



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4029

Introduced 2/26/2009, by Rep. 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 to be placed on the ballot by electors of units of local government.

LRB096 03034 JAM 13049 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 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 the Election Code may be submitted to referendum
20 with 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. BINDING 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 that the corporate
5 authorities of their unit of local government are empowered to
6 pass.

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