



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3205

Introduced 2/11/2020, by Sen. Bill Cunningham

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/7-59	from Ch. 46, par. 7-59
10 ILCS 5/17-16.1	from Ch. 46, par. 17-16.1
10 ILCS 5/18-9.1	from Ch. 46, par. 18-9.1
65 ILCS 5/3.1-20-45	
65 ILCS 5/3.1-25-20	from Ch. 24, par. 3.1-25-20

Amends the Election Code. Provides that those intending to become write-in candidates for statewide, congressional, state legislative, or judicial offices or offices in which the electors are not entirely within a county shall file a notarized declaration of intent with the State Board of Elections. Provides what shall be included in a declaration of intent. Provides that all write-in votes shall be counted for persons who filed the notarized declaration of intent with the appropriate election authority between 75 days and 65 days before the general primary and between 120 days and 75 days before the election or consolidated primary (rather than 61 days before the primary or election). Provides that persons intending to become write-in candidates for the offices of President and Vice President or Governor and Lieutenant Governor shall file one joint declaration of intent to be a write-in candidate with the State Board of Elections and that votes cast for either candidate shall constitute a valid write-in vote for the slate of candidates. Provides that the State Board of Elections shall provide a listing of valid write-in candidates to the appropriate election authority before the deadline for ballot certification. Makes conforming changes throughout the Code and the Illinois Municipal Code.

LRB101 18010 SMS 67448 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing  
5 Sections 7-59, 17-16.1, and 18-9.1 as follows:

6 (10 ILCS 5/7-59) (from Ch. 46, par. 7-59)

7 Sec. 7-59. (a) The person receiving the highest number of  
8 votes at a primary as a candidate of a party for the nomination  
9 for an office shall be the candidate of that party for such  
10 office, and his name as such candidate shall be placed on the  
11 official ballot at the election then next ensuing; provided,  
12 that where there are two or more persons to be nominated for  
13 the same office or board, the requisite number of persons  
14 receiving the highest number of votes shall be nominated and  
15 their names shall be placed on the official ballot at the  
16 following election.

17 Except as otherwise provided by Section 7-8 of this Act,  
18 the person receiving the highest number of votes of his party  
19 for State central committeeperson of his congressional  
20 district shall be declared elected State central  
21 committeeperson from said congressional district.

22 Unless a national political party specifies that delegates  
23 and alternate delegates to a National nominating convention be

1 allocated by proportional selection representation according  
2 to the results of a Presidential preference primary, the  
3 requisite number of persons receiving the highest number of  
4 votes of their party for delegates and alternate delegates to  
5 National nominating conventions from the State at large, and  
6 the requisite number of persons receiving the highest number of  
7 votes of their party for delegates and alternate delegates to  
8 National nominating conventions in their respective  
9 congressional districts shall be declared elected delegates  
10 and alternate delegates to the National nominating conventions  
11 of their party.

12 A political party which elects the members to its State  
13 Central Committee by Alternative B under paragraph (a) of  
14 Section 7-8 shall select its congressional district delegates  
15 and alternate delegates to its national nominating convention  
16 by proportional selection representation according to the  
17 results of a Presidential preference primary in each  
18 congressional district in the manner provided by the rules of  
19 the national political party and the State Central Committee,  
20 when the rules and policies of the national political party so  
21 require.

22 A political party which elects the members to its State  
23 Central Committee by Alternative B under paragraph (a) of  
24 Section 7-8 shall select its at large delegates and alternate  
25 delegates to its national nominating convention by  
26 proportional selection representation according to the results

1 of a Presidential preference primary in the whole State in the  
2 manner provided by the rules of the national political party  
3 and the State Central Committee, when the rules and policies of  
4 the national political party so require.

5 The person receiving the highest number of votes of his  
6 party for precinct committeeperson of his precinct shall be  
7 declared elected precinct committeeperson from said precinct.

8 The person receiving the highest number of votes of his  
9 party for township committeeperson of his township or part of a  
10 township as the case may be, shall be declared elected township  
11 committeeperson from said township or part of a township as the  
12 case may be. In cities where ward committeepersons are elected,  
13 the person receiving the highest number of votes of his party  
14 for ward committeeperson of his ward shall be declared elected  
15 ward committeeperson from said ward.

16 When two or more persons receive an equal and the highest  
17 number of votes for the nomination for the same office or for  
18 committeeperson of the same political party, or where more than  
19 one person of the same political party is to be nominated as a  
20 candidate for office or committeeperson, if it appears that  
21 more than the number of persons to be nominated for an office  
22 or elected committeeperson have the highest and an equal number  
23 of votes for the nomination for the same office or for election  
24 as committeeperson, the election authority by which the returns  
25 of the primary are canvassed shall decide by lot which of said  
26 persons shall be nominated or elected, as the case may be. In

1 such case the election authority shall issue notice in writing  
2 to such persons of such tie vote stating therein the place, the  
3 day (which shall not be more than 5 days thereafter) and the  
4 hour when such nomination or election shall be so determined.

5 (b) Persons intending to become write-in candidates for  
6 offices to be filled by electors of the entire State or any  
7 district not entirely within a county or for congressional,  
8 state legislative, or judicial offices as described in Sections  
9 7-12, 7-67, and 25-7 shall file a notarized declaration of  
10 intent to be a write-in candidate with the principal office of  
11 the State Board of Elections. Forms for the declaration of  
12 intent to be a write-in candidate shall be supplied by the  
13 office or election authority with whom nominating petitions for  
14 the office sought are filed. Declarations of intent to be a  
15 write-in candidate shall include: (A) the name and address of  
16 the person intending to become a write-in candidate; (B) the  
17 office sought; (C) the date of the election; and (D) the  
18 notarized signature of the candidate or candidates.  
19 Declarations of intent to be a write-in candidate that do not  
20 include items (A) through (D) shall not be accepted.

21 Write-in votes shall be counted only for persons who have  
22 filed notarized declarations of intent to be write-in  
23 candidates with the proper election authority, election or  
24 authorities, or the State Board of Elections no earlier than 75  
25 days before the primary but no ~~not~~ later than 65 ~~61~~ days before  
26 prior to the primary. However, whenever an objection to a

1 candidate's nominating papers or petitions for any office is  
2 sustained under Section 10-10 after the 65th ~~61st~~ day before  
3 the election, then write-in votes shall be counted for that  
4 candidate if he or she has filed a notarized declaration of  
5 intent to be a write-in candidate for that office with the  
6 proper election authority, election ~~or~~ authorities, or State  
7 Board of Elections not later than 7 days prior to the election.

8 ~~Forms for the declaration of intent to be a write in~~  
9 ~~candidate shall be supplied by the election authorities. Such~~  
10 ~~declaration shall specify the office for which the person seeks~~  
11 ~~nomination or election as a write-in candidate.~~

12 Persons intending to become write-in candidates for the  
13 offices of President and Vice President or Governor and  
14 Lieutenant Governor shall file one joint declaration of intent  
15 to be a write-in candidate with the State Board of Elections.

16 The State Board of Elections shall provide a listing of  
17 valid write-in candidates to the proper election authority or  
18 authorities no later than the deadline for ballot  
19 certification. The election authority or authorities shall  
20 deliver a list of all persons who have filed ~~such~~ declarations  
21 of intent to the election judges in the appropriate precincts  
22 prior to the primary.

23 (c) (1) Notwithstanding any other provisions of this  
24 Section, where the number of candidates whose names have been  
25 printed on a party's ballot for nomination for or election to  
26 an office at a primary is less than the number of persons the

1 party is entitled to nominate for or elect to the office at the  
2 primary, a person whose name was not printed on the party's  
3 primary ballot as a candidate for nomination for or election to  
4 the office, is not nominated for or elected to that office as a  
5 result of a write-in vote at the primary unless the number of  
6 votes he received equals or exceeds the number of signatures  
7 required on a petition for nomination for that office; or  
8 unless the number of votes he receives exceeds the number of  
9 votes received by at least one of the candidates whose names  
10 were printed on the primary ballot for nomination for or  
11 election to the same office.

12 (2) Paragraph (1) of this subsection does not apply where  
13 the number of candidates whose names have been printed on the  
14 party's ballot for nomination for or election to the office at  
15 the primary equals or exceeds the number of persons the party  
16 is entitled to nominate for or elect to the office at the  
17 primary.

18 (Source: P.A. 100-1027, eff. 1-1-19.)

19 (10 ILCS 5/17-16.1) (from Ch. 46, par. 17-16.1)

20 Sec. 17-16.1. Write-in votes shall be counted only for  
21 persons who have filed notarized declarations of intent to be  
22 write-in candidates with the proper election authority,  
23 election ~~or~~ authorities, or the State Board of Elections no  
24 earlier than 120 days before the election but no ~~not~~ later than  
25 ~~61~~ 75 days before ~~prior to~~ the election. However, whenever an

1 objection to a candidate's nominating papers or petitions for  
2 any office is sustained under Section 10-10 after the 75th ~~61st~~  
3 day before the election, then write-in votes shall be counted  
4 for that candidate if he or she has filed a notarized  
5 declaration of intent to be a write-in candidate for that  
6 office with the proper election authority, election ~~or~~  
7 authorities, or the State Board of Elections not later than 7  
8 days prior to the election.

9 Forms for the declaration of intent to be a write-in  
10 candidate shall be supplied by the election authorities or the  
11 State Board of Elections. Declarations of intent to be a  
12 write-in candidate shall include: (A) the name and address of  
13 the person intending to become a write-in candidate; (B) the  
14 office sought; (C) the date of election; and (D) the notarized  
15 signature of the candidate or candidates. Declarations of  
16 intent to be a write-in candidate that do not include items (A)  
17 through (D) shall not be accepted. ~~Such declaration shall~~  
18 ~~specify the office for which the person seeks election as a~~  
19 ~~write in candidate.~~

20 Persons intending to become write-in candidates for the  
21 offices of President and Vice President or Governor and  
22 Lieutenant Governor shall file one joint declaration of intent  
23 to be a write-in candidate with the State Board of Elections.  
24 Votes cast for either candidate shall constitute a valid  
25 write-in vote for the slate of candidates.

26 The State Board of Elections shall provide a listing of



1 valid write-in candidates to the proper election authority or  
2 authorities no later than the deadline for ballot  
3 certification. The election authority or authorities shall  
4 deliver a list of all persons who have filed ~~such~~ declarations  
5 of intent to the election judges in the appropriate precincts  
6 prior to the election.

7 A candidate for whom a nomination paper has been filed as a  
8 partisan candidate at a primary election, and who is defeated  
9 for his or her nomination at the primary election is ineligible  
10 to file a declaration of intent to be a write-in candidate for  
11 election in that general or consolidated election.

12 A candidate seeking election to an office for which  
13 candidates of political parties are nominated by caucus who is  
14 a participant in the caucus and who is defeated for his or her  
15 nomination at such caucus is ineligible to file a declaration  
16 of intent to be a write-in candidate for election in that  
17 general or consolidated election.

18 A candidate seeking election to an office for which  
19 candidates are nominated at a primary election on a nonpartisan  
20 basis and who is defeated for his or her nomination at the  
21 primary election is ineligible to file a declaration of intent  
22 to be a write-in candidate for election in that general or  
23 consolidated election.

24 Nothing in this Section shall be construed to apply to  
25 votes cast under the provisions of subsection (b) of Section  
26 16-5.01.

1 (Source: P.A. 95-699, eff. 11-9-07.)

2 (10 ILCS 5/18-9.1) (from Ch. 46, par. 18-9.1)

3 Sec. 18-9.1. Write-in votes shall be counted only for  
4 persons who have filed notarized declarations of intent to be  
5 write-in candidates with the proper election authority,  
6 election or authorities, or the State Board of Elections no  
7 earlier than 120 days before the election but no ~~not~~ later than  
8 75 ~~61~~ days before ~~prior to~~ the election. However, whenever an  
9 objection to a candidate's nominating papers or petitions is  
10 sustained under Section 10-10 after the 75th ~~61st~~ day before  
11 the election, then write-in votes shall be counted for that  
12 candidate if he or she has filed a notarized declaration of  
13 intent to be a write-in candidate for that office with the  
14 proper election authority, election or authorities, or the  
15 State Board of Elections not later than 7 days prior to the  
16 election.

17 Forms for the declaration of intent to be a write-in  
18 candidate shall be supplied by the election authorities or the  
19 State Board of Elections. Declarations of intent to be a  
20 write-in candidate shall include: (A) the name and address of  
21 the person intending to become a write-in candidate; (B) the  
22 office sought; (C) the date of election; and (D) the notarized  
23 signature of the candidate or candidates. Declarations of  
24 intent to be a write-in candidate that do not include items (A)  
25 through (D) shall not be accepted. Such declaration shall

1 ~~specify the office for which the person seeks election as a~~  
2 ~~write-in candidate.~~

3 Persons intending to become write-in candidates for the  
4 offices of President and Vice President or Governor and  
5 Lieutenant Governor shall file one joint declaration of intent  
6 to be a write-in candidate with the State Board of Elections.  
7 Votes cast for either candidate shall constitute a valid  
8 write-in vote for the slate of candidates.

9 Not less than 75 days before the date of the election, the  
10 State Board of Elections shall provide a listing of valid  
11 write-in candidates to the proper election authority or  
12 authorities. The election authority or authorities shall  
13 deliver a list of all persons who have filed ~~such~~ declarations  
14 of intent to the election judges in the appropriate precincts  
15 prior to the election.

16 A candidate for whom a nomination paper has been filed as a  
17 partisan candidate at a primary election, and who is defeated  
18 for his or her nomination at the primary election, is  
19 ineligible to file a declaration of intent to be a write-in  
20 candidate for election in that general or consolidated  
21 election.

22 A candidate seeking election to an office for which  
23 candidates of political parties are nominated by caucus who is  
24 a participant in the caucus and who is defeated for his or her  
25 nomination at such caucus is ineligible to file a declaration  
26 of intent to be a write-in candidate for election in that

1 general or consolidated election.

2 A candidate seeking election to an office for which  
3 candidates are nominated at a primary election on a nonpartisan  
4 basis and who is defeated for his or her nomination at the  
5 primary election is ineligible to file a declaration of intent  
6 to be a write-in candidate for election in that general or  
7 consolidated election.

8 Nothing in this Section shall be construed to apply to  
9 votes cast under the provisions of subsection (b) of Section  
10 16-5.01.

11 (Source: P.A. 95-699, eff. 11-9-07.)

12 Section 10. The Illinois Municipal Code is amended by  
13 changing Sections 3.1-20-45 and 3.1-25-20 as follows:

14 (65 ILCS 5/3.1-20-45)

15 Sec. 3.1-20-45. Nonpartisan primary elections; uncontested  
16 office. A city incorporated under this Code that elects  
17 municipal officers at nonpartisan primary and general  
18 elections shall conduct the elections as provided in the  
19 Election Code, except that no office for which nomination is  
20 uncontested shall be included on the primary ballot and no  
21 primary shall be held for that office. For the purposes of this  
22 Section, an office is uncontested when not more than 4 persons  
23 to be nominated for each office have timely filed valid  
24 nominating papers seeking nomination for the election to that

1 office.

2 Notwithstanding the preceding paragraph, when a person (i)  
3 who has not timely filed valid nomination papers and (ii) who  
4 intends to become a write-in candidate for nomination for any  
5 office for which nomination is uncontested files a declaration  
6 of intent to be a write-in candidates ~~written statement or~~  
7 ~~notice of that intent~~ with the proper election official with  
8 whom the nomination papers for that office are filed, no  
9 primary ballot shall be printed. Where no primary is held,  
10 persons intending to become a write-in candidate at the  
11 consolidated primary election shall re-file a declaration of  
12 intent to be a write-in candidate for the consolidated election  
13 with the appropriate election authority or authorities. ~~if the~~  
14 ~~write-in candidate becomes the fifth candidate filed, a primary~~  
15 ~~ballot must be prepared and a primary must be held for the~~  
16 ~~office.~~ The declaration of intent to be a write-in candidate  
17 ~~statement or notice~~ must be filed on or before the 75th ~~61st~~  
18 day before the consolidated ~~primary~~ election. The statement  
19 must contain (i) the name and address of the person intending  
20 to become a write-in candidate, (ii) a statement that the  
21 person intends to become a write-in candidate, ~~and~~ (iii) the  
22 office the person is seeking as a write-in candidate, (iv) the  
23 date of the election, and (v) the notarized signature of the  
24 candidate. Declarations of intent to be a write-in candidate  
25 that do not include items (i) through (v) shall not be  
26 accepted. ~~An election authority has no duty to conduct a~~

1 ~~primary election or prepare a primary ballot unless a statement~~  
2 ~~meeting the requirements of this paragraph is filed in a timely~~  
3 ~~manner.~~

4 If there is a primary election, then candidates shall be  
5 placed on the ballot for the next succeeding general municipal  
6 election in the following manner:

7 (1) If one officer is to be elected, then the 2  
8 candidates who receive the highest number of votes shall be  
9 placed on the ballot for the next succeeding general  
10 municipal election.

11 (2) If 2 aldermen are to be elected at large, then the  
12 4 candidates who receive the highest number of votes shall  
13 be placed on the ballot for the next succeeding general  
14 municipal election.

15 (3) If 3 aldermen are to be elected at large, then the  
16 6 candidates who receive the highest number of votes shall  
17 be placed on the ballot for the next succeeding general  
18 municipal election.

19 The name of a write-in candidate may not be placed on the  
20 ballot for the next succeeding general municipal election  
21 unless he or she receives a number of votes in the primary  
22 election that equals or exceeds the number of signatures  
23 required on a petition for nomination for that office or that  
24 exceeds the number of votes received by at least one of the  
25 candidates whose names were printed on the primary ballot for  
26 nomination for or election to the same office.

1 (Source: P.A. 97-81, eff. 7-5-11.)

2 (65 ILCS 5/3.1-25-20) (from Ch. 24, par. 3.1-25-20)

3 Sec. 3.1-25-20. Primary election. A village incorporated  
4 under this Code shall nominate and elect candidates for  
5 president and trustees in nonpartisan primary and general  
6 elections as provided in Sections 3.1-25-20 through 3.1-25-55  
7 until the electors of the village vote to require the partisan  
8 election of the president and trustees at a referendum in the  
9 manner provided in Section 3.1-25-65 after January 1, 1992. The  
10 provisions of Sections 3.1-25-20 through 3.1-25-55 shall apply  
11 to all villages incorporated under this Code that have operated  
12 under those Sections without the adoption of those provisions  
13 by the referendum provided in Section 3.1-25-60 as well as  
14 those villages that have adopted those provisions by the  
15 referendum provided in Section 3.1-25-60 until the electors of  
16 those villages vote to require the partisan election of the  
17 president and trustees in the manner provided in Section  
18 3.1-25-65. Villages that have nominated and elected candidates  
19 for president and trustees in partisan elections prior to  
20 January 1, 1992, may continue to hold partisan elections  
21 without conducting a referendum in the manner provided in  
22 Section 3.1-25-65. All candidates for nomination to be voted  
23 for at all general municipal elections at which a president or  
24 trustees, or both, are to be elected under this Article shall  
25 be nominated from the village at large by a primary election.

1           Notwithstanding any other provision of law, no primary  
2 shall be held in any village when the nomination for every  
3 office to be voted upon by the electors of the village is  
4 uncontested. If the nomination of candidates is uncontested as  
5 to one or more, but not all, of the offices to be voted upon by  
6 the electors of the village, then a primary must be held in the  
7 village, provided that the primary ballot shall not include  
8 those offices in the village for which the nomination is  
9 uncontested. For the purposes of this Section, an office is  
10 uncontested when not more than the number of persons to be  
11 nominated to the office have timely filed valid nominating  
12 papers seeking nomination for election to that office.

13           Notwithstanding the preceding paragraph, when a person (i)  
14 who has not timely filed valid nomination papers and (ii) who  
15 intends to become a write-in candidate for nomination for any  
16 office for which nomination is uncontested files a declaration  
17 of intent to be a write-in candidate ~~written statement or~~  
18 ~~notice of that intent~~ with the proper election official with  
19 whom the nomination papers for that office are filed, no  
20 primary ballot shall be printed. Where no primary is held,  
21 persons intending to become a write-in candidate at the  
22 consolidated primary election shall re-file a declaration of  
23 intent to be a write-in candidate for the consolidated election  
24 with the appropriate election authority or authorities. a  
25 ~~primary ballot must be prepared and a primary must be held for~~  
26 ~~the office.~~ The declaration of intent to be a write-in



1 ~~candidate statement or notice~~ must be filed on or before the  
2 75th ~~61st~~ day before the consolidated primary election. The  
3 statement must contain (i) the name and address of the person  
4 intending to become a write-in candidate, (ii) a statement that  
5 the person intends to become a write-in candidate, ~~and~~ (iii)  
6 the office the person is seeking as a write-in candidate, (iv)  
7 the date of the election, and (v) the notarized signature of  
8 the candidate. Declarations of intent to be a write-in  
9 candidate that do not include items (i) through (v) shall not  
10 be accepted. An election authority has no duty to conduct a  
11 primary election or prepare a primary ballot unless a statement  
12 meeting the requirements of this paragraph is filed in a timely  
13 manner.

14 Only the names of those persons nominated in the manner  
15 prescribed in Sections 3.1-25-20 through 3.1-25-65 shall be  
16 placed on the ballot at the general municipal election. The  
17 village clerk shall certify the offices to be filled and the  
18 candidates for those offices to the proper election authority  
19 as provided in the general election law. A primary for those  
20 offices, if required, shall be held in accordance with the  
21 general election law.

22 (Source: P.A. 91-57, eff. 6-30-99.)