102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4491

Introduced 1/21/2022, by Rep. Katie Stuart

SYNOPSIS AS INTRODUCED:

10 ILCS 5/10-10	from Ch. 46, par. 10-10
10 ILCS 5/28-3	from Ch. 46, par. 28-3
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. Removes provisions specifying petition and referenda requirements for proposed statewide advisory public questions. Modifies the procedures for: petition signature sample verification, including removing specified responsibilities of election authorities; valid signature calculation; and petition verification watchers. Makes conforming changes. Makes other changes. Effective immediately.

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AN ACT concerning elections.

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

4 Section 5. The Election Code is amended by changing 5 Sections 10-10, 28-3, 28-9, 28-11, 28-12, and 28-13 as 6 follows:

7 (10 ILCS 5/10-10) (from Ch. 46, par. 10-10)

Sec. 10-10. Within 24 hours after the receipt of the 8 9 certificate of nomination or nomination papers or proposed question of public policy, as the case may be, and the 10 objector's petition, the chair 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 14 electoral board, and to the objector who filed the objector's petition, and either to the candidate whose certificate of 15 16 nomination or nomination papers are objected to or to the 17 principal proponent or attorney for proponents of a question of public policy, as the case may be, whose petitions are 18 19 objected to, and shall also cause the sheriff of the county or 20 counties in which such officers and persons reside to serve a 21 copy of such call upon each of such officers and persons, which call shall set out the fact that the electoral board is 22 required to meet to hear and pass upon the objections to 23

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

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

8 The electoral board shall have the power to administer 9 oaths and to subpoena and examine witnesses and, at the 10 request of either party and only upon a vote by a majority of 11 its members, may authorize the chair to issue subpoenas 12 requiring the attendance of witnesses and subpoenas duces tecum requiring the production of such books, papers, records 13 14 and documents as may be evidence of any matter under inquiry 15 before the electoral board, in the same manner as witnesses 16 are subpoenaed in the Circuit Court.

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

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and accompanying the petition with a copy of the citation and 1 2 the answer, if one has been filed, together with a copy of the subpoena and the return of service thereon, and shall apply 3 for an order of court requiring such person to attend and 4 5 testify, and forthwith produce books and papers, before the electoral board. Any circuit court of the state, excluding the 6 7 judge who is sitting on the electoral board, upon such showing 8 shall order such person to appear and testify, and to 9 forthwith produce such books and papers, before the electoral 10 board at a place to be fixed by the court. If such person shall knowingly fail or refuse to obey such order of the court 11 12 without lawful excuse, the court shall punish him or her by fine and imprisonment, as the nature of the case may require 13 and may be lawful in cases of contempt of court. 14

15 The electoral board on the first day of its meeting shall 16 adopt rules of procedure for the introduction of evidence and 17 the presentation of arguments and may, in its discretion, 18 provide for the filing of briefs by the parties to the 19 objection or by other interested persons.

In the event of a State Electoral Board hearing on objections to a petition for an amendment to Article IV of the Constitution pursuant to Section 3 of Article XIV of the Constitution, proposed statewide advisory public question, or to a petition for a question of public policy to be submitted to the voters of the entire State, the certificates of the county clerks and boards of election commissioners showing the

results of the random sample of signatures on the petition 1 2 shall be prima facie valid and accurate, and shall be presumed 3 to establish the number of valid and invalid signatures on the petition sheets reviewed in the random sample, as prescribed 4 5 in Section 28-11 and 28-12 of this Code. Either party, 6 however, may introduce evidence at such hearing to dispute the findings as to particular signatures. In addition to the 7 8 foregoing, in the absence of competent evidence presented at 9 such hearing by a party substantially challenging the results of a random sample, such results or showing a different result 10 11 obtained by an additional sample, this certificate of a county 12 clerk or board of election commissioners shall be presumed to establish the ratio of valid to invalid signatures on the 13 14 petition within the particular election jurisdiction.

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

decision of a majority of the electoral board shall be final 1 2 subject to judicial review as provided in Section 10-10.1. The electoral board must state its findings in writing and must 3 state in writing which objections, if any, it has sustained. A 4 5 copy of the decision shall be served upon the parties to the proceedings in open proceedings before the electoral board. If 6 7 a party does not appear for receipt of the decision, the decision shall be deemed to have been served on the absent 8 9 party on the date when a copy of the decision is personally 10 delivered or on the date when a copy of the decision is 11 deposited in the United States mail, in a sealed envelope or 12 package, with postage prepaid, addressed to each party 13 affected by the decision or to such party's attorney of record, if any, at the address on record for such person in the 14 15 files of the electoral board.

16 Upon the expiration of the period within which а 17 proceeding for judicial review must be commenced under Section 10-10.1, the electoral board shall, unless a proceeding for 18 judicial review has been commenced within such period, 19 20 transmit, by registered or certified mail, a certified copy of 21 its ruling, together with the original certificate of 22 nomination or nomination papers or petitions and the original 23 objector's petition, to the officer or board with whom the certificate of nomination or nomination papers or petitions, 24 25 as objected to, were on file, and such officer or board shall 26 abide by and comply with the ruling so made to all intents and

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1 purposes.

2 (Source: P.A. 99-78, eff. 7-20-15; 99-642, eff. 7-28-16; 3 100-1027, eff. 1-1-19.)

4 (10 ILCS 5/28-3) (from Ch. 46, par. 28-3)

5 Sec. 28-3. Form of petition for public question. Petitions 6 for the submission of public questions shall consist of sheets 7 of uniform size and each sheet shall contain, above the space for signature, an appropriate heading, giving the information 8 9 as to the question of public policy to be submitted, and 10 specifying the state at large or the political subdivision or 11 district or precinct or combination of precincts or other 12 territory in which it is to be submitted and, where by law the 13 public question must be submitted at a particular election, 14 the election at which it is to be submitted. In the case of a 15 petition for the submission of a public question described in 16 subsection (b) of Section 28-6, the heading shall also specify the regular election at which the question is to be submitted 17 18 and include the precincts included in the territory concerning which the public question is to be submitted, as well as a 19 20 common description of such territory in plain and nonlegal 21 language, such description to describe the territory by 22 streets, natural or artificial reference to landmarks, 23 addresses or any other method which would enable a voter 24 signing the petition to be informed of the territory 25 concerning which the question is to be submitted. The heading

of each sheet shall be the same. Such petition shall be signed 1 2 by the registered voters of the political subdivision or district or precinct or combination of precincts in which the 3 question of public policy is to be submitted in their own 4 5 proper persons only, and opposite the signature of each signer his residence address shall be written or printed, which 6 7 residence address shall include the street address or rural 8 route number of the signer, as the case may be, as well as the 9 signer's county, and city, village or town, and state; 10 provided that the county or city, village or town, and state of 11 residence of such electors may be printed on the petition 12 forms where all of the electors signing the petition reside in the same county or city, village or town, and state. Standard 13 14 abbreviations may be used in writing the residence address, including street number, if any. No signature shall be valid 15 16 or be counted in considering the validity or sufficiency of 17 such petition unless the requirements of this Section are complied with. 18

19 At the bottom of each sheet of such petition shall be added 20 a circulator's statement, signed by a person 18 years of age or 21 older who is a citizen of the United States, stating the street 22 address or rural route number, as the case may be, as well as 23 the county, city, village or town, and state; certifying that the signatures on that sheet of the petition were signed in his 24 25 or her presence and are genuine, and that to the best of his or 26 her knowledge and belief the persons so signing were at the

time of signing the petition registered voters of the political subdivision or district or precinct or combination of precincts in which the question of public policy is to be submitted and that their respective residences are correctly stated therein. Such statement shall be sworn to before some officer authorized to administer oaths in this State.

7 Such sheets, before being filed with the proper officer or 8 board shall be bound securely and numbered consecutively. The 9 sheets shall not be fastened by pasting them together end to 10 end, so as to form a continuous strip or roll. All petition 11 sheets which are filed with the proper local election 12 officials, election authorities or the State Board of 13 Elections shall be the original sheets which have been signed 14 by the voters and by the circulator, and not photocopies or duplicates of such sheets. A petition, when presented or 15 16 filed, shall not be withdrawn, altered, or added to, and no 17 signature shall be revoked except by revocation in writing presented or filed with the board or officer with whom the 18 petition is required to be presented or filed, and before the 19 20 presentment or filing of such petition, except as mav otherwise be provided in another statute which authorize the 21 22 public question. Whoever forges any name of a signer upon any 23 petition shall be deemed quilty of a forgery, and on 24 conviction thereof, shall be punished accordingly.

In addition to the foregoing requirements, a petition proposing an amendment to Article IV of the Constitution

pursuant to Section 3 of Article XIV of the Constitution, a
petition proposing a statewide advisory public question, or a
petition proposing a question of public policy to be submitted
to the voters of the entire State shall be in conformity with
the requirements of Section 28-9 of this Article.

6 If multiple sets of petitions for submission of the same 7 public questions are filed, the State Board of Elections, 8 appropriate election authority or local election official 9 where the petitions are filed shall within 2 business days 10 notify the proponent of his or her multiple petition filings 11 and that proponent has 3 business days after receipt of the 12 notice to notify the State Board of Elections, appropriate election authority or local election official that he or she 13 14 may cancel prior sets of petitions. If the proponent notifies 15 the State Board of Elections, appropriate election authority or local election official, the last set of petitions filed 16 17 shall be the only petitions to be considered valid by the State Board of Elections, appropriate election authority or local 18 election official. If the proponent fails to notify the State 19 20 Board of Elections, appropriate election authority or local election official then only the first set of petitions filed 21 22 shall be valid and all subsequent petitions shall be void. 23 (Source: P.A. 98-756, eff. 7-16-14.)

24 (10 ILCS 5/28-9) (from Ch. 46, par. 28-9)

25 Sec. 28-9. Petitions for proposed amendments to Article IV

of the Constitution pursuant to Section 3, Article XIV of the 1 2 Constitution shall be signed by a number of electors equal in number to at least 8% of the total votes cast for candidates 3 for Governor in the preceding gubernatorial election. Such 4 5 petition shall have been signed by the petitioning electors not more than 24 months preceding the general election at 6 7 which the proposed amendment is to be submitted and shall be filed with the Secretary of State at least 6 months before that 8 9 general election.

10 Upon receipt of a petition for a proposed Constitutional 11 amendment, the Secretary of State shall, as soon as is 12 practicable, but no later than the close of the next business 13 day, deliver such petition to the State Board of Elections.

Petitions for advisory questions of public policy to be 14 15 submitted to the voters of the entire State shall be signed by a number of voters equal in number to 8% of the total votes 16 17 for candidates for Governor in the cast preceding gubernatorial election. Such petition shall have been signed 18 19 by said petitioners not more than 24 months preceding the date 20 of the general election at which the guestion is to be submitted and shall be filed with the State Board of Elections 21 22 at least 6 months before that general election.

23 The proponents of the proposed statewide advisory public 24 question shall file the original petition in bound sections. 25 Each section shall be composed of consecutively numbered 26 petition sheets containing only the signatures of registered

voters. Any petition sheets not consecutively numbered or 1 2 which contain duplicate page numbers already used on other sheets, or are photocopies or duplicates of the original 3 sheets, shall not be considered part of the petition for the 4 5 purpose of the random sampling verification and shall not be counted toward the minimum number of signatures required to 6 7 qualify the proposed statewide advisory public question for 8 the ballot.

9 Within 7 business days following the last day for filing 10 the original petition, the proponents shall also file copies 11 of the petition sheets with each proper election authority and 12 obtain a receipt therefor.

13 For purposes of this Act, the following terms shall be 14 defined and construed as follows:

1. "Board" means the State Board of Elections.

"Election Authority" means a county clerk or city or
 county board of election commissioners.

18 3. (Blank).

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4. "Proponents" means any person, association, committee, 19 20 organization or other group, or their designated representatives, who advocate and cause the circulation and 21 22 filing of petitions for a statewide advisory question of 23 public policy or a proposed constitutional amendment for submission at a general election and who has registered with 24 25 the Board as provided in this Act.

26 5. "Opponents" means any person, association, committee,

1 organization other group, their designated or or 2 representatives, who oppose a statewide advisory question of public policy or a proposed constitutional amendment for 3 submission at a general election and who have registered with 4 5 the Board as provided in this Act.

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

7 (10 ILCS 5/28-11) (from Ch. 46, par. 28-11)

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8 28-11. The Board shall design a standard and Sec. 9 scientific random sampling method for the verification of 10 petition signatures for statewide advisory referenda and shall 11 conduct a public test to prove the validity of its sampling 12 method. Notice of the time and place for such test shall be given at least 10 days before the date on which such test is to 13 14 be conducted and in the manner prescribed for notice of 15 regular Board meetings. Signatures on petitions for 16 constitutional amendments initiated pursuant to Article XIV, Section 3 of the Illinois Constitution or statewide advisory 17 referenda need not be segregated by election jurisdiction. The 18 19 Board shall design a an alternative signature verification 20 method using random sampling for referenda initiated pursuant 21 to Article XIV, Section 3 of the Illinois Constitution and statewide advisory referenda. 22

23 <u>The Within 14 business days following the last day for the</u> 24 filing of the original petition as prescribed in Section 28-9, 25 the Board shall apply its proven random sampling method to the petition sheets in each election jurisdiction section for the purpose of selecting and identifying the petition signatures to be included in the sample signature verification <u>to be</u> <u>conducted by the Board.</u> for the respective jurisdictions and shall prepare and transmit to each proper election authority a <u>list by page and line number of the signatures from its</u> <u>election jurisdiction selected for verification.</u>

8 For each election jurisdiction, the sample verification 9 shall include an examination of either (a) 10% of the 10 signatures if 5,010 or more signatures are involved; or (b) 11 500 signatures if more than 500 but less than 5,010 signatures 12 are involved; or (c) all signatures if 500 or less signatures 13 are involved.

14 <u>The State Board of Elections</u> Each election authority with 15 whom jurisdictional copies of petition sheets were filed shall 16 <u>determine the validity</u> use the proven random sampling method 17 <u>designed and furnished by the Board for the verification</u> of 18 <u>those</u> signatures <u>contained in the sample</u> shown on the list 19 supplied by the Board and in accordance with the following 20 criteria for determination of petition signature validity:

Determine if the person who signed the petition is
 a registered voter in that election jurisdiction or was a
 registered voter therein on the date the petition was
 signed;

2. Determine if the signature of the person who signed
 the petition reasonably compares with the signature shown

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on that person's registration record card.

2 <u>The Board may adopt rules, as necessary, to implement the</u> 3 provisions of this Section.

Within 14 business days following receipt from the Board 4 5 of the list of signatures for verification, each election authority shall transmit a properly dated certificate to the 6 Board which shall indicate; (a) the page and line number of 7 petition signatures examined, (b) the validity or invalidity 8 of such signatures, and (c) the reasons for invalidity, based 9 10 on the criteria heretofore prescribed. The Board shall prepare 11 and adopt a standard form of certificate for use by the 12 election authorities which shall be transmitted with the list of signatures for verification. 13

Upon written request of the election authority that, due 14 to the volume of signatures in the sample for its 15 16 jurisdiction, additional time is needed to properly perform 17 the signature verification, the Board may grant the election authority additional days to complete the verification and 18 transmit the certificate of results. These certificates of 19 random sample verification results shall be available for 20 public inspection within 24 hours after receipt by the State 21 22 Board of Elections.

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

24 (10 ILCS 5/28-12) (from Ch. 46, par. 28-12)

25 Sec. 28-12. Upon completion of the signature verification

for referenda initiated pursuant to Article XIV, Section 3 of the Illinois Constitution and statewide advisory referenda, Upon receipt of the certificates of the election authorities showing the results of the sample signature verification, the Board shall:

Based on the sample <u>of signatures examined</u>,
calculate the ratio of invalid <u>and</u> or valid signatures in
each election jurisdiction.

9 2. Apply the ratio of invalid to valid signatures in 10 an election jurisdiction sample to the total number of 11 petition signatures submitted <u>on the petition</u> from that 12 election jurisdiction.

Compute the degree of multiple signature
 contamination in each election jurisdiction sample.

4. <u>Adjusting</u> Adjust for multiple signature
contamination and the <u>number of</u> invalid signatures,
project the total number of valid petition signatures
submitted from each election jurisdiction.

19 5. <u>(Blank)</u>. Aggregate the total number of projected 20 valid signatures from each election jurisdiction and 21 project the total number of valid signatures on the 22 petition statewide.

If such statewide projection establishes a total number of valid petition signatures <u>less</u> not greater than 95.0% of the minimum number of signatures required to qualify the proposed statewide advisory public question for the ballot, the HB4491 - 17 - LRB102 23392 AWJ 32561 b

petition shall be presumed invalid; provided that, prior to 1 2 the last day for ballot certification for the general election, the Board shall conduct a hearing for the purpose of 3 allowing the proponents to present competent evidence or an 4 5 additional sample to rebut the presumption of invalidity. At the conclusion of such hearing, and after the resolution of 6 any specific objection filed pursuant to Section 10-8 of this 7 8 Code, the Board shall issue a final order declaring the 9 petition to be valid or invalid and shall, in accordance with 10 its order, certify or not certify the proposition for the 11 ballot.

12 If such statewide projection establishes a total number of valid petition signatures greater than 95.0% of the minimum 13 14 number of signatures required to qualify the proposed 15 Constitutional amendment or statewide advisory public question 16 for the ballot, the results of the sample shall be considered 17 inconclusive and, if no specific objections to the petition are filed pursuant to Section 10-8 of this Code, the Board 18 shall issue a final order declaring the petition to be valid 19 20 and shall certify the proposition for the ballot.

In either event, the Board shall append to its final order the detailed results of the sample from each election jurisdiction which shall include: (a) specific page and line numbers of signatures actually verified or determined to be invalid by the respective election authorities, and (b) the calculations and projections performed by the Board for each - 18 - LRB102 23392 AWJ 32561 b

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1 election jurisdiction.

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

3 (10 ILCS 5/28-13) (from Ch. 46, par. 28-13)

4 Sec. 28-13. Each political party and civic organization as 5 well as the registered proponents and opponents of a <u>a</u> petition for an amendment to Article IV of the Constitution 6 pursuant to Section 3 of Article XIV of the Constitution, or 7 proposed statewide advisory public question shall be entitled 8 9 to one watcher in the office of the election authority to 10 observe the conduct of the sample signature verification and 11 participate in any proceedings related thereto. However, in 12 those election jurisdictions where a 10% sample is required, 13 the proponents and opponents may appoint no more than 5 14 assistant watchers in addition to the 1 principal watcher 15 permitted herein.

16 Within 7 days following the last day for filing of the original petition, the proponents and opponents shall certify 17 in writing to the Board that they publicly support or oppose 18 statewide advisory public question. 19 the proposed The proponents and opponents of such questions shall register the 20 21 name and address of its group and the name and address of its 22 chair and designated agent for acceptance of service of notices with the Board. Thereupon, the Board shall prepare a 23 24 list of the registered proponents and opponents and shall adopt a standard proponents' and opponents' watcher credential 25

form. A copy of such list and sufficient copies of such 1 2 credentials shall be transmitted with the list for the sample signature verification to the appropriate election 3 authorities. Those election authorities shall issue 4 5 credentials to the permissible number of watchers for each 6 proponent and opponent group; provided, however, that a 7 prospective watcher shall first present to the election 8 authority a letter of authorization signed by the chair of the 9 proponent or opponent group he or she represents.

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

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

The principal watcher for the proponents and opponents may 18 make signed written objections to the Board relating to 19 20 procedures observed during the conduct of the sample signature verification which could materially affect the results of the 21 22 sample. Such written objections shall be presented to the 23 election authority and a copy mailed to the Board and shall be 24 attached to the certificate of sample results transmitted by 25 the election authority to the Board.

26 (Source: P.A. 100-1027, eff. 1-1-19.)

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