

HB0097



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0097

Introduced 1/12/2011, by Rep. Karen May

SYNOPSIS AS INTRODUCED:

10 ILCS 5/2A-1 from Ch. 46, par. 2A-1
10 ILCS 5/Art. 25.5 heading new
10 ILCS 5/25.5-5 new
10 ILCS 5/25.5-10 new
10 ILCS 5/25.5-15 new
10 ILCS 5/25.5-20 new
10 ILCS 5/25.5-25 new
10 ILCS 5/25.5-30 new
10 ILCS 5/25.5-40 new

Amends the Election Code to provide for the recall of local elected officials. Effective immediately.

LRB097 05120 RLJ 45165 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 Section
5 2A-1 and adding Article 25.5 as follows:

6 (10 ILCS 5/2A-1) (from Ch. 46, par. 2A-1)

7 (Text of Section WITH the changes made by P.A. 89-719,
8 which has been held unconstitutional)

9 Sec. 2A-1. All Elections - Governed by this Code -
10 Construction of Article 2A.

11 (a) No public question may be submitted to any voters in
12 this State, nor may any person be nominated for public office
13 or elected to public or political party office or removed from
14 office in a recall election in this State except pursuant to
15 this Code, notwithstanding the provisions of any other statute
16 or municipal charter. However, this Code shall not apply to
17 elections for officers or public questions of local school
18 councils established pursuant to Chapter 34 of the School Code,
19 soil and water conservation districts or drainage districts,
20 except as specifically made applicable by another statute.

21 (b) All elections in this State shall be held in accordance
22 with the consolidated schedule of elections established in
23 Sections 2A-1.1 and 2A-1.2. No election may be held on any date

1 other than a date on which an election is scheduled under
2 Section 2A-1.1, except special elections to fill congressional
3 vacancies held pursuant to writs of election issued by the
4 Governor, judicial elections to fill vacancies in the office of
5 Supreme Court Judge held pursuant to writs of election issued
6 by the Governor under subsection (a-5) of Section 2A-9,
7 township referenda and votes of the town electors held at the
8 annual town meeting, emergency referenda approved pursuant to
9 Section 2A-1.4, special elections held between January 1, 1995
10 and July 1, 1995 under Section 34-53 of the School Code, and
11 city, village or incorporated town primary elections in
12 even-numbered years expressly authorized in this Article to
13 provide for annual partisan elections.

14 (c) At the respective elections established in Section
15 2A-1.1, candidates shall be elected to office, nominated for
16 election thereto or placed on the ballot as otherwise required
17 by this Code, and public questions may be submitted, as
18 specified in Section 2A-1.2.

19 (d) If the requirements of Section 2A-1.2 conflict with any
20 specific provision of Sections 2A-2 through 2A-54, as applied
21 to any office or election, the requirements of Section 2A-1.2
22 prevail, and shall be enforced by the State Board of Elections.

23 (e) In the event any court of competent jurisdiction
24 declares an election void, the court may order another election
25 without regard to the schedule of elections set forth in this
26 Article.

1 (Source: P.A. 89-719, eff. 3-7-97.)

2 (Text of Section WITHOUT the changes made by P.A. 89-719,
3 which has been held unconstitutional)

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12 elections for officers or public questions of local school
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18 Sections 2A-1.1 and 2A-1.2. No election may be held on any date
19 other than a date on which an election is scheduled under
20 Section 2A-1.1, except special elections to fill congressional
21 vacancies held pursuant to writs of election issued by the
22 Governor, township referenda and votes of the town electors
23 held at the annual town meeting, emergency referenda approved
24 pursuant to Section 2A-1.4, special elections held between
25 January 1, 1995 and July 1, 1995 under Section 34-53 of the

1 School Code, and city, village or incorporated town primary
2 elections in even-numbered years expressly authorized in this
3 Article to provide for annual partisan elections.

4 (c) At the respective elections established in Section
5 2A-1.1, candidates shall be elected to office, nominated for
6 election thereto or placed on the ballot as otherwise required
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8 specified in Section 2A-1.2.

9 (d) If the requirements of Section 2A-1.2 conflict with any
10 specific provision of Sections 2A-2 through 2A-54, as applied
11 to any office or election, the requirements of Section 2A-1.2
12 prevail, and shall be enforced by the State Board of Elections.

13 (e) In the event any court of competent jurisdiction
14 declares an election void, the court may order another election
15 without regard to the schedule of elections set forth in this
16 Article.

17 (Source: P.A. 88-511.)

18 (10 ILCS 5/Art. 25.5 heading new)

19 ARTICLE 25.5. RECALL OF LOCAL ELECTED OFFICIALS

20 (10 ILCS 5/25.5-5 new)

21 Sec. 25.5-5. Definitions. For the purposes of this
22 Article:

23 "Appropriate election official" means the State Board of
24 Elections in the case of recall of an official elected from a

1 district that comprises more than one county, or is partly in
2 one county and partly in another county or counties; the county
3 clerk in the case of recall of an official elected to a county
4 office or trustee of a sanitary district; or the local election
5 official in the case of recall of an official elected to a
6 municipal or township office, other than a municipal or
7 township office where the municipality's or township's
8 boundaries are co-extensive with or are entirely within the
9 jurisdiction of a municipal board of election commissioners, in
10 which case the "appropriate election official" means the
11 municipal board of election commissioners.

12 "Local elected official" means any official elected to an
13 office of a unit of local government. The term does not include
14 an official elected to an office of a school district.

15 (10 ILCS 5/25.5-10 new)

16 Sec. 25.5-10. Removal of local elected official. Every
17 incumbent local elected official who has been elected to an
18 office that has a term of more than 2 years is subject to
19 removal by the electors qualified to vote for that official.
20 However, a local official who has less than 18 months remaining
21 in his or her term may not be recalled under this Article. The
22 procedure to effect the removal of an incumbent of that office
23 shall be as prescribed in this Article.

24 (10 ILCS 5/25.5-15 new)

1 Sec. 25.5-15. Petition; form. A petition, signed by at
 2 least 20% of the registered voters of the unit of local
 3 government who are entitled to vote for the local elected
 4 official whose removal is sought, shall be filed with the
 5 appropriate election official at least 61 days before the next
 6 regularly scheduled election under this Code and shall be
 7 certified within one day after receipt of the petition. The
 8 petition shall demand an election on the question of whether
 9 the named incumbent elected official shall be removed from
 10 office, the election to be held at the next regularly scheduled
 11 election, and shall contain a general statement of not more
 12 than 200 words of a reason or reasons for the recall that are
 13 related to the official responsibilities of the official whose
 14 removal is sought.

15 The petition shall be substantially in the following form:

16 To the appropriate election official of (unit or district):

17 We, the undersigned electors of (unit or district),
 18 entitled to vote for (name of person) demand an election on the
 19 question of removal from office of (name of person) for the
 20 following reasons: (Here state reasons in not more than 200
 21 words).

22	<u>Name</u>	<u>House Number</u>	<u>Street</u>	<u>Date of</u>
23		<u>if any</u>		<u>Signing</u>
24				
25	<u>.....</u>	<u>.....</u>	<u>.....</u>	<u>.....</u>

1 State of Illinois,)

2) SS.

3 County of (name))

4 I, (name of person), certify that I am a registered voter,
5 that I reside at (address), in the county of (name) and State
6 of Illinois, and that the signatures on this sheet were signed
7 in my presence, and are genuine, and that to the best of my
8 knowledge and belief, the persons so signing were at the time
9 of signing the petitions qualified voters, entitled to vote for
10 the office of (name of office), and that their respective
11 residences are correctly stated, as above set forth.

12

13 Subscribed and sworn to before me this day of
14, 20 ...

15

16 (Official title)

17 (Seal, if officer has one)

18 (10 ILCS 5/25.5-20 new)

19 Sec. 25.5-20. Petition; requirements. The petition shall
20 consist of sheets having the form specified in Section 25.5-15
21 and shall be signed by qualified electors of the unit of local
22 government entitled to vote for the office held by the official
23 whose removal is sought, and opposite the signature of each
24 signer, his or her residence address shall be written or
25 printed. The residence address required to be written or

1 printed opposite each qualified elector's name shall include
2 the street address or rural route number of the signer, as the
3 case may be, as well as the signer's city, village, or town.
4 The county or city, village, or town, and state of residence of
5 the electors, however, may be printed on the petition forms
6 when all of the electors signing the petition reside in the
7 same county or city, village, or town, and state. Standard
8 abbreviations may be used in writing the residence address,
9 including street number, if any.

10 A signature shall not be valid unless the requirements of
11 this Section are complied with and unless the date of signing
12 is less than 120 days preceding the date of filing the
13 petition.

14 At the bottom of each sheet shall be added the affidavit in
15 the form specified in Section 25.5-15 signed by a qualified
16 voter of the unit of local government entitled to vote for
17 removal of the elected official in which the signers of the
18 sheet reside; certifying that the signatures on that sheet of
19 the petition were signed in his or her presence; and either (i)
20 indicating the dates on which that sheet was circulated, (ii)
21 indicating the first and last dates on which that sheet was
22 circulated, or (iii) certifying that none of the signatures on
23 the sheet were signed more than 120 days preceding the last day
24 for the filing of the petition; certifying that the signatures
25 on the sheet are genuine; and certifying that to the best of
26 his or her knowledge and belief the persons so signing were at

1 the time of signing the petitions qualified voters of the unit
2 of local government entitled to vote for the office held by the
3 official whose removal is being sought. This affidavit shall be
4 sworn to before an officer who is qualified to administer
5 oaths.

6 The petition, so verified, or a copy of the petition duly
7 certified by the proper persons, shall be prima facie evidence
8 that the signatures, statement of residence, and dates upon the
9 petition are genuine and true and that the persons signing the
10 petition are electors qualified to vote for the office subject
11 to removal under this Article.

12 The person circulating the petition, or the candidate on
13 whose behalf the petition is circulated, may strike any
14 signature from the petition, if:

15 (i) the person striking the signature initials the
16 petition at the place where the signature is struck; and

17 (ii) the person striking the signature signs a
18 certification listing the page number and line number of
19 each signature struck from the petition.

20 The certification shall be filed as a part of the petition.

21 The sheets, before being filed, shall be neatly fastened
22 together in book form by placing the sheets in a pile and
23 fastening them together at one edge in a secure and suitable
24 manner, and the sheets shall then be numbered consecutively.
25 The sheets shall not be fastened by pasting them together end
26 to end, so as to form a continuous strip or roll. All petition

1 sheets that are filed with the proper local election officials,
2 election authorities, or the State Board of Elections shall be
3 the original sheets that have been signed by the voters and by
4 the circulator of the sheet, and not photocopies or duplicates
5 of those sheets.

6 The petitions, when filed, may not be withdrawn or added
7 to, and no signature shall be revoked except by revocation
8 filed in writing with the State Board of Elections, election
9 authority, or local election official with whom the petition is
10 required to be filed before the filing of the petition. Whoever
11 forges the name of a signer upon any petition required by this
12 Article is deemed guilty of a forgery and on conviction shall
13 be punished accordingly.

14 (10 ILCS 5/25.5-25 new)

15 Sec. 25.5-25. Objections to petitions. The provisions of
16 Sections 10-8 through 10-10.1 of the Election Code relating to
17 objections to nominating petitions, hearing on objections, and
18 judicial review, shall apply to and govern, insofar as may be
19 practical, objections to petitions for the submission of
20 questions of recall under this Article.

21 The electoral board to hear and pass on objections shall be
22 the electoral board specified in Section 10-9 to have
23 jurisdiction over objections to the nominating petitions of
24 candidates for offices in which the question of recall is
25 proposed to be submitted to the electors.

1 (10 ILCS 5/25.5-30 new)

2 Sec. 25.5-30. Election on the question. If no objections
3 to a petition are filed within 5 business days after the
4 petition is submitted to the appropriate election official, or
5 if objections are filed and the electoral board specified in
6 Section 25.5-25 rules the petition sufficient, then
7 immediately after the expiration of this 5-day period, or
8 immediately after the receipt by the appropriate election
9 official with whom the petition was originally filed, or from
10 the electoral board of the petition and the certified copy of
11 the electoral board's ruling declaring the petition
12 sufficient, as the case may be, the appropriate election
13 official with whom the petition was originally filed shall
14 submit the petition without delay to the election authority or
15 election authorities within the election jurisdiction or
16 election jurisdictions where the elected official is subject to
17 recall, and the election authority or election authorities
18 shall order the election demanded in the petition held at the
19 next regular election or municipal election 78 days after the
20 filing of the petition. This election shall be conducted,
21 returned, and the results declared in all respects the same as
22 in other elections under the general election law.

23 If at the election on the question of removal at least a
24 majority of those voting on the question vote in favor of
25 removal, a vacancy exists in the office subject to removal. The

1 vacancy shall be filled in the manner prescribed for filling
2 vacancies in that office in other cases.

3 (10 ILCS 5/25.5-40 new)

4 Sec. 25.5-40. Prohibition against future election or
5 appointment. A person who has been removed from an elective
6 office, or who has resigned from office while removal
7 proceedings were pending against that person, shall not be
8 appointed or elected to the same office within one year after
9 the removal or resignation. Not more than one election for the
10 recall of the same elected official shall be held during the
11 same term of office.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.