

## CHICAGO BOARD OF ELECTION COMMISSIONERS

### GUIDELINES FOR ADVISORY REFERENDA

#### MARCH 20, 2012 GENERAL PRIMARY

*These Guidelines are intended to provide basic information regarding the preparation and submission of advisory referenda under the Illinois Election Code. These Guidelines do not constitute a legal opinion or legal advice. The information contained in this publication is drawn from provisions of federal and state law. To the extent that this publication conflicts with the requirements of federal or state law, those laws prevail over this publication. **You are strongly encouraged to seek legal advice concerning your rights and obligations and you should not rely solely on the contents of this publication.***

*All citations to "ILCS" are to the Illinois Compiled Statutes, which may be found at the Cook County Law Library, 29<sup>th</sup> Floor of the Richard J. Daley Center, Chicago, Illinois.*

*If you have any questions or if you wish to obtain additional information, you may contact the Board of Election Commissioners for the City of Chicago, 69 West Washington, Suite 800, Chicago, Illinois, (312-269-7900) or on the Web at [www.chicagoelections.com](http://www.chicagoelections.com). **Please note that this publication may be revised. Please periodically consult the Board's Web site for the most current information.***

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The initiation and submission of all public questions to be voted upon by electors are subject to the provisions of Article 28 of The Election Code (10 ILCS 5/28-1 et. seq.). Advisory questions of public policy shall be submitted to a referendum pursuant to Section 28-5 of the Illinois Election Code or pursuant to a statute that provides for such a question. These Guidelines address *only* procedures for initiating and submitting *advisory* questions of public policy within the city of Chicago. Questions of public policy that have any legal and binding effect are to be submitted to referendum only as authorized by the statute that provides for such a question or by the Illinois Constitution. Those statutes or constitutional provisions should be consulted for procedures for initiating and submitting such binding referenda.

#### *I. Purpose and Effect*

A. The purpose of an advisory referendum is to solicit the opinion of voters on a question of public policy (e.g. "Shall smoking be banned in all public buildings in the City of Chicago?" YES/NO)

B. No legally binding effects result from the approval or rejection of an advisory question.

#### *II. Initiation and Submission*

A. An advisory referendum may be initiated as follows:

1. By petition (10 ILCS 5/28-6)

2. By ordinance or resolution of the City Council (10 ILCS 5/28-6(b); 65 ILCS 5/3.1-40-60)

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B. An advisory question of public policy may be submitted to the voters of the entire City of Chicago (10 ILCS 5/28-6(a); 65 ILCS 5/3.1-40-60), or to the voters of a contiguous territory less than the City of Chicago (either a single precinct or multiple contiguous precincts, including all precincts in a ward) (10 ILCS 5/28-6(b)).

### *III. Petition Requirements*

#### A. Contents (10 ILCS 5/28-3)

1. Petitions for submission of public questions must consist of sheets of uniform size, consecutively numbered and securely bound.
2. Each petition sheet must contain, above the space for signatures, an appropriate heading that is the same for each sheet and that:
  - a. Sets forth the text of the question to be submitted to the voters.
  - b. Specifies whether the question is to be submitted to:
    - i. the voters of the city at large; or
    - ii. the voters of a precinct or a group of precincts, in which case the petition must include
      - the precincts included in the territory concerning which the public question is to be submitted; and
      - a common description of the territory's geographic boundaries in plain and non-legal language, including a reference to streets, natural or artificial landmarks, addresses or any other method which would enable a voter signing the petition to be informed of the territory concerning which the question is to be submitted.
  - c. Specifies the election at which the question is to be submitted.

#### B. Signatures

1. For a citywide referendum, petition must be signed by a number of registered voters who reside in the municipality equal to at least 8% of the total votes cast for Governor in the city of Chicago in the preceding gubernatorial election (November 2, 2010 General Election). (10 ILCS 5/28-6(a))
2. For a referendum in a city precinct, petition must be signed by a number of registered voters who reside in the precinct equal to at least 8% of the total votes cast for Governor in the precinct in the preceding gubernatorial election (November 2, 2010 General Election). (10 ILCS 5/28-6(b))
3. For a referendum in a combination of precincts, petition should be signed by a number of registered voters residing in any part of a precinct all or part of which includes all or part of the territory where the question is to be submitted equal to at least 8% of the total votes cast for Governor in the territory in the preceding gubernatorial election (November 2, 2010 General Primary) (10 ILCS 5/28-6(b)).

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*NOTE:* It is not clear in Section 28-6 of the Election Code whether the 8% requirement applies to the territory for all of the precincts as a whole or to each of the precincts individually. Therefore, it may be prudent to obtain signatures equal to or exceeding the 11% requirement in each precinct or part of the precinct.

4. Petition signers must be registered voters of the City, or of the precinct or precincts in which the referendum is to be submitted if less than the City. (10 ILCS 5/28-3) A registered voter means a person who is registered to vote at the address shown opposite his or her signature on the petition or was registered to vote at such address when he or she signed the petition. (10 ILCS 5/3-1.2)
5. Signers of petition must *sign* (do not print) only their *own* name. They may not sign for any other person, including spouses, children, etc. Whoever forges any name of a signer upon any petition is guilty of forgery and will, on conviction, be punished accordingly. (10 ILCS 5/28-3)
6. Opposite the signature of each signer of the petition must be written or printed the signer's residence address, including the street address, city, county and state, except that the city, county or state of residence may be printed on the petition forms. Standard abbreviations may be used in writing the residence address, including street number. (10 ILCS 5/28-3)

### C. Circulation (10 ILCS 5/28-3)

1. The circulator of a petition sheet must be at least 18 years of age and a citizen of the United States.
2. At the bottom of each sheet of a petition there must be a statement, signed by the circulator of that petition sheet, stating his or her street address and city, county and state, certifying that the signatures on that sheet were signed in his or her presence and are genuine, and that to the best of his or her knowledge and belief the persons so signing were at the time of signing the petition registered voters of the city, precinct or precincts in which the question is to be submitted, and that their respective residences are correctly stated on the petition.

### D. Notarization

The circulator of each petition sheet must personally appear before a notary public, sign the statement on the bottom of the petition sheet and have the signed affidavit notarized. (10 ILCS 5/28-3)

### E. Amendment of Petition Prohibited

Except as otherwise may be provided in another statute authorizing the public question, a petition, when presented or filed, cannot be withdrawn, altered, or added to, and no signature can be revoked except by a revocation in writing presented or filed with the Board of Election Commissioners before the presentment or filing of the petition. (10 ILCS 5/28-3)

*IV. Filing Requirements*

A. A petition for an advisory referendum must be filed and received not less than 92 days before a regular election. For the March 20, 2012 general primary election, the deadline for filing a petition is Monday, December 19, 2011. (10 ILCS 28-2(a)) The petition shall be filed with the Chicago Board of Election Commissioners. (10 ILCS 28-6(b))

B. An ordinance or resolution initiating an advisory referendum must be adopted not less than 79 days before a regular election. (10 ILCS 28-2(c)) For the March 20, 2012 general primary election, the deadline for adoption is Tuesday, January 3, 2012. The City Clerk shall certify the public question as follows:

1. Not later than Thursday, January 12, 2012 (61 days before the election), the City Clerk shall certify to the Chicago Board of Election Commissioners the public questions to be submitted to the voters of or within the City of Chicago that were initiated by action of the Chicago City Council. (10 ILCS 5/28-5) The certification shall include:
  - i. the form of the public question to be placed on the ballot
  - ii. the date on which the public question was initiated by the adoption of a resolution or ordinance of the Chicago City Council
  - iii. a certified copy of the ordinance or resolution requiring submission of the public question
  - iv. the precincts included in the territory concerning which the public question is to be submitted
  - v. a common description of such territory, in plain and nonlegal language as set forth in the ordinance or resolution initiating the public question
  - vi. specify the election at which the question is to be submitted.

*V. Number of Propositions Limited: "Rule of 3"*

A. Not more than 3 questions of public policy -- whether initiated by petition of voters or by city ordinance or resolution -- may be submitted to city-wide referendum at the same election. (10 ILCS 5/28-1)

1. Rule applies to both advisory and legally binding questions.
2. Rule does not apply to statewide, county-wide or school referenda that may appear on the ballot in the city.
3. Rule does not apply to a referendum in a ward, precinct or a combination of precincts.
4. Rule may not apply to legally binding questions initiated pursuant city home rule powers under Section 6, Article VII, Illinois Constitution.

B. If more than 3 questions are initiated by petition of voters or by City Council ordinance or resolution for submission to citywide referendum at the next regular election, then the Chicago Board of Election Commissioners may certify only the first 3 validly initiated questions for that election. (10 ILCS 5/28-1)

*VI. Objections*

A. Objections to a petition for advisory referendum for propositions to appear on the ballot only within the city of Chicago or a part thereof may be filed and must be received at the Board not later than Tuesday, December 27, 2011. The provisions of Sections 10-8 through 10-10.1 of the Election Code shall apply to and govern objection to petitions submitted by voters. (10 ILCS 5/28-4)

B. Even in the absence of an objection, the Board has the authority under Section 10-8 of the Election Code to determine whether petitions to submit public questions to a referendum are in apparent conformity with the provisions of the Code and to refuse to certify to the ballot those public questions whose petitions are not in apparent conformity with the Code. In the event that the Board determines that a petition to submit a public question is not in apparent conformity with the provisions of the Code, the person(s) filing the petition will be notified by mail addressed to such person(s) and given an opportunity to be heard.

*VII. Examples*

A. Advisory referenda.

1. City-wide (e.g.) “Shall the City of Chicago be a nuclear-free zone?”
2. Combination of city precincts (e.g.) “Shall the City of Chicago shut down the Northwest Garbage Incinerator located . . . . .?”

B. Legally binding referenda.

1. City-wide.  
  
For adoption of one of two or more ward redistricting ordinances. (65 ILCS 20/21-41)
2. Combination of city precincts.
  - a. For adoption of home equity assurance program. (65 ILCS 95/4)
  - b. For adoption of a neighborhood security patrol program. (65 ILCS 97/15)
3. Single city precinct.  
  
For prohibition of the sale of liquor. (235 ILCS 5/9.1 et. seq.)