



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1673

Introduced 2/24/2005, by Sen. Wendell E. Jones

SYNOPSIS AS INTRODUCED:

10 ILCS 5/28-2
10 ILCS 5/28-5

from Ch. 46, par. 28-2
from Ch. 46, par. 28-5

Amends the Election Code. Requires that a back door referendum question must appear on the ballot at an election no more than 15 months (now, one year) after the petition initiating the question is filed. Effective immediately.

LRB094 11321 JAM 42147 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 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 board
10 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 18-120
13 of the Property Tax Code must be filed with the appropriate
14 officer or board not more than 10 months nor less than 6 months
15 prior to the election at which such question is to be submitted
16 to the voters.

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

23 (c) Resolutions or ordinances of governing boards of
24 political subdivisions which initiate the submission of public
25 questions pursuant to law must be adopted not less than 65 days
26 before a regularly scheduled election to be eligible for
27 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 election
30 at which the question is to be submitted, and must so specify
31 if the statute authorizing the public question requires
32 submission at a particular election. However, no petition,

1 resolution or ordinance initiating the submission of a public
2 question, other than a legislative resolution initiating an
3 amendment to the Constitution, may specify such submission at
4 an election more than one year, or 15 months in the case of a
5 back door referendum as defined in subsection (f), after the
6 date on which it is filed or adopted, as the case may be. A
7 petition, resolution or ordinance initiating a public question
8 which specifies a particular election at which the question is
9 to be submitted shall be so limited, and shall not be valid as
10 to any other election, other than an emergency referendum
11 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. If a
18 resolution or ordinance initiating a public question does not
19 specify a regularly scheduled election, the public question
20 shall be submitted to referendum at the next regular election
21 occurring not less than 65 days after the adoption of the
22 resolution or ordinance.

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

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

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

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

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

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

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

26 (description of territory included in petition)

27 (signature).....

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

30 * Where applicable.

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

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

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

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

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

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

19 Not less than 61 days before a regularly scheduled
20 election, each circuit court clerk shall certify the public
21 questions to be submitted to the voters of a political
22 subdivision at that election which have been ordered to be so
23 submitted by the circuit court pursuant to law. Not less than
24 30 days before the date set by the circuit court for the
25 conduct of an emergency referendum pursuant to Section 2A-1.4,
26 the circuit court clerk shall certify the public question as
27 herein required.

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

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

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

4 Not less than 67 days before the general election, the
5 State Board of Elections shall certify any questions proposing
6 an amendment to Article IV of the Constitution pursuant to
7 Section 3, Article XIV of the Constitution and any advisory
8 public questions to be submitted to the voters of the entire
9 State, which have been initiated by petitions received or filed
10 at its office, to the respective county clerks. Not less than
11 61 days before the general election, the county clerk shall
12 certify such questions to the board of election commissioners,
13 if any, in his county.

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

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

36 Whenever a local election official, an election authority,

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

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

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

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

19 If the petition, resolution or ordinance initiating such
20 prohibited public question did not specify a particular
21 election for its submission, the officer or board responsible
22 for certifying the question to the election authorities shall
23 certify or recertify the question, in the manner required
24 herein, for submission on the ballot at the next regular
25 election no more than one year, or 15 months in the case of a
26 back door referendum as defined in subsection (f) of Section
27 28-2, subsequent to the filing of the initiating petition or
28 the adoption of the initiating resolution or ordinance and at
29 which the public question may be submitted, and the appropriate
30 election authorities shall submit the question at such
31 election, unless the public question is ordered submitted as an
32 emergency referendum pursuant to Section 2A-1.4 or is withdrawn
33 as may be provided by law.

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

35 Section 99. Effective date. This Act takes effect upon

1 becoming law.