

1 AN ACT in relation to 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 28-2 and 28-5 as follows:

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
10 board not less than 78 days prior to a regular election to be
11 eligible for submission on the ballot at such election; and
12 petitions for the submission of a question under Section
13 18-120 of the Property Tax Code must be filed with the
14 appropriate officer or board not more than 10 months nor less
15 than 6 months prior to the election at which such question is
16 to be submitted to the voters.

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

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

28 (d) A petition, resolution or ordinance initiating the
29 submission of a public question may specify a regular
30 election at which the question is to be submitted, and must
31 so specify if the statute authorizing the public question

1 requires submission at a particular election. However, no
2 petition, resolution or ordinance initiating the submission
3 of a public question, other than a legislative resolution
4 initiating an amendment to the Constitution, may specify such
5 submission at an election more than 15 months ~~one-year~~ after
6 the date on which it is filed or adopted, as the case may be.
7 A petition, resolution or ordinance initiating a public
8 question which specifies a particular election at which the
9 question is to be submitted shall be so limited, and shall
10 not be valid as to any other election, other than an
11 emergency referendum ordered pursuant to Section 2A-1.4.

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

23 (f) In the case of back door referenda, any limitations
24 in another statute authorizing such a referendum which
25 restrict the time in which the initiating petition may be
26 validly filed shall apply to such petition, in addition to
27 the filing deadlines specified in this Section for submission
28 at a particular election. In the case of any back door
29 referendum, the publication of the ordinance or resolution of
30 the political subdivision shall include a notice of (1) the
31 specific number of voters required to sign a petition
32 requesting that a public question be submitted to the voters
33 of the subdivision; (2) the time within which the petition
34 must be filed; and (3) the date of the prospective

1 referendum. The secretary or clerk of the political
 2 subdivision shall provide a petition form to any individual
 3 requesting one. As used herein, a "back door referendum" is
 4 the submission of a public question to the voters of a
 5 political subdivision, initiated by a petition of voters or
 6 residents of such political subdivision, to determine whether
 7 an action by the governing body of such subdivision shall be
 8 adopted or rejected.

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

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

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

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

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

29 (description of territory included in petition)

30 (signature).....

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

33 * Where applicable.

34 Failure to file such affidavit, or failure to publish the

1 required notice with the correct information contained
2 therein shall render the petition, and any referendum held
3 pursuant to such petition, null and void.

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

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

18 (10 ILCS 5/28-5) (from Ch. 46, par. 28-5)

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

25 Not less than 61 days before a regularly scheduled
26 election, each circuit court clerk shall certify the public
27 questions to be submitted to the voters of a political
28 subdivision at that election which have been ordered to be so
29 submitted by the circuit court pursuant to law. Not less than
30 30 days before the date set by the circuit court for the
31 conduct of an emergency referendum pursuant to Section
32 2A-1.4, the circuit court clerk shall certify the public
33 question as herein required.

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

6 Not less than 61 days before the next regular election,
7 the county clerk shall certify the public questions to be
8 submitted to the voters of the entire county at that
9 election, which have been initiated by petitions filed in his
10 office or by action of the county board, to the board of
11 election commissioners, if any, in his county.

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

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

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

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

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

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

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

30 If the petition, resolution or ordinance initiating such
31 prohibited public question did not specify a particular
32 election for its submission, the officer or board responsible
33 for certifying the question to the election authorities shall
34 certify or recertify the question, in the manner required

1 herein, for submission on the ballot at the next regular
2 election no more than 15 months one-year subsequent to the
3 filing of the initiating petition or the adoption of the
4 initiating resolution or ordinance and at which the public
5 question may be submitted, and the appropriate election
6 authorities shall submit the question at such election,
7 unless the public question is ordered submitted as an
8 emergency referendum pursuant to Section 2A-1.4 or is
9 withdrawn as may be provided by law.

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

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