



Adopted in House Comm. on May 18, 2005

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1 AMENDMENT TO SENATE BILL 599

2 AMENDMENT NO. _____. Amend Senate Bill 599 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Election Code is amended by changing
5 Sections 28-2 and 28-5 as follows:

6 (10 ILCS 5/28-2) (from Ch. 46, par. 28-2)

7 Sec. 28-2. (a) Except as otherwise provided in this
8 Section, petitions for the submission of public questions to
9 referendum must be filed with the appropriate officer or board
10 not less than 78 days prior to a regular election to be
11 eligible for submission on the ballot at such election; and
12 petitions for the submission of a question under Section 18-120
13 of the Property Tax Code must be filed with the appropriate
14 officer or board not more than 10 months nor less than 6 months
15 prior to the election at which such question is to be submitted
16 to the voters.

17 (b) However, petitions for the submission of a public
18 question to referendum which proposes the creation or formation
19 of a political subdivision must be filed with the appropriate
20 officer or board not less than 108 days prior to a regular
21 election to be eligible for submission on the ballot at such
22 election.

23 (c) Resolutions or ordinances of governing boards of
24 political subdivisions which initiate the submission of public

1 questions pursuant to law must be adopted not less than 65 days
2 before a regularly scheduled election to be eligible for
3 submission on the ballot at such election.

4 (d) A petition, resolution or ordinance initiating the
5 submission of a public question may specify a regular election
6 at which the question is to be submitted, and must so specify
7 if the statute authorizing the public question requires
8 submission at a particular election. However, no petition,
9 resolution or ordinance initiating the submission of a public
10 question, other than a legislative resolution initiating an
11 amendment to the Constitution, may specify such submission at
12 an election more than one year, or 15 months in the case of a
13 back door referendum as defined in subsection (f), after the
14 date on which it is filed or adopted, as the case may be. A
15 petition, resolution or ordinance initiating a public question
16 which specifies a particular election at which the question is
17 to be submitted shall be so limited, and shall not be valid as
18 to any other election, other than an emergency referendum
19 ordered pursuant to Section 2A-1.4.

20 (e) If a petition initiating a public question does not
21 specify a regularly scheduled election, the public question
22 shall be submitted to referendum at the next regular election
23 occurring not less than 78 days after the filing of the
24 petition, or not less than 108 days after the filing of a
25 petition for referendum to create a political subdivision. If a
26 resolution or ordinance initiating a public question does not
27 specify a regularly scheduled election, the public question
28 shall be submitted to referendum at the next regular election
29 occurring not less than 65 days after the adoption of the
30 resolution or ordinance.

31 (f) In the case of back door referenda, any limitations in
32 another statute authorizing such a referendum which restrict
33 the time in which the initiating petition may be validly filed
34 shall apply to such petition, in addition to the filing

1 deadlines specified in this Section for submission at a
 2 particular election. In the case of any back door referendum,
 3 the publication of the ordinance or resolution of the political
 4 subdivision shall include a notice of (1) the specific number
 5 of voters required to sign a petition requesting that a public
 6 question be submitted to the voters of the subdivision; (2) the
 7 time within which the petition must be filed; and (3) the date
 8 of the prospective referendum. The secretary or clerk of the
 9 political subdivision shall provide a petition form to any
 10 individual requesting one. As used herein, a "back door
 11 referendum" is the submission of a public question to the
 12 voters of a political subdivision, initiated by a petition of
 13 voters or residents of such political subdivision, to determine
 14 whether an action by the governing body of such subdivision
 15 shall be adopted or rejected.

16 (g) A petition for the incorporation or formation of a new
 17 political subdivision whose officers are to be elected rather
 18 than appointed must have attached to it an affidavit attesting
 19 that at least 108 days and no more than 138 days prior to such
 20 election notice of intention to file such petition was
 21 published in a newspaper published within the proposed
 22 political subdivision, or if none, in a newspaper of general
 23 circulation within the territory of the proposed political
 24 subdivision in substantially the following form:

25 NOTICE OF PETITION TO FORM A NEW.....

26 Residents of the territory described below are notified
 27 that a petition will or has been filed in the Office
 28 of.....requesting a referendum to establish a
 29 new....., to be called the.....

30 *The officers of the new.....will be elected on the
 31 same day as the referendum. Candidates for the governing board
 32 of the new.....may file nominating petitions with the officer
 33 named above until.....

34 The territory proposed to comprise the new.....is

1 described as follows:

2 (description of territory included in petition)

3 (signature).....

4 Name and address of person or persons proposing
5 the new political subdivision.

6 * Where applicable.

7 Failure to file such affidavit, or failure to publish the
8 required notice with the correct information contained therein
9 shall render the petition, and any referendum held pursuant to
10 such petition, null and void.

11 Notwithstanding the foregoing provisions of this
12 subsection (g) or any other provisions of this Code, the
13 publication of notice and affidavit requirements of this
14 subsection (g) shall not apply to any petition filed under
15 Article 7, 7A, 11A, 11B, or 11D of the School Code nor to any
16 referendum held pursuant to any such petition, and neither any
17 petition filed under any of those Articles nor any referendum
18 held pursuant to any such petition shall be rendered null and
19 void because of the failure to file an affidavit or publish a
20 notice with respect to the petition or referendum as required
21 under this subsection (g) for petitions that are not filed
22 under any of those Articles of the School Code.

23 (Source: P.A. 90-459, eff. 8-17-97.)

24 (10 ILCS 5/28-5) (from Ch. 46, par. 28-5)

25 Sec. 28-5. Not less than 61 days before a regularly
26 scheduled election, each local election official shall certify
27 the public questions to be submitted to the voters of or within
28 his political subdivision at that election which have been
29 initiated by petitions filed in his office or by action of the
30 governing board of his political subdivision.

31 Not less than 61 days before a regularly scheduled
32 election, each circuit court clerk shall certify the public
33 questions to be submitted to the voters of a political

1 subdivision at that election which have been ordered to be so
2 submitted by the circuit court pursuant to law. Not less than
3 30 days before the date set by the circuit court for the
4 conduct of an emergency referendum pursuant to Section 2A-1.4,
5 the circuit court clerk shall certify the public question as
6 herein required.

7 Local election officials and circuit court clerks shall
8 make their certifications, as required by this Section, to each
9 election authority having jurisdiction over any of the
10 territory of the respective political subdivision in which the
11 public question is to be submitted to referendum.

12 Not less than 61 days before the next regular election, the
13 county clerk shall certify the public questions to be submitted
14 to the voters of the entire county at that election, which have
15 been initiated by petitions filed in his office or by action of
16 the county board, to the board of election commissioners, if
17 any, in his county.

18 Not less than 67 days before the general election, the
19 State Board of Elections shall certify any questions proposing
20 an amendment to Article IV of the Constitution pursuant to
21 Section 3, Article XIV of the Constitution and any advisory
22 public questions to be submitted to the voters of the entire
23 State, which have been initiated by petitions received or filed
24 at its office, to the respective county clerks. Not less than
25 61 days before the general election, the county clerk shall
26 certify such questions to the board of election commissioners,
27 if any, in his county.

28 The certifications shall include the form of the public
29 question to be placed on the ballot, the date on which the
30 public question was initiated by either the filing of a
31 petition or the adoption of a resolution or ordinance by a
32 governing body, as the case may be, and a certified copy of any
33 court order or political subdivision resolution or ordinance
34 requiring the submission of the public question.

1 Certifications of propositions for annexation to,
2 disconnection from, or formation of political subdivisions or
3 for other purposes shall include a description of the territory
4 in which the proposition is required to be submitted, whenever
5 such territory is not coterminous with an existing political
6 subdivision.

7 The certification of a public question described in
8 subsection (b) of Section 28-6 shall include the precincts
9 included in the territory concerning which the public question
10 is to be submitted, as well as a common description of such
11 territory, in plain and nonlegal language, and specify the
12 election at which the question is to be submitted. The
13 description of the territory shall be prepared by the local
14 election official as set forth in the resolution or ordinance
15 initiating the public question.

16 Whenever a local election official, an election authority,
17 or the State Board of Elections is in receipt of an initiating
18 petition, or a certification for the submission of a public
19 question at an election at which the public question may not be
20 placed on the ballot or submitted because of the limitations of
21 Section 28-1, such officer or board shall give notice of such
22 prohibition, by registered mail, as follows:

23 (a) in the case of a petition, to any person designated on
24 a certificate attached thereto as the proponent or as the
25 proponents' attorney for purposes of notice of objections;

26 (b) in the case of a certificate from a local election
27 authority, to such local election authority, who shall
28 thereupon give notice as provided in subparagraph (a), or
29 notify the governing board which adopted the initiating
30 resolution or ordinance;

31 (c) in the case of a certification from a circuit court
32 clerk of a court order, to such court, which shall thereupon
33 give notice as provided in subparagraph (a) and shall modify
34 its order in accordance with the provisions of this Act.

1 If the petition, resolution or ordinance initiating such
2 prohibited public question did not specify a particular
3 election for its submission, the officer or board responsible
4 for certifying the question to the election authorities shall
5 certify or recertify the question, in the manner required
6 herein, for submission on the ballot at the next regular
7 election no more than one year, or 15 months in the case of a
8 back door referendum as defined in subsection (f) of Section
9 28-2, subsequent to the filing of the initiating petition or
10 the adoption of the initiating resolution or ordinance and at
11 which the public question may be submitted, and the appropriate
12 election authorities shall submit the question at such
13 election, unless the public question is ordered submitted as an
14 emergency referendum pursuant to Section 2A-1.4 or is withdrawn
15 as may be provided by law.

16 (Source: P.A. 86-875.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."