

AN ACT concerning elections.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Election Code is amended by changing Sections 28-2 and 28-5 as follows:

(10 ILCS 5/28-2) (from Ch. 46, par. 28-2)

Sec. 28-2. (a) Except as otherwise provided in this Section, petitions for the submission of public questions to referendum must be filed with the appropriate officer or board not less than 78 days prior to a regular election to be eligible for submission on the ballot at such election; and petitions for the submission of a question under Section 18-120 of the Property Tax Code must be filed with the appropriate officer or board not more than 10 months nor less than 6 months prior to the election at which such question is to be submitted to the voters.

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

(c) Resolutions or ordinances of governing boards of political subdivisions which initiate the submission of public questions pursuant to law must be adopted not less than 65 days before a regularly scheduled election to be eligible for submission on the ballot at such election.

(d) A petition, resolution or ordinance initiating the submission of a public question may specify a regular election at which the question is to be submitted, and must so specify if the statute authorizing the public question requires submission at a particular election. However, no petition,

resolution or ordinance initiating the submission of a public question, other than a legislative resolution initiating an amendment to the Constitution, may specify such submission at an election more than one year, or 15 months in the case of a back door referendum as defined in subsection (f), after the date on which it is filed or adopted, as the case may be. A petition, resolution or ordinance initiating a public question which specifies a particular election at which the question is to be submitted shall be so limited, and shall not be valid as to any other election, other than an emergency referendum ordered pursuant to Section 2A-1.4.

(e) If a petition initiating a public question does not specify a regularly scheduled election, the public question shall be submitted to referendum at the next regular election occurring not less than 78 days after the filing of the petition, or not less than 108 days after the filing of a petition for referendum to create a political subdivision. If a resolution or ordinance initiating a public question does not specify a regularly scheduled election, the public question shall be submitted to referendum at the next regular election occurring not less than 65 days after the adoption of the resolution or ordinance.

(f) In the case of back door referenda, any limitations in another statute authorizing such a referendum which restrict the time in which the initiating petition may be validly filed shall apply to such petition, in addition to the filing deadlines specified in this Section for submission at a particular election. In the case of any back door referendum, the publication of the ordinance or resolution of the political subdivision shall include a notice of (1) the specific number of voters required to sign a petition requesting that a public question be submitted to the voters of the subdivision; (2) the time within which the petition must be filed; and (3) the date of the prospective referendum. The secretary or clerk of the political subdivision shall provide a petition form to any individual requesting one. As used herein, a "back door

referendum" is the submission of a public question to the voters of a political subdivision, initiated by a petition of voters or residents of such political subdivision, to determine whether an action by the governing body of such subdivision shall be adopted or rejected.

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

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

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

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

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

(description of territory included in petition)

(signature).....

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

* Where applicable.

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

Notwithstanding the foregoing provisions of this subsection (g) or any other provisions of this Code, the

publication of notice and affidavit requirements of this subsection (g) shall not apply to any petition filed under Article 7, 7A, 11A, 11B, or 11D of the School Code nor to any referendum held pursuant to any such petition, and neither any petition filed under any of those Articles nor any referendum held pursuant to any such petition shall be rendered null and void because of the failure to file an affidavit or publish a notice with respect to the petition or referendum as required under this subsection (g) for petitions that are not filed under any of those Articles of the School Code.

(Source: P.A. 90-459, eff. 8-17-97.)

(10 ILCS 5/28-5) (from Ch. 46, par. 28-5)

Sec. 28-5. Not less than 61 days before a regularly scheduled election, each local election official shall certify the public questions to be submitted to the voters of or within his political subdivision at that election which have been initiated by petitions filed in his office or by action of the governing board of his political subdivision.

Not less than 61 days before a regularly scheduled election, each circuit court clerk shall certify the public questions to be submitted to the voters of a political subdivision at that election which have been ordered to be so submitted by the circuit court pursuant to law. Not less than 30 days before the date set by the circuit court for the conduct of an emergency referendum pursuant to Section 2A-1.4, the circuit court clerk shall certify the public question as herein required.

Local election officials and circuit court clerks shall make their certifications, as required by this Section, to each election authority having jurisdiction over any of the territory of the respective political subdivision in which the public question is to be submitted to referendum.

Not less than 61 days before the next regular election, the county clerk shall certify the public questions to be submitted to the voters of the entire county at that election, which have

been initiated by petitions filed in his office or by action of the county board, to the board of election commissioners, if any, in his county.

Not less than 67 days before the general election, the State Board of Elections shall certify any questions proposing an amendment to Article IV of the Constitution pursuant to Section 3, Article XIV of the Constitution and any advisory public questions to be submitted to the voters of the entire State, which have been initiated by petitions received or filed at its office, to the respective county clerks. Not less than 61 days before the general election, the county clerk shall certify such questions to the board of election commissioners, if any, in his county.

The certifications shall include the form of the public question to be placed on the ballot, the date on which the public question was initiated by either the filing of a petition or the adoption of a resolution or ordinance by a governing body, as the case may be, and a certified copy of any court order or political subdivision resolution or ordinance requiring the submission of the public question. Certifications of propositions for annexation to, disconnection from, or formation of political subdivisions or for other purposes shall include a description of the territory in which the proposition is required to be submitted, whenever such territory is not coterminous with an existing political subdivision.

The certification of a public question described in subsection (b) of Section 28-6 shall include the precincts included in the territory concerning which the public question is to be submitted, as well as a common description of such territory, in plain and nonlegal language, and specify the election at which the question is to be submitted. The description of the territory shall be prepared by the local election official as set forth in the resolution or ordinance initiating the public question.

Whenever a local election official, an election authority,

or the State Board of Elections is in receipt of an initiating petition, or a certification for the submission of a public question at an election at which the public question may not be placed on the ballot or submitted because of the limitations of Section 28-1, such officer or board shall give notice of such prohibition, by registered mail, as follows:

(a) in the case of a petition, to any person designated on a certificate attached thereto as the proponent or as the proponents' attorney for purposes of notice of objections;

(b) in the case of a certificate from a local election authority, to such local election authority, who shall thereupon give notice as provided in subparagraph (a), or notify the governing board which adopted the initiating resolution or ordinance;

(c) in the case of a certification from a circuit court clerk of a court order, to such court, which shall thereupon give notice as provided in subparagraph (a) and shall modify its order in accordance with the provisions of this Act.

If the petition, resolution or ordinance initiating such prohibited public question did not specify a particular election for its submission, the officer or board responsible for certifying the question to the election authorities shall certify or recertify the question, in the manner required herein, for submission on the ballot at the next regular election no more than one year, or 15 months in the case of a back door referendum as defined in subsection (f) of Section 28-2, subsequent to the filing of the initiating petition or the adoption of the initiating resolution or ordinance and at which the public question may be submitted, and the appropriate election authorities shall submit the question at such election, unless the public question is ordered submitted as an emergency referendum pursuant to Section 2A-1.4 or is withdrawn as may be provided by law.

(Source: P.A. 86-875.)

Section 99. Effective date. This Act takes effect upon

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becoming law.