



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4809

by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

10 ILCS 5/10-10	from Ch. 46, par. 10-10
10 ILCS 5/28-9	from Ch. 46, par. 28-9
10 ILCS 5/28-11	from Ch. 46, par. 28-11
10 ILCS 5/28-12	from Ch. 46, par. 28-12
10 ILCS 5/28-13	from Ch. 46, par. 28-13

Amends the Election Code. Provides for various changes concerning requirements for petitions for proposed constitutional amendments. Provides requirements for petition sheets for proposed constitutional amendments. Provides for the design of a standard and scientific random sampling method for the verification of petition signatures for proposed constitutional amendments, and for the adoption of rules of procedure for the petition filing process. Modifies the requirements following completion of the petition signature verification process. Provides that each political party and civic organization as well as the registered proponents and opponents of a proposed constitutional amendment shall be entitled to observe the conduct of the sample signature verification and participate in any related proceedings. Modifies the duties of the State Board of Elections concerning petitions for proposed constitutional amendments. Makes conforming and other changes. Effective immediately.

LRB100 17078 RJF 32229 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 10-10, 28-9, 28-11, 28-12, and 28-13 as follows:

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

7 Sec. 10-10. Within 24 hours after the receipt of the
8 certificate of nomination or nomination papers or proposed
9 question of public policy, as the case may be, and the
10 objector's petition, the chairman of the electoral board other
11 than the State Board of Elections shall send a call by
12 registered or certified mail to each of the members of the
13 electoral board, and to the objector who filed the objector's
14 petition, and either to the candidate whose certificate of
15 nomination or nomination papers are objected to or to the
16 principal proponent or attorney for proponents of a question of
17 public policy, as the case may be, whose petitions are objected
18 to, and shall also cause the sheriff of the county or counties
19 in which such officers and persons reside to serve a copy of
20 such call upon each of such officers and persons, which call
21 shall set out the fact that the electoral board is required to
22 meet to hear and pass upon the objections to nominations made
23 for the office, designating it, and shall state the day, hour

1 and place at which the electoral board shall meet for the
2 purpose, which place shall be in the county court house in the
3 county in the case of the County Officers Electoral Board, the
4 Municipal Officers Electoral Board, the Township Officers
5 Electoral Board or the Education Officers Electoral Board,
6 except that the Municipal Officers Electoral Board, the
7 Township Officers Electoral Board, and the Education Officers
8 Electoral Board may meet at the location where the governing
9 body of the municipality, township, or community college
10 district, respectively, holds its regularly scheduled
11 meetings, if that location is available; provided that voter
12 records may be removed from the offices of an election
13 authority only at the discretion and under the supervision of
14 the election authority. In those cases where the State Board of
15 Elections is the electoral board designated under Section 10-9,
16 the chairman of the State Board of Elections shall, within 24
17 hours after the receipt of the certificate of nomination or
18 nomination papers or petitions for a proposed amendment to
19 Article IV of the Constitution or proposed statewide question
20 of public policy, send a call by registered or certified mail
21 to the objector who files the objector's petition, and either
22 to the candidate whose certificate of nomination or nomination
23 papers are objected to or to the principal proponent or
24 attorney for proponents of the proposed Constitutional
25 amendment or statewide question of public policy and shall
26 state the day, hour, and place at which the electoral board

1 shall meet for the purpose, which place may be in the Capitol
2 Building or in the principal or permanent branch office of the
3 State Board. The day of the meeting shall not be less than 3
4 nor more than 5 days after the receipt of the certificate of
5 nomination or nomination papers and the objector's petition by
6 the chairman of the electoral board.

7 The electoral board shall have the power to administer
8 oaths and to subpoena and examine witnesses and, at the request
9 of either party and only upon a vote by a majority of its
10 members, may authorize the chairman to issue subpoenas
11 requiring the attendance of witnesses and subpoenas duces tecum
12 requiring the production of such books, papers, records and
13 documents as may be evidence of any matter under inquiry before
14 the electoral board, in the same manner as witnesses are
15 subpoenaed in the Circuit Court.

16 Service of such subpoenas shall be made by any sheriff or
17 other person in the same manner as in cases in such court and
18 the fees of such sheriff shall be the same as is provided by
19 law, and shall be paid by the objector or candidate who causes
20 the issuance of the subpoena. In case any person so served
21 shall knowingly neglect or refuse to obey any such subpoena, or
22 to testify, the electoral board shall at once file a petition
23 in the circuit court of the county in which such hearing is to
24 be heard, or has been attempted to be heard, setting forth the
25 facts, of such knowing refusal or neglect, and accompanying the
26 petition with a copy of the citation and the answer, if one has

1 been filed, together with a copy of the subpoena and the return
2 of service thereon, and shall apply for an order of court
3 requiring such person to attend and testify, and forthwith
4 produce books and papers, before the electoral board. Any
5 circuit court of the state, excluding the judge who is sitting
6 on the electoral board, upon such showing shall order such
7 person to appear and testify, and to forthwith produce such
8 books and papers, before the electoral board at a place to be
9 fixed by the court. If such person shall knowingly fail or
10 refuse to obey such order of the court without lawful excuse,
11 the court shall punish him or her by fine and imprisonment, as
12 the nature of the case may require and may be lawful in cases
13 of contempt of court.

14 The electoral board on the first day of its meeting shall
15 adopt rules of procedure for the introduction of evidence and
16 the presentation of arguments and may, in its discretion,
17 provide for the filing of briefs by the parties to the
18 objection or by other interested persons.

19 In the event of a State Electoral Board hearing on
20 objections to a petition for an amendment to Article IV of the
21 Constitution pursuant to Section 3 of Article XIV of the
22 Constitution, or to a petition for a question of public policy
23 to be submitted to the voters of the entire State, ~~the~~
24 ~~certificates of the county clerks and boards of election~~
25 ~~commissioners showing~~ the results of the random sample of
26 signatures on the petition shall be prima facie valid and

1 accurate, and shall be presumed to establish the number of
2 valid and invalid signatures on the petition ~~sheets reviewed in~~
3 ~~the random sample~~, as prescribed in Section 28-11 and 28-12 of
4 this Code. Either party, however, may introduce evidence at
5 such hearing to dispute the findings as to particular
6 signatures. In addition to the foregoing, in the absence of
7 competent evidence presented at such hearing by a party
8 substantially challenging the results of a random sample, such
9 results ~~or showing a different result obtained by an additional~~
10 ~~sample, this certificate of a county clerk or board of election~~
11 ~~commissioners~~ shall be presumed to establish the ratio of valid
12 to invalid signatures on the petition ~~within the particular~~
13 ~~election jurisdiction.~~

14 The electoral board shall take up the question as to
15 whether or not the certificate of nomination or nomination
16 papers or petitions are in proper form, and whether or not they
17 were filed within the time and under the conditions required by
18 law, and whether or not they are the genuine certificate of
19 nomination or nomination papers or petitions which they purport
20 to be, and whether or not in the case of the certificate of
21 nomination in question it represents accurately the decision of
22 the caucus or convention issuing it, and in general shall
23 decide whether or not the certificate of nomination or
24 nominating papers or petitions on file are valid or whether the
25 objections thereto should be sustained and the decision of a
26 majority of the electoral board shall be final subject to

1 judicial review as provided in Section 10-10.1. The electoral
2 board must state its findings in writing and must state in
3 writing which objections, if any, it has sustained. A copy of
4 the decision shall be served upon the parties to the
5 proceedings in open proceedings before the electoral board. If
6 a party does not appear for receipt of the decision, the
7 decision shall be deemed to have been served on the absent
8 party on the date when a copy of the decision is personally
9 delivered or on the date when a copy of the decision is
10 deposited in the United States mail, in a sealed envelope or
11 package, with postage prepaid, addressed to each party affected
12 by the decision or to such party's attorney of record, if any,
13 at the address on record for such person in the files of the
14 electoral board.

15 Upon the expiration of the period within which a proceeding
16 for judicial review must be commenced under Section 10-10.1,
17 the electoral board shall, unless a proceeding for judicial
18 review has been commenced within such period, transmit, by
19 registered or certified mail, a certified copy of its ruling,
20 together with the original certificate of nomination or
21 nomination papers or petitions and the original objector's
22 petition, to the officer or board with whom the certificate of
23 nomination or nomination papers or petitions, as objected to,
24 were on file, and such officer or board shall abide by and
25 comply with the ruling so made to all intents and purposes.

26 (Source: P.A. 98-115, eff. 7-29-13; 98-691, eff. 7-1-14; 99-78,

1 eff. 7-20-15; 99-642, eff. 7-28-16.)

2 (10 ILCS 5/28-9) (from Ch. 46, par. 28-9)

3 Sec. 28-9. Petitions for proposed amendments to Article IV
4 of the Constitution pursuant to Section 3, Article XIV of the
5 Constitution shall be signed by a number of electors equal in
6 number to at least 8% of the total votes cast for candidates
7 for Governor in the preceding gubernatorial election. Such
8 petition shall have been signed by the petitioning electors not
9 more than 24 months preceding the general election at which the
10 proposed amendment is to be submitted and shall be filed with
11 the Secretary of State at least 6 months before that general
12 election.

13 Upon receipt of a petition for a proposed Constitutional
14 amendment, the Secretary of State shall, as soon as is
15 practicable, but no later than the close of the next business
16 day, deliver such petition to the State Board of Elections.

17 Petitions for advisory questions of public policy to be
18 submitted to the voters of the entire State shall be signed by
19 a number of voters equal in number to 8% of the total votes
20 cast for candidates for Governor in the preceding gubernatorial
21 election. Such petition shall have been signed by said
22 petitioners not more than 24 months preceding the date of the
23 general election at which the question is to be submitted and
24 shall be filed with the State Board of Elections at least 6
25 months before that general election.

1 ~~The proponents of the proposed statewide advisory public~~
2 ~~question shall file the original petition for a proposed~~
3 ~~constitutional amendment or a Statewide advisory public~~
4 ~~question in bound sections. Each section shall be composed of~~
5 consecutively numbered petition sheets bound in sections,
6 containing only the original signatures of registered voters in
7 the State. ~~Any petition sheets not consecutively numbered or~~
8 ~~which contain duplicate page numbers already used on other~~
9 ~~sheets, or are photocopies or duplicates of the original~~
10 ~~sheets, shall not be considered part of the petition for the~~
11 ~~purpose of the random sampling verification and shall not be~~
12 ~~counted toward the minimum number of signatures required to~~
13 ~~qualify the proposed statewide advisory public question for the~~
14 ~~ballot.~~

15 ~~Within 7 business days following the last day for filing~~
16 ~~the original petition, the proponents shall also file copies of~~
17 ~~the petition sheets with each proper election authority and~~
18 ~~obtain a receipt therefor.~~

19 For purposes of this Act, the following terms shall be
20 defined and construed as follows:

- 21 1. "Board" means the State Board of Elections.
- 22 2. "Election Authority" means a county clerk or city or
23 county board of election commissioners.
- 24 3. (Blank).
- 25 4. "Proponents" means any person, association, committee,
26 organization or other group, or their designated

1 representatives, who advocate and cause the circulation and
2 filing of petitions for a statewide advisory question of public
3 policy or a proposed constitutional amendment for submission at
4 a general election and who has registered with the Board as
5 provided in this Act.

6 5. "Opponents" means any person, association, committee,
7 organization or other group, or their designated
8 representatives, who oppose a statewide advisory question of
9 public policy or a proposed constitutional amendment for
10 submission at a general election and who have registered with
11 the Board as provided in this Act.

12 (Source: P.A. 97-81, eff. 7-5-11; 98-1171, eff. 6-1-15.)

13 (10 ILCS 5/28-11) (from Ch. 46, par. 28-11)

14 Sec. 28-11. The Board shall design a standard and
15 scientific random sampling method for the verification of
16 petition signatures for statewide advisory referenda and
17 proposed constitutional amendments shall conduct a public test
18 to prove the validity of its sampling method. Notice of the
19 time and place for such test shall be given at least 10 days
20 before the date on which such test is to be conducted and in
21 the manner prescribed for notice of regular Board meetings. In
22 addition, the Board shall adopt rules of procedure for the
23 petition filing process, including, but not limited to, the
24 signature verification and signature rehabilitation
25 procedures. Signatures on petitions for constitutional

1 ~~amendments initiated pursuant to Article XIV, Section 3 of the~~
2 ~~Illinois Constitution need not be segregated by election~~
3 ~~jurisdiction. The Board shall design an alternative signature~~
4 ~~verification method for referenda initiated pursuant to~~
5 ~~Article XIV, Section 3 of the Illinois Constitution.~~

6 ~~The~~ Within 14 business days following the last day for the
7 ~~filing of the original petition as prescribed in Section 28-9,~~
8 ~~the~~ Board shall apply its ~~proven~~ random sampling method to the
9 petition sheets ~~in each election jurisdiction section~~ for the
10 purpose of selecting and identifying the petition signatures to
11 be included in the sample for signature verification to be
12 conducted by the Board for the respective jurisdictions and
13 ~~shall prepare and transmit to each proper election authority a~~
14 ~~list by page and line number of the signatures from its~~
15 ~~election jurisdiction selected for verification.~~

16 ~~For each election jurisdiction, the sample verification~~
17 ~~shall include an examination of either (a) 10% of the~~
18 ~~signatures if 5,010 or more signatures are involved; or (b) 500~~
19 ~~signatures if more than 500 but less than 5,010 signatures are~~
20 ~~involved; or (c) all signatures if 500 or less signatures are~~
21 ~~involved.~~

22 The State Board of Elections ~~Each election authority with~~
23 ~~whom jurisdictional copies of petition sheets were filed shall~~
24 determine the validity of those signatures contained in the
25 sample ~~use the proven random sampling method designed and~~
26 ~~furnished by the Board for the verification of signatures shown~~

1 ~~on the list supplied by the Board and~~ in accordance with the
2 adopted rules of procedure and in accordance with the following
3 criteria ~~for determination of petition signature validity:~~

4 1. Determine if the person who signed the petition is a
5 registered voter in that election jurisdiction or was a
6 registered voter therein on the date the petition was
7 signed;

8 2. Determine if the signature of the person who signed
9 the petition reasonably compares with the signature shown
10 on that person's registration record card.

11 ~~Within 14 business days following receipt from the Board of~~
12 ~~the list of signatures for verification, each election~~
13 ~~authority shall transmit a properly dated certificate to the~~
14 ~~Board which shall indicate; (a) the page and line number of~~
15 ~~petition signatures examined, (b) the validity or invalidity of~~
16 ~~such signatures, and (c) the reasons for invalidity, based on~~
17 ~~the criteria heretofore prescribed. The Board shall prepare and~~
18 ~~adopt a standard form of certificate for use by the election~~
19 ~~authorities which shall be transmitted with the list of~~
20 ~~signatures for verification.~~

21 ~~Upon written request of the election authority that, due to~~
22 ~~the volume of signatures in the sample for its jurisdiction,~~
23 ~~additional time is needed to properly perform the signature~~
24 ~~verification, the Board may grant the election authority~~
25 ~~additional days to complete the verification and transmit the~~
26 ~~certificate of results. These certificates of random sample~~

1 ~~verification results shall be available for public inspection~~
2 ~~within 24 hours after receipt by the State Board of Elections.~~

3 (Source: P.A. 97-81, eff. 7-5-11.)

4 (10 ILCS 5/28-12) (from Ch. 46, par. 28-12)

5 Sec. 28-12. Upon completion of the signature verification
6 process ~~receipt of the certificates of the election authorities~~
7 ~~showing the results of the sample signature verification,~~ the
8 Board shall:

9 1. Based on the sample of signatures examined,
10 calculate the ratio of invalid and ~~or~~ valid signatures on
11 the petition ~~in each election jurisdiction.~~

12 2. Apply the ratio of invalid to valid signatures ~~in an~~
13 ~~election jurisdiction sample~~ to the total number of
14 petition signatures submitted on the petition ~~from that~~
15 ~~election jurisdiction.~~

16 3. Compute the degree of multiple signature
17 contamination ~~in each election jurisdiction sample.~~

18 4. Adjusting ~~Adjust~~ for multiple signature
19 contamination and the number of invalid signatures,
20 project the total number of valid petition signatures
21 submitted ~~from each election jurisdiction.~~

22 5. (Blank). ~~Aggregate the total number of projected~~
23 ~~valid signatures from each election jurisdiction and~~
24 ~~project the total number of valid signatures on the~~
25 ~~petition statewide.~~

1 If such statewide projection establishes a total number of
2 valid petition signatures less than 95% ~~not greater than 95.0%~~
3 of the minimum number of signatures required to qualify the
4 proposed constitutional amendment or statewide advisory public
5 question for the ballot, the petition shall be presumed
6 invalid; provided that, prior to the last day for ballot
7 certification for the general election, the Board shall conduct
8 a hearing for the purpose of allowing the proponents to present
9 competent evidence ~~or an additional sample~~ to rebut the
10 presumption of invalidity. At the conclusion of such hearing,
11 and after the resolution of any specific objection filed
12 pursuant to Section 10-8 of this Code, the Board shall issue a
13 final order declaring the petition to be valid or invalid and
14 shall, in accordance with its order, certify or not certify the
15 proposition for the ballot.

16 If such statewide projection establishes a total number of
17 valid petition signatures equal to or greater than 95% ~~greater~~
18 ~~than 95.0%~~ of the minimum number of signatures required to
19 qualify the proposed Constitutional amendment or statewide
20 advisory public question for the ballot, the results of the
21 sample shall be considered inconclusive and, if no specific
22 objections to the petition are filed pursuant to Section 10-8
23 of this Code, the Board shall issue a final order declaring the
24 petition to be valid and shall certify the proposition for the
25 ballot.

26 ~~In either event, the Board shall append to its final order~~

1 ~~the detailed results of the sample from each election~~
2 ~~jurisdiction which shall include: (a) specific page and line~~
3 ~~numbers of signatures actually verified or determined to be~~
4 ~~invalid by the respective election authorities, and (b) the~~
5 ~~calculations and projections performed by the Board for each~~
6 ~~election jurisdiction.~~

7 (Source: P.A. 97-81, eff. 7-5-11.)

8 (10 ILCS 5/28-13) (from Ch. 46, par. 28-13)

9 Sec. 28-13. Each political party and civic organization as
10 well as the registered proponents and opponents of a proposed
11 constitutional amendment or statewide advisory public question
12 shall be entitled ~~to one watcher in the office of the election~~
13 ~~authority~~ to observe the conduct of the sample signature
14 verification and participate in any proceedings related
15 thereto. ~~However, in those election jurisdictions where a 10%~~
16 ~~sample is required, the proponents and opponents may appoint no~~
17 ~~more than 5 assistant watchers in addition to the 1 principal~~
18 ~~watcher permitted herein.~~

19 Within 7 days following the last day for filing of the
20 original petition, the proponents and opponents shall certify
21 in writing to the Board that they publicly support or oppose
22 the proposed statewide advisory public question. The
23 proponents and opponents of such questions shall register the
24 name and address of its group and the name and address of its
25 chairman and designated agent for acceptance of service of

1 notices with the Board. Thereupon, the Board shall prepare a
2 list of the registered proponents and opponents and shall adopt
3 a standard proponents' and opponents' watcher credential form.
4 ~~A copy of such list and sufficient copies of such credentials~~
5 ~~shall be transmitted with the list for the sample signature~~
6 ~~verification to the appropriate election authorities. Those~~
7 ~~election authorities shall issue credentials to the~~
8 ~~permissible number of watchers for each proponent and opponent~~
9 ~~group; provided, however, that a prospective watcher shall~~
10 ~~first present to the election authority a letter of~~
11 ~~authorization signed by the chairman of the proponent or~~
12 ~~opponent group he or she represents.~~

13 Political party and qualified civic organization watcher
14 credentials shall be substantially in the form and shall be
15 authorized in the manner prescribed in Section 7-34 of this
16 Code.

17 The rights and limitations of pollwatchers as prescribed by
18 Section 7-34 of this Code, insofar as they may be made
19 applicable, shall be applicable to watchers at the conduct of
20 the sample signature verification.

21 The ~~principal watcher for the~~ proponents and opponents may
22 make signed written objections to the Board relating to
23 procedures observed during the conduct of the sample signature
24 verification which could materially affect the results of the
25 sample. ~~Such written objections shall be presented to the~~
26 ~~election authority and a copy mailed to the Board and shall be~~

1 ~~attached to the certificate of sample results transmitted by~~
2 ~~the election authority to the Board.~~

3 (Source: P.A. 97-81, eff. 7-5-11.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.