



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB2364

Introduced 2/19/2009, by Rep. Mike Boland - Paul D. Froehlich

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/28-1	from Ch. 46, par. 28-1
10 ILCS 5/28-2	from Ch. 46, par. 28-2
10 ILCS 5/Art. 28A heading new	
10 ILCS 5/28A-1 new	

Amends the Election Code. Authorizes binding initiatives relating to ethical standards to be placed on the ballot by electors of units of local government.

LRB096 03155 JAM 13172 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning initiative 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 28-1 and 28-2 and adding Article 28A as follows:

6 (10 ILCS 5/28-1) (from Ch. 46, par. 28-1)

7 Sec. 28-1. The initiation and submission of all public  
8 questions to be voted upon by the electors of the State or of  
9 any political subdivision or district or precinct or  
10 combination of precincts shall be subject to the provisions of  
11 this Article.

12 Questions of public policy which have any legal effect  
13 shall be submitted to referendum only as authorized by a  
14 statute which so provides or by the Constitution. Advisory  
15 questions of public policy shall be submitted to referendum  
16 pursuant to Section 28-5 or pursuant to a statute which so  
17 provides.

18 The method of initiating the submission of a public  
19 question shall be as provided by the statute authorizing such  
20 public question, or as provided by the Constitution.

21 All public questions shall be initiated, submitted and  
22 printed on the ballot in the form required by Section 16-7 of  
23 this Act, except as may otherwise be specified in the statute

1 authorizing a public question.

2 Whenever a statute provides for the initiation of a public  
3 question by a petition of electors, the provisions of such  
4 statute shall govern with respect to the number of signatures  
5 required, the qualifications of persons entitled to sign the  
6 petition, the contents of the petition, the officer with whom  
7 the petition must be filed, and the form of the question to be  
8 submitted. If such statute does not specify any of the  
9 foregoing petition requirements, the corresponding petition  
10 requirements of Section 28-6 shall govern such petition.

11 Irrespective of the method of initiation, not more than 3  
12 public questions other than (a) back door referenda, (b)  
13 referenda to determine whether a disconnection may take place  
14 where a city coterminous with a township is proposing to annex  
15 territory from an adjacent township, (c) referenda held under  
16 the provisions of the Property Tax Extension Limitation Law in  
17 the Property Tax Code, ~~or~~ (d) referenda held under Section  
18 2-3002 of the Counties Code, or (e) referenda pursuant to  
19 Article 28A of this Code may be submitted to referendum with  
20 respect to a political subdivision at the same election.

21 If more than 3 propositions are timely initiated or  
22 certified for submission at an election with respect to a  
23 political subdivision, the first 3 validly initiated, by the  
24 filing of a petition or by the adoption of a resolution or  
25 ordinance of a political subdivision, as the case may be, shall  
26 be printed on the ballot and submitted at that election.

1 However, except as expressly authorized by law not more than  
2 one proposition to change the form of government of a  
3 municipality pursuant to Article VII of the Constitution may be  
4 submitted at an election. If more than one such proposition is  
5 timely initiated or certified for submission at an election  
6 with respect to a municipality, the first validly initiated  
7 shall be the one printed on the ballot and submitted at that  
8 election.

9 No public question shall be submitted to the voters of a  
10 political subdivision at any regularly scheduled election at  
11 which such voters are not scheduled to cast votes for any  
12 candidates for nomination for, election to or retention in  
13 public office, except that if, in any existing or proposed  
14 political subdivision in which the submission of a public  
15 question at a regularly scheduled election is desired, the  
16 voters of only a portion of such existing or proposed political  
17 subdivision are not scheduled to cast votes for nomination for,  
18 election to or retention in public office at such election, but  
19 the voters in one or more other portions of such existing or  
20 proposed political subdivision are scheduled to cast votes for  
21 nomination for, election to or retention in public office at  
22 such election, the public question shall be voted upon by all  
23 the qualified voters of the entire existing or proposed  
24 political subdivision at the election.

25 Not more than 3 advisory public questions may be submitted  
26 to the voters of the entire state at a general election. If

1 more than 3 such advisory propositions are initiated, the first  
2 3 timely and validly initiated shall be the questions printed  
3 on the ballot and submitted at that election; provided however,  
4 that a question for a proposed amendment to Article IV of the  
5 Constitution pursuant to Section 3, Article XIV of the  
6 Constitution, or for a question submitted under the Property  
7 Tax Cap Referendum Law, shall not be included in the foregoing  
8 limitation.

9 (Source: P.A. 93-308, eff. 7-23-03.)

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

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

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

1 election.

2 (c) Resolutions or ordinances of governing boards of  
3 political subdivisions which initiate the submission of public  
4 questions pursuant to law must be adopted not less than 65 days  
5 before a regularly scheduled election to be eligible for  
6 submission on the ballot at such election.

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

23 (e) If a petition initiating a public question does not  
24 specify a regularly scheduled election, the public question  
25 shall be submitted to referendum at the next regular election  
26 occurring not less than 78 days after the filing of the

1 petition, or not less than 108 days after the filing of a  
2 petition for referendum to create a political subdivision. If a  
3 resolution or ordinance initiating a public question does not  
4 specify a regularly scheduled election, the public question  
5 shall be submitted to referendum at the next regular election  
6 occurring not less than 65 days after the adoption of the  
7 resolution or ordinance.

8 (f) In the case of back door referenda, any limitations in  
9 another statute authorizing such a referendum which restrict  
10 the time in which the initiating petition may be validly filed  
11 shall apply to such petition, in addition to the filing  
12 deadlines specified in this Section for submission at a  
13 particular election. In the case of any back door referendum,  
14 the publication of the ordinance or resolution of the political  
15 subdivision shall include a notice of (1) the specific number  
16 of voters required to sign a petition requesting that a public  
17 question be submitted to the voters of the subdivision; (2) the  
18 time within which the petition must be filed; and (3) the date  
19 of the prospective referendum. The secretary or clerk of the  
20 political subdivision shall provide a petition form to any  
21 individual requesting one. The legal sufficiency of that form,  
22 if provided by the secretary or clerk of the political  
23 subdivision, cannot be the basis of a challenge to placing the  
24 back door referendum on the ballot. As used herein, a "back  
25 door referendum" is the submission of a public question to the  
26 voters of a political subdivision, initiated by a petition of

1 voters or residents of such political subdivision, to determine  
2 whether an action by the governing body of such subdivision  
3 shall be adopted or rejected.

4 (g) A petition for the incorporation or formation of a new  
5 political subdivision whose officers are to be elected rather  
6 than appointed must have attached to it an affidavit attesting  
7 that at least 108 days and no more than 138 days prior to such  
8 election notice of intention to file such petition was  
9 published in a newspaper published within the proposed  
10 political subdivision, or if none, in a newspaper of general  
11 circulation within the territory of the proposed political  
12 subdivision in substantially the following form:

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

14 Residents of the territory described below are notified  
15 that a petition will or has been filed in the Office  
16 of.....requesting a referendum to establish a  
17 new....., to be called the.....

18 \*The officers of the new.....will be elected on the  
19 same day as the referendum. Candidates for the governing board  
20 of the new.....may file nominating petitions with the officer  
21 named above until.....

22 The territory proposed to comprise the new.....is  
23 described as follows:

24 (description of territory included in petition)

25 (signature).....

26 Name and address of person or persons proposing



1           the new political subdivision.

2           \* Where applicable.

3           Failure to file such affidavit, or failure to publish the  
4           required notice with the correct information contained therein  
5           shall render the petition, and any referendum held pursuant to  
6           such petition, null and void.

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

19          (Source: P.A. 94-30, eff. 6-14-05; 94-578, eff. 8-12-05;  
20          94-1019, eff. 7-10-06.)

21           (10 ILCS 5/Art. 28A heading new)

22                           ARTICLE 28A. ETHICS INITIATIVES

23           (10 ILCS 5/28A-1 new)

24           Sec. 28A-1. Local government binding initiative petition

1 and referendum.

2 (a) The electors of any unit of local government may pass,  
3 by initiative petition and referendum in the manner prescribed  
4 by this Article, a binding ordinance relating to ethical  
5 standards that the corporate authorities of their unit of local  
6 government are empowered to pass.

7 (b) A binding ordinance relating to ethical standards may  
8 be proposed by a petition signed by the number of electors  
9 equal to at least 8% of the total votes cast for Governor at  
10 the last general election in the unit of local government. The  
11 petition shall contain the text of the proposed ordinance and  
12 the date of the regular or unit of local government election at  
13 which the proposed ordinance is to be submitted, shall have  
14 been signed by petitioning electors not more than 12 months  
15 preceding the regular or unit of local government election, and  
16 shall be filed with the clerk of the unit of local government  
17 at least 108 days before that regular or unit of local  
18 government election.

19 (c) If the corporate authorities of the unit of local  
20 government, without amendment, pass the binding ordinance  
21 proposed by such a petition filed with the unit of local  
22 government's clerk not less than 78 days prior to the regular  
23 or unit of local government election at which the petition  
24 specifies the proposed binding ordinance is to be submitted,  
25 then the proposed binding ordinance shall not be submitted to  
26 the electors of the unit of local government.

1       (d) Except as otherwise provided in this Article, petitions  
2       filed under this Article shall be governed by Article 28 of the  
3       Election Code.

4       (e) If no objection to a petition filed under subsection  
5       (b) is filed within 5 business days after that petition is  
6       filed or if an objection is filed and the appropriate electoral  
7       official or board rules the petition sufficient, then the clerk  
8       of the unit of local government shall submit the petition to  
9       the election official or board for the unit of local  
10       government, and the election official or board shall order the  
11       proposed ordinance submitted to the electors of the unit of  
12       local government at the election specified in the petition.

13       (f) If, after the election official or board of the unit of  
14       local government orders the proposed ordinance to be submitted  
15       to the electors of the unit of local government, it determines  
16       that the proposed ordinance is too long to be printed in its  
17       entirety on the ballot, it shall ask the clerk of the unit of  
18       local government to provide a concise statement of its nature.  
19       The election official or board shall then cause either the  
20       entire proposed ordinance or the concise statement to be  
21       printed on the ballot together with a question permitting the  
22       elector to indicate approval or disapproval of adoption of the  
23       proposed ordinance.

24       (g) If a majority of those voting on the proposed ordinance  
25       indicate approval of its adoption, it shall be passed and have  
26       the same effect as if it had been passed by the corporate

1 authorities of the unit of local government, except as provided  
2 in subsection (h).

3 (h) Ordinances adopted under this Article, either by  
4 approval of electors at an election or by passage by the  
5 corporate authorities under subsection (c), shall not be  
6 repealed or amended within 4 years after adoption except by  
7 vote of the electors.

8 (i) The corporate authorities of a unit of local government  
9 may submit to its electorate a proposition to repeal or amend  
10 an ordinance adopted under this Article at any election in  
11 conformance with Article 28 of this Code.