



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1689

Introduced 2/15/2013, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

10 ILCS 5/10-9
10 ILCS 5/10-10

from Ch. 46, par. 10-9
from Ch. 46, par. 10-10

Amends the Election Code. Provides that the county officers electoral board shall hear and pass upon objections to nominations for municipal offices, for township offices, if the township is wholly located in one county, and for community college district offices. Provides that if a municipality, school district, or community college district is located in 2 or more counties, the county officers electoral board of the county in which the principal offices of the municipality, school district, or community college district are located shall hear and pass upon the objections. Deletes provisions concerning the municipal officers electoral board, the township officers electors board, and the education officers electors board.

LRB098 08930 HLH 39062 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 10-9 and 10-10 as follows:

6 (10 ILCS 5/10-9) (from Ch. 46, par. 10-9)

7 Sec. 10-9. The following electoral boards are designated
8 for the purpose of hearing and passing upon the objector's
9 petition described in Section 10-8.

10 1. The State Board of Elections will hear and pass upon
11 objections to the nominations of candidates for State
12 offices, nominations of candidates for congressional,
13 legislative and judicial offices of districts,
14 subcircuits, or circuits situated in more than one county,
15 nominations of candidates for the offices of State's
16 attorney or regional superintendent of schools to be
17 elected from more than one county, and petitions for
18 proposed amendments to the Constitution of the State of
19 Illinois as provided for in Section 3 of Article XIV of the
20 Constitution.

21 2. The county officers electoral board to hear and pass
22 upon objections to the nominations of candidates for
23 county, municipal, and township offices, for

1 congressional, legislative and judicial offices of a
2 district, subcircuit, or circuit coterminous with or less
3 than a county, for school and community college district
4 offices ~~trustees to be voted for by the electors of the~~
5 ~~county or by the electors of a township of the county~~, for
6 the office of multi-township assessor where candidates for
7 such office are nominated in accordance with this Code, and
8 for all special district offices, shall be composed of the
9 county clerk, or an assistant designated by the county
10 clerk, the State's attorney of the county or an Assistant
11 State's Attorney designated by the State's Attorney, and
12 the clerk of the circuit court, or an assistant designated
13 by the clerk of the circuit court, of the county, of whom
14 the county clerk or his designee shall be the chairman,
15 except that in any county which has established a county
16 board of election commissioners that board shall
17 constitute the county officers electoral board ex-officio.
18 If a municipality, school district, or community college
19 district is located in 2 or more counties, the county
20 officers electoral board of the county in which the
21 principal offices of the municipality, school district, or
22 community college district is located shall hear and pass
23 upon objections to nominations of candidates for the
24 municipal offices, school district offices, or community
25 college district offices.

26 3. (Blank). ~~The municipal officers electoral board to~~

1 ~~hear and pass upon objections to the nominations of~~
2 ~~candidates for officers of municipalities shall be~~
3 ~~composed of the mayor or president of the board of trustees~~
4 ~~of the city, village or incorporated town, and the city,~~
5 ~~village or incorporated town clerk, and one member of the~~
6 ~~city council or board of trustees, that member being~~
7 ~~designated who is eligible to serve on the electoral board~~
8 ~~and has served the greatest number of years as a member of~~
9 ~~the city council or board of trustees, of whom the mayor or~~
10 ~~president of the board of trustees shall be the chairman.~~

11 4. (Blank). ~~The township officers electoral board to~~
12 ~~pass upon objections to the nominations of township~~
13 ~~officers shall be composed of the township supervisor, the~~
14 ~~town clerk, and that eligible town trustee elected in the~~
15 ~~township who has had the longest term of continuous service~~
16 ~~as town trustee, of whom the township supervisor shall be~~
17 ~~the chairman.~~

18 5. (Blank). ~~The education officers electoral board to~~
19 ~~hear and pass upon objections to the nominations of~~
20 ~~candidates for offices in school or community college~~
21 ~~districts shall be composed of the presiding officer of the~~
22 ~~school or community college district board, who shall be~~
23 ~~the chairman, the secretary of the school or community~~
24 ~~college district board and the eligible elected school or~~
25 ~~community college board member who has the longest term of~~
26 ~~continuous service as a board member.~~

1 6. In all cases, however, where the Congressional,
2 Legislative, or Representative district is wholly or
3 partially within the jurisdiction of a single municipal
4 board of election commissioners in Cook County and in all
5 cases where the school district or special district is
6 wholly within the jurisdiction of a municipal board of
7 election commissioners and in all cases where the
8 municipality or township is wholly or partially within the
9 jurisdiction of a municipal board of election
10 commissioners, the board of election commissioners shall
11 ex-officio constitute the electoral board.

12 For special districts situated in more than one county, the
13 county officers electoral board of the county in which the
14 principal office of the district is located has jurisdiction to
15 hear and pass upon objections. For purposes of this Section,
16 "special districts" means all political subdivisions ~~other~~
17 ~~than counties, municipalities, townships and school and~~
18 ~~community college districts.~~

19 In the event that any member of the county officers
20 electoral ~~appropriate~~ board is a candidate for the office with
21 relation to which the objector's petition is filed, he or she
22 shall not be eligible to serve on that board and shall not act
23 as a member of the board and his or her place shall be filled by
24 the county treasurer, and if he or she is ineligible to serve,
25 by the sheriff of the county. as follows:

26 ~~a. In the county officers electoral board by the county~~

1 ~~treasurer, and if he or she is ineligible to serve, by the~~
2 ~~sheriff of the county.~~

3 ~~b. In the municipal officers electoral board by the~~
4 ~~eligible elected city council or board of trustees member~~
5 ~~who has served the second greatest number of years as a~~
6 ~~city council or board of trustees member.~~

7 ~~c. In the township officers electoral board by the~~
8 ~~eligible elected town trustee who has had the second~~
9 ~~longest term of continuous service as a town trustee.~~

10 ~~d. In the education officers electoral board by the~~
11 ~~eligible elected school or community college district~~
12 ~~board member who has had the second longest term of~~
13 ~~continuous service as a board member.~~

14 In the event that the chairman of the electoral board is
15 ineligible to act because of the fact that he is a candidate
16 for the office with relation to which the objector's petition
17 is filed, then the substitute chosen under the provisions of
18 this Section shall be the chairman; In this case, the officer
19 or board with whom the objector's petition is filed, shall
20 transmit the certificate of nomination or nomination papers as
21 the case may be, and the objector's petition to the substitute
22 chairman of the electoral board.

23 ~~When 2 or more eligible individuals, by reason of their~~
24 ~~terms of service on a city council or board of trustees,~~
25 ~~township board of trustees, or school or community college~~
26 ~~district board, qualify to serve on an electoral board, the one~~

1 ~~to serve shall be chosen by lot.~~

2 Any vacancies on the county officers ~~an~~ electoral board not
3 otherwise filled pursuant to this Section shall be filled by
4 public members appointed by the Chief Judge of the Circuit
5 Court for the county wherein the electoral board hearing is
6 being held upon notification to the Chief Judge of such
7 vacancies. The Chief Judge shall be so notified by a member of
8 the electoral board or the officer or board with whom the
9 objector's petition was filed. In the event that none of the
10 individuals designated by this Section to serve on the
11 electoral board are eligible, the chairman of an electoral
12 board shall be designated by the Chief Judge.

13 (Source: P.A. 96-1008, eff. 7-6-10.)

14 (10 ILCS 5/10-10) (from Ch. 46, par. 10-10)

15 Sec. 10-10. Within 24 hours after the receipt of the
16 certificate of nomination or nomination papers or proposed
17 question of public policy, as the case may be, and the
18 objector's petition, the chairman of the electoral board other
19 than the State Board of Elections shall send a call by
20 registered or certified mail to each of the members of the
21 electoral board, and to the objector who filed the objector's
22 petition, and either to the candidate whose certificate of
23 nomination or nomination papers are objected to or to the
24 principal proponent or attorney for proponents of a question of
25 public policy, as the case may be, whose petitions are objected

1 to, and shall also cause the sheriff of the county or counties
2 in which such officers and persons reside to serve a copy of
3 such call upon each of such officers and persons, which call
4 shall set out the fact that the electoral board is required to
5 meet to hear and pass upon the objections to nominations made
6 for the office, designating it, and shall state the day, hour
7 and place at which the electoral board shall meet for the
8 purpose, which place shall be in the county court house in the
9 county in the case of the County Officers Electoral Board,~~the~~
10 ~~Municipal Officers Electoral Board, the Township Officers~~
11 ~~Electoral Board or the Education Officers Electoral Board,~~
12 except that the Municipal Officers Electoral Board, the
13 Township Officers Electoral Board, and the Education Officers
14 Electoral Board may meet at the location where the governing
15 body of the municipality, township, or school or community
16 college district, respectively, holds its regularly scheduled
17 meetings, if that location is available; provided that voter
18 records may be removed from the offices of an election
19 authority only at the discretion and under the supervision of
20 the election authority. In those cases where the State Board of
21 Elections is the electoral board designated under Section 10-9,
22 the chairman of the State Board of Elections shall, within 24
23 hours after the receipt of the certificate of nomination or
24 nomination papers or petitions for a proposed amendment to
25 Article IV of the Constitution or proposed statewide question
26 of public policy, send a call by registered or certified mail

1 to the objector who files the objector's petition, and either
2 to the candidate whose certificate of nomination or nomination
3 papers are objected to or to the principal proponent or
4 attorney for proponents of the proposed Constitutional
5 amendment or statewide question of public policy and shall
6 state the day, hour and place at which the electoral board
7 shall meet for the purpose, which place may be in the Capitol
8 Building or in the principal or permanent branch office of the
9 State Board. The day of the meeting shall not be less than 3
10 nor more than 5 days after the receipt of the certificate of
11 nomination or nomination papers and the objector's petition by
12 the chairman of the electoral board.

13 The electoral board shall have the power to administer
14 oaths and to subpoena and examine witnesses and at the request
15 of either party the chairman may issue subpoenas requiring the
16 attendance of witnesses and subpoenas duces tecum requiring the
17 production of such books, papers, records and documents as may
18 be evidence of any matter under inquiry before the electoral
19 board, in the same manner as witnesses are subpoenaed in the
20 Circuit Court.

21 Service of such subpoenas shall be made by any sheriff or
22 other person in the same manner as in cases in such court and
23 the fees of such sheriff shall be the same as is provided by
24 law, and shall be paid by the objector or candidate who causes
25 the issuance of the subpoena. In case any person so served
26 shall knowingly neglect or refuse to obey any such subpoena, or

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

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

24 In the event of a State Electoral Board hearing on
25 objections to a petition for an amendment to Article IV of the
26 Constitution pursuant to Section 3 of Article XIV of the

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

19 The electoral board shall take up the question as to
20 whether or not the certificate of nomination or nomination
21 papers or petitions are in proper form, and whether or not they
22 were filed within the time and under the conditions required by
23 law, and whether or not they are the genuine certificate of
24 nomination or nomination papers or petitions which they purport
25 to be, and whether or not in the case of the certificate of
26 nomination in question it represents accurately the decision of

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

20 Upon the expiration of the period within which a proceeding
21 for judicial review must be commenced under Section 10-10.1,
22 the electoral board shall, unless a proceeding for judicial
23 review has been commenced within such period, transmit, by
24 registered or certified mail, a certified copy of its ruling,
25 together with the original certificate of nomination or
26 nomination papers or petitions and the original objector's

1 petition, to the officer or board with whom the certificate of
2 nomination or nomination papers or petitions, as objected to,
3 were on file, and such officer or board shall abide by and
4 comply with the ruling so made to all intents and purposes.

5 (Source: P.A. 95-872, eff. 1-1-09; 96-1008, eff. 7-6-10.)