

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 857 Session of 2023

INTRODUCED BY BREWSTER, KEARNEY, STREET, FONTANA, KANE, COSTA, DILLON, CAPPELLETTI, SAVAL AND COLLETT, JULY 6, 2023

REFERRED TO STATE GOVERNMENT, JULY 6, 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 voting by qualified absentee electors, further
 12 providing for voting by absentee electors and for canvassing
 13 of official absentee ballots and mail-in ballots; and, in
 14 voting by qualified mail-in electors, further providing for
 15 voting by mail-in electors.

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

18 Section 1. Sections 1306(a) introductory paragraph and (c),
 19 1308(g) (1) and 1306-D(a) and (c) of the act of June 3, 1937
 20 (P.L.1333, No.320), known as the Pennsylvania Election Code, are
 21 amended to read:

22 Section 1306. Voting by Absentee Electors.--(a) Except as
 23 provided in paragraphs (2) and (3), at any time after receiving
 24 an official absentee ballot, but on or before eight o'clock P.M.

1 the day of the primary or election, the elector shall, in
2 secret, proceed to mark the ballot only in black lead pencil,
3 indelible pencil or blue, black or blue-black ink, in fountain
4 pen or ball point pen, and then fold the ballot, enclose and
5 securely seal the same in the envelope on which is printed,
6 stamped or endorsed "Official Election Ballot." This envelope
7 shall then be placed in the second one, on which is printed the
8 form of declaration of the elector, and the address of the
9 elector's county board of election and the local election
10 district of the elector. The elector shall then fill out[, date]
11 and sign the declaration printed on such envelope. Such envelope
12 shall then be securely sealed and the elector shall send same by
13 mail, postage prepaid, except where franked, or deliver it in
14 person to said county board of election.

15 * * *

16 (c) Except as provided under 25 Pa.C.S. § 3511 (relating to
17 receipt of voted ballot), a completed absentee ballot must be
18 received in the office of the county board of elections no later
19 than eight o'clock P.M. on the day of the primary or election.
20 The following absentee ballots shall be presumed to have been
21 timely received under this subsection and counted if they are
22 otherwise valid under law:

23 (1) absentee ballots received by the county board of
24 elections by eight o'clock P.M. on the day of the primary or
25 election;

26 (2) absentee ballots mailed via the United States Postal
27 Service and postmarked by eight o'clock P.M. on the day of the
28 primary or election; and

29 (3) absentee ballots received by the county board of
30 elections by eight o'clock P.M. on the day of the primary or

1 election that lack a postmark or other proof of mailing or for
2 which the postmark or other proof of mailing is illegible,
3 unless a preponderance of the evidence demonstrates that the
4 ballots were mailed after eight o'clock P.M. on the day of the
5 primary or election.

6 Section 1308. Canvassing of Official Absentee Ballots and
7 Mail-in Ballots.--* * *

8 (g) (1) (i) An absentee ballot cast by any absentee
9 elector as defined in section 1301(a), (b), (c), (d), (e), (f),
10 (g) and (h) shall be canvassed in accordance with this
11 subsection if the ballot is cast, submitted and received in
12 accordance with the provisions of 25 Pa.C.S. Ch. 35 (relating to
13 uniform military and overseas voters).

14 (ii) An absentee ballot cast by any absentee elector as
15 defined in section 1301(i), (j), (k), (l), (m) and (n), an
16 absentee ballot under section 1302(a.3) or a mail-in ballot cast
17 by a mail-in elector shall be canvassed in accordance with this
18 subsection if the absentee ballot or mail-in ballot is received
19 in the office of the county board of elections no later than
20 eight o'clock P.M. on the day of the primary or election. The
21 following absentee and mail-in ballots shall be presumed to have
22 been timely received under this subparagraph and counted if they
23 are otherwise valid under law:

24 (A) absentee and mail-in ballots received by the county
25 board of elections by eight o'clock P.M. on the day of the
26 primary or election;

27 (B) absentee and mail-in ballots mailed via the United
28 States Postal Service and postmarked by eight o'clock P.M. on
29 the day of the primary or election; and

30 (C) absentee and mail-in ballots received by the county

1 board of elections by eight o'clock P.M. on the day of the
2 primary or election that lack a postmark or other proof of
3 mailing or for which the postmark or other proof of mailing is
4 illegible, unless a preponderance of the evidence demonstrates
5 that the ballots were mailed after eight o'clock P.M. on the day
6 of the primary or election.

7 * * *

8 Section 1306-D. Voting by mail-in electors.

9 (a) General rule.--At any time after receiving an official
10 mail-in ballot, but on or before eight o'clock P.M. the day of
11 the primary or election, the mail-in elector shall, in secret,
12 proceed to mark the ballot only in black lead pencil, indelible
13 pencil or blue, black or blue-black ink, in fountain pen or ball
14 point pen, and then fold the ballot, enclose and securely seal
15 the same in the envelope on which is printed, stamped or
16 endorsed "Official Election Ballot." This envelope shall then be
17 placed in the second one, on which is printed the form of
18 declaration of the elector, and the address of the elector's
19 county board of election and the local election district of the
20 elector. The elector shall then fill out[, date] and sign the
21 declaration printed on such envelope. Such envelope shall then
22 be securely sealed and the elector shall send same by mail,
23 postage prepaid, except where franked, or deliver it in person
24 to said county board of election.

25 * * *

26 (c) Deadline.--Except as provided under 25 Pa.C.S. § 3511
27 (relating to receipt of voted ballot), a completed mail-in
28 ballot must be received in the office of the county board of
29 elections no later than eight o'clock P.M. on the day of the
30 primary or election. The following mail-in ballots shall be

1 presumed to have been timely received under this subsection and
2 counted if they are otherwise valid under law:

3 (1) mail-in ballots received by the county board of
4 elections by eight o'clock P.M. on the day of the primary or
5 election;

6 (2) mail-in ballots mailed via the United States Postal
7 Service and postmarked by eight o'clock P.M. on the day of
8 the primary or election; and

9 (3) mail-in ballots received by the county board of
10 elections by eight o'clock P.M. on the day of the primary or
11 election that lack a postmark or other proof of mailing or
12 for which the postmark or other proof of mailing is
13 illegible, unless a preponderance of the evidence
14 demonstrates that the ballots were mailed after eight o'clock
15 P.M. on the day of the primary or election.

16 Section 2. This act shall take effect immediately.