



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2416

Introduced 2/17/2005, by Rep. Robin Kelly

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.

LRB094 09174 JAM 39407 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 offices,
12 nominations of candidates for congressional, legislative and
13 judicial offices of districts or circuits situated in more than
14 one county, nominations of candidates for the offices of
15 State's attorney or regional superintendent of schools to be
16 elected from more than one county, and petitions for proposed
17 amendments to the Constitution of the State of Illinois as
18 provided for in Section 3 of Article XIV of the Constitution.

19 2. The county officers electoral board to hear and pass
20 upon objections to the nominations of candidates for county,
21 municipal, and township offices, for congressional,
22 legislative and judicial offices of a district or circuit
23 coterminous with or less than a county, for school and
24 community college district offices ~~trustees to be voted for by~~
25 ~~the electors of the county or by the electors of a township of~~
26 ~~the county,~~ for the office of multi-township assessor where
27 candidates for such office are nominated in accordance with
28 this Code, and for all special district offices, shall be
29 composed of the county clerk, or an assistant designated by the
30 county clerk, the State's attorney of the county or an
31 Assistant State's Attorney designated by the State's Attorney,
32 and the clerk of the circuit court, or an assistant designated

1 by the clerk of the circuit court, of the county, of whom the
2 county clerk or his designee shall be the chairman, except that
3 in any county which has established a county board of election
4 commissioners that board shall constitute the county officers
5 electoral board ex-officio. If a municipality, school
6 district, or community college district is located in 2 or more
7 counties, the county officers electoral board of the county in
8 which the principal offices of the municipality, school
9 district, or community college district is located shall hear
10 and pass upon objections to nominations of candidates for the
11 municipal offices, school district offices, or community
12 college district offices.

13 3. (Blank). ~~The municipal officers electoral board to hear~~
14 ~~and pass upon objections to the nominations of candidates for~~
15 ~~officers of municipalities shall be composed of the mayor or~~
16 ~~president of the board of trustees of the city, village or~~
17 ~~incorporated town, and the city, village or incorporated town~~
18 ~~clerk, and one member of the city council or board of trustees,~~
19 ~~that member being designated who is eligible to serve on the~~
20 ~~electoral board and has served the greatest number of years as~~
21 ~~a member of the city council or board of trustees, of whom the~~
22 ~~mayor or president of the board of trustees shall be the~~
23 ~~chairman.~~

24 4. (Blank). ~~The township officers electoral board to pass~~
25 ~~upon objections to the nominations of township officers shall~~
26 ~~be composed of the township supervisor, the town clerk, and~~
27 ~~that eligible town trustee elected in the township who has had~~
28 ~~the longest term of continuous service as town trustee, of whom~~
29 ~~the township supervisor shall be the chairman.~~

30 5. (Blank). ~~The education officers electoral board to hear~~
31 ~~and pass upon objections to the nominations of candidates for~~
32 ~~offices in school or community college districts shall be~~
33 ~~composed of the presiding officer of the school or community~~
34 ~~college district board, who shall be the chairman, the~~
35 ~~secretary of the school or community college district board and~~
36 ~~the eligible elected school or community college board member~~

1 ~~who has the longest term of continuous service as a board~~
2 ~~member.~~

3 6. In all cases, however, where the Congressional or
4 Legislative district is wholly within the jurisdiction of a
5 board of election commissioners and in all cases where the
6 school district or special district is wholly within the
7 jurisdiction of a municipal board of election commissioners and
8 in all cases where the municipality or township is wholly or
9 partially within the jurisdiction of a municipal board of
10 election commissioners, the board of election commissioners
11 shall 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~~
27 ~~treasurer, and if he or she is ineligible to serve, by the~~
28 ~~sheriff of the county.~~

29 ~~b. In the municipal officers electoral board by the~~
30 ~~eligible elected city council or board of trustees member~~
31 ~~who has served the second greatest number of years as a~~
32 ~~city council or board of trustees member.~~

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

36 ~~d. In the education officers electoral board by the~~

1 ~~eligible elected school or community college district~~
2 ~~board member who has had the second longest term of~~
3 ~~continuous service as a board member.~~

4 In the event that the chairman of the electoral board is
5 ineligible to act because of the fact that he is a candidate
6 for the office with relation to which the objector's petition
7 is filed, then the substitute chosen under the provisions of
8 this Section shall be the chairman; In this case, the officer
9 or board with whom the objector's petition is filed, shall
10 transmit the certificate of nomination or nomination papers as
11 the case may be, and the objector's petition to the substitute
12 chairman of the electoral board.

13 ~~When 2 or more eligible individuals, by reason of their~~
14 ~~terms of service on a city council or board of trustees,~~
15 ~~township board of trustees, or school or community college~~
16 ~~district board, qualify to serve on an electoral board, the one~~
17 ~~to serve shall be chosen by lot.~~

18 Any vacancies on the county officers ~~an~~ electoral board not
19 otherwise filled pursuant to this Section shall be filled by
20 public members appointed by the Chief Judge of the Circuit
21 Court for the county wherein the electoral board hearing is
22 being held upon notification to the Chief Judge of such
23 vacancies. The Chief Judge shall be so notified by a member of
24 the electoral board or the officer or board with whom the
25 objector's petition was filed. In the event that none of the
26 individuals designated by this Section to serve on the
27 electoral board are eligible, the chairman of an electoral
28 board shall be designated by the Chief Judge.

29 (Source: P.A. 87-570.)

30 (10 ILCS 5/10-10) (from Ch. 46, par. 10-10)

31 Sec. 10-10. Within 24 hours after the receipt of the
32 certificate of nomination or nomination papers or proposed
33 question of public policy, as the case may be, and the
34 objector's petition, the chairman of the electoral board other
35 than the State Board of Elections shall send a call by

1 registered or certified mail to each of the members of the
2 electoral board, and to the objector who filed the objector's
3 petition, and either to the candidate whose certificate of
4 nomination or nomination papers are objected to or to the
5 principal proponent or attorney for proponents of a question of
6 public policy, as the case may be, whose petitions are objected
7 to, and shall also cause the sheriff of the county or counties
8 in which such officers and persons reside to serve a copy of
9 such call upon each of such officers and persons, which call
10 shall set out the fact that the electoral board is required to
11 meet to hear and pass upon the objections to nominations made
12 for the office, designating it, and shall state the day, hour
13 and place at which the electoral board shall meet for the
14 purpose, which place shall be in the county court house in the
15 county in the case of the County Officers Electoral Board,~~the~~
16 ~~Municipal Officers Electoral Board, the Township Officers~~
17 ~~Electoral Board or the Education Officers Electoral Board. The~~
18 ~~Township Officers Electoral Board may meet in the township~~
19 ~~offices, if they are available, rather than the county~~
20 ~~courthouse.~~ In those cases where the State Board of Elections
21 is the electoral board designated under Section 10-9, the
22 chairman of the State Board of Elections shall, within 24 hours
23 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
27 to the objector who files the objector's petition, and either
28 to the candidate whose certificate of nomination or nomination
29 papers are objected to or to the principal proponent or
30 attorney for proponents of the proposed Constitutional
31 amendment or statewide question of public policy and shall
32 state the day, hour and place at which the electoral board
33 shall meet for the purpose, which place may be in the Capitol
34 Building or in the principal or permanent branch office of the
35 State Board. The day of the meeting shall not be less than 3
36 nor more than 5 days after the receipt of the certificate of

1 nomination or nomination papers and the objector's petition by
2 the chairman of the electoral board.

3 The electoral board shall have the power to administer
4 oaths and to subpoena and examine witnesses and at the request
5 of either party the chairman may issue subpoenas requiring the
6 attendance of witnesses and subpoenas duces tecum requiring the
7 production of such books, papers, records and documents as may
8 be evidence of any matter under inquiry before the electoral
9 board, in the same manner as witnesses are subpoenaed in the
10 Circuit Court.

11 Service of such subpoenas shall be made by any sheriff or
12 other person in the same manner as in cases in such court and
13 the fees of such sheriff shall be the same as is provided by
14 law, and shall be paid by the objector or candidate who causes
15 the issuance of the subpoena. In case any person so served
16 shall knowingly neglect or refuse to obey any such subpoena, or
17 to testify, the electoral board shall at once file a petition
18 in the circuit court of the county in which such hearing is to
19 be heard, or has been attempted to be heard, setting forth the
20 facts, of such knowing refusal or neglect, and accompanying the
21 petition with a copy of the citation and the answer, if one has
22 been filed, together with a copy of the subpoena and the return
23 of service thereon, and shall apply for an order of court
24 requiring such person to attend and testify, and forthwith
25 produce books and papers, before the electoral board. Any
26 circuit court of the state, excluding the judge who is sitting
27 on the electoral board, upon such showing shall order such
28 person to appear and testify, and to forthwith produce such
29 books and papers, before the electoral board at a place to be
30 fixed by the court. If such person shall knowingly fail or
31 refuse to obey such order of the court without lawful excuse,
32 the court shall punish him or her by fine and imprisonment, as
33 the nature of the case may require and may be lawful in cases
34 of contempt of court.

35 The electoral board on the first day of its meeting shall
36 adopt rules of procedure for the introduction of evidence and

1 the presentation of arguments and may, in its discretion,
2 provide for the filing of briefs by the parties to the
3 objection or by other interested persons.

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

25 The electoral board shall take up the question as to
26 whether or not the certificate of nomination or nomination
27 papers or petitions are in proper form, and whether or not they
28 were filed within the time and under the conditions required by
29 law, and whether or not they are the genuine certificate of
30 nomination or nomination papers or petitions which they purport
31 to be, and whether or not in the case of the certificate of
32 nomination in question it represents accurately the decision of
33 the caucus or convention issuing it, and in general shall
34 decide whether or not the certificate of nomination or
35 nominating papers or petitions on file are valid or whether the
36 objections thereto should be sustained and the decision of a

1 majority of the electoral board shall be final subject to
2 judicial review as provided in Section 10-10.1. The electoral
3 board must state its findings in writing and must state in
4 writing which objections, if any, it has sustained.

5 Upon the expiration of the period within which a proceeding
6 for judicial review must be commenced under Section 10--10.1,
7 the electoral board shall, unless a proceeding for judicial
8 review has been commenced within such period, transmit, by
9 registered or certified mail, a certified copy of its ruling,
10 together with the original certificate of nomination or
11 nomination papers or petitions and the original objector's
12 petition, to the officer or board with whom the certificate of
13 nomination or nomination papers or petitions, as objected to,
14 were on file, and such officer or board shall abide by and
15 comply with the ruling so made to all intents and purposes.

16 (Source: P.A. 91-285, eff. 1-1-00.)