



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB3109

Introduced 2/19/2016, by Sen. Julie A. Morrison

#### SYNOPSIS AS INTRODUCED:

70 ILCS 605/3-9	from Ch. 42, par. 3-9
70 ILCS 605/4-5	from Ch. 42, par. 4-5
70 ILCS 605/4-5.5 new	
70 ILCS 605/4-6	from Ch. 42, par. 4-6
70 ILCS 605/4-7	from Ch. 42, par. 4-7
70 ILCS 605/4-8	from Ch. 42, par. 4-8

Amends the Illinois Drainage Code. Provides that certain provisions concerning elections of commissioners only apply before the effective date of the amendatory Act and repeals the provisions after 5 years. Provides that on and after the effective date of the amendatory Act, commissioners for all districts which are operating under the Act shall be nominated and elected for terms of 4 years at the next consolidated election as Elected Officers of special districts under the Election Code by the voters of the district unless the electors have elected to change from the election to the appointment of commissioners. Requires that commissioners elected under the provisions shall, within 20 days after their election, qualify by subscribing to an oath of office and giving bond. Provides that commissioners elected prior to the effective date of the amendatory Act shall serve the remainder of their terms and that districts may have up to 6 commissioners serve until the terms of the commissioners elected prior to the effective date of the amendatory Act expire. Provides that previously elected commissioners may resign their current position, effective after the next consolidated election, and choose to be nominated and elected under the provisions of the Election Code. Makes conforming changes. Effective immediately.

LRB099 20690 MLM 45315 b

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Drainage Code is amended by  
5 changing Sections 3-9, 4-5, 4-6, 4-7, and 4-8 and adding  
6 Section 4-5.5 as follows:

7 (70 ILCS 605/3-9) (from Ch. 42, par. 3-9)

8 Sec. 3-9. Appointment of temporary commissioners -  
9 Continuance. If the Court finds for the petitioners, it shall  
10 notify the appropriate appointing authority which shall be the  
11 county board or in home rule counties as defined by Article  
12 VII, Section 6 of the Constitution of 1970 the county chief  
13 executive officer of the county in which the petition is filed  
14 to appoint by majority vote as temporary commissioners 3  
15 competent residents of Illinois ~~own land~~ in the proposed  
16 district, ~~provided, however, that for good cause shown the~~  
17 ~~appropriate appointing authority may waive the requirement~~  
18 ~~that the temporary commissioners own land in the proposed~~  
19 ~~district~~. When the proposed district is situated in 2 or more  
20 counties, no more than 2 such commissioners shall be residents  
21 of any one county, provided however, that for good cause shown  
22 the appropriate appointing authority may waive this residence  
23 requirement. In home rule counties appointments made by the

1 chief executive officer shall be subject to the advice and  
2 consent of the county board. A commissioner thus appointed  
3 shall hold office until his duties are fulfilled or his  
4 successor is appointed and has qualified. Upon the appointment  
5 of temporary commissioners, the cause shall be continued to a  
6 day certain for the filing of their report.

7 (Source: P.A. 86-297.)

8 (70 ILCS 605/4-5) (from Ch. 42, par. 4-5)

9 Sec. 4-5. Election of Commissioners in Districts organized  
10 under Farm Drainage Act and certain other Districts. Before the  
11 effective date of this amendatory Act of the 99th General  
12 Assembly, commissioners ~~Commissioners~~ for all districts which,  
13 at the time this Act becomes effective, are operating and  
14 existing under the provisions of the Farm Drainage Act, shall  
15 be elected by the adult owners of land in the district in the  
16 manner provided by this Section unless the landowners have  
17 elected to change from the election to the appointment of  
18 commissioners in the manner provided in Section 4-6.

19 An election shall be held in all combined, union, special,  
20 user, mutual or other districts which were operating and  
21 existing under the Farm Drainage Act at the time this Act  
22 became effective and in districts which have changed from the  
23 appointment to the election of commissioners as provided in  
24 Section 4-8, on the first Tuesday in September 1956 and  
25 annually thereafter for the purpose of electing a successor to

1 the commissioner whose term will next expire. Commissioners so  
2 elected shall serve for a term of 3 years from the date of  
3 their election and until their successors have been elected and  
4 have qualified.

5 In any case where the commissioners have failed to give  
6 notice and to hold an election as provided in this Section, the  
7 circuit court of the county in which the district is organized  
8 may, on the petition of any owner of land in the district,  
9 designate the time and place for a special election. Any  
10 commissioner elected at such special election shall serve for  
11 the remainder of the term expiring 3 years from the date on  
12 which the election should have been held and until his  
13 successor is elected and has qualified.

14 The commissioners in office shall designate the place  
15 within the district at which the election will be held and they  
16 shall file such designation in writing with the clerk of the  
17 circuit court at least four weeks prior to the date of the  
18 election. The clerk shall give at least two weeks notice of the  
19 time and place of the election by publication for 2 successive  
20 weeks in the manner provided by Section 4-22. Notice by mailing  
21 shall not be required.

22 Voting shall be by secret ballot. The clerk shall cause the  
23 ballots to be prepared. The ballots shall show on their face  
24 the name of the district, the date of the election, the term  
25 for which a commissioner is to be elected, the names of the  
26 declared candidates and a blank line for write-in candidates. A

1 square shall appear before each name and before the blank line.  
2 The reverse side of the ballot shall show the official nature  
3 of the ballot by the certificate of the clerk.

4 Every adult owner of land in the district shall be entitled  
5 to vote. Any qualified person may declare his candidacy for the  
6 office of commissioner and thereby become entitled to have his  
7 name placed on the ballot by filing a statement of his  
8 candidacy in writing with the clerk at least 3 weeks prior to  
9 the date of the election.

10 The commissioners in office at the time of the election  
11 shall be the judges of the election. In the event that one or  
12 more of the commissioners is absent or refuses to serve as  
13 judge then the electors present at the opening of the polls may  
14 choose a person or persons to fill the vacancy or vacancies.  
15 The polls shall open at 2:00 P.M. and close at 4:00 P.M. unless  
16 the judges of election shall determine to hold the polls open a  
17 longer period to accommodate the voters. In no event shall the  
18 polls remain open later than 6:00 P.M.

19 Upon the closing of the polls the judges of election shall  
20 promptly canvass the ballots and the ballots together with the  
21 poll books, tally lists and the results shall be returned to  
22 the clerk within 48 hours after the election. The candidate  
23 receiving the largest number of votes shall be declared  
24 elected. In case of a tie the judges shall determine by lot who  
25 is elected. The expense of the election shall be borne by the  
26 district.

1 In the event that a vacancy occurs in the office of  
2 commissioner whether by death, ineligibility, removal from  
3 office or failure to qualify the commissioners in office shall  
4 fill the vacancy by appointment. The commissioner so appointed  
5 shall serve until the next annual election. If the unexpired  
6 term caused by such vacancy be for more than one year then, at  
7 the next annual election, the adult landowners shall elect a  
8 commissioner to complete the then unexpired portion of the term  
9 in addition to electing a commissioner for a regular term.

10 Commissioners elected under this Section shall, within 20  
11 days after their election, qualify by subscribing to an oath of  
12 office and giving bond, in the manner provided in Section 4-4.

13 This Section is repealed 5 years after the effective date  
14 of this amendatory Act.

15 (Source: P.A. 86-297.)

16 (70 ILCS 605/4-5.5 new)

17 Sec. 4-5.5. Election of Commissioners in Districts  
18 organized under the Act and certain other Districts. On and  
19 after the effective date of this amendatory Act of the 99th  
20 General Assembly, commissioners for all districts which, on the  
21 date of this amendatory Act of the 99th General Assembly, are  
22 operating and existing under this Act shall be nominated and  
23 elected for terms of 4 years at the next consolidated election  
24 as Elected Officers of special districts under paragraph (17)  
25 of subsection (c) of Section 2A-1.2 of the Election Code by the

1 voters of the district unless the electors have elected to  
2 change from the election to the appointment of commissioners in  
3 the manner provided in Section 4-6 of this Code.

4 Commissioners elected under this Section shall, within 20  
5 days after their election, qualify by subscribing to an oath of  
6 office and giving bond, in the manner provided in Section 4-4  
7 of this Code.

8 Commissioners elected under Section 4-5 of this Code shall  
9 serve the remainder of their terms. Notwithstanding any other  
10 provisions of law to the contrary, after the first consolidated  
11 election after the effective date of this amendatory Act of the  
12 99th General Assembly districts may have up to 6 commissioners  
13 until the terms of the commissioners elected prior to the  
14 effective date of this amendatory Act of the 99th General  
15 Assembly expire. Commissioners elected before the effective  
16 date of this amendatory Act of the 99th General Assembly may  
17 resign their current position, effective after the next  
18 consolidated election, and choose to be nominated and elected  
19 under the provisions of this Section.

20 (70 ILCS 605/4-6) (from Ch. 42, par. 4-6)

21 Sec. 4-6. Change from election to appointment of  
22 Commissioners in certain districts.

23 In all districts which were operating and existing under  
24 the provisions of the Farm Drainage Act at the time this Act  
25 became effective and in districts which have changed from the

1 appointment to the election of commissioners as provided in  
2 Section 4-8, 10 per cent or more of the electors in the  
3 district ~~adult landowners~~ may petition the court to dispense  
4 with the annual election of commissioners and to appoint  
5 commissioners in the same manner as though the district had  
6 been originally organized under this Act. Upon the filing of  
7 any such petition the same shall be presented to the court  
8 which shall fix the date and hour for hearing and direct the  
9 time and manner of giving notice. Upon such hearing the court  
10 shall determine whether the petition is signed by at least 10  
11 per cent of the electors ~~adult owners~~ of land in the district.  
12 The affidavit of one or more credible persons may be taken as  
13 prima facie evidence as to the proportion of the owners signing  
14 the petition. If the petition is not so signed the petition  
15 shall be dismissed at the petitioners' cost.

16 If at such hearing, the court determines that the petition  
17 is signed by at least 10 per cent of such electors ~~owners~~ but  
18 is not signed by a majority of such electors ~~owners~~ then the  
19 court shall order the question of whether the commissioners of  
20 the district shall be appointed in the manner provided or  
21 elected by the electors ~~adult landowners~~ of the district  
22 submitted to the electors ~~adult landowners~~ at the next ~~annual~~  
23 election in the district and shall direct the clerk of the  
24 district to prepare separate ballots on that question for use  
25 in that election. The ballots shall be canvassed by the judges  
26 of the election and the ballots and the results of the election



1 returned to the clerk at the same time and in the same manner  
2 as is provided in Section 4-5 with reference to the election of  
3 commissioners.

4 Within five days after the results of the election are  
5 returned to the clerk he shall report the results to the court.  
6 If a majority of the electors ~~owners~~ voting on the question do  
7 not favor the appointment of commissioners the petition shall  
8 be dismissed and the question may not again be put to the  
9 electors ~~landowners~~ until the second succeeding ~~annual~~  
10 election. If a majority of the electors ~~owners~~ voting on the  
11 question favor the appointment of commissioners in the manner  
12 provided and the dispensing with the ~~annual~~ election of  
13 commissioners the court shall order that thenceforth the ~~annual~~  
14 elections of the district shall be dispensed with and  
15 thereafter the commissioners shall be appointed in the manner  
16 provided in this Act.

17 If at the hearing on the petition the court determines that  
18 the petition is signed by a majority of the electors ~~adult~~  
19 ~~owners of land~~ in the district then no referendum on the  
20 question shall be necessary and the court shall thereupon order  
21 that thenceforth the ~~annual~~ elections of the district shall be  
22 dispensed with and thereafter the commissioners shall be  
23 appointed in the manner provided by this Act.

24 The commissioners in office at the time an order dispensing  
25 with further elections is given or made shall continue in  
26 office until the time that their successors would have been

1 elected under the provisions of Section 4-5 and until their  
2 successors have been appointed and shall have qualified.

3 (Source: P.A. 77-701.)

4 (70 ILCS 605/4-7) (from Ch. 42, par. 4-7)

5 Sec. 4-7. Appointment of commissioners in districts  
6 organized under Levee Act and certain other districts. In all  
7 districts which, at the time this Act goes into effect, were  
8 operating and existing under the provisions of the Levee Act,  
9 or under the provisions of any other act repealed by this Act  
10 except the Farm Drainage Act, the commissioners thereof shall  
11 hereafter be appointed in the same manner and with like  
12 qualifications as though the districts had been originally  
13 organized under this Act unless the electors ~~landowners~~ have  
14 elected to change from the appointment to the election of  
15 commissioners in the manner provided in Section 4-8. The  
16 commissioners in office at the time this Act goes into effect  
17 shall continue as commissioners of the district under this Act  
18 until the expiration of their terms of office and until their  
19 successors are selected and shall have qualified as provided in  
20 this Act. Commissioners appointed under this section shall,  
21 within 20 days after their appointment, qualify by subscribing  
22 to an oath of office and giving bond, in the manner provided in  
23 Section 4-4.

24 (Source: P.A. 86-297.)

1 (70 ILCS 605/4-8) (from Ch. 42, par. 4-8)

2 Sec. 4-8. Change from appointment to election of  
3 commissioners in certain districts. In any district, whether  
4 heretofore or hereafter organized, 10 per cent or more of the  
5 electors ~~adult landowners~~ may petition the court to change the  
6 method of selecting commissioners from appointment to  
7 election. The practice and procedure on a petition to change  
8 from the appointment to the election of commissioners shall  
9 follow, as nearly as the facts will permit, the practice and  
10 procedure set forth in Sections 4-5.5 or Section 4-6 of this  
11 Code, as applicable, for the change from elective to appointive  
12 commissioners. The commissioners in office at the time an order  
13 is given or made directing that thereafter the commissioners  
14 shall be elected in the manner provided by this Act shall  
15 continue in office until the time that their successors would  
16 have been appointed under Section 4-1 and until their  
17 successors have been elected and shall have qualified.

18 (Source: Laws 1955, p. 512.)

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