



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5039

Introduced 1/25/2010, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

10 ILCS 5/7-11	from Ch. 46, par. 7-11
10 ILCS 5/7-12	from Ch. 46, par. 7-12
10 ILCS 5/7-13	from Ch. 46, par. 7-13
10 ILCS 5/8-9	from Ch. 46, par. 8-9
10 ILCS 5/10-6	from Ch. 46, par. 10-6
10 ILCS 5/10-10.1	from Ch. 46, par. 10-10.1
10 ILCS 5/28-2	from Ch. 46, par. 28-2

Amends the Election Code. Requires that nomination petitions be filed not more than 106 days and not less than 102 days before a primary election or consolidated election (now, not more than 99 days and not less than 92 days before a general primary election and not more than 78 days and not less than 71 days before a consolidated primary election or consolidated election). Requires that certain public question petitions be filed not less than 106 (now, 78) days before a regular election in 2011 or thereafter. Permits the seeking of judicial review of a petition objection decision, with respect to elections in 2011 and thereafter, within 5 (now, 10) days after the decision. Effective immediately.

LRB096 19628 JAM 35024 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 7-11, 7-12, 7-13, 8-9, 10-6, 10-10.1, and 28-2 as
6 follows:

7 (10 ILCS 5/7-11) (from Ch. 46, par. 7-11)

8 Sec. 7-11. Any candidate for President of the United States
9 may have his name printed upon the primary ballot of his
10 political party by filing in the office of the State Board of
11 Elections not more than 106 ~~99~~ and not less than 102 ~~92~~ days
12 prior to the date of the general primary, in any year in which
13 a Presidential election is to be held, a petition signed by not
14 less than 3000 or more than 5000 primary electors, members of
15 and affiliated with the party of which he is a candidate, and
16 no candidate for President of the United States, who fails to
17 comply with the provisions of this Article shall have his name
18 printed upon any primary ballot: Provided, however, that if the
19 rules or policies of a national political party conflict with
20 such requirements for filing petitions for President of the
21 United States in a presidential preference primary, the
22 Chairman of the State central committee of such national
23 political party shall notify the State Board of Elections in

1 writing, citing by reference the rules or policies of the
2 national political party in conflict, and in such case the
3 Board shall direct such petitions to be filed not more than 69
4 and not less than 62 days prior to the date of the general
5 primary, in any year in which a Presidential election is to be
6 held. Provided, further, unless rules or policies of a national
7 political party otherwise provide, the vote for President of
8 the United States, as herein provided for, shall be for the
9 sole purpose of securing an expression of the sentiment and
10 will of the party voters with respect to candidates for
11 nomination for said office, and the vote of the state at large
12 shall be taken and considered as advisory to the delegates and
13 alternates at large to the national conventions of respective
14 political parties; and the vote of the respective congressional
15 districts shall be taken and considered as advisory to the
16 delegates and alternates of said congressional districts to the
17 national conventions of the respective political parties.

18 (Source: P.A. 86-873; 86-1089.)

19 (10 ILCS 5/7-12) (from Ch. 46, par. 7-12)

20 Sec. 7-12. All petitions for nomination shall be filed by
21 mail or in person as follows:

22 (1) Where the nomination is to be made for a State,
23 congressional, or judicial office, or for any office a
24 nomination for which is made for a territorial division or
25 district which comprises more than one county or is partly in

1 one county and partly in another county or counties, then,
2 except as otherwise provided in this Section, such petition for
3 nomination shall be filed in the principal office of the State
4 Board of Elections not more than 106 ~~99~~ and not less than 102
5 ~~92~~ days prior to the date of the primary, but, in the case of
6 petitions for nomination to fill a vacancy by special election
7 in the office of representative in Congress from this State,
8 such petition for nomination shall be filed in the principal
9 office of the State Board of Elections not more than 57 days
10 and not less than 50 days prior to the date of the primary.

11 Where a vacancy occurs in the office of Supreme, Appellate
12 or Circuit Court Judge within the 3-week period preceding the
13 102nd ~~92nd~~ day before a general primary election, petitions for
14 nomination for the office in which the vacancy has occurred
15 shall be filed in the principal office of the State Board of
16 Elections not more than 85 ~~78~~ nor less than 81 ~~71~~ days prior to
17 the date of the general primary election.

18 Where the nomination is to be made for delegates or
19 alternate delegates to a national nominating convention, then
20 such petition for nomination shall be filed in the principal
21 office of the State Board of Elections not more than 106 ~~99~~ and
22 not less than 102 ~~92~~ days prior to the date of the primary;
23 provided, however, that if the rules or policies of a national
24 political party conflict with such requirements for filing
25 petitions for nomination for delegates or alternate delegates
26 to a national nominating convention, the chairman of the State

1 central committee of such national political party shall notify
2 the Board in writing, citing by reference the rules or policies
3 of the national political party in conflict, and in such case
4 the Board shall direct such petitions to be filed not more than
5 69 and not less than 62 days prior to the date of the primary.

6 (2) Where the nomination is to be made for a county office
7 or trustee of a sanitary district then such petition shall be
8 filed in the office of the county clerk not more than 106 ~~99~~
9 nor less than 102 ~~92~~ days prior to the date of the primary.

10 (3) Where the nomination is to be made for a municipal or
11 township office, such petitions for nomination shall be filed
12 in the office of the local election official, not more than 106
13 ~~78~~ nor less than 102 ~~71~~ days prior to the date of the primary;
14 provided, where a municipality's or township's boundaries are
15 coextensive with or are entirely within the jurisdiction of a
16 municipal board of election commissioners, the petitions shall
17 be filed in the office of such board; and provided, that
18 petitions for the office of multi-township assessor shall be
19 filed with the election authority.

20 (4) The petitions of candidates for State central
21 committeeman shall be filed in the principal office of the
22 State Board of Elections not more than 106 ~~99~~ nor less than 102
23 ~~92~~ days prior to the date of the primary.

24 (5) Petitions of candidates for precinct, township or ward
25 committeemen shall be filed in the office of the county clerk
26 not more than 106 ~~99~~ nor less than 102 ~~92~~ days prior to the date

1 of the primary.

2 (6) The State Board of Elections and the various election
3 authorities and local election officials with whom such
4 petitions for nominations are filed shall specify the place
5 where filings shall be made and upon receipt shall endorse
6 thereon the day and hour on which each petition was filed. All
7 petitions filed by persons waiting in line as of 8:00 a.m. on
8 the first day for filing, or as of the normal opening hour of
9 the office involved on such day, shall be deemed filed as of
10 8:00 a.m. or the normal opening hour, as the case may be.
11 Petitions filed by mail and received after midnight of the
12 first day for filing and in the first mail delivery or pickup
13 of that day shall be deemed as filed as of 8:00 a.m. of that day
14 or as of the normal opening hour of such day, as the case may
15 be. All petitions received thereafter shall be deemed as filed
16 in the order of actual receipt. Where 2 or more petitions are
17 received simultaneously, the State Board of Elections or the
18 various election authorities or local election officials with
19 whom such petitions are filed shall break ties and determine
20 the order of filing, by means of a lottery or other fair and
21 impartial method of random selection approved by the State
22 Board of Elections. Such lottery shall be conducted within 9
23 days following the last day for petition filing and shall be
24 open to the public. Seven days written notice of the time and
25 place of conducting such random selection shall be given by the
26 State Board of Elections to the chairman of the State central

1 committee of each established political party, and by each
2 election authority or local election official, to the County
3 Chairman of each established political party, and to each
4 organization of citizens within the election jurisdiction
5 which was entitled, under this Article, at the next preceding
6 election, to have pollwatchers present on the day of election.
7 The State Board of Elections, election authority or local
8 election official shall post in a conspicuous, open and public
9 place, at the entrance of the office, notice of the time and
10 place of such lottery. The State Board of Elections shall adopt
11 rules and regulations governing the procedures for the conduct
12 of such lottery. All candidates shall be certified in the order
13 in which their petitions have been filed. Where candidates have
14 filed simultaneously, they shall be certified in the order
15 determined by lot and prior to candidates who filed for the
16 same office at a later time.

17 (7) The State Board of Elections or the appropriate
18 election authority or local election official with whom such a
19 petition for nomination is filed shall notify the person for
20 whom a petition for nomination has been filed of the obligation
21 to file statements of organization, reports of campaign
22 contributions, and annual reports of campaign contributions
23 and expenditures under Article 9 of this Act. Such notice shall
24 be given in the manner prescribed by paragraph (7) of Section
25 9-16 of this Code.

26 (8) Nomination papers filed under this Section are not

1 valid if the candidate named therein fails to file a statement
2 of economic interests as required by the Illinois Governmental
3 Ethics Act in relation to his candidacy with the appropriate
4 officer by the end of the period for the filing of nomination
5 papers unless he has filed a statement of economic interests in
6 relation to the same governmental unit with that officer within
7 a year preceding the date on which such nomination papers were
8 filed. If the nomination papers of any candidate and the
9 statement of economic interest of that candidate are not
10 required to be filed with the same officer, the candidate must
11 file with the officer with whom the nomination papers are filed
12 a receipt from the officer with whom the statement of economic
13 interests is filed showing the date on which such statement was
14 filed. Such receipt shall be so filed not later than the last
15 day on which nomination papers may be filed.

16 (9) Any person for whom a petition for nomination, or for
17 committeeman or for delegate or alternate delegate to a
18 national nominating convention has been filed may cause his
19 name to be withdrawn by request in writing, signed by him and
20 duly acknowledged before an officer qualified to take
21 acknowledgments of deeds, and filed in the principal or
22 permanent branch office of the State Board of Elections or with
23 the appropriate election authority or local election official,
24 not later than the date of certification of candidates for the
25 consolidated primary or general primary ballot. No names so
26 withdrawn shall be certified or printed on the primary ballot.

1 If petitions for nomination have been filed for the same person
2 with respect to more than one political party, his name shall
3 not be certified nor printed on the primary ballot of any
4 party. If petitions for nomination have been filed for the same
5 person for 2 or more offices which are incompatible so that the
6 same person could not serve in more than one of such offices if
7 elected, that person must withdraw as a candidate for all but
8 one of such offices within the 5 business days following the
9 last day for petition filing. If he fails to withdraw as a
10 candidate for all but one of such offices within such time his
11 name shall not be certified, nor printed on the primary ballot,
12 for any office. For the purpose of the foregoing provisions, an
13 office in a political party is not incompatible with any other
14 office.

15 (10) (a) Notwithstanding the provisions of any other
16 statute, no primary shall be held for an established
17 political party in any township, municipality, or ward
18 thereof, where the nomination of such party for every
19 office to be voted upon by the electors of such township,
20 municipality, or ward thereof, is uncontested. Whenever a
21 political party's nomination of candidates is uncontested
22 as to one or more, but not all, of the offices to be voted
23 upon by the electors of a township, municipality, or ward
24 thereof, then a primary shall be held for that party in
25 such township, municipality, or ward thereof; provided
26 that the primary ballot shall not include those offices

1 within such township, municipality, or ward thereof, for
2 which the nomination is uncontested. For purposes of this
3 Article, the nomination of an established political party
4 of a candidate for election to an office shall be deemed to
5 be uncontested where not more than the number of persons to
6 be nominated have timely filed valid nomination papers
7 seeking the nomination of such party for election to such
8 office.

9 (b) Notwithstanding the provisions of any other
10 statute, no primary election shall be held for an
11 established political party for any special primary
12 election called for the purpose of filling a vacancy in the
13 office of representative in the United States Congress
14 where the nomination of such political party for said
15 office is uncontested. For the purposes of this Article,
16 the nomination of an established political party of a
17 candidate for election to said office shall be deemed to be
18 uncontested where not more than the number of persons to be
19 nominated have timely filed valid nomination papers
20 seeking the nomination of such established party for
21 election to said office. This subsection (b) shall not
22 apply if such primary election is conducted on a regularly
23 scheduled election day.

24 (c) Notwithstanding the provisions in subparagraph (a)
25 and (b) of this paragraph (10), whenever a person who has
26 not timely filed valid nomination papers and who intends to

1 become a write-in candidate for a political party's
2 nomination for any office for which the nomination is
3 uncontested files a written statement or notice of that
4 intent with the State Board of Elections or the local
5 election official with whom nomination papers for such
6 office are filed, a primary ballot shall be prepared and a
7 primary shall be held for that office. Such statement or
8 notice shall be filed on or before the date established in
9 this Article for certifying candidates for the primary
10 ballot. Such statement or notice shall contain (i) the name
11 and address of the person intending to become a write-in
12 candidate, (ii) a statement that the person is a qualified
13 primary elector of the political party from whom the
14 nomination is sought, (iii) a statement that the person
15 intends to become a write-in candidate for the party's
16 nomination, and (iv) the office the person is seeking as a
17 write-in candidate. An election authority shall have no
18 duty to conduct a primary and prepare a primary ballot for
19 any office for which the nomination is uncontested unless a
20 statement or notice meeting the requirements of this
21 Section is filed in a timely manner.

22 (11) If multiple sets of nomination papers are filed for a
23 candidate to the same office, the State Board of Elections,
24 appropriate election authority or local election official
25 where the petitions are filed shall within 2 business days
26 notify the candidate of his or her multiple petition filings

1 and that the candidate has 3 business days after receipt of the
2 notice to notify the State Board of Elections, appropriate
3 election authority or local election official that he or she
4 may cancel prior sets of petitions. If the candidate notifies
5 the State Board of Elections, appropriate election authority or
6 local election official, the last set of petitions filed shall
7 be the only petitions to be considered valid by the State Board
8 of Elections, election authority or local election official. If
9 the candidate fails to notify the State Board of Elections,
10 election authority or local election official then only the
11 first set of petitions filed shall be valid and all subsequent
12 petitions shall be void.

13 (12) All nominating petitions shall be available for public
14 inspection and shall be preserved for a period of not less than
15 6 months.

16 (Source: P.A. 86-867; 86-873; 86-875; 86-1028; 86-1089;
17 87-1052.)

18 (10 ILCS 5/7-13) (from Ch. 46, par. 7-13)

19 Sec. 7-13. The board of election commissioners in cities of
20 500,000 or more population having such board, shall constitute
21 an electoral board for the hearing and passing upon objections
22 to nomination petitions for ward committeemen.

23 Such objections shall be filed in the office of the county
24 clerk not less than 91 ~~81~~ days prior to the primary. The
25 objection shall state the name and address of the objector, who

1 may be any qualified elector in the ward, the specific grounds
2 of objection and the relief requested of the electoral board.
3 Upon the receipt of the objection, the county clerk shall
4 forthwith transmit such objection and the petition of the
5 candidate to the board of election commissioners. The board of
6 election commissioners shall forthwith notify the objector and
7 candidate objected to of the time and place for hearing hereon.
8 After a hearing upon the validity of such objections, the board
9 shall, not less than 84 ~~74~~ days prior to the date of the
10 primary, certify to the county clerk, its decision stating
11 whether or not the name of the candidate shall be printed on
12 the ballot and the county clerk in his or her certificate to
13 the board of election commissioners shall leave off of the
14 certificate the name of the candidate for ward committeeman
15 that the election commissioners order not to be printed on the
16 ballot. However, the decision of the board of election
17 commissioners is subject to judicial review as provided in
18 Section 10-10.1.

19 The county electoral board composed as provided in Section
20 10-9 shall constitute an electoral board for the hearing and
21 passing upon objections to nomination petitions for precinct
22 and township committeemen. Such objections shall be filed in
23 the office of the county clerk not less than 91 ~~81~~ days prior
24 to the primary. The objection shall state the name and address
25 of the objector who may be any qualified elector in the
26 precinct or in the township or part of a township that lies

1 outside of a city having a population of 500,000 or more, the
2 specific grounds of objection and the relief requested of the
3 electoral board. Upon the receipt of the objection the county
4 clerk shall forthwith transmit such objection and the petition
5 of the candidate to the chairman of the county electoral board.
6 The chairman of the county electoral board shall forthwith
7 notify the objector, the candidate whose petition is objected
8 to and the other members of the electoral board of the time and
9 place for hearing thereon. After hearing upon the validity of
10 such objections the board shall, not less than 84 ~~74~~ days prior
11 to the date of the primary, certify its decision to the county
12 clerk stating whether or not the name of the candidate shall be
13 printed on the ballot, and the county clerk, in his or her
14 certificate to the board of election commissioners, shall leave
15 off of the certificate the name of the candidate ordered by the
16 board not to be printed on the ballot, and the county clerk
17 shall also refrain from printing on the official primary
18 ballot, the name of any candidate whose name has been ordered
19 by the electoral board not to be printed on the ballot.
20 However, the decision of the board is subject to judicial
21 review as provided in Section 10-10.1.

22 In such proceedings the electoral boards have the same
23 powers as other electoral boards under the provisions of
24 Section 10-10 of this Act and their decisions are subject to
25 judicial review under Section 10-10.1.

26 (Source: P.A. 84-1308.)

1 (10 ILCS 5/8-9) (from Ch. 46, par. 8-9)

2 Sec. 8-9. All petitions for nomination shall be filed by
3 mail or in person as follows:

4 (1) Where the nomination is made for a legislative office,
5 such petition for nomination shall be filed in the principal
6 office of the State Board of Elections not more than 106 ~~99~~ and
7 not less than 102 ~~92~~ days prior to the date of the primary.

8 (2) The State Board of Elections shall, upon receipt of
9 each petition, endorse thereon the day and hour on which it was
10 filed. Petitions filed by mail and received after midnight on
11 the first day for filing and in the first mail delivery or
12 pickup of that day, shall be deemed as filed as of 8:00 a.m. of
13 that day or as of the normal opening hour of such day as the
14 case may be, and all petitions received thereafter shall be
15 deemed as filed in the order of actual receipt. Where 2 or more
16 petitions are received simultaneously, the State Board of
17 Elections shall break ties and determine the order of filing,
18 by means of a lottery as provided in Section 7-12 of this Code.

19 (3) Any person for whom a petition for nomination has been
20 filed, may cause his name to be withdrawn by a request in
21 writing, signed by him, duly acknowledged before an officer
22 qualified to take acknowledgments of deeds, and filed in the
23 principal or permanent branch office of the State Board of
24 Elections not later than the date of certification of
25 candidates for the general primary ballot, and no names so

1 withdrawn shall be certified by the State Board of Elections to
2 the county clerk, or printed on the primary ballot. If
3 petitions for nomination have been filed for the same person
4 with respect to more than one political party, his name shall
5 not be certified nor printed on the primary ballot of any
6 party. If petitions for nomination have been filed for the same
7 person for 2 or more offices which are incompatible so that the
8 same person could not serve in more than one of such offices if
9 elected, that person must withdraw as a candidate for all but
10 one of such offices within the 5 business days following the
11 last day for petition filing. If he fails to withdraw as a
12 candidate for all but one of such offices within such time, his
13 name shall not be certified, nor printed on the primary ballot,
14 for any office. For the purpose of the foregoing provisions, an
15 office in a political party is not incompatible with any other
16 office.

17 (4) If multiple sets of nomination papers are filed for a
18 candidate to the same office, the State Board of Elections
19 shall within 2 business days notify the candidate of his or her
20 multiple petition filings and that the candidate has 3 business
21 days after receipt of the notice to notify the State Board of
22 Elections that he or she may cancel prior sets of petitions. If
23 the candidate notifies the State Board of Elections the last
24 set of petitions filed shall be the only petitions to be
25 considered valid by the State Board of Elections. If the
26 candidate fails to notify the State Board then only the first

1 set of petitions filed shall be valid and all subsequent
2 petitions shall be void.

3 (Source: P.A. 86-875; 87-1052.)

4 (10 ILCS 5/10-6) (from Ch. 46, par. 10-6)

5 Sec. 10-6. Time and manner of filing. Certificates of
6 nomination and nomination papers for the nomination of
7 candidates for offices to be filled by electors of the entire
8 State, or any district not entirely within a county, or for
9 congressional, state legislative or judicial offices, shall be
10 presented to the principal office of the State Board of
11 Elections not more than 141 nor less than 134 days previous to
12 the day of election for which the candidates are nominated. The
13 State Board of Elections shall endorse the certificates of
14 nomination or nomination papers, as the case may be, and the
15 date and hour of presentment to it. Except as otherwise
16 provided in this section, all other certificates for the
17 nomination of candidates shall be filed with the county clerk
18 of the respective counties not more than 141 but at least 134
19 days previous to the day of such election. Certificates of
20 nomination and nomination papers for the nomination of
21 candidates for the offices of political subdivisions to be
22 filled at regular elections other than the general election
23 shall be filed with the local election official of such
24 subdivision:

25 (1) (Blank);

1 (2) not more than 106 ~~78~~ nor less than 102 ~~71~~ days
2 prior to the consolidated election; or

3 (3) not more than 106 ~~78~~ nor less than 102 ~~71~~ days
4 prior to the general primary in the case of municipal
5 offices to be filled at the general primary election; or

6 (4) not more than 106 ~~78~~ nor less than 102 ~~71~~ days
7 before the consolidated primary in the case of municipal
8 offices to be elected on a nonpartisan basis pursuant to
9 law (including without limitation, those municipal offices
10 subject to Articles 4 and 5 of the Municipal Code); or

11 (5) not more than 106 ~~78~~ nor less than 102 ~~71~~ days
12 before the municipal primary in even numbered years for
13 such nonpartisan municipal offices where annual elections
14 are provided; or

15 (6) in the case of petitions for the office of
16 multi-township assessor, such petitions shall be filed
17 with the election authority not more than 106 ~~78~~ nor less
18 than 102 ~~71~~ days before the consolidated election.

19 However, where a political subdivision's boundaries are
20 co-extensive with or are entirely within the jurisdiction of a
21 municipal board of election commissioners, the certificates of
22 nomination and nomination papers for candidates for such
23 political subdivision offices shall be filed in the office of
24 such Board.

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

1 (10 ILCS 5/10-10.1) (from Ch. 46, par. 10-10.1)

2 Sec. 10-10.1. Except as otherwise provided in this Section,
3 a candidate or objector aggrieved by the decision of an
4 electoral board may secure judicial review of such decision in
5 the circuit court of the county in which the hearing of the
6 electoral board was held. The party seeking judicial review
7 must file a petition with the clerk of the court within 10 days
8 after the decision of the electoral board or, with respect to
9 elections in 2011 and thereafter, within 5 days after the
10 decision of the electoral board. The petition shall contain a
11 brief statement of the reasons why the decision of the board
12 should be reversed. The petitioner shall serve a copy of the
13 petition upon the electoral board and other parties to the
14 proceeding by registered or certified mail and shall file proof
15 of service with the clerk of the court. No answer to the
16 petition need be filed, but any answer must be filed within 10
17 days after the filing of the petition.

18 The court shall set the matter for hearing to be held
19 within 30 days after the filing of the petition and shall make
20 its decision promptly after such hearing.

21 An objector or proponent aggrieved by the decision of an
22 electoral board regarding a petition filed pursuant to Section
23 18-120 of the Property Tax Code may secure a review of such
24 decision by the State Board of Elections. The party seeking
25 such review must file a petition therefor with the State Board
26 of Elections within 10 days after the decision of the electoral

1 board. Any such objector or proponent may apply for and obtain
2 judicial review of a decision of the State Board of Elections
3 entered under this amendatory Act of 1985, in accordance with
4 the provisions of the Administrative Review Law, as amended.

5 (Source: P.A. 88-670, eff. 12-2-94.)

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 or, with
11 respect to elections in 2011 and thereafter, not less than 106
12 days prior to a regular election to be eligible for submission
13 on the ballot at such election; and petitions for the
14 submission of a question under Section 18-120 of the Property
15 Tax Code must be filed with the appropriate officer or board
16 not more than 10 months nor less than 6 months prior to the
17 election at which such question is to be submitted to the
18 voters.

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

25 (c) Resolutions or ordinances of governing boards of

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

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

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

1 resolution or ordinance initiating a public question does not
2 specify a regularly scheduled election, the public question
3 shall be submitted to referendum at the next regular election
4 occurring not less than 65 days after the adoption of the
5 resolution or ordinance.

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

1 shall be adopted or rejected.

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

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

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

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

20 The territory proposed to comprise the new.....is
21 described as follows:

22 (description of territory included in petition)

23 (signature).....

24 Name and address of person or persons proposing
25 the new political subdivision.

26 * Where applicable.

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

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

17 (Source: P.A. 94-30, eff. 6-14-05; 94-578, eff. 8-12-05;
18 94-1019, eff. 7-10-06.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.