



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB4688

by Rep. Mike Fortner

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/9-20  
10 ILCS 5/9-21

from Ch. 46, par. 9-20  
from Ch. 46, par. 9-21

Amends the Election Code. Provides that each complaint about specified violations of the Act shall be accompanied by a \$50 filing fee. Provides that if the filing fee is not tendered at the time the complainant presents the complaint, the complaint shall not be accepted. Provides that if the complaint is received between 31 and 15 days before an election about which the complaint is filed, then the State Board of Elections shall, at a minimum, hold the closed preliminary hearing and make the determination of whether the complaint was filed upon justifiable grounds, prior to the election. Provides that the complaint must be personally served on the respondent by the complainant and proof of service must be included with the complaint filed with the Board. Provides that complaints involving any conduct that relates to an upcoming election shall not be accepted 14 or fewer business days before that election. Provides that, in other cases, the Board shall render its final judgment within 60 days of the date the complaint is filed. Effective immediately.

LRB098 16377 MGM 51441 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 9-20 and 9-21 as follows:

6 (10 ILCS 5/9-20) (from Ch. 46, par. 9-20)

7 Sec. 9-20. Any person who believes a violation of this  
8 Article has occurred may file a verified complaint with the  
9 Board. Such verified complaint shall be directed to a candidate  
10 or the chairman or treasurer of a political committee, and  
11 shall be subject to the following requirements:

12 (1) The complaint shall be in writing.

13 (2) The complaint shall state the name of the candidate or  
14 chairman or treasurer of a political committee against whom the  
15 complaint is directed.

16 (3) The complaint shall state the statutory provisions  
17 which are alleged to have been violated.

18 (4) The complaint shall state the time, place, and nature  
19 of the alleged offense.

20 The complaint shall be accompanied by a \$50 filing fee. If  
21 the filing fee is not tendered at the time the complainant  
22 presents the complaint, either in person or by mail, the  
23 complaint shall not be accepted.

1 The complaint shall be verified, dated, and signed by the  
2 person filing the complaint in substantially the following  
3 manner: VERIFICATION:

4 "I declare that this complaint (including any accompanying  
5 schedules and statements) has been examined by me and to the  
6 best of my knowledge and belief is a true and correct complaint  
7 as required by Article 9 of The Election Code. I understand  
8 that the penalty for willfully filing a false complaint shall  
9 be a fine not to exceed \$500 or imprisonment in a penal  
10 institution other than the penitentiary not to exceed 6 months,  
11 or both fine and imprisonment."

12 .....

13 (date of filing)

14 (signature of person filing the complaint)

15 (Source: P.A. 78-1183.)

16 (10 ILCS 5/9-21) (from Ch. 46, par. 9-21)

17 Sec. 9-21. Upon receipt of a complaint as provided in  
18 Section 9-20, the Board shall hold a closed preliminary hearing  
19 to determine whether or not the complaint appears to have been  
20 filed on justifiable grounds. Such closed preliminary hearing  
21 shall be conducted as soon as practicable after affording  
22 reasonable notice, a copy of the complaint, and an opportunity  
23 to testify at such hearing to both the person making the  
24 complaint and the person against whom the complaint is  
25 directed. If the complaint is received between 31 and 15 days

1 before an election about which the complaint is filed, then the  
2 Board shall, at a minimum, hold the closed preliminary hearing  
3 and make the determination of whether the complaint was filed  
4 upon justifiable grounds, prior to the election. If the Board  
5 finds that the complaint was filed upon justifiable grounds and  
6 determines that a public hearing is necessary, that hearing may  
7 be set prior to the election if time permits. If time does not  
8 so permit, the hearing shall take place as soon as practicable  
9 after the election. The complaint must be personally served on  
10 the respondent by the complainant and proof of service must be  
11 included with the complaint filed with the Board. In addition,  
12 the complaint must be accompanied by the \$50 filing fee. If the  
13 complainant fails to personally serve the respondent and  
14 provide proof, or fails to pay the filing fee, then the Board  
15 shall not accept the complaint. Complaints involving any  
16 conduct that relates to an upcoming election shall not be  
17 accepted 14 or fewer business days before that election.  
18 However, those complaints may be filed at any time after that  
19 election. If the Board fails to determine that the complaint  
20 has been filed on justifiable grounds, it shall dismiss the  
21 complaint without further hearing. Any additional hearings  
22 shall be open to the public.

23 Whenever the Board, in an open meeting, determines, after  
24 affording due notice and an opportunity for a public hearing,  
25 that any person has engaged or is about to engage in an act or  
26 practice which constitutes or will constitute a violation of

1 any provision of this Article or any regulation or order issued  
2 thereunder, the Board shall issue an order directing such  
3 person to take such action as the Board determines may be  
4 necessary in the public interest to correct the violation.  
5 Except as provided above, the ~~In addition, if the act or~~  
6 ~~practice engaged in consists of the failure to file any~~  
7 ~~required report within the time prescribed by this Article, the~~  
8 ~~Board, as part of its order, shall further provide that if,~~  
9 ~~within the 12 month period following the issuance of the order,~~  
10 ~~such person fails to file within the time prescribed by this~~  
11 ~~Article any subsequent report as may be required, such person~~  
12 ~~may be subject to a civil penalty pursuant to Section 9-23. The~~  
13 Board shall render its final judgment within 60 days of the  
14 date the complaint is filed; ~~except that during the 60 days~~  
15 ~~preceding the date of the election in reference to which the~~  
16 ~~complaint is filed, the Board shall render its final judgment~~  
17 ~~within 7 days of the date the complaint is filed, and during~~  
18 ~~the 7 days preceding such election, the Board shall render such~~  
19 ~~judgment before the date of such election, if possible.~~

20 At any time prior to the issuance of the Board's final  
21 judgment, the parties may dispose of the complaint by a written  
22 stipulation, agreed settlement or consent order. Any such  
23 stipulation, settlement or order shall, however, be submitted  
24 in writing to the Board and shall become effective only if  
25 approved by the Board in an open meeting. If the act or  
26 practice complained of consists of the failure to file any

1 required report within the time prescribed by this Article,  
2 such stipulation, settlement or order may provide that if,  
3 within the 12-month period following the approval of such  
4 stipulation, agreement or order, the person complained of fails  
5 to file within the time prescribed by this Article any  
6 subsequent reports as may be required, such person may be  
7 subject to a civil penalty pursuant to Section 9-23.

8 Any person filing a complaint pursuant to Section 9-20 may,  
9 upon written notice to the other parties and to the Board,  
10 voluntarily withdraw the complaint at any time prior to the  
11 issuance of the Board's final determination.

12 (Source: P.A. 96-832, eff. 1-1-11.)

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