

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2706 Session of 2022

INTRODUCED BY BURNS AND NEILSON, JUNE 24, 2022

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 24, 2022

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 primary and election expenses, further
 12 providing for definitions, providing for expenditures by
 13 public body and further providing for advertising.

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

16 Section 1. Section 1621 of the act of June 3, 1937
 17 (P.L.1333, No.320), known as the Pennsylvania Election Code, is
 18 amended by adding a subsection to read:

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

21 * * *

22 (n) The words "public body" shall mean any of the following:

23 (1) A State agency, department, division, bureau, board,

24 commission, council, authority or other body in the executive

1 branch of State government.

2 (2) The General Assembly or an agency, board, commission or
3 council in the legislative branch of State government.

4 (3) A municipality or a board, department, commission or
5 council of a municipality.

6 (4) Any of the following school entities:

7 (i) A school district of any class.

8 (ii) A public school as defined in 24 Pa.C.S. § 8102
9 (relating to definitions).

10 (iii) An intermediate unit as described in Article IX-A of
11 the act of March 10, 1949 (P.L.30, No.14), known as the Public
12 School Code of 1949.

13 (iv) A charter school as defined in section 1703-A of the
14 Public School Code of 1949.

15 (v) A cyber charter school as defined in section 1703-A of
16 the Public School Code of 1949.

17 (vi) A regional charter school as defined in section 1703-A
18 of the Public School Code of 1949.

19 (vii) An area career and technical school as described in
20 section 1841 of the Public School Code of 1949.

21 (5) Any other body that is created by State or local
22 authority or is primarily funded by or through State or local
23 authority, if the body exercises governmental authority or
24 performs a governmental function.

25 Section 2. The act is amended by adding a section to read:

26 Section 1633.1. Expenditures by Public Body.--(a) An
27 officer, employe or consultant of a public body may not expend
28 or authorize the expenditure of any of the funds of the local
29 public body to support or oppose the approval or rejection of a
30 ballot question or the election or defeat of a candidate by the

1 voters.

2 (b) A public body, or a person acting for a public body, may
3 not use or authorize the use of funds for personnel, office
4 space, computer hardware or software, property, stationery,
5 postage, vehicles, equipment, supplies or other public
6 resources, or provide volunteer personnel, to support or oppose
7 a candidate or ballot question. This subsection shall not apply
8 to an elected or appointed public official or an employe of a
9 public body who, when not acting for a public body but acting on
10 personal time, is expressing personal views, expending personal
11 funds or providing personal volunteer services.

12 (c) This section does not prohibit the expenditure of public
13 body funds to provide information to the public about the
14 possible effects of a ballot question on the activities,
15 operations or policies of the public body, if both of the
16 following conditions are met:

17 (1) The informational activities are not otherwise
18 prohibited by the Constitution of Pennsylvania or laws of this
19 Commonwealth.

20 (2) The information provided constitutes an accurate, fair
21 and impartial presentation of relevant facts to aid the voters
22 in reaching an informed judgment regarding the ballot question.

23 (d) The following apply to penalties:

24 (1) A person that knowingly violates this section is guilty
25 of a misdemeanor of the third degree.

26 (2) A person that is not an individual and that violates
27 this section shall, upon conviction, be sentenced to pay a fine
28 not exceeding twenty thousand dollars (\$20,000) or equal to the
29 amount of the improper expenditures.

30 (e) As used in this section, the following words and phrases

1 shall have the meanings given to them in this subsection unless
2 the context clearly indicates otherwise:

3 "Ballot question." An initiative, referendum, question,
4 recall measure or constitutional amendment certified to appear
5 on a ballot during an election.

6 Section 3. Section 1638(b)(3) of the act is amended and the
7 section is amended by adding subsections to read:

8 Section 1638. Advertising.--

9 * * *

10 (b) * * *

11 [(3) Any person, firm or corporation, political committee or
12 party or member thereof, violating any of the provisions of this
13 section, shall be guilty of a misdemeanor, and upon conviction
14 thereof, shall be sentenced to pay a fine not exceeding one
15 thousand dollars (\$1,000), or to undergo an imprisonment of not
16 less than one (1) month nor more than two (2) years, or both, in
17 the discretion of the court.]

18 (c) A public body or a person acting for a public body may
19 not use public funds or resources for:

20 (1) Communications containing express words of advocacy,
21 such as "vote for," "vote against," "elect," "support," "cast
22 your ballot for," "cast your ballot against," "vote yes," "vote
23 no," "defeat" or "reject," regarding the election or defeat of a
24 clearly identified candidate.

25 (2) Communications containing express words of advocacy as
26 specified in paragraph (1) by means of radio, television,
27 Internet, mass mailing or prerecorded telephone message if the
28 communication references a ballot question.

29 (d) A person, firm, corporation, public body or person
30 acting for a public body, political committee or party or member

1 thereof violating any of the provisions of this section shall be
2 guilty of a misdemeanor and, upon conviction thereof, shall be
3 sentenced to pay a fine not exceeding one thousand dollars
4 (\$1,000) or to undergo an imprisonment of not less than one (1)
5 month nor more than two (2) years, or both, in the discretion of
6 the court.

7 Section 4. This act shall take effect immediately.