

Sen. Rachel Ventura

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Filed: 5/1/2024

10300SB1652sam001

LRB103 25886 JDS 72866 a

1 AMENDMENT TO SENATE BILL 1652

2 AMENDMENT NO. _____. Amend Senate Bill 1652 by replacing

3 everything after the enacting clause with the following:

4 "Section 5. The Election Code is amended by changing

5 Sections 10-10 and 10-10.1 as follows:

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

Sec. 10-10. Within 24 hours after the receipt of the certificate of nomination or nomination papers or proposed question of public policy, as the case may be, and the objector's petition, the chair of the electoral board other than the State Board of Elections shall send a call by registered or certified mail: to each of the members of the electoral board; to the objector who filed the objector's petition; either to the candidate whose certificate of nomination or nomination papers are objected to or to the principal proponent or attorney for proponents of a question

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of public policy, as the case may be, whose petitions are objected to; to the election authority to whom the ballot is certified; and to the appropriate county clerk. The chair of the electoral board other than the State Board of Elections shall also cause the sheriff of the county or counties in which such officers and persons reside to serve a copy of such call upon each of such officers and persons, which call shall set out the fact that the electoral board is required to meet to hear and pass upon the objections to nominations made for the office, designating it, and shall state the day, hour and place at which the electoral board shall meet for the purpose, which place shall be in the county court house in the county in the case of the County Officers Electoral Board, the Municipal Officers Electoral Board, the Township Officers Electoral Board or the Education Officers Electoral Board, except that the Municipal Officers Electoral Board, the Township Officers Electoral Board, and the Education Officers Electoral Board may meet at the location where the governing body of the municipality, township, or community college district, respectively, holds its regularly scheduled meetings, if that location is available; provided that voter records may be removed from the offices of an election authority only at the discretion and under supervision of the election the authority. In those cases where the State Board of Elections is the electoral board designated under Section 10-9, the chair of the State Board of Elections shall, within 24 hours

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after the receipt of the certificate of nomination or nomination papers or petitions for a proposed amendment to Article IV of the Constitution or proposed statewide question of public policy, send a call by registered or certified mail to the objector who files the objector's petition, and either to the candidate whose certificate of nomination or nomination papers are objected to or to the principal proponent or attorney for proponents of the proposed Constitutional amendment or statewide question of public 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.

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

Service of such subpoenas shall be made by any sheriff or

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other person in the same manner as in cases in such court and the fees of such sheriff shall be the same as is provided by law, and shall be paid by the objector or candidate who causes the issuance of the subpoena. In case any person so served shall knowingly neglect or refuse to obey any such subpoena, or to testify, the electoral board shall at once file a petition in the circuit court of the county in which such hearing is to be heard, or has been attempted to be heard, setting forth the facts, of such knowing refusal or neglect, and accompanying the petition with a copy of the citation and the answer, if one has been filed, together with a copy of the subpoena and the return of service thereon, and shall apply for an order of court requiring such person to attend and testify, and forthwith produce books and papers, before the electoral board. Any circuit court of the state, excluding the judge who is sitting on the electoral board, upon such showing shall order such person to appear and testify, and to forthwith produce such books and papers, before the electoral 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 without lawful excuse, the court shall punish him or her by fine and imprisonment, as the nature of the case may require and may be lawful in cases of contempt of court.

The electoral board on the first day of its meeting shall adopt rules of procedure for the introduction of evidence and the presentation of arguments and may, in its discretion,

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

The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they

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were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be, and whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention issuing it, and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained and the decision of a majority of the electoral board shall be final subject to judicial review as provided in Section 10-10.1. The nomination papers of a candidate shall be deemed invalid and a candidate's name shall not appear on the ballot if the candidate is found to have personally engaged in material fraud or a pattern of fraud in connection with the signatures on the nominating papers or false swearing with respect to the nominating papers. The electoral board must state its findings in writing and must state in writing which objections, if any, it has sustained. A copy of the decision shall be served upon the parties to the proceedings in open proceedings before the electoral board. If a party does not appear for receipt of the decision, the decision shall be deemed to have been served on the absent party on the date when a copy of the decision is personally delivered or on the date when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to each party

affected by the decision or to such party's attorney of record, if any, at the address on record for such person in the files of the electoral board.

Upon the expiration of the period within which a proceeding for judicial review must be commenced under Section 10-10.1, the electoral board shall, unless a proceeding for judicial review has been commenced within such period, transmit, by registered or certified mail, a certified copy of its ruling, together with the original certificate of nomination or nomination papers or petitions and the original objector's petition, to the officer or board with whom the certificate of nomination or nomination papers or petitions, as objected to, were on file and to the election authority to whom the ballot is certified and the appropriate county clerk, and such officer or board shall abide by and comply with the ruling so made to all intents and purposes.

17 (Source: P.A. 103-467, eff. 8-4-23.)

18 (10 ILCS 5/10-10.1) (from Ch. 46, par. 10-10.1)

Section, a candidate or objector aggrieved by the decision of an electoral board may secure judicial review of such decision in the circuit court of the county in which the hearing of the electoral board was held. The party seeking judicial review must file, within 5 days after service of the decision of the electoral board as provided in Section 10-10, a petition with

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the clerk of the court that names as respondents the electoral board, its members, and the prevailing candidates or objectors in the initial proceeding before the board. The party seeking judicial review and must serve a copy of the petition upon each of the respondents named in the petition for judicial review the electoral board and other parties to the proceeding by registered or certified mail within 5 days after service of the decision of the electoral board as provided in Section 10-10. The petition shall contain a brief statement of the reasons why the decision of the board should be reversed. The petitioner shall file proof of service with the clerk of the court within 5 days after service of the decision of the electoral board as provided in Section 10-10. No answer to the petition need be filed, but the electoral board shall cause the record of proceedings before the electoral board to be filed with the clerk of the court on or before the date of the hearing on the petition or as ordered by the court.

The court shall set the matter for hearing to be held within 30 days after the filing of the petition and shall make its decision promptly after such hearing.

(b) An objector or proponent aggrieved by the decision of an electoral board regarding a petition filed pursuant to Section 18-120 of the Property Tax Code may secure a review of such decision by the State Board of Elections. The party seeking such review must file a petition therefor with the State Board of Elections within 10 days after the decision of

- the electoral board. Any such objector or proponent may apply 1
- 2 for and obtain judicial review of a decision of the State Board
- of Elections entered under this amendatory Act of 1985, in 3
- 4 accordance with the provisions of the Administrative Review
- 5 Law, as amended.
- (Source: P.A. 96-1008, eff. 7-6-10.)". 6