries or hold party offices; in nomination of  
16 candidates, further providing for candidates to be nominated  
17 and party officers to be elected at primaries and providing  
18 for procedure for unenrolled electors to cast primary  
19 ballots; and, in preparation for and conduct of primaries and  
20 elections, further providing for manner of applying to vote,  
21 persons entitled to vote, voter's certificates, entries to be  
22 made in district register, numbered lists of voters and  
23 challenges.

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

26 Section 1. Section 102 of the act of June 3, 1937 (P.L.1333,  
27 No.320), known as the Pennsylvania Election Code, is amended by

1 adding a definition to read:

2 Section 102. Definitions.--The following words, when used in  
3 this act, shall have the following meanings, unless otherwise  
4 clearly apparent from the context:

5 \* \* \*

6 (z.7) The words "unenrolled elector" shall mean a person who  
7 is registered to vote within an election district having  
8 selected "none or no affiliation" or "independent" in regard to  
9 a political party on their Pennsylvania voter registration  
10 application.

11 Section 2. Sections 702, 802 and 902 of the act are amended  
12 to read:

13 Section 702. Qualifications of Electors at Primaries.--(a)  
14 The qualifications of electors entitled to vote at primaries  
15 shall be the same as the qualifications of electors entitled to  
16 vote at elections within the election district where the primary  
17 is held[, provided that no elector who is not registered and  
18 enrolled as a member of a political party, in accordance with  
19 the provisions of this act, shall be permitted to vote the  
20 ballot of such party or any other party ballot at any primary].

21 (b) Unenrolled electors shall be permitted to vote in  
22 primary elections in accordance with the procedures specified in  
23 sections 902.1 and 1231.

24 Section 802. Only Enrolled Electors to [Vote at Primaries  
25 or] Hold Party Offices.--No person who is not registered and  
26 enrolled as a member of a political party shall be entitled to  
27 [vote at any primary of such party or to] be elected or serve as  
28 a party officer, or a member or officer of any party committee,  
29 or delegate or alternate delegate to any party convention.

30 Section 902. Candidates to Be Nominated and Party Officers

1 to Be Elected at Primaries.--All candidates of political  
2 parties, as defined in section 801 of this act, for the offices  
3 of President of the United States, United States Senator,  
4 Representative in Congress and for all other elective public  
5 offices within this State, except that of presidential electors,  
6 shall be nominated, and party delegates and alternate delegates,  
7 committeemen and officers who, under the provisions of Article  
8 VIII of this act or under the party rules, are required to be  
9 elected by the party electors, shall be elected at primaries  
10 held in accordance with the provisions of this act[, except as  
11 otherwise provided in this act. In the years when candidates for  
12 the office of President of the United States are to be  
13 nominated, every registered and enrolled member of a political  
14 party shall have the opportunity at the Spring primary in such  
15 years to vote his preference for one person to be the candidate  
16 of his political party for President.]. In a primary election  
17 conducted in this Commonwealth, all unenrolled electors shall  
18 have the opportunity to vote in accordance with the procedures  
19 set forth in section 902.1.

20 Section 3. The act is amended by adding a section to read:

21 Section 902.1. Procedure for Unenrolled Electors to Cast  
22 Primary Ballots.--(a) Upon confirming an unenrolled elector's  
23 status as a registered elector, the elections officer shall ask  
24 the unenrolled elector in which political party's primary the  
25 unenrolled elector desires to vote, and the elections officer  
26 upon reply shall record the unenrolled elector's selection upon  
27 the unenrolled elector's certificate and for the purpose of that  
28 ballot only shall be deemed enrolled in that party. The  
29 unenrolled elector shall not sign the voter's certificate until  
30 the elections officer has recorded the unenrolled elector's

1 desired political party on the certificate.

2 (b) The ballot provided to an unenrolled elector shall not  
3 include a selection for a political party officer or a member or  
4 officer of a party committee.

5 (c) The Secretary of the Commonwealth shall provide guidance  
6 to the county boards of elections on how to prepare and  
7 distribute voter registration materials and the requisite ballot  
8 information and printing requirements regarding unenrolled  
9 electors voting in a primary election.

10 (d) The county boards of elections shall prepare cards of  
11 instruction and related materials in accordance with the  
12 requirements of section 1202 and this section for unenrolled  
13 electors voting in a primary election. The county boards of  
14 elections shall prepare and deliver the official ballots and  
15 related materials governing the participation of unenrolled  
16 electors in a primary election to the judges of election in the  
17 election districts in accordance with section 1204 and this  
18 section.

19 (e) The Secretary of the Commonwealth in collaboration with  
20 the county boards of elections shall provide information and  
21 training to assist poll workers in understanding the  
22 requirements of this act regarding the participation of  
23 unenrolled electors in a primary election.

24 (f) The Secretary of the Commonwealth in collaboration with  
25 the county boards of elections shall adjust absentee and mail-in  
26 ballots and the applications for absentee and mail-in ballots  
27 for unenrolled electors participating in a specific primary  
28 election in accordance with the provisions of this act.

29 (g) The Department of State of the Commonwealth shall modify  
30 the SURE system to ensure an unenrolled elector's ballot choice

1 in a specific primary election is properly documented and the  
2 voter's unenrolled status is retained in subsequent primary  
3 elections and not identified with a particular party affiliation  
4 based on which political party's primary the unenrolled elector  
5 selected in a prior primary election.

6 Section 4. Section 1210(d) of the act is amended to read:

7 Section 1210. Manner of Applying to Vote; Persons Entitled  
8 to Vote; Voter's Certificates; Entries to Be Made in District  
9 Register; Numbered Lists of Voters; Challenges.--\* \* \*

10 (d) No person, except a qualified elector who is in actual  
11 military or naval service under a requisition of the President  
12 of the United States or by the authority of this Commonwealth,  
13 and who votes under the provisions of Article XIII of this act,  
14 shall be entitled or permitted to vote at any primary or  
15 election at any polling place outside the election district in  
16 which [he] the person resides, nor shall [he] the person be  
17 permitted to vote in the election district in which [he] the  
18 person resides, unless [he] the person has been personally  
19 registered as an elector and [his] the person's registration  
20 card appears in the district register of such election district,  
21 except by order of the court of common pleas as provided in this  
22 act, and any person, although personally registered as an  
23 elector, may be challenged by any qualified elector, election  
24 officer, overseer, or watcher at any primary or election as to  
25 [his] identity, as to [his] continued residence in the election  
26 district or as to any alleged violation of the provisions of  
27 section 1210 of this act, and if challenged as to identity or  
28 residence, [he] the person shall produce at least one qualified  
29 elector of the election district as a witness, who shall make  
30 affidavit of [his] the person's identity or continued residence

1 in the election district: Provided, however, That no person  
2 shall be entitled to vote as a member of a party at any primary,  
3 unless [he] the person is:

4 (1) registered and enrolled as a member of such party upon  
5 the district register, which enrollment shall be conclusive as  
6 to [his] party membership and shall not be subject to challenge  
7 on the day of the primary[.]; or

8 (2) an unenrolled elector, in which case the person may vote  
9 for the candidates of the party of the unenrolled elector's  
10 choice in accordance with the procedures set forth in section  
11 902.1. The unenrolled elector's choice of party at one primary  
12 election shall not preclude the unenrolled elector from choosing  
13 a different party in a subsequent primary election.

14 \* \* \*

15 Section 5. This act shall apply to the next municipal or  
16 general primary election held no less than 180 days after the  
17 effective date of this section.

18 Section 6. This act shall take effect immediately.