

SB1637



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1637

Introduced 2/23/2005, by Sen. Christine Radogno

SYNOPSIS AS INTRODUCED:

10 ILCS 5/28-2

from Ch. 46, par. 28-2

Amends the Election Code. Provides that when the secretary or clerk of the political subdivision provides the form for a back door referendum petition, the legal sufficiency of the form cannot be the basis for a challenge to placing the referendum on the ballot. Effective immediately.

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A BILL FOR

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 Section
5 28-2 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 after the date on which it is
5 filed or adopted, as the case may be. A petition, resolution or
6 ordinance initiating a public question which specifies a
7 particular election at which the question is to be submitted
8 shall be so limited, and shall not be valid as to any other
9 election, other than an emergency referendum ordered pursuant
10 to Section 2A-1.4.

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

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

1 subdivision, cannot be the basis of a challenge to placing the
 2 back door referendum on the ballot. As used herein, a "back
 3 door referendum" is the submission of a public question to the
 4 voters of a political subdivision, initiated by a petition of
 5 voters or residents of such political subdivision, to determine
 6 whether an action by the governing body of such subdivision
 7 shall be adopted or rejected.

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

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

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

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

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

28 (description of territory included in petition)

29 (signature).....

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

32 * Where applicable.

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

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

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

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