

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 383 Session of 2023

INTRODUCED BY CAPPELLETTI, KEARNEY, HAYWOOD, KANE, FONTANA, SCHWANK, SANTARSIERO AND MUTH, FEBRUARY 21, 2023

SENATOR DUSH, STATE GOVERNMENT, AS AMENDED, MAY 9, 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 primary and election expenses, further
12 providing for contributions by agents, anonymous
13 contributions and cash contributions.

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

16 Section 1. Section 1634 heading of the act of June 3, 1937
17 (P.L.1333, No.320), known as the Pennsylvania Election Code, is
18 amended and the section is amended by adding a subsection to
19 read:

20 Section 1634. Contributions by Agents; Anonymous
21 Contributions; Cash Contributions; Preselected and Prescheduled
22 Recurring Contributions.--

23 * * *

1 (d) (1) It shall be unlawful for a candidate or political <--
2 committee to solicit, DIRECTLY OR THROUGH AN AGENT OR <--
3 INTERMEDIARY, TO SOLICIT OR ACCEPT from a person a preselected
4 recurring or prescheduled recurring contribution to the
5 candidate or political committee without the express and
6 affirmative agreement CONSENT of the person. <--

7 (2) EXPRESS AND AFFIRMATIVE CONSENT OF THE CONTRIBUTOR UNDER <--
8 CLAUSE (1) SHALL REQUIRE CLEAR AND AFFIRMATIVE ACTION OF THE
9 CONTRIBUTOR TO MAKE OR AGREE TO MAKE THE RECURRING CONTRIBUTION.
10 PASSIVE ACTION BY THE CONTRIBUTOR, INCLUDING FAILURE TO UNCHECK
11 A PRE-CHECKED BOX AUTHORIZING A RECURRING CONTRIBUTION, SHALL
12 NOT CONSTITUTE CLEAR AND AFFIRMATIVE ACTION OF THE CONTRIBUTOR.

13 (3) A CANDIDATE OR POLITICAL COMMITTEE THAT ACCEPTS A
14 RECURRING CONTRIBUTION UNDER CLAUSE (1) SHALL DO ALL OF THE
15 FOLLOWING:

16 (I) PROVIDE A RECEIPT TO THE CONTRIBUTOR THAT CLEARLY AND
17 CONSPICUOUSLY DISCLOSES ALL TERMS OF THE RECURRING CONTRIBUTION
18 WITHIN THREE (3) DAYS AFTER THE INITIAL CONTRIBUTION IS RECEIVED
19 AND WITHIN THREE (3) DAYS AFTER EACH RECURRING CONTRIBUTION IS
20 RECEIVED.

21 (II) PROVIDE ALL NECESSARY INFORMATION TO CANCEL THE
22 RECURRING CONTRIBUTION IN EACH COMMUNICATION WITH THE
23 CONTRIBUTOR THAT CONCERNS THE CONTRIBUTION.

24 (III) IMMEDIATELY CANCEL A RECURRING CONTRIBUTION UPON
25 REQUEST OF THE CONTRIBUTOR.

26 (4) (I) EACH TIME A CANDIDATE OR POLITICAL COMMITTEE
27 SOLICITS FROM A PERSON A RECURRING CONTRIBUTION UNDER CLAUSE
28 (1), OR ACCEPTS AN INITIAL RECURRING CONTRIBUTION UNDER CLAUSE
29 (1) WITHOUT THE EXPRESS AND AFFIRMATIVE CONSENT OF THE PERSON,
30 SHALL CONSTITUTE A SEPARATE VIOLATION OF THIS SUBSECTION SUBJECT

1 TO A PENALTY OF UP TO FIVE THOUSAND DOLLARS (\$5,000) FOR EACH
2 OCCURRENCE.

3 (II) A CANDIDATE OR POLITICAL COMMITTEE THAT ACCEPTS A
4 RECURRING CONTRIBUTION UNDER CLAUSE (1) WITHOUT THE EXPRESS AND
5 AFFIRMATIVE CONSENT OF THE PERSON IN VIOLATION OF THIS
6 SUBSECTION IS LIABLE FOR A FINE NOT TO EXCEED THREE (3) TIMES
7 THE AGGREGATE AMOUNT OF THE SUBSEQUENT RECURRING CONTRIBUTIONS
8 RECEIVED IF ALL OF THE FOLLOWING CONDITIONS ARE SATISFIED:

9 (A) THE CANDIDATE OR POLITICAL COMMITTEE KNEW OR SHOULD HAVE
10 KNOWN THAT THE SOLICITATION REQUIRED EXPRESS AND AFFIRMATIVE
11 CONSENT.

12 (B) THE CANDIDATE OR POLITICAL COMMITTEE KNEW OR SHOULD HAVE
13 KNOWN THAT THE CONTRIBUTOR DID NOT PROVIDE EXPRESS AND
14 AFFIRMATIVE CONSENT FOR MAKING THE RECURRING CONTRIBUTIONS.

15 (C) THE RECURRING CONTRIBUTIONS, IN THE AGGREGATE, EXCEED
16 ONE THOUSAND DOLLARS (\$1,000).

17 (5) A RECURRING CONTRIBUTION UNDER CLAUSE (1) ACCEPTED
18 WITHOUT THE EXPRESS AND AFFIRMATIVE CONSENT OF THE PERSON SHALL
19 BE RETURNED TO THE CONTRIBUTOR WITHIN FOURTEEN (14) DAYS OF THE
20 EARLIER OF THE RECEIPT OF A REQUEST FROM THE CONTRIBUTOR TO
21 RETURN THE CONTRIBUTION OR THE DATE ON WHICH THE CANDIDATE OR
22 POLITICAL COMMITTEE BECOMES AWARE THAT THE SOLICITATION OF THE
23 RECURRING CONTRIBUTION WAS IN VIOLATION OF THIS SUBSECTION. A
24 CONTRIBUTION ACCEPTED AFTER A CONTRIBUTOR REQUESTED TO CANCEL A
25 RECURRING CONTRIBUTION SHALL BE RETURNED TO THE CONTRIBUTOR
26 WITHIN FOURTEEN (14) DAYS OF THE REQUEST TO CANCEL THE RECURRING
27 CONTRIBUTION.

28 (6) FOR PURPOSES OF THIS SUBSECTION, THE TERM "RECURRING
29 CONTRIBUTION" MEANS A CONTRIBUTION FROM A PERSON TO A CANDIDATE
30 OR POLITICAL COMMITTEE THAT IS AUTOMATICALLY CHARGED TO THE

1 PERSON'S BANK ACCOUNT, CREDIT CARD OR OTHER PAYMENT ACCOUNT ON A
2 REPEATED BASIS WITHOUT SUBSEQUENT APPROVAL OR ANY OTHER
3 SUBSEQUENT EXPRESS AND AFFIRMATIVE CONSENT BY THE PERSON AFTER
4 THE PERSON'S INITIAL CONTRIBUTION TO THE CANDIDATE OR POLITICAL
5 COMMITTEE.

6 (7) THIS SUBSECTION SHALL APPLY TO CONTRIBUTIONS OCCURRING
7 OR SOLICITED ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH.

8 Section 2. This act shall take effect in 60 days.