



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3028

Introduced 2/23/2011, by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/17-9	from Ch. 46, par. 17-9
10 ILCS 5/18-5	from Ch. 46, par. 18-5

Amends the Election Code. Provides that the a voter who has been issued an absentee ballot may vote in person without surrendering the absentee ballot if the voter submits an affidavit executed before the election judges specifying that the voter received the absentee ballot but did not submit the ballot to the election authority. Effective immediately.

LRB097 09489 HLH 49626 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 17-9 and 18-5 as follows:

6 (10 ILCS 5/17-9) (from Ch. 46, par. 17-9)

7 Sec. 17-9. Any person desiring to vote shall give his name  
8 and, if required to do so, his residence to the judges of  
9 election, one of whom shall thereupon announce the same in a  
10 loud and distinct tone of voice, clear, and audible; the judges  
11 of elections shall check each application for ballot against  
12 the list of voters registered in that precinct to whom grace  
13 period, absentee, or early ballots have been issued for that  
14 election, which shall be provided by the election authority and  
15 which list shall be available for inspection by pollwatchers. A  
16 voter applying to vote in the precinct on election day whose  
17 name appears on the list as having been issued a grace period,  
18 absentee, or early ballot shall not be permitted to vote in the  
19 precinct, except that a voter to whom an absentee ballot was  
20 issued may vote in the precinct if the voter submits to the  
21 election judges that absentee ballot for cancellation. If the  
22 voter is unable to submit the absentee ballot, it shall be  
23 sufficient for the voter to submit to the election judges (i) a

1 portion of the absentee ballot if the absentee ballot was torn  
2 or mutilated or (ii) an affidavit executed before the election  
3 judges specifying that (A) the voter never received an absentee  
4 ballot, ~~or~~ (B) the voter completed and returned an absentee  
5 ballot and was informed that the election authority did not  
6 receive that absentee ballot, or (C) the voter received the  
7 absentee ballot but did not submit the ballot to the election  
8 authority. All applicable provisions of Articles 4, 5 or 6  
9 shall be complied with and if such name is found on the  
10 register of voters by the officer having charge thereof, he  
11 shall likewise repeat said name, and the voter shall be allowed  
12 to enter within the proximity of the voting booths, as above  
13 provided. One of the judges shall give the voter one, and only  
14 one of each ballot to be voted at the election, on the back of  
15 which ballots such judge shall indorse his initials in such  
16 manner that they may be seen when each such ballot is properly  
17 folded, and the voter's name shall be immediately checked on  
18 the register list. In those election jurisdictions where  
19 perforated ballot cards are utilized of the type on which  
20 write-in votes can be cast above the perforation, the election  
21 authority shall provide a space both above and below the  
22 perforation for the judge's initials, and the judge shall  
23 endorse his or her initials in both spaces. Whenever a proposal  
24 for a constitutional amendment or for the calling of a  
25 constitutional convention is to be voted upon at the election,  
26 the separate blue ballot or ballots pertaining thereto shall,

1 when being handed to the voter, be placed on top of the other  
2 ballots to be voted at the election in such manner that the  
3 legend appearing on the back thereof, as prescribed in Section  
4 16-6 of this Act, shall be plainly visible to the voter. At all  
5 elections, when a registry may be required, if the name of any  
6 person so desiring to vote at such election is not found on the  
7 register of voters, he or she shall not receive a ballot until  
8 he or she shall have complied with the law prescribing the  
9 manner and conditions of voting by unregistered voters. If any  
10 person desiring to vote at any election shall be challenged, he  
11 or she shall not receive a ballot until he or she shall have  
12 established his right to vote in the manner provided  
13 hereinafter; and if he or she shall be challenged after he has  
14 received his ballot, he shall not be permitted to vote until he  
15 or she has fully complied with such requirements of the law  
16 upon being challenged. Besides the election officer, not more  
17 than 2 voters in excess of the whole number of voting booths  
18 provided shall be allowed within the proximity of the voting  
19 booths at one time. The provisions of this Act, so far as they  
20 require the registration of voters as a condition to their  
21 being allowed to vote shall not apply to persons otherwise  
22 entitled to vote, who are, at the time of the election, or at  
23 any time within 60 days prior to such election have been  
24 engaged in the military or naval service of the United States,  
25 and who appear personally at the polling place on election day  
26 and produce to the judges of election satisfactory evidence



1           The affidavit of any such person shall be supported by the  
 2 affidavit of a resident and qualified voter of any such  
 3 precinct and ward, which affidavit shall be in substantially  
 4 the following form:

5 State of Illinois,)

6    ) ss.

7 County of .....)

8 ..... Precinct ..... Ward

9         I, ....., do solemnly swear (or affirm), that I am a  
 10 resident of this precinct and ward and entitled to vote at this  
 11 election; that I am acquainted with .... (name of the  
 12 applicant); that I verily believe him to be an actual bona fide  
 13 resident of this precinct and ward and that I verily believe  
 14 that he or she has maintained a legal residence therein 30 days  
 15 and in this State 30 days next preceding this election.

16 .....  
 17

Subscribed and sworn to before me on (insert date).

18 .....  
 19

Judge of Election.

20           All affidavits made under the provisions of this Section  
 21 shall be enclosed in a separate envelope securely sealed, and  
 22 shall be transmitted with the returns of the elections to the  
 23 county clerk or to the board of election commissioners, who  
 24 shall preserve the said affidavits for the period of 6 months,

1 during which period such affidavits shall be deemed public  
2 records and shall be freely open to examination as such.

3 (Source: P.A. 94-645, eff. 8-22-05; 94-1000, eff. 7-3-06.)

4 (10 ILCS 5/18-5) (from Ch. 46, par. 18-5)

5 Sec. 18-5. Any person desiring to vote and whose name is  
6 found upon the register of voters by the person having charge  
7 thereof, shall then be questioned by one of the judges as to  
8 his nativity, his term of residence at present address,  
9 precinct, State and United States, his age, whether naturalized  
10 and if so the date of naturalization papers and court from  
11 which secured, and he shall be asked to state his residence  
12 when last previously registered and the date of the election  
13 for which he then registered. The judges of elections shall  
14 check each application for ballot against the list of voters  
15 registered in that precinct to whom grace period, absentee, and  
16 early ballots have been issued for that election, which shall  
17 be provided by the election authority and which list shall be  
18 available for inspection by pollwatchers. A voter applying to  
19 vote in the precinct on election day whose name appears on the  
20 list as having been issued a grace period, absentee, or early  
21 ballot shall not be permitted to vote in the precinct, except  
22 that a voter to whom an absentee ballot was issued may vote in  
23 the precinct if the voter submits to the election judges that  
24 absentee ballot for cancellation. If the voter is unable to  
25 submit the absentee ballot, it shall be sufficient for the

1 voter to submit to the election judges (i) a portion of the  
2 absentee ballot if the absentee ballot was torn or mutilated or  
3 (ii) an affidavit executed before the election judges  
4 specifying that (A) the voter never received an absentee  
5 ballot, ~~or~~ (B) the voter completed and returned an absentee  
6 ballot and was informed that the election authority did not  
7 receive that absentee ballot, or (C) the voter received the  
8 absentee ballot but did not submit the ballot to the election  
9 authority. If such person so registered shall be challenged as  
10 disqualified, the party challenging shall assign his reasons  
11 therefor, and thereupon one of the judges shall administer to  
12 him an oath to answer questions, and if he shall take the oath  
13 he shall then be questioned by the judge or judges touching  
14 such cause of challenge, and touching any other cause of  
15 disqualification. And he may also be questioned by the person  
16 challenging him in regard to his qualifications and identity.  
17 But if a majority of the judges are of the opinion that he is  
18 the person so registered and a qualified voter, his vote shall  
19 then be received accordingly. But if his vote be rejected by  
20 such judges, such person may afterward produce and deliver an  
21 affidavit to such judges, subscribed and sworn to by him before  
22 one of the judges, in which it shall be stated how long he has  
23 resided in such precinct, and state; that he is a citizen of  
24 the United States, and is a duly qualified voter in such  
25 precinct, and that he is the identical person so registered. In  
26 addition to such an affidavit, the person so challenged shall



1 provide to the judges of election proof of residence by  
2 producing 2 forms of identification showing the person's  
3 current residence address, provided that such identification  
4 may include a lease or contract for a residence and not more  
5 than one piece of mail addressed to the person at his current  
6 residence address and postmarked not earlier than 30 days prior  
7 to the date of the election, or the person shall procure a  
8 witness personally known to the judges of election, and  
9 resident in the precinct (or district), or who shall be proved  
10 by some legal voter of such precinct or district, known to the  
11 judges to be such, who shall take the oath following, viz:

12 I do solemnly swear (or affirm) that I am a resident of  
13 this election precinct (or district), and entitled to vote at  
14 this election, and that I have been a resident of this State  
15 for 30 days last past, and am well acquainted with the person  
16 whose vote is now offered; that he is an actual and bona fide  
17 resident of this election precinct (or district), and has  
18 resided herein 30 days, and as I verily believe, in this State,  
19 30 days next preceding this election.

20 The oath in each case may be administered by one of the  
21 judges of election, or by any officer, resident in the precinct  
22 or district, authorized by law to administer oaths. Also  
23 supported by an affidavit by a registered voter residing in  
24 such precinct, stating his own residence, and that he knows  
25 such person; and that he does reside at the place mentioned and  
26 has resided in such precinct and state for the length of time

1 as stated by such person, which shall be subscribed and sworn  
2 to in the same way. For purposes of this Section, the  
3 submission of a photo identification issued by a college or  
4 university, accompanied by either (i) a copy of the applicant's  
5 contract or lease for a residence or (ii) one piece of mail  
6 addressed to the person at his or her current residence address  
7 and postmarked not earlier than 30 days prior to the date of  
8 the election, shall be sufficient to establish proof of  
9 residence. Whereupon the vote of such person shall be received,  
10 and entered as other votes. But such judges, having charge of  
11 such registers, shall state in their respective books the facts  
12 in such case, and the affidavits, so delivered to the judges,  
13 shall be preserved and returned to the office of the  
14 commissioners of election. Blank affidavits of the character  
15 aforesaid shall be sent out to the judges of all the precincts,  
16 and the judges of election shall furnish the same on demand and  
17 administer the oaths without criticism. Such oaths, if  
18 administered by any other officer than such judge of election,  
19 shall not be received. Whenever a proposal for a constitutional  
20 amendment or for the calling of a constitutional convention is  
21 to be voted upon at the election, the separate blue ballot or  
22 ballots pertaining thereto shall be placed on top of the other  
23 ballots to be voted at the election in such manner that the  
24 legend appearing on the back thereof, as prescribed in Section  
25 16-6 of this Act, shall be plainly visible to the voter, and in  
26 this fashion the ballots shall be handed to the voter by the

1 judge.

2 Immediately after voting, the voter shall be instructed  
3 whether the voting equipment, if used, accepted or rejected the  
4 ballot or identified the ballot as under-voted. A voter whose  
5 ballot is identified as under-voted for a statewide  
6 constitutional office may return to the voting booth and  
7 complete the voting of that ballot. A voter whose ballot is not  
8 accepted by the voting equipment may, upon surrendering the  
9 ballot, request and vote another ballot. The voter's  
10 surrendered ballot shall be initialed by the election judge and  
11 handled as provided in the appropriate Article governing that  
12 voting equipment.

13 The voter shall, upon quitting the voting booth, deliver to  
14 one of the judges of election all of the ballots, properly  
15 folded, which he received. The judge of election to whom the  
16 voter delivers his ballots shall not accept the same unless all  
17 of the ballots given to the voter are returned by him. If a  
18 voter delivers less than all of the ballots given to him, the  
19 judge to whom the same are offered shall advise him in a voice  
20 clearly audible to the other judges of election that the voter  
21 must return the remainder of the ballots. The statement of the  
22 judge to the voter shall clearly express the fact that the  
23 voter is not required to vote such remaining ballots but that  
24 whether or not he votes them he must fold and deliver them to  
25 the judge. In making such statement the judge of election shall  
26 not indicate by word, gesture or intonation of voice that the

1 unreturned ballots shall be voted in any particular manner. No  
2 new voter shall be permitted to enter the voting booth of a  
3 voter who has failed to deliver the total number of ballots  
4 received by him until such voter has returned to the voting  
5 booth pursuant to the judge's request and again quit the booth  
6 with all of the ballots required to be returned by him. Upon  
7 receipt of all such ballots the judges of election shall enter  
8 the name of the voter, and his number, as above provided in  
9 this Section, and the judge to whom the ballots are delivered  
10 shall immediately put the ballots into the ballot box. If any  
11 voter who has failed to deliver all the ballots received by him  
12 refuses to return to the voting booth after being advised by  
13 the judge of election as herein provided, the judge shall  
14 inform the other judges of such refusal, and thereupon the  
15 ballot or ballots returned to the judge shall be deposited in  
16 the ballot box, the voter shall be permitted to depart from the  
17 polling place, and a new voter shall be permitted to enter the  
18 voting booth.

19 The judge of election who receives the ballot or ballots  
20 from the voter shall announce the residence and name of such  
21 voter in a loud voice. The judge shall put the ballot or  
22 ballots received from the voter into the ballot box in the  
23 presence of the voter and the judges of election, and in plain  
24 view of the public. The judges having charge of such registers  
25 shall then, in a column prepared thereon, in the same line of,  
26 the name of the voter, mark "Voted" or the letter "V".

1           No judge of election shall accept from any voter less than  
2 the full number of ballots received by such voter without first  
3 advising the voter in the manner above provided of the  
4 necessity of returning all of the ballots, nor shall any such  
5 judge advise such voter in a manner contrary to that which is  
6 herein permitted, or in any other manner violate the provisions  
7 of this Section; provided, that the acceptance by a judge of  
8 election of less than the full number of ballots delivered to a  
9 voter who refuses to return to the voting booth after being  
10 properly advised by such judge shall not be a violation of this  
11 Section.

12           (Source: P.A. 95-699, eff. 11-9-07; 96-317, eff. 1-1-10.)

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