1970 Illinois Constitution

ANNOTATED FOR LEGISLATORS

5th Edition

Illinois General Assembly

Legislative Research Unit

JOINT COMMITTEE ON
LEGISLATIVE SUPPORT SERVICES

President of the Senate & Chairperson	Sen. John J. Cullerton
Speaker of the House	Rep. Michael J. Madigan
House Republican Leader	Rep. Jim Durkin
Senate Republican Leader	Sen. Bill Brady

LEGISLATIVE RESEARCH UNIT

Co-Chairperson	Vacant
Co-Chairperson	Rep. Anna Moeller
Executive Director	Vacant
Associate Director	Jonathan P. Wolff

Senators	*Representatives*
Thomas Cullerton	Thomas M. Bennett
Napoleon Harris III	Avery Bourne
Mattie Hunter	Mary E. Flowers
Tom Rooney	Christian L. Mitchell
Jil Tracy	Vacant

The Legislative Research Unit is the central research agency for the General Assembly. A board of 12 legislators, appointed by the Joint Committee on Legislative Support Services, supervises its operations.

A staff of researchers handles inquiries from legislators, legislative committees, and partisan staff. The staff's areas of expertise include law generally, science and technology, taxation, education, local government, economics and fiscal affairs, and the political and social history of Illinois.

Legislative Research Unit
804 Stratton Building
Springfield, Illinois 62706
Phone: 217/782-6851
E-mail: lru@ilga.gov
Website: www.ilga.gov/commission/lru/lru_home.html

1970 Illinois Constitution
Annotated for Legislators

5th Edition

December 2018

Publication 427

Prepared by
David R. Miller, Senior Staff Attorney and
Deputy Director for Research
with research assistance from Joshua L. Scanlon
Cover Design by
Dianna Jones, Assistant to the Directors

CONTENTS

INTRODUCTION

The Legislative Research Unit is pleased, in Illinois' bicentennial year, to issue a completely revised and updated fifth edition of *1970 Illinois Constitution Annotated for Legislators*. It includes the current text of the 1970 Constitution (in boldface); commentary describing major court decisions, laws, and Attorney General's opinions interpreting or implementing it; and a detailed topical index to its provisions.

The idea of creating an annotated Illinois Constitution was conceived by the LRU's Associate Director, Gerald L. Gherardini (a member of the 1970 constitutional convention's staff) and sponsored by Senator Dawn Clark Netsch, who was a delegate at the convention. The first edition was published in 1980. To some degree this publication carries forward the work of George D. Braden and Rubin G. Cohn in *The Illinois Constitution: An Annotated and Comparative Analysis* (1969), which served as a comprehensive guide to the 1870 Constitution for delegates at the 1970 convention. A more direct model is the Congressional Research Service's *The Constitution of the United States of America: Analysis and Interpretation*, which is periodically updated for use by members of Congress.

Nearly half a century after the 1970 Constitution took effect, hundreds of court cases have interpreted it, and many statutory provisions and other documents implement it. This publication seeks to make those authorities readily known to persons seeking to understand the Illinois Constitution. Since it is primarily for legislators, it emphasizes the constitutional structures of state and local government; legislative powers and procedures; and limitations on lawmaking. But we believe that, like previous editions, it will be a useful reference work for persons in all three branches of Illinois government.

This publication was revised and updated for this 2018 edition by David R. Miller, Deputy Director for Research, with research assistance from Joshua L. Scanlon, Staff Attorney.

Jonathan P. Wolff
Associate Director

Note on Illinois' Constitutions and the 1970 Constitutional Convention

Illinois has had four constitutions, adopted in 1818, 1848, 1870, and 1970. In addition to those ratified documents, the state had constitutional conventions in 1862 and 1920-22; their proposed new constitutions were not adopted by the voters. Thus, the constitutional convention that met from December 8, 1969 until September 3, 1970, and proposed the Illinois Constitution of 1970, was Illinois' sixth constitutional convention.

A brief but helpful history of Illinois' earlier constitutions, and of events leading to the 1970 constitutional convention, is in "Introduction to the 1970 Illinois Constitution" in the Record of Proceedings of the Sixth Illinois Constitutional Convention, volume I, pages vii to x. That introduction was written by Samuel W. Witwer, a lawyer who for many years advocated the calling of a constitutional convention, and served with distinction as the President of the 1970 convention. The convention's seven-volume Record of Proceedings, published in 1972 by the Illinois Secretary of State, is available in many law libraries. A searchable digital copy of the entire Record of Proceedings, with indexing by subject and by constitutional article and section, along with other materials on the convention, is posted on the Legislative Research Unit's Internet page. Their address at publication time is:

http://www.ilga.gov/commission/lru/Sixth_Illinois_Constitution_Convention.zip

Preamble

We, the People of the State of Illinois—grateful to Almighty God for the civil, political and religious liberty which He has permitted us to enjoy and seeking His blessing upon our endeavors—in order to provide for the health, safety and welfare of the people; maintain a representative and orderly government; eliminate poverty and inequality; assure legal, social and economic justice; provide opportunity for the fullest development of the individual; insure domestic tranquility; provide for the common defense; and secure the blessings of freedom and liberty to ourselves and our posterity—do ordain and establish this Constitution for the State of Illinois.

Article 1. Bill of Rights

The Bill of Rights contains many protections for persons against actions by the state and its subdivisions, including local governments. Some of its antidiscrimination provisions also apply to private businesses. Many sections of Illinois' Bill of Rights are based on provisions in the U.S. Constitution. In addition, the U.S. Supreme Court has held that *most* provisions in the U.S. Constitution's Bill of Rights apply to states through the U.S. Constitution's Fourteenth Amendment (which prohibits states from depriving any person of life, liberty, or property without due process of law). But the Illinois Bill of Rights is significant because a few of those federal protections do not apply to state governments, and some of the Illinois protections go beyond the scope of federal ones that do apply.

SECTION 1. INHERENT AND INALIENABLE RIGHTS

All men are by nature free and independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

These familiar words, mostly taken from the Declaration of Independence, have appeared in some form in each of Illinois' four constitutions (1818, 1848, 1870, and 1970). They are considered mostly hortatory, stating ideals rather than setting specific standards. But in a few cases the courts have cited them, in conjunction with other constitutional provisions, in striking down laws that unreasonably prohibited or restricted occupations, such as a plumber licensing law that allowed master plumbers to determine how many persons could become plumbers[1] and a law prohibiting the making of industrial coils and springs at home when no danger from the practice was shown.[2]

SECTION 2. DUE PROCESS AND EQUAL PROTECTION

No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws.

Due process

"Due process of law" is an exceedingly broad principle. It includes the right to have decisions that affect oneself made by established procedures that are designed to be fair ("procedural due process"), and also sometimes the right to be free from unwarranted governmental coercion ("substantive due process"). Due process requires among other things that a law, especially a criminal one, give adequate notice of what conduct it prohibits;[3] that persons who will be adversely affected by an administrative or judicial action be given notice and an opportunity to be heard in opposition;[4] and that the hearing not be biased or otherwise unfair.[5] However, the courts uphold a large majority of laws challenged under due process.

Due process of law was guaranteed by the 1870 Constitution. It is now guaranteed by the U.S. Constitution's Fifth Amendment, which applies to the national government, and by its Fourteenth Amendment, which applies to the states.

Illinois cases have generally held that the guarantees of due process and equal protection do not protect local governments against the state, since local governments are deemed to be its creatures[6]—although there has been at least one significant case holding that a school board could make a claim based on equal protection.[7] But statutes applying differently to different kinds of local governments (including local governments in different population ranges) can be challenged under Article 4, section 13 as prohibited "local" laws. The Illinois Supreme Court has stated that such challenges are generally considered under the same standards as those applying to equal-protection challenges.[8]

Equal protection

The guarantee of equal protection of the laws is taken from the U.S. Constitution's Fourteenth Amendment, ratified after the Civil War. This concept originally was intended to prohibit government from enforcing laws unequally on different classes of persons. It has since become more important as a protection against laws that are unequal as written—discriminating on grounds not related to a valid governmental purpose. Although the 1870 Illinois Constitution did not specifically guarantee equal protection, the Illinois courts long before 1970 had held that the 1870 Constitution's prohibition against "local or special laws" guaranteed equal protection of the laws.[9] The Illinois Supreme Court has said that it uses the same analysis for equal-protection claims under the U.S. and Illinois Constitutions.[10]

A person claiming denial of equal protection generally argues either that (1) two similar persons are being treated differently, or (2) two persons who should be treated differently are being treated alike. To decide such a claim, a court must determine what class or classes the law or other government action has created, and whether those classes are sufficiently related to a constitutionally valid objective. Some cases decided under the previous (1870) Constitution said that the legislature cannot, merely by defining terms, cause a class to include persons who in common understanding are not within that class.[11] While those cases may reflect a stricter judicial attitude toward statutes than courts now employ, they do make an important point: The mere act of defining a term cannot save a statutory classification that violates equal protection.

Rational basis standard

In cases on due process and equal protection, the courts apply differing levels of scrutiny depending on the nature of the interest being protected, and (for equal protection) the kind(s) of classification involved. In most situations, the courts will uphold a statutory classification of persons, or treatment of persons within a class, if the courts can find a "rational basis" for those actions. There need not be a perfect fit between the governmental objective and the methods used to pursue it; but the method used must have a clear tendency to achieve that objective.

Obviously, whether a particular law or governmental action has a rational basis is a matter for judgment rather than a precise standard.[12] As examples, the courts have upheld laws imposing stricter procedural requirements on persons suing governmental bodies than on those suing private persons;[13] distinguishing in medical licensing between physicians trained in the U.S. and those trained elsewhere;[14] setting strict time limits on bringing suits for medical malpractice but not on other kinds of suits;[15] and allowing the Chicago Park District to charge nonresidents of Chicago higher mooring fees than residents.[16]

On the other hand, the Illinois Supreme Court has struck down a statute of limitations that applied different standards to residents and nonresidents of the state;[17] and a bail law providing

that indigent defendants who had posted bail could have their bail money confiscated to pay the public defender, but not requiring indigent defendants who did not post bail to pay public defender fees.[18] These laws failed the "rational basis" standard since there was little difference between the two classes of persons involved in each situation, and little reason for treating them differently.

Article 9, section 2 says that in any non-property taxes or fees, the classes must be reasonable and the members of each class must be taxed uniformly. The Illinois courts have stated that tax laws are judged by a stricter standard under that section than under this section's "rational basis" standard.[19]

Higher standards

Courts hold some kinds of laws to a higher standard than a "rational basis." Under decisions by the U.S. Supreme Court, which are authoritative as to the federal guarantees and serve as guides for the Illinois guarantees, at least two kinds of laws are held to a much higher standard: those that (1) interfere with a "fundamental right" such as freedom of expression, voting, decisions about reproduction, or interstate travel, or (2) discriminate on the basis of a "suspect classification" such as race, ancestry, or (under the 1970 Illinois Constitution) sex.[20] Both federal and Illinois decisions say that such laws must serve a "compelling governmental purpose" to be upheld.[21] Few survive court challenges.

SECTION 3. RELIGIOUS FREEDOM

The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

Religious freedom has been guaranteed in all four Illinois Constitutions. The current provision is unchanged, except for punctuation, from one in the 1870 Constitution. It largely overlaps the protections given by the "establishment of religion" and "free exercise" portions of the U.S. Constitution's First Amendment, which is applied to states through the Fourteenth Amendment.[22] The Illinois Supreme Court has said that a law that meets the standards of the "establishment of religion" part of the First Amendment will not violate this section.[23] In 1910 the Illinois Supreme Court held that prayer and Bible reading in public schools violated this section,[24] more than 50 years before a similar holding by the U.S. Supreme Court.

But the courts have not required total separation of the claims imposed by church and state. Illinois courts have ordered a blood transfusion for an infant to save her life over religious objections by her parents;[25] held that a Catholic priest could sue for back salary;[26] refused to condemn the use of public funds to mail a letter from a representative of religious schools to parents of students at such schools, explaining the benefits to their schools of passing a tax referendum for public schools;[27] and upheld a Sunday-closing ordinance that was attacked under this section in lower courts.[28]

Article 10, section 3 contains a detailed prohibition on using public funds to aid religious instruction.

SECTION 4. FREEDOM OF SPEECH

All persons may speak, write and publish freely, being responsible for the abuse of that liberty. In trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

Free speech and publication

This section is based on guarantees in earlier Illinois Constitutions. Its protections are similar to the free speech and press provisions of the U.S. Constitution's First Amendment, which are applied to states through the Fourteenth Amendment.[29] But the Illinois Supreme Court has suggested, based on statements made at the 1970 constitutional convention, that this section may offer more protection to some kinds of expression than does the First Amendment to the U.S. Constitution.[30] This section applies only against government restriction of expression—not against restriction by private entities, such as proprietors of shopping places;[31] owners of trailer parks;[32] or employers.[33]

Government can constitutionally restrict expression by prohibiting misleading professional advertising,[34] limiting political activities by public employees,[35] and prohibiting political contributions by liquor licensees and their officers and employees.[36] (That third prohibition was repealed in 1978.[37]) However, the principle that laws must contain standards to guide citizens in complying with them has special force regarding measures that restrict expression.[38] Additionally, there is a heavy burden on those who would impose "prior restraint" on expression (prohibiting it before it occurs). Government ordinarily may not impose such restraint, even on offensive expression such as the marching of Nazis with swastikas.[39]

A government body may not impose disciplinary measures on one of its employees for comments on public matters that are not shown to be false and to impair the effectiveness of the employee or the agency, at public meetings,[40] in public gatherings,[41] in a letter to members of a city council,[42] or in comments to the press.[43] But the suspension of a policeman for disclosing information from a police personnel file has been upheld.[44]

A 2016 Illinois Appellate Court case upheld, against a challenge citing this section among other authorities, Illinois' ban on third-party or independent candidacy in a general election by anyone who filed party nominating papers for, or voted in, the primary election for that general election.[45]

Conduct, including speech, that is harassing to others—such as sexual harassment or violation of an order of protection—is not protected by this provision.[46]

Defamation

The second sentence of this section, dealing with libel, is a somewhat outdated carryover from the 1870 Constitution. A series of decisions by the U.S. Supreme Court beginning with *New York Times Co. v. Sullivan* (1964)[47] held that the U.S. Constitution's First Amendment requires public figures who sue for libel to demonstrate that the statements made were false and made with either (1) knowledge of their falsity or (2) reckless disregard for whether they were true or false. The Illinois Supreme Court has held similarly as to public figures and persons involved in matters of legitimate public interest, such as medical quackery[48] or tenure decisions at a public university.[49] Even as to private figures, the U.S. Supreme Court has held

that the burden of showing falsity of defamatory statements on matters of public concern is on the person defamed.[50]

The Illinois Supreme Court in 1984 held that the standard of "good motives and justifiable ends" remained appropriate in prosecutions for criminal libel of a private person. The Court emphasized that the criminal libel law at that time applied only to statements containing "fighting words" that threaten a breach of the peace.[51] But that law was repealed in 1986 and was not replaced.[52]

SECTION 5. RIGHT TO ASSEMBLE AND PETITION

The people have the right to assemble in a peaceable manner, to consult for the common good, to make known their opinions to their representatives and to apply for redress of grievances.

Peaceable assembly and petition are also protected by the U.S. Constitution's First Amendment, which is applied to states through the Fourteenth Amendment.[53] Although reaffirming the right to assemble peacefully in places that are routinely open to the public, Illinois courts have upheld arrests for demonstrating inside public buildings after normal closing hours;[54] using force to stay in a college building after being told to leave;[55] or attempting to march to an area where police had forbidden marching due to reasonable fears of violence.[56]

SECTION 6. SEARCHES, SEIZURES, PRIVACY AND INTERCEPTIONS

The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

This section's restrictions on searches and seizures are based on the Fourth Amendment to the U.S. Constitution, which has been applied to states through the Fourteenth Amendment.[57] The restrictions on unreasonable invasions of privacy and eavesdropping have no counterpart in the text of the Fourth Amendment. Courts have repeatedly held that this section protects only against government actions—not against actions by private persons that were not taken at the instigation of police or other government personnel.[58] But this section does not restrict even government personnel in gathering information from public sources. Examples of actions by government that have been held not to violate this section are using public knowledge of an arrest, even though the records of the arrest were expunged;[59] observing a gun openly visible in a car[60] or having dogs sniff for drug scents coming from airport luggage;[61] observing the vehicle identification number (VIN) of an automobile;[62] and observing contraband while in a residence for another valid purpose, such as rescue.[63]

Illinois courts have upheld statutory requirements for persons who have been convicted of felonies, or sex offenses listed in the statute, to provide samples of blood or other bodily products for DNA testing.[64]

Searches and seizures

Under U.S. Supreme Court decisions starting in 1961, evidence obtained in violation of the Fourth Amendment may not be admitted in state courts against the person(s) whose rights were violated.[65] The Illinois Supreme Court had applied the same rule since 1923.[66] The basic purpose of the Fourth Amendment, and of this section's restrictions on searches and seizures, is to prevent indiscriminate searches of private homes and other property. Searches and seizures are to be limited to situations in which either (1) an immediate search is required, such as the arrest of a person who may have a concealed weapon, or (2) the police have probable cause to believe that a crime has been committed, and can persuade a judge to issue a warrant to search a particular place and seize a particular person or thing. The number of Illinois cases on the reasonableness of particular kinds of searches and seizures is large and ever-growing, so it would not be feasible to summarize them here.

Because the so-called "exclusionary rule" for unconstitutionally obtained evidence is meant to discourage police from violating the rights of innocent persons, rather than to protect guilty persons, the U.S. Supreme Court has created a "good-faith" exception to it. The exception says in essence that if police officers believed in good faith that what they were doing was constitutional, evidence they collected should not be barred.[67] The Illinois Supreme Court has followed the U.S. Supreme Court in allowing a "good-faith" exception to the exclusion of illegally obtained evidence.[68] More generally, the Illinois Supreme Court has said that in applying this section, it follows a "limited lockstep" doctrine in relation to the Fourth Amendment. Under that doctrine, Illinois courts generally follow U.S. Supreme Court decisions on issues that are within the scope of the Fourth Amendment; but Illinois courts may decline to follow a U.S. Supreme Court decision (usually by giving more protection to a defendant) if Illinois' "state tradition and values" support a different result under this section.[69]

Invasions of privacy

The Bill of Rights Committee at the 1970 constitutional convention, in proposing the part of this section on privacy, said it was meant to guarantee each person "a zone of privacy in which his thoughts and highly personal behavior [are] not subject to disclosure or review."[70] The Illinois Governmental Ethics Act[71] and an executive order[72] requiring various state officials and employees to make financial disclosures have been upheld against challenges based on this provision.

The Illinois Supreme Court, citing statements made at the 1970 constitutional convention, has said that this provision does not create a right to abortion in Illinois.[73]

This provision has been cited to support several holdings that personal information should not be (or should not have been) disclosed to opposing parties in civil or criminal cases. In such cases, courts must weigh the relevance of the information sought against the privacy interests of the person to whom the information pertains. The Illinois Supreme Court struck down a law requiring each plaintiff in a medical malpractice suit to release that plaintiff's treatment records to the defendant(s), partly on the ground that it violated the plaintiff's privacy rights.[74]

Illinois Appellate Court cases have cited this provision as a reason why records from the bank account of an employee of the bank, who was charged with theft, should not have been disclosed to law enforcement without a warrant;[75] records containing the name of a specific university student who allegedly was sexually assaulted by an athletic coach should not be disclosed by the university under the state's Freedom of Information Act;[76] and the defendant in a suit for personal injuries should not be able to copy the entire contents of the plaintiff's computers to search for information that might show that the plaintiff's neurological injuries were not as serious as he alleged.[77] (That last opinion has a lengthy discussion of the complex

issues involved in deciding how much of the vast store of information in a typical personal computer should be disclosed to an opposing party—an issue that seems certain to arise in many future cases.)

Eavesdropping

Rather than proposing a total ban on interception by government of private communications, the Bill of Rights Committee and the full constitutional convention proposed a prohibition on "unreasonable" interceptions. They specifically stated that interception of a conversation for law-enforcement purposes with the consent of the state's attorney and one party to the conversation, and the approval of a judge, as provided by law,[78] would not be prohibited.[79] A law of that general type was later upheld against a challenge based on this constitutional section.[80]

Cases since 1970 have shown a trend toward allowing more recording of conversations by parties to them. In early cases under this section, Illinois courts held that it was illegal for police, without complying with the law cited above and with the consent of only one party to a phone conversation, to listen to a call using an extension telephone whose microphone was disconnected[81]—but not if a hand was merely held over the microphone to muffle sounds as heard by another party to the call.[82]

More recent Illinois Appellate Court cases have held that the recipient of a harassing call did not violate the Illinois eavesdropping law by switching the cellphone that received the call to speakerphone mode so a friend could hear what the caller said;[83] and that a party to a phone conversation did not violate the eavesdropping law by allowing the other party to the call to overhear his exchange with a police officer who approached him during the call.[84]

Still later Illinois cases, citing federal court cases under the First Amendment to the U.S. Constitution,[85] held that it was unconstitutional for Illinois to criminalize recording of a conversation by one party to it.[86] The Illinois law was then narrowed;[87] it now prohibits recording of a "private" conversation, to which one is not a party, in a "surreptitious" manner.[88]

The Illinois eavesdropping law has also been amended to say that it does not prohibit a person who is not a police officer from recording such an officer's performance of official duties, if that is done in a public place or another place where the officer has no reasonable expectation of privacy.[89]

SECTION 7. INDICTMENT AND PRELIMINARY HEARING

No person shall be held to answer for a criminal offense unless on indictment of a grand jury, except in cases in which the punishment is by fine or by imprisonment other than in the penitentiary, in cases of impeachment, and in cases arising in the militia when in actual service in time of war or public danger. The General Assembly by law may abolish the grand jury or further limit its use.

No person shall be held to answer for a crime punishable by death or by imprisonment in the penitentiary unless either the initial charge has been brought by indictment of a grand jury or the person has been given a prompt preliminary hearing to establish probable cause.

This section allows abolition of the use of grand jury indictments in criminal cases, and allows a prompt preliminary hearing as an alternative to an indictment. The requirement in the

U.S. Constitution's Fifth Amendment of grand jury indictment for serious crimes does not apply to states.[90]

Grand jury indictment

A person cannot be held for a serious crime without a grand jury indictment, except to the extent that use of grand juries is limited or abolished by law. In 1975 the General Assembly did limit their use, stating that prosecution for any crime may be begun without a grand jury.[91] In felony cases, a prosecution may be begun by the prosecutor's filing in court of an information (a sworn statement setting forth causes to believe that a person has committed a crime). In less serious cases, a prosecution may be begun by either information or complaint.[92] But prosecutors still choose to use grand juries in some situations—particularly if the alleged crime is controversial, or a criminal inquiry might be aided by a grand jury's investigatory powers.

Preliminary hearing

No person is to be held pending trial for a felony without a determination of probable cause—either by a grand jury indictment before arrest, or by a preliminary hearing after arrest. A prosecutor may use either method, and a finding of no probable cause at a preliminary hearing does not bar later indictment for the same offense.[93] Furthermore, once probable cause has been found to believe that a person committed any felony, the person can be held and tried for all offenses arising from the same transaction, even if not charged at the preliminary hearing.[94] Thus, this paragraph protects against unjustified detention—not against trial on too little evidence. This section does not apply to prosecutions for non-felony offenses—at least as to defendants not held in custody.[95]

A practical difficulty in enforcing this section is that it provides no sanction for lack of a prompt preliminary hearing. The situation is analogous to that of deterring illegal searches and seizures: Courts can reverse convictions to sanction police for violations, but the guilty are not in the class of innocent citizens whom the rule is designed to protect. A statute now provides that a person taken into custody for a felony must be discharged unless given a preliminary hearing or indicted by a grand jury within a specific period. That period is 30 days if in custody, or 60 days if out on bail—in each case starting when custody begins. Time taken by delays caused by the defendant, or required for examining the defendant's competence to stand trial, is excluded in calculating those periods.[96]

SECTION 8. RIGHTS AFTER INDICTMENT

In criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation and have a copy thereof; to be confronted with the witnesses against him or her and to have process to compel the attendance of witnesses in his behalf; and to have a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed.

These rights of defendants in criminal trials essentially restate those in the U.S. Constitution's Sixth Amendment, which is applied to states through the Fourteenth Amendment.[97] (The Sixth Amendment does not directly state a right to be present at one's trial; but the U. S. Supreme Court has held that it is implied by the right to confront prosecution witnesses and other constitutional rights.[98])

A 1994 constitutional amendment changed this section slightly, as described below under "Confrontation of witnesses."

An Illinois statute says that every person accused of a crime has a right to a jury trial but can understandingly waive that right in open court.[99]

Section 13 of this article addresses rights to juries in civil trials.

Counsel

Illinois courts have held that a defendant in a criminal case has a right to counsel at a preliminary hearing as well as at trial.[100] An Illinois statute now also gives a defendant in a criminal case a right to counsel at a bail hearing.[101]

A defendant in a criminal case has a right to choose self-representation in lieu of representation by counsel, if the decision to do so is knowingly and intelligently made.[102] Trial judges must advise defendants seeking to represent themselves of the seriousness of the charges before accepting such decisions.[103] A defendant's waiver of the right to counsel in a criminal case is legally effective only if it is unequivocal.[104] A defendant in a criminal case must choose either representation by counsel or self-representation; there is no option for both.[105]

A defendant in a criminal case has a right under both the Sixth Amendment and this section to "effective" assistance of counsel.[106] Convicted persons who appeal their convictions often allege, among other claims, that they received ineffective assistance of counsel at trial—typically from public defenders. But a convicted person must pass high hurdles to succeed on such a claim.

Confrontation of witnesses

The Illinois Supreme Court upheld Illinois' so-called "rape shield" section that, in prosecutions for serious sex crimes, bars introduction of evidence about any earlier sexual activity of the victim unless that activity was with the defendant. The Court emphasized that the section bars introduction of such evidence by *either* party, because such evidence is not relevant to the particular defendant's guilt or innocence.[107]

On the other hand, the Illinois Supreme Court held that the statutory "marital privilege" (preventing either spouse from testifying about a conversation or communication between the spouses during their marriage unless one of several exceptions applies[108]) can be overcome by the right of confrontation stated in this section. In that case, a wife cooperated with police in a drug investigation; and in a later prosecution arising out of that investigation, she testified against her husband. He sought to cross-examine her about alleged admissions (orally and in letters to him while he was in jail before trial) that she had fabricated her statements to police during the investigation to get lenient treatment for a crime she was charged with. The trial court, citing the marital privilege statute, barred such cross-examination; but the Illinois Supreme Court held that it should have been allowed due to the husband's constitutional right to confront adverse witnesses.[109]

The Illinois Supreme Court in 1994 struck down a law allowing a young alleged victim of a sex crime to testify outside the courtroom and be simultaneously seen in court using closed-circuit television.[110] The Court said this law violated the original version of this section, which gave a criminal defendant a right "to meet the witnesses face to face . . . ." A constitutional amendment approved by the voters in November 1994 replaced that wording with a right "to be confronted with the witnesses against him or her . . . ."[111] That version, based on the Sixth Amendment to the U.S. Constitution, was intended to make such a law constitutional. The U.S. Supreme Court in 1990 had cautiously upheld a similar Maryland law against a challenge under the Sixth Amendment.[112]

The General Assembly then enacted a similar section.[113] An Illinois Appellate Court case upheld an early version of it against a challenge under the Sixth Amendment, apparently implying that it was valid under this section also.[114] The statutory section currently applies to an alleged victim who either is under age 18 or has a mental disability—in either case, only if the judge determines that the person would be prevented by emotional distress from communicating in court, or that testifying in court would have severe adverse effects on the person.[115]

Speedy trial

The guarantee of a speedy trial is implemented by an Illinois law requiring that a person who is held in custody be tried within 120 days after arrest (excluding time taken by delays caused by the defendant, hearings on competence, and the like), and that a person on bail or recognizance be tried within 160 days after demanding a trial (with the same list of exclusions).[116] Compliance with that law ordinarily prevents a constitutional issue of denial of speedy trial from arising.[117] But the constitutional and statutory provisions are not coextensive, and courts can apply the constitutional provision by looking at the facts to determine (among other things) the reasons for delay before trial and whether it harmed the defendant.[118]

Trial by jury or by judge

Although this section explicitly guarantees a right only to a jury trial, in 1988 the Illinois Supreme Court (also citing section 13 of this article) held that a defendant in a criminal case also has a constitutional right to choose to be tried by the judge only (called a "bench trial").[119] Later Illinois Appellate Court cases have held that since trial by jury is the norm in criminal cases, a defendant who prefers trial by a judge alone must express that wish to the court or the issue will be deemed waived.[120]

SECTION 8.1. CRIME VICTIMS' RIGHTS

(a) Crime victims, as defined by law, shall have the following rights:

(1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.

(2) The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.

(3) The right to timely notification of all court proceedings.

(4) The right to communicate with the prosecution.

(5) The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.

(6) The right to be notified of the conviction, the sentence, the imprisonment, and the release of the accused.

(7) The right to timely disposition of the case following the arrest of the accused.

(8) The right to be reasonably protected from the accused throughout the criminal justice process.

(9) The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.

(10) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.

(11) The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of the victim's choice.

(12) The right to restitution.

(b) The victim has standing to assert the rights enumerated in subsection (a) in any court exercising jurisdiction over the case. The court shall promptly rule on a victim's request. The victim does not have party status. The accused does not have standing to assert the rights of a victim. The court shall not appoint an attorney for the victim under this Section. Nothing in this Section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney.

(c) The General Assembly may provide for an assessment against convicted defendants to pay for crime victims' rights.

(d) Nothing in this Section or any law enacted under this Section creates a cause of action in equity or at law for compensation, attorney's fees, or damages against the State, a political subdivision of the State, an officer, employee, or agent of the State or of any political subdivision of the State, or an officer or employee of the court.

(e) Nothing in this Section or any law enacted under this Section shall be construed as creating (1) a basis for vacating a conviction or (2) a ground for any relief requested by the defendant.

This section was added by an amendment proposed by the General Assembly and approved by the voters in 1992.[121] Another amendment in 2014[122] strengthened the section. Several rights that it guarantees were already in a law that is now called the Rights of Crime Victims and Witnesses Act.[123] This section may serve as a basis for further laws to help crime victims.

Partly because this section is rather new, few reported cases mention it. In the principal one, the Illinois Supreme Court held that, although it was improper under the Rights of Crime Victims and Witnesses Act to allow multiple victim impact statements (from multiple survivors of a murder victim) to be admitted at the sentencing hearing after a trial, this section's subsection (e) prevented the convicted defendant from challenging the sentence imposed. The Court pointed out that the sentence had been set by the judge, not by a jury, and that judges are presumed to consider only competent and relevant evidence when imposing sentences. But the

Court added a warning that prosecutors do not have free rein to introduce and argue anything they want.[124]

SECTION 9. BAIL AND HABEAS CORPUS

All persons shall be bailable by sufficient sureties, except for the following offenses where the proof is evident or the presumption great: capital offenses; offenses for which a sentence of life imprisonment may be imposed as a consequence of conviction; and felony offenses for which a sentence of imprisonment, without conditional and revocable release, shall be imposed by law as a consequence of conviction, when the court, after a hearing, determines that release of the offender would pose a real and present threat to the physical safety of any person. The privilege of the writ of habeas corpus shall not be suspended except in cases of rebellion or invasion when the public safety may require it.

Any costs accruing to a unit of local government as a result of the denial of bail pursuant to the 1986 Amendment to this Section shall be reimbursed by the State to the unit of local government.

Bail

This section's guarantee of bail is somewhat parallel to the U.S. Constitution's Eighth Amendment, which prohibits excessive bail and is applied to the states through the Fourteenth Amendment.[125] The Illinois Supreme Court in 1975 held that only crimes for which death was a possible penalty were capital offenses for purposes of this section as it existed then.[126] (Illinois law at that time authorized the death penalty, for unusually heinous murders.[127] The General Assembly abolished the death penalty in 2011,[128] so there presumably are no longer any "capital offenses" in Illinois.)

Amendments to this section, approved by the voters in 1982[129] and 1986,[130] authorized courts to deny bail to defendants accused of other violent crimes, but did not change the requirement that proof of guilt be evident or the presumption great. The Illinois Supreme Court had already held that courts could deny bail in other cases if necessary to prevent defendants from interfering with witnesses or jurors, or carrying out threats.[131]

The Illinois Supreme Court in 2002 struck down, as violating this section, a statutory provision putting the burden on a person charged with a capital offense, or one for which life in prison could be imposed, of demonstrating that the proof of guilt is not evident and the presumption is not great.[132]

Statutory provisions enacted in 2017 seek to promote the pretrial release on bail of persons charged with crimes, except the most serious offenses.[133]

Habeas corpus

Habeas corpus is the right to obtain a court order for the release of a person who is being detained illegally. The U.S. Constitution contains a guarantee similar to this section's.[134] But the few cases on the issue say that it does not apply to the states.[135]

SECTION 10. SELF-INCRIMINATION AND DOUBLE JEOPARDY

No person shall be compelled in a criminal case to give evidence against himself nor be twice put in jeopardy for the same offense.

This section mirrors two provisions in the U.S. Constitution's Fifth Amendment. Both of them are applied to states through the Fourteenth Amendment.[136]

Self-incrimination

The right not to be compelled to incriminate oneself may apply in any governmental proceeding, criminal or civil, judicial or quasi-judicial, in which a person might be compelled to testify to incriminating facts.[137] But the right exists only if the required testimony might bring criminal penalties—not if it might bring only lesser effects, such as loss of a government job.[138] The right includes the right not to testify at one's trial, and a prosecutor or judge may not comment adversely on a defendant's failure to testify.[139]

The right against compelled self-incrimination implies a right to remain silent during police questioning. Under federal and Illinois decisions since at least the *Miranda* case in 1966,[140] police have been required to advise suspects of the right to remain silent, and to stop questioning a suspect who clearly asks to consult a lawyer—although if the suspect later re-opens a discussion of the subjects of the questioning, police can resume questioning.[141]

Under federal and Illinois decisions, this right does not bar police from taking nontestimonial evidence, such as handwriting samples,[142] fingerprints,[143] or hair or blood samples;[144] nor does it prevent a person from being required to provide an "exemplar" (sample) of the person's voice to help identify a caller who left a message.[145]

The Illinois Supreme Court in 1994 held that the right against compelled self-incrimination was violated when police, who had a suspect in custody, falsely told a lawyer (who had been hired by his family to represent him, and went to the police station looking for him) that they were not holding him, and failed to tell the suspect that a lawyer wanted to talk with him. Thus, the Court said, any statements he made after the lawyer arrived at the police station should have been excluded from evidence.[146] That 4-3 decision by the Illinois Supreme Court implied that, in such a situation, this section gives more protection to suspects than the U.S. Constitution's Fifth Amendment, since a 1986 U.S. Supreme Court case had held that similar police conduct did not violate the Fifth Amendment.[147]

Double jeopardy

The prohibition on double jeopardy prohibits three major kinds of actions by government:

(1) After a person has been acquitted of a charge, retrying the person for the same crime. This is the most straightforward example of double jeopardy. (In addition to this provision, Article 6, section 6 prohibits an appeal from a judgment of acquittal in a criminal case.)

(2) After a person has been convicted on a charge, trying the person again for the same acts (such as under a law allowing heavier penalties than for the initial charge). For example, if a driver has been convicted of reckless driving for running over a pedestrian, later trying the driver for reckless homicide based on the same event *may* subject the driver to double jeopardy (this issue is more complex than (1) above).[148]

(3) Punishing a person more than once for the same offense—such as by trying the person for two "crimes" that contain the same elements and were committed through the same wrongful acts.[149]

A variation on (3) occurs if a defendant is held liable under a civil law for actions that are separately charged as crimes. The Illinois Supreme Court in 1996 held that prosecuting a person for violating the Illinois Controlled Substances Act, after his automobile had been forfeited due to its use in committing that same violation, subjected him to double jeopardy.[150] It also held in that year that the Cannabis and Controlled Substances Tax Act, imposing a tax and penalty on persons dealing in marijuana or controlled substances, caused double jeopardy by punishing a person who had already been criminally convicted of a drug crime.[151] Those decisions were based on a 1994 U.S. Supreme Court case striking down a state's drug tax for punishing drug violators again after they were convicted of drug crimes.[152]

Such holdings do *not* prevent the state from imposing heavy fines in prosecutions for drug violations. What they prevent is making drug violators pay taxes or penalties, or suffer property forfeitures, in proceedings that arise out of the same acts but are separate from the proceedings in which criminal penalties were imposed for the drug violations. If the legal consequences for prohibited acts are imposed in separate proceedings, the courts will declare that double jeopardy has occurred if they determine that the civil consequences are functionally equivalent to criminal penalties.[153]

A 1995 Illinois Appellate Court case similarly held that if drug forfeiture proceedings on a defendant's property have been completed, the defendant has been punished; thus, a criminal prosecution for the acts that resulted in forfeiture is barred as double jeopardy.[154]

Federal and Illinois decisions have held that prosecution of a person by both federal and state prosecutors for the same actions does not violate federal or state double jeopardy prohibitions, since the prosecutions are by different sovereigns.[155] However, an Illinois statutory provision limits such 'dual-sovereigns" prosecutions.[156]

More rarely, the prohibition on double jeopardy prevents retrial of a defendant in a criminal case in these kinds of situations:

(4) The defendant is convicted at trial, but the conviction is reversed on appeal on the ground that the evidence was insufficient to convict. If that happens, the defendant cannot be retried for that offense.[157]

(5) The trial judge declares a mistrial, and the defendant convinces the judge or an appellate-level court that the prosecution intentionally caused the declaration of mistrial—typically asserting that the trial was going badly for the prosecution, so the prosecutor wanted to start it over. If it is determined that the prosecution did that, a retrial would give the prosecution a second chance at a conviction, violating this section.[158]

As this discussion suggests, the prohibition on double jeopardy can raise complex questions, requiring careful reasoning to determine whether it applies in particular cases. Judicial precedents on this topic continue to evolve as new situations arise.

SECTION 11. LIMITATION OF PENALTIES AFTER CONVICTION

All penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship. No conviction shall work corruption of blood or forfeiture of estate. No person shall be transported out of the State for an offense committed within the State.

Severity of penalties

In several cases in the 1980s and 1990s, the Illinois Supreme Court—citing the first sentence of this section—struck down sentencing laws based on a perceived lack of proportion between the penalties prescribed for the crime that was charged and the penalties prescribed for other crimes.[159] But in a 2005 case,[160] after a detailed discussion of problems with its attempts to compare penalties for different crimes, the Court reversed course and announced: "A defendant may no longer challenge a penalty under [Article 1, section 11] by comparing it with the penalty for an offense with different elements."[161] That decision left in place the two other grounds for challenging criminal penalties under this section's first sentence:

(1) That the penalties for a crime are too severe in general (described as being "cruel, degrading, or so wholly disproportionate to the offense committed as to shock the moral sense of the community"[162]).

(2) That the penalties for the crime differ from those for another crime that has the same elements[163] (an unusual occurrence).

The Court in that 2005 case added that defendants can still challenge penalties under the Due Process clause of Article 1, section 2, by arguing that the penalties are not reasonably designed to remedy the evils that the laws authorizing them were meant to address. But the Court warned lower courts and lawyers not to try to bring back, as Due Process challenges, comparisons of one crime to another like those it formerly entertained in the now-rejected cases.[164]

The Illinois Supreme Court has stated in some cases that this section's first sentence "is coextensive with" the prohibition on "cruel and unusual punishments" in the U.S. Constitution's Eight Amendment;[165] but in at least one case it indicated that the first sentence of this section goes somewhat beyond the Eighth Amendment's requirements.[166]

The U.S. Supreme Court in 2012 held that under the Eighth Amendment, state law cannot *mandate* a sentence of life in prison without possibility of parole for homicide committed by a juvenile.[167]

This section does not prohibit use of victim-impact statements in sentencing.[168] Its requirement that penalties be determined with the objective of restoring the offender to useful citizenship does not prohibit capital punishment, or life imprisonment.[169] Nor does it prohibit mandatory prison sentences for serious crimes;[170] or invalidate Illinois' "habitual criminal" provisions that severely punish a person who, three times in succession, commits and is convicted of serious felonies.[171]

Corruption of blood

"Corruption of blood" was an old English punishment preventing a convict from receiving or transferring property by inheritance. It is forbidden in federal prosecutions for treason by a provision in the U.S. Constitution,[172] which has not been held to apply to the states. This section's prohibition on corruption of blood does not invalidate laws that deny state contracts to

firms involved in bribery,[173] or that deny state pensions to persons convicted of felonies arising from state service and their heirs.[174]

Transporting out of state

Despite the last sentence of this section, the Illinois Supreme Court has held that the state can constitutionally send prisoners to serve their sentences in other states under the Interstate Corrections Compact.[175] The Court held that the last sentence is violated only if transportation out of state amounts to cruel and unusual punishment.[176]

SECTION 12. RIGHT TO REMEDY AND JUSTICE

Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely, and promptly.

The 1870 Constitution contained essentially the same provision, except for the mention of wrongs to privacy. This section is basically hortatory rather than enforceable.[177] The Illinois Supreme Court has described it as stating an "aspirational goal."[178] This section did not invalidate laws giving partial immunity against suits for breach of promise to marry or for alienation of affections.[179] Nor did it invalidate the Workers' Compensation Act, which normally bars employees from suing their employers due to occupational injuries.[180] But courts have cited the section as providing some support for (1) invalidating a law that completely abolished a common-law right to sue in some kinds of situations,[181] and (2) creating a new remedy where one was needed.[182]

The Illinois Supreme Court held unconstitutional a $5 tax on persons filing for divorce, with the proceeds going to domestic-violence shelters. The Court said that not all litigation fees or taxes are invalid, but that such charges may be imposed "only for purposes relating to the operation and maintenance of the courts."[183]

The Illinois Appellate Court upheld a $1 fee on the party bringing a civil suit, with proceeds going to a nonprofit dispute resolution fund, after determining that the fee was sufficiently related to the operation and maintenance of the courts.[184] Other Illinois Appellate Court cases upheld fees of $8 or $10 (depending on county population) on each civil court filing, with proceeds funding mandatory arbitration programs or waiting rooms for children in courthouses, after determining that such purposes were sufficiently related to court operations.[185]

SECTION 13. TRIAL BY JURY

The right of trial by jury as heretofore enjoyed shall remain inviolate.

The U.S. Constitution's Seventh Amendment guarantee of a right to jury trial in civil cases does not apply to state courts.[186] (As to juries in criminal trials, see the commentary under section 8 of this article.) But this section and its predecessors in earlier Illinois Constitutions protect the right in both civil and criminal cases. The right of trial by jury "as heretofore enjoyed" has been said by courts to refer to the right both under English common law and as it existed at the time of adoption of the Illinois Constitution;[187] but determining the exact extent of that right has occasioned considerable difficulty for the courts.[188] As discussed on the next page, the right does not extend to kinds of suits that are newly created by statute.

The Illinois Supreme Court struck down a statutory provision that, for some drug crimes, required a jury trial unless both the defendant *and* the prosecutor waived it, which would have allowed the prosecutor to require a jury trial over the defendant's objection. The Court held, based on older Illinois cases, that this section's guarantee of the right of jury trial "as heretofore enjoyed" also gives a defendant a right *not* to have a jury trial.[189]

The defendant in a criminal case may not be punished more severely for exercising the right to a jury trial.[190] But a reasonable fee can be required of persons who demand jury trials in civil cases.[191]

Size of civil juries

The Illinois Supreme Court struck down a law that reduced the sizes of juries in civil cases from 12 persons to 6. The Court held that this section goes beyond the requirements of the Seventh Amendment to the U.S. Constitution (which the U.S. Supreme Court had held not to require 12-member juries[192]) by guaranteeing the right to trial by jury "as heretofore enjoyed." The Illinois Supreme Court said that having a jury of 12 is an essential part of the historical right to trial by jury in Illinois.[193]

Application to drug forfeiture laws

The Illinois Supreme Court has held that in prosecutions under the Drug Asset Forfeiture Procedure Act, this section guarantees the owner of property sought to be forfeited a right to a jury trial. The reason is that such attempted forfeitures are a kind of *in rem* civil asset forfeiture, which existed under common law and historically included a right to a jury trial.[194]

An Illinois Appellate Court decision said that another forfeiture law, which provides for a judge alone to determine whether property of a person charged with a drug crime is subject to forfeiture due to its maintenance using drug-derived funds, did not violate the defendant's right to a jury trial. In that case the forfeiture occurred *after* the defendant was convicted of drug racketeering, and the Appellate Court judges said this was only a sentencing decision. The historical right to a jury trial applies to the conviction phase of a trial, not to sentencing.[195]

Statutes on jury trials

The General Assembly can expand the right to a jury trial to cover more kinds of cases than those constitutionally guaranteed.[196] But the right to a jury trial does not automatically extend to new kinds of civil proceedings that were not known to the common law, such as those under the Juvenile Court Act,[197] Workers' Compensation Act,[198] Consumer Fraud and Deceptive Business Practices Act,[199] or Environmental Protection Act.[200] Indeed, at least one Illinois Appellate Court case reluctantly held that it was error, requiring a new trial, to have a jury decide a case under laws that do not provide for jury trials.[201]

SECTION 14. IMPRISONMENT FOR DEBT

No person shall be imprisoned for debt unless he refuses to deliver up his estate for the benefit of his creditors as provided by law or unless there is a strong presumption of fraud. No person shall be imprisoned for failure to pay a fine in a criminal case unless he has been afforded adequate time to make payment, in installments if necessary, and has willfully failed to make payment.

The first sentence is taken from the 1870 Illinois Constitution; the second sentence on paying fines was new in the 1970 Constitution. A person may not be imprisoned for failure to pay

a debt that was not fraudulently contracted,[202] even (according to a majority of a panel of Illinois Appellate Court judges) if the person is unable to pay due to refusing to work.[203] But a divorced parent can be imprisoned for contempt for failure to pay court-ordered child support,[204] as can a person who has committed a legal wrong involving malice and failed to pay a resulting judgment.[205] A provision in the Unified Code of Corrections provides for paying fines in installments if necessary.[206]

SECTION 15. RIGHT OF EMINENT DOMAIN

Private property shall not be taken or damaged for public use without just compensation as provided by law. Such compensation shall be determined by a jury as provided by law.

Eminent domain is the inherent power of a sovereign government to take property it needs for a public use. The U.S. Constitution's Fifth Amendment, which is applied to the states through the Fourteenth Amendment,[207] similarly requires that just compensation be paid if government takes property. But this section goes farther and requires compensation if a government project merely damages property. "Property" within the meaning of this section potentially can include every interest that a person may have in anything that is subject to ownership, including real property and personal property.[208] (However, this section in practice is more limited, as described below.)

The Illinois Supreme Court has held that a taking of land for public use is invalid if it cannot be shown that there is a public need for the amount of land sought to be acquired,[209] or if the purpose of the planned acquisition is to provide land for a private enterprise.[210]

A municipality, using zoning powers granted by the state, may restrict the use of property through zoning without paying compensation.[211] But such restrictions on use of the property will not be upheld if a court finds that they are unsupported by a public purpose or are otherwise unreasonable.[212]

Application to takings of money

This section could, in principle, apply to governmental taking of any kind of property. But in practice, under this section and the takings clause of the Fifth Amendment to the U.S. Constitution,[213] courts have given more protection against "regulatory takings"—which deprive owners of part of the use of their physical property without actually taking the property—than against takings of financial assets.[214] The courts evaluate direct governmental takings of money (through ordinary taxes and fees) under the constitutional provisions on the validity of taxes and fees (in Article 9 and some sections of Article 7). Illinois courts' attempts to maintain a line between those two kinds of takings are described below.

The Illinois Supreme Court held that if the state acquired corporate stock under the Uniform Disposition of Unclaimed Property Act, and the owner later claimed it, the state had to return not only the stock but also any dividends the state received on the stock while holding it.[215] But a few years later, the Court held that the state need not pay to an owner interest that it had received on money it held under that Act.[216] (The Court sought to distinguish those two sets of facts by stating that there was no evidence in the later case about whether the money had earned interest—or, if it did, at what rate—before the state took it as unclaimed property; the earlier case involved corporate stock, on which the corporation had declared dividends.) Similarly, an Illinois Appellate Court case held that persons who had deposited bail with court

clerks were not constitutionally entitled to interest on it. The opinion stated that there is no automatic right to receive interest on money held; interest is owed only if a contract or law requires it. Since that was not true of bail deposits, no "property" was taken by court clerks.[217]

In a challenge by riverboat casino owners to a temporary charge on the revenues of each casino whose adjusted gross receipts in 2004 exceeded $200 million, with the proceeds used to support Illinois racetracks, the Illinois Supreme Court held that this section did not apply to that exaction because real estate was not involved. The Court added that such monetary exactions should be evaluated under constitutional restrictions on taxation.[218]

A modern issue in local government law is the extent to which governments can require developers to pay fees, or meet other requirements, as a condition of being allowed to develop land, if the fees are imposed for broad purposes such as avoiding congestion and protecting the environment. The Illinois Supreme Court, citing both a 1994 U.S. Supreme Court case[219] and a 1961 Illinois case,[220] has held that such "impact fees" or "development exactions" are constitutional only if the need for them is "specifically and uniquely attributable" to the developments on which they are imposed.[221] Proceeds of such fees may be used only to mitigate the effects of the developments on which the fees were imposed—such as increased use of streets and, in the case of residential developments, higher school enrollments.

SECTION 16. EX POST FACTO LAWS AND IMPAIRING CONTRACTS

No ex post facto law, or law impairing the obligation of contracts or making an irrevocable grant of special privileges or immunities, shall be passed.

This section prohibits some kinds of laws that 'change the rules in the middle of the game' or that give a permanent benefit to someone that is not available to others.

Ex post facto laws

Laws punishing persons for past actions that were legal when done; increasing the penalties for crimes already committed; or changing the rules of evidence by making conviction for past crimes easier are described as *ex post facto* ("from after the thing done").[222] The U.S. Constitution also prohibits states from enacting *ex post facto* laws.[223]

The prohibition on *ex post facto* laws applies only to laws that are criminal or otherwise penal.[224] (But see "Retroactive changes in civil laws" below.) The Illinois Supreme Court has upheld statutory changes that applied the Sex Offender Registration Act's registration requirements to sex offenders to whom the requirements had not applied when they committed sex crimes,[225] and that lengthened the duration of a "sexual predator's" obligation to register under the Act from 10 years to life,[226] stating that having to register under the Act is a civil obligation rather than a criminal penalty. Illinois Appellate Court decisions have upheld a prohibition on a child sex offender's residing within 500 feet of a school, deeming it a measure to promote public safety rather than a penal law.[227]

The *ex post facto* laws prohibition also does not prevent the lengthening of a limitations period against persons on whose criminal acts the statute of limitations has not yet expired,[228] or the substitution of informations for indictments to charge for crimes committed before the change in law allowing use of informations.[229] Nor did it invalidate Illinois' "armed habitual criminal" section that severely punishes a person who (illegally) possesses a firearm after being twice convicted of any of a list of serious felonies. The cases so holding state that the defendant is not punished again for the prior felonies; rather, *due to* those felonies, the defendant

is penalized more severely for the third felony (possession of a firearm by a felon) than another person would be.[230]

On the other hand, the Illinois Supreme Court has held that retroactive application of an act amending a homicide law by altering the legal rules of evidence to make conviction easier would violate the prohibition against *ex post facto* laws;[231] and that a change in law from annual parole hearings to hearings only every 3 years could not be applied to a convict whose offense was committed while the law provided for annual hearings.[232]

Retroactive changes in civil laws

Although court decisions say that the prohibition on *ex post facto* laws applies only to criminal laws, changes in civil laws are evaluated under somewhat similar principles. The Illinois Supreme Court has held that the General Assembly cannot, by seeking to "clarify" a law, undo judicial interpretations of the law in a way that will be effective as to events that happened before the law was so amended.[233]

The Court has held similarly as to laws that it interpreted as attempting to reverse final judicial decisions as to the parties involved in those cases.[234] Those holdings are based on the principle of separation of powers among branches of government (Article 2, section 1). The reasoning seems to be that if a legislative body could tailor laws to determine the outcomes of specific cases, the power of courts to decide cases would be to some extent nullified. Although not usually stated, this issue is related to the principle of equal protection (Article 1, section 2), since statutes 'tailor-made' to affect specific cases would tend to be unfair—either to the persons they affected, or to similarly situated persons whom they did *not* affect.

However, the courts typically uphold "curative" laws that retroactively validate actions by government units—not authorized when they were taken—if the General Assembly *could* have authorized those actions at the time, and no vested rights or interests are violated.[235] Also, of course, the General Assembly can amend a law effective for cases whose facts occur *after* the amendatory provisions take effect.[236]

Illinois courts also have upheld statutory changes in laws on occupational or professional licensing, or teacher employment, that revoked licenses, denied license renewal, or required termination of employment due to crimes for which the persons were convicted or otherwise determined guilty by courts before enactment of the statutory changes.[237] To the extent that the legislative changes impaired contract rights (such as teacher tenure), the courts said that they were justified by the need to protect the public.

The Illinois Supreme Court in 1994 re-affirmed its line of cases, going back to 1895,[238] that said the General Assembly cannot retroactively extend a civil limitations period after it has expired on potential suits. The decision was not based on this section—which as noted above applies only to penal laws. Instead, the Court's reasoning was that reviving a right to sue that had expired would deny due process (Article 1, section 2) by depriving potential defendants of a vested right that was created when the limitation period expired.[239] The U.S. Supreme Court has long held the opposite under the U.S. Constitution,[240] and two members of the Illinois Supreme Court dissented from this ruling.[241]

Changes in procedural laws

Another kind of law—either civil or criminal—with retroactive effects that Illinois courts typically uphold is one described as making "procedural" (including evidentiary), as opposed to "substantive" changes—again, unless a constitutionally protected right is violated.[242] A section of Illinois' Statute on Statutes parallels that judicial practice.[243] But the distinction between "substantive" and "procedural" laws is sometimes difficult to demarcate.[244] A 1996

opinion of the U.S. Court of Appeals for the 7th Circuit (in Chicago) on a similar rule in federal courts may help explain the difference between the two kinds of laws. Referring to procedural laws, it said: "People normally don't rely on such provisions in planning and conducting the affairs of life, and so the reliance interest [that normally bars retroactive application of laws] is not engaged."[245]

The reason why people do not "normally" rely on procedural laws may be that it is often difficult to predict, before a lawsuit is filed, which potential party(ies) to it would be helped or hurt by a change in court procedure. By contrast, it usually can be predicted whether a given change in *substantive* law would aid or harm a potential party to a lawsuit. But even a merely "procedural" law may have a predictable effect on a potential litigant, if that potential litigant is a member of a class (such as mortgage borrowers) and the procedural law would help or harm members of that class who become parties to lawsuits (such as foreclosure suits).[246]

Impairing obligation of contracts or irrevocably granting immunities

Historically, many laws impairing obligations of contracts were attempts to relieve debtors from their obligations during hard economic times. But this provision has been used (mostly unsuccessfully) to challenge other kinds of laws that changed legal relationships after they were formed. The Illinois Supreme Court held that this section did not invalidate the part of the Illinois divorce law enacted in 1977 that made most property acquired by the work of either spouse during a marriage "marital property" available for a judge to divide between the ex-spouses if there is a divorce.[247] Nor does it prevent reasonable regulation to protect public health and safety, such as zoning, even though that may interfere indirectly with contract rights.[248] It also does not prevent a law from restricting contracts that will be made *after* it is enacted.[249]

The Illinois Supreme Court upheld, against attack under this section, a 1980 law rearranging the revenues and finances of the Chicago school system to avert a financial crisis, even though it might affect the rights of creditors, since it was an apparently necessary exercise of the state's power to provide for the general welfare.[250]

The Illinois Supreme Court also held that a 1988 Chicago school reform law did not violate this section by ending the statutorily granted tenure of school principals. The Court noted that statutes are not ordinarily read as creating contract rights, since the legislature can change statutes at any time. To establish a contract right from a statute, there must be clear evidence of a legislative intent to create a contract.[251]

However, the prohibition on laws impairing the obligation of contracts does bar the General Assembly from directly changing obligations under a contract that was entered into before the law was enacted. For example, the General Assembly cannot require that already-issued municipal bonds, secured by special assessments that are more than 30 years delinquent, be canceled,[252] or by law change the coverage or other features of insurance policies that were issued before the law took effect.[253]

In a 2015 case on the validity of a 2014 law that sought to reduce future costs of public employee pension funds to the state (discussed in more detail under Article 13, section 5), the Illinois Supreme Court said the state can impose measures that effectively change contracts if circumstances are pressing and no less drastic solution is available. But it held that there is no such flexibility in complying with Article 13, section 5.[254]

The U.S. Constitution also prohibits states from enacting laws impairing the obligation of contracts.[255] That restricts the state in changing the charters of a few corporations that were given special privileges in their charters enacted before the 1870 Constitution (which barred future grants of irrevocable special privileges to corporations[256]). Probably the most significant example is Northwestern University, whose pre-1870 charter says that all of its property is

exempt from taxation.[257] But the value of that exemption as to property the university leases out for commercial use has been effectively eliminated by a tax on the leasehold interest in such property,[258] which has been upheld.[259]

SECTION 17. NO DISCRIMINATION IN EMPLOYMENT AND THE SALE OR RENTAL OF PROPERTY

All persons shall have the right to be free from discrimination on the basis of race, color, creed, national ancestry and sex in the hiring and promotion practices of any employer or in the sale or rental of property.

These rights are enforceable without action by the General Assembly, but the General Assembly by law may establish reasonable exemptions relating to these rights and provide additional remedies for their violation.

This provision was new in the 1970 Constitution. The committee proposing it at the constitutional convention intended to go beyond nondiscrimination requirements applying only to government action, and reach private actions as well. But the committee did not intend to forbid discrimination by voluntary associations.[260] An Illinois Appellate Court decision held that this section does not prohibit private clubs in Chicago from denying admission and service to women, concluding that such clubs are voluntary associations. One judge dissented, arguing that such clubs play an "important role . . . in the business and professional activities of the Chicago metropolitan area . . . ."[261]

Interaction with Human Rights Act

The Illinois Human Rights Act, which combined several antidiscrimination laws in 1980, implements the guarantees of this section.[262] Before the Act took effect, Illinois courts had allowed some suits under this section against employers for discrimination based on sex.[263] But the Act says "Except as otherwise provided by law, no court of this state shall have jurisdiction over the subject of an alleged civil rights violation other than as set forth in this Act."[264] The Illinois Supreme Court therefore held that the Act is now the exclusive remedy under Illinois law for civil rights violations in employment.[265] (The Act allows any party to a proceeding before the Human Rights Commission, if dissatisfied with the Commission's disposition, to petition the Illinois Appellate Court for review of the decision. But the Appellate Court is to reverse the Commission's factual findings only if they are against "the manifest weight of the evidence"[266]—so there is a presumption that a decision by the Commission should be upheld.) The Court said that the Act established "reasonable exemptions relating to those rights" as allowed by this section, including an exemption of employers with fewer than 15 employees.[267]

However, if no action is taken on a complaint for 1 year, the Act now allows a complaining party to file suit in a trial court.[268]

Decisions by two districts of the Illinois Appellate Court held that this section applies only to "hiring and promotion" practices narrowly construed—not to all employment practices, such as those on employee relocation and dismissal.[269] Two other districts of the Appellate Court have held or implied that this section is broader.[270] The Illinois Supreme Court, in a case mentioned above, alluded to this issue but found no need to decide it then.[271]

SECTION 18. NO DISCRIMINATION ON THE BASIS OF SEX

The equal protection of the laws shall not be denied or abridged on account of sex by the State or its units of local government and school districts.

This provision was new in the 1970 Constitution. It shares with section 17 a prohibition on discrimination by sex. But while section 17 applies to businesses and prohibits only discrimination in business-type transactions, this section applies to governments and prohibits virtually every kind of sex discrimination by them. The Illinois Supreme Court has held that this section makes sex a "suspect classification" in Illinois, meaning that any law, regulation, or ordinance discriminating by sex must have a "compelling governmental purpose" capable of withstanding "strict judicial scrutiny" to be upheld.[272] Illinois courts accordingly held unconstitutional former sections of the Juvenile Court Act that discriminated between male and female 17-year-olds for purposes of the Act;[273] a law setting different minimum ages for marriage depending on gender;[274] and an ordinance prohibiting persons from providing commercial massages of persons of the other sex.[275]

On the other hand, the Illinois Supreme Court upheld a law setting a higher penalty for aggravated incest (that between a father and daughter) than for other incest. The Court stated that incest by a father has greater potential for harm than incest by a mother, and occurs far more often, thus justifying harsher treatment.[276] (However, the General Assembly later amended the law to make it sex-neutral.[277]) An Illinois Appellate Court decision upheld a law that prohibited bar owners from employing women to ask patrons to buy them drinks, stating that such solicitations by women were a far greater problem than solicitations by men.[278] (That law was later repealed.[279])

The Illinois Supreme Court in 2013 upheld the Parental Notice of Abortion Act of 1995 against challenges that cited this section among other provisions of the Illinois and U.S. Constitutions.[280]

The Illinois Supreme Court also upheld a law requiring persons convicted of prostitution to be tested for HIV infection, finding that it did not discriminate based on gender between persons so convicted.[281]

The Illinois Supreme Court struck down an Illinois statutory provision that, in the case of a person born to unmarried parents and dying with no will and no spouse or child, allowed only the decedent's mother and her descendants to inherit the estate, after finding no compelling governmental purpose for preventing the child's father from inheriting from the estate.[282] Also, although the Illinois Supreme Court has not decided this issue, a large majority of Illinois Appellate Court decisions on the subject have held that there is no longer a presumption in divorce cases that a mother is more fit for child custody than a father.[283]

The issue has arisen in Illinois whether a criminal conviction should be reversed if the defendant can show that, during jury selection, the prosecution intentionally excluded some prospective jurors of one sex (such as excluding men in a trial of a man for a sex crime). The U.S. Supreme Court in 1986 addressed the similar issue of intentionally excluding prospective jurors of one race; it held that a defendant should be allowed to attempt to show that a conviction should be overturned for that reason.[284] In a 1994 case the U.S. Supreme Court extended that principle to excluding prospective jurors based on gender.[285] The Illinois Supreme Court applied that decision in a 2001 case, by sending it back to the trial court for a determination whether a prospective juror had been excluded based on gender.[286]

Interaction with Human Rights Act

The Illinois Supreme Court's 1994 case holding that the Illinois Human Rights Act provides the only remedy for alleged violations of section 17 in employment[287] appears to be interpreted as applying to this section also, based on a lack of reported cases on sex discrimination in employment since then.[288]

SECTION 19. NO DISCRIMINATION AGAINST THE HANDICAPPED

All persons with a physical or mental handicap shall be free from discrimination in the sale or rental of property and shall be free from discrimination unrelated to ability in the hiring and promotion practices of any employer.

This section, new in the 1970 Constitution, attempts to protect anyone with a "physical or mental handicap" from unwarranted discrimination. Deciding what is a "handicap" for the purposes of this section has challenged the courts. (There are similar problems in determining what is a "disability" under the federal Americans with Disabilities Act of 1990.[289]) The courts have held that cancer[290] and kidney disease followed by a kidney transplant[291] do not qualify as handicaps within the meaning of this section or of the former Equal Opportunities for the Handicapped Act.[292] On the other hand, an Illinois Appellate Court case held that having a partially amputated leg is a handicap; the court sent back for trial a claim by a would-be fireman that he should have been hired despite that condition, because he had shown his ability as an auxiliary fireman to carry out all the duties of the job.[293] Another Illinois Appellate Court case held similarly as to a person with a partially amputated leg who applied for a job as a sheet metal worker.[294]

A 1988 Illinois Appellate Court decision held that a city's requirement that all new police hires have uncorrected vision of at least 20/30 (a much higher standard than almost all other police departments required) violated the public policy expressed in this section.[295]

The Illinois Supreme Court's 1994 case holding that the Illinois Human Rights Act provides the only remedy for alleged violations of section 17 in employment[296] appears to be interpreted as applying to this section also, based on a lack of reported cases on discrimination based on disabilities since then.

A 2016 Illinois Appellate Court decision attempted to address the complex interaction of this section with the Local Governmental and Governmental Employees Tort Immunity Act[297] and the Illinois Human Rights Act—including the claimant's argument that the latter act, by implication, prohibits "disability harassment" (analogous to sexual harassment).[298]

The Americans with Disabilities Act of 1990 can also apply in many situations to which this section applies.

SECTION 20. INDIVIDUAL DIGNITY

To promote individual dignity, communications that portray criminality, depravity or lack of virtue in, or that incite violence, hatred, abuse or hostility toward, a person or group of persons by reason of or by reference to religious, racial, ethnic, national or regional affiliation are condemned.

This section is based on a former Illinois criminal law.[299] It is a sort of constitutional homily, and—as the committee that proposed it at the 1970 constitutional convention[300] and two Illinois Appellate Court decisions[301] stated—it is strictly hortatory. It states an ideal but does not create a right to sue.

SECTION 21. QUARTERING OF SOLDIERS

No soldier in time of peace shall be quartered in a house without the consent of the owner; nor in time of war except as provided by law.

The prohibition on quartering soldiers in private houses (a practice of the British before the Revolutionary War) is based on the Third Amendment to the U.S. Constitution. The Illinois Constitutions of 1848 and 1870 contained similar prohibitions.

SECTION 22. RIGHT TO ARMS

Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed.

The 1970 constitutional convention proposed this section due to a history of federal cases, cited below, holding that the Second Amendment to the U.S. Constitution did not restrict states' regulation of gun possession, and to ensure a personal right to keep arms in addition to the collective right to an armed militia mentioned in the Second Amendment. The 1970 convention committee's explanation said "a citizen has the right to possess and make reasonable use of arms that law-abiding persons commonly employ for purposes of recreation or the protection of person and property. Laws that attempted to ban all possession or use of such arms . . . would be invalid."[302] But the delegate who explained the committee proposal to the full convention said four times, in floor discussion, that it would not prohibit a complete ban on handguns.[303]

The phrase "police power" has no precise meaning. It has been described by the Illinois Supreme Court as the power of a sovereign to act to protect the lives, health, morals, and general welfare of the public.[304] The Court has added that it may not be exercised "arbitrarily"[305] and the means used to exercise it must be "reasonable."[306]

The Second Amendment to the U.S. Constitution, guaranteeing a right to keep and bear arms, was formerly interpreted by federal courts as not restricting states in relation to their residents.[307] The U.S. Supreme Court overruled those cases in 2008.[308] In 2010 (by 5-4 vote) it also held that the 14th Amendment to the U.S. Constitution protects rights guaranteed by the

Second Amendment.[309] As a result, challenges to restrictions on firearm possession in Illinois now rely at least as much on the Second Amendment as on this section.

The following cases were decided before the U.S. Supreme Court's more recent Second Amendment holdings: The U.S. Court of Appeals in Chicago upheld a nearly total ban on handguns in Morton Grove under this section.[310] The Illinois Supreme Court, by 4-3 vote, later held that the Morton Grove ordinance did not violate this section.[311] (Federal courts have no authority to control state courts' interpretations of state constitutions and laws.) The U.S. Court of Appeals in Chicago also held that Chicago's ban on buying handguns did not violate the Second Amendment, affirming a federal district court decision that had also upheld the ban against attack under this section.[312] But these cases should be read in the context of the 2008 and 2010 U.S. Supreme Court decisions cited above.[313]

The following Illinois cases have addressed Illinois laws and ordinances on firearms since the 2008 and 2010 U.S. Supreme Court decisions:

The Illinois Supreme Court upheld lower courts' dismissal of challenges under other constitutional provisions to a Cook County ban on "assault weapons" as defined in its ordinance, but sent the case back to the trial court to hear evidence on and consider whether the ordinance abridged the right to bear arms.[314]

The U.S. Court of Appeals in Chicago[315] and the Illinois Supreme Court[316] held that a section of Illinois law prohibiting various acts involving weapons, as it existed before it was amended, was unconstitutional because it banned all possession and use of firearms by adults outside their homes (and businesses), even for self-defense.[317] On the other hand, the Illinois Supreme Court held that another provision in the law validly banned minors from possessing concealable firearms.[318]

An Illinois Appellate Court decision upheld the prohibition on possessing a firearm without having a Firearm Owner's Identification ("FOID") Card; the Illinois Supreme Court declined to review that decision.[319]

Illinois Appellate Court decisions in the 1970s held that this section did not invalidate laws denying a Firearm Owner's Identification Card (required to buy a firearm legally in Illinois) to anyone who has been a patient in a mental institution at any time in the past 5 years,[320] and prohibiting carrying of a loaded firearm in a municipality except on one's own premises.[321] However, the recent cases cited above may make the latter decision of questionable validity.

SECTION 23. FUNDAMENTAL PRINCIPLES

A frequent recurrence to the fundamental principles of civil government is necessary to preserve the blessings of liberty. These blessings cannot endure unless the people recognize their corresponding individual obligations and responsibilities.

This section is a constitutional homily. The Illinois Supreme Court, in a 1908 case, mentioned a section of the 1870 Constitution that was similar to this section's first sentence. The Court stated that one of the "fundamental principles" referred to is that persons should not be able to decide governmental matters in which they have personal interests.[322]

SECTION 24. RIGHTS RETAINED

The enumeration in this Constitution of certain rights shall not be construed to deny or disparage others retained by the individual citizens of the State.

This section, based on the Ninth Amendment to the U.S. Constitution, is designed to prevent any implication that an existing right should not be protected simply because it is not specifically mentioned in the Bill of Rights. The judicially created federal right of privacy was said to be based partly on the Ninth Amendment; but no rights have been specifically declared by any Illinois court based on this section.

Article 2. The Powers of the State

Article 2 states basic principles regarding the powers of the state government, and of its parts in relation to one another, which have long been firmly established in American and Illinois constitutional law.

SECTION 1. SEPARATION OF POWERS

The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.

The basic principle of separation of powers has existed in the governments of the United States and of all its states from very early times. Illinois courts have often said that this principle does not prohibit all exercise by one branch of kinds of powers usually exercised by other branches.[1] The General Assembly exercises judicial-type powers if it holds a witness in contempt, or impeaches and convicts a state officer; the courts exercise legislative-type powers if they redraw legislative districts after other bodies have failed to do so; and agencies of the executive branch often exercise two or even all three kinds of powers, subject to judicial review for legality and procedural fairness. But separation of powers prohibits any branch of government from coercing or controlling the actions of another branch.[2]

Illinois courts have been asked to demarcate the boundaries among the powers of the three branches in a number of cases under the 1970 Constitution, which are summarized below.

Delegation of legislative powers to other branches

Legislatures commonly authorize administrative agencies to issue regulations implementing legislative policies. Illinois courts have upheld such delegations of authority to agencies if the delegating laws sufficiently identified (1) the potential subjects of regulation, (2) the kinds of harm to be addressed, and (3) the means for addressing them.[3] But the Illinois Supreme Court struck down a law that simply directed an agency to set maximum rates that firms in a particular line of business could charge for their services,[4] without describing what harm such limits were intended to mitigate (or stating standards for setting such limits—which the Court seemed to consider as part of requirement (3) described above).[5]

The Illinois Supreme Court has held invalid a law attempting to authorize the state Department of Public Aid, with the Governor's consent, to reallocate appropriated funds among the Department's aid programs, since that was an attempt to delegate legislative powers to the executive branch.[6] The Illinois Supreme Court also held that this section was violated by legislative delegation to courts of power to decide whether an automaker could allow a new dealership in the "market area" of an existing dealership; the law essentially required courts to make policy decisions on how much local competition in automobile retailing to allow.[7] By contrast, a 2013 Illinois Appellate Court decision upheld a provision in the Park Commissioners Land Sale Act authorizing a trial judge to decide whether a park district could sell a parcel of up to 3 acres that park commissioners deemed unnecessary for park purposes. The Appellate Court judges interpreted that provision as authorizing the trial judge merely to determine whether a set of facts stated in the Act was present (even though those facts are quite general: Whether the land is "necessary or useful for the purpose of" the park or other facility of which it is a part).[8]

The Illinois Supreme Court in 1983 upheld a series of actions in which the General Assembly authorized the Governor to hold back some state funds from spending to establish a financial reserve, and the Department of Public Aid reduced spending by temporarily halting reimbursement under the Medicaid program for the "medically indigent" (persons unable to afford the entire cost of their medical care, but not made eligible for Medicaid by being in a category such as dependent children).[9] The Aid to the Medically Indigent program was later statutorily abolished.[10]

Encroachment by legislature on other branches

The Illinois Supreme Court has held invalid a number of laws that it said encroached on judicial powers, as described under Article 6, section 1. The Illinois Supreme Court has also held that this section is violated if an amendatory law seeks to overrule Illinois courts' interpretation of a law as to cases that arose *before* enactment of the amendatory law[11]—particularly cases that had been finally decided by the courts before the amendatory law took effect.[12] (See the discussion of that topic under Article 1, section 16, "Retroactive changes in civil laws.")

On the other hand, the Illinois courts apply a statutory provision that bars a plaintiff in a civil suit for injury or physical damage from recovering anything if the evidence shows that the plaintiff was more than 50% at fault for the harm.[13]

The Attorney General advised that a proposal for a legislative commission to exercise control over the spending of funds after they were appropriated by law would be an unconstitutional legislative encroachment on executive powers.[14]

Encroachment by courts on other branches

Several Illinois Appellate Court decisions have reversed trial courts' orders for attempting to exercise executive or legislative powers. One decision invalidated a trial judge's order that the Secretary of State issue a restricted driving permit to a driver who had been convicted of a sex crime that, under the Illinois Vehicle Code, required revocation of any driver's license held by the perpetrator. The Vehicle Code gave the Secretary of State discretion over whether to issue such a permit.[15] Another decision struck down a "general order" by the presiding judge of the Juvenile Division of the Cook County Circuit Court, purporting to authorize police and juvenile officers to consent to medical examinations of minors in their custody. The Appellate Court deemed that to be an improper judicial exercise of legislative powers.[16]

Another decision reversed an order by a trial judge (citing public safety concerns) that a school district pay for construction of sidewalks around a school it was having built, which the Appellate Court said was a legislative decision.[17] Yet another decision struck down a trial judge's order that the members of a township board of trustees confirm the township supervisor's choice for township attorney. The applicable statutory provision authorizes a township supervisor to appoint a township attorney "with the advice and consent of the township board."[18] Thus, the township board had authority to decide whether to confirm or reject the township supervisor's nominee for that position, making the trial judge's order invalid.[19]

Delegation of administrative powers to courts

In 1998 the Illinois Supreme Court (by a 4-3 margin) upheld a law providing for trial courts to hear challenges to property tax assessments. Previously, only local boards for reviewing assessments had been part of the *statutory* process for challenging assessments; but the courts had created a judicial procedure for challenging assessments as being so excessive as to be

"constructive fraud." The Court's majority held that the statute creating a procedure for judicial review of local assessment decisions (and for a court to impose a new assessment if it determined that the existing one was wrong) did not let courts usurp administrative agencies' functions in violation of this section.[20]

Delegation of governmental powers to private groups

Although not stated in this section, it is a well-established constitutional principle that governmental powers may not be delegated to private groups.[21]

SECTION 2. POWERS OF GOVERNMENT

The enumeration in this Constitution of specified powers and functions shall not be construed as a limitation of powers of state government.

This provision, new in the 1970 Constitution, declares that the Constitution does not grant powers where none existed before—it merely sets limits on powers that are inherent in a state government. That principle had already been recognized by the Illinois Supreme Court.[22] Unlike the national government, which has only the powers that are set forth in the U.S. Constitution or that are needed to execute those powers, the state government has all powers not denied it by the United States or Illinois Constitution.

Article 3. Suffrage and Elections

In addition to setting voting qualifications, this article established a State Board of Elections to act as the central coordinating authority for all of the state's election districts and other local election authorities. Its section 6 provides for all general elections except local ones to take place at the same time as elections for the General Assembly, to increase turnout. Two sections added by constitutional amendments since 1970 address recall of the Governor and standards for voters.

SECTION 1. VOTING QUALIFICATIONS

Every United States citizen who has attained the age of 18 or any other voting age required by the United States for voting in State elections and who has been a permanent resident of this State for at least 30 days next preceding any election shall have the right to vote at such election. The General Assembly by law may establish registration requirements and require permanent residence in an election district not to exceed thirty days prior to an election. The General Assembly by law may establish shorter residence requirements for voting for President and Vice-President of the United States.

This section establishes three basic requirements for voting eligibility: U.S. citizenship, age, and duration of residency in the state. The General Assembly may also set registration requirements. The 1970 constitutional convention submitted to the voters the issue of lowering the minimum voting age to 18 years as a separate question. That proposition was defeated, and this section as approved by the voters set the voting age at 21 "or any other voting age required by the United States for voting in State elections." But after the 1970 Constitution was adopted, an amendment to the U.S. Constitution was ratified by the states (including Illinois), setting a nationwide minimum voting age of 18.[1] In 1988, Illinois voters approved an amendment to this section reducing its stated minimum voting age to 18.[2]

This section as approved in 1970 set a minimum state residency requirement of 6 months for voting. However, the U.S. Supreme Court held that state residency requirements of more than about 50 days for voting imposed too great a burden on the constitutional rights to vote and to travel between states, and thus were invalid.[3] The 1988 amendment to this section also shortened the minimum state residency requirement to 30 days. The section of the Election Code setting requirements for voting also allows a person to vote after residing for 30 days in the election district.[4]

The Illinois Supreme Court in 1996 held that a law abolishing the terms of persons already elected as University of Illinois trustees and allowing them to be replaced by gubernatorial appointees violated the right to vote by nullifying all votes that had been cast for the elected trustees. But the Court added that the method of selection of future trustees could be statutorily changed from election to appointment[5]—which has been done (except that student trustees are elected by students at their campuses).[6]

In 1997 the Illinois Supreme Court further limited its 1996 decision, holding that the General Assembly can authorize removals of elected officials even during their terms, *if* the law authorizing such removals was already in effect when they were elected. Thus the existence, when they were elected, of a law authorizing their removal imposed a condition on their right

to the offices. But a majority of the Court held that to provide due process, officers must get notice and a hearing before being removed from office.[7] (A later Illinois Appellate Court decision held that where the Illinois Community College Board, acting with statutory authority, dissolved a community college district, members of its board were not entitled to a hearing before the dissolution—which the Appellate Court judges said would be a "ridiculous" requirement in that situation.[8])

Although not mentioned in this section or its predecessors, lack of a sound mind has been held to disqualify a person from voting,[9] and the committee that proposed this section at the 1970 convention intended no change in that rule.[10]

Illinois courts have held that there is no constitutional right to vote for all the candidates of one political party by casting a single vote ("straight-party" voting).[11]

SECTION 2. VOTING DISQUALIFICATION

A person convicted of a felony, or otherwise under sentence in a correctional institution or jail, shall lose the right to vote, which right shall be restored not later than upon completion of his sentence.

A law enacted under the 1870 Constitution formerly provided that a person sentenced to prison could not resume voting without getting a certificate of restoration of the rights of citizenship, issued by the Governor or a court.[12] Amendments since then have changed that provision to say that no person who has been convicted in any federal or state court of any crime, and sentenced to confinement in a penal institution, may vote "until his release from confinement," seemingly implying that restoration of the ability to vote occurs automatically at that time.[13] Consistent with the wording of this section, the term "penal institution" in that law apparently includes a jail (if holding a person who has been convicted).[14] The statute deems a person to be confined if on furlough or work release from prison, but not if released on parole.[15]

Cases on the effects of a criminal conviction and sentence on the ability to seek elective office are reported under Article 13, section 1.

SECTION 3. ELECTIONS

All elections shall be free and equal.

This provision has existed in slightly different forms in all Illinois Constitutions. It means that any qualified voter may freely vote, and one person's vote is to have the same influence as any other's—a principle that has been enforced by federal court decisions since 1962.[16] This section prohibits holding a town meeting from which one's political opponents are excluded,[17] and submitting to the voters a referendum question that combines issues so diverse that voters might want to approve one part but reject another.[18] The latter situation would coerce voters' choice by forcing them to accept or reject the entire package of propositions. On the other hand, a statutorily authorized referendum question, asking whether a county should (1) adopt the county executive form of government while (2) not becoming a home-rule unit, was upheld in a 1994 Illinois Appellate Court decision—partly because separating the two questions could have caused some untoward results if one had been approved but the other rejected.[19]

This section does not require that all voters be given identical opportunities or choices. The Illinois Supreme Court has upheld laws that provided different amounts of time to register voters during the spring primary season in two classes of counties based on population and form of government,[20] and that restricted the class of persons who could be elected to chair a county board to board members who were partway through their terms (thus giving no chance of electing a chairman in a given year to districts where seats were up for election that year).[21]

The Illinois Supreme Court held the 1988 Chicago school reform law partly unconstitutional because its method for electing local school councils violated the requirement of one person, one vote. The Court stated that the one person, one vote requirement under this section is no more extensive than that requirement under the Fourteenth Amendment to the U.S. Constitution. Under the 1988 school reform law, members of each local school council (which the law created, and to which it gave several policymaking powers) were to consist of the following persons: 6 parents of children attending the school, elected by such parents; 2 voters in the area covered by the school, also elected by the parents; 2 teachers in the school, elected by the school staff; and the school principal. This violated the federal and state constitutional requirements that members of elected bodies with substantial governmental powers be chosen in a way that gives equal weight to each registered voter's vote.[22]

In 2002, the Illinois Supreme Court upheld a section of the Regional Transportation Authority Act under which four directors of the RTA were appointed by the mayor of Chicago; four by the members of the Cook County Board elected from areas outside Chicago; and still others by the persons chairing the county boards of the other counties in the RTA region (with confirmation by those counties' boards).[23] (A later act added authority for additional directors to be appointed.[24]) One argument that had been made against the law's appointment method was that it violated the rights of some Cook County voters because the suburban members of the Cook County Board—considered as a group—made up a body that was not elected under the "one person, one vote" principle. But the Illinois Supreme Court stated that the suburban members of the County Board were not "an additional unit of government" unto themselves, and so found no constitutional violation.[25]

A 1996 Illinois Appellate Court case cited this section as partial support for holding that Illinois, when registering voters for state elections, must follow the National Voter Registration Act's requirements for registering persons to vote for federal offices.[26] That decision was not appealed.

A 2008 Illinois Appellate Court decision upheld a trial judge's order that the Secretary of State provide a "corrective notice" to voters to counteract an incorrect statement on the ballots regarding the question whether to call a constitutional convention. (Article 14, subsection 1(c) requires that question to be put to the voters every 20 years.) The statement—which was required by a 1949 law, based on the 1870 Constitution's provision on the vote required to approve a proposed constitutional amendment—said that a voter's failure to vote on whether to call a convention would be equivalent to a "no" vote. That is not true under the 1970 Constitution (see Article 14, subsection 1(c)).[27] The statutory provision, in the Election Code, was later amended to eliminate the incorrect statement.[28]

SECTION 4. ELECTION LAWS

The General Assembly by law shall define permanent residence for voting purposes, insure secrecy of voting and the integrity of the election process, and facilitate registration and voting by all qualified persons. Laws governing voter registration and conduct of elections shall be general and uniform.

This is a combination of provisions from several sections of the 1870 Constitution. A general and uniform law is one that applies equally to all persons or other objects of the law that are similarly situated.[29] As noted under the preceding section, the requirement that voter registration laws be general and uniform did not invalidate a law establishing different lengths of time for voter registration during the spring primary season in two classes of counties, based on population and form of government.[30] Nor did it invalidate a law allowing Presidential nominating convention delegates to be elected without identifying which candidate each favored, even though one party identified the preference of its candidates and the other did not.[31] A 2018 Illinois Appellate Court decision upheld different statutory requirements for votes for a candidate to be counted, depending on whether the candidate sought nomination at a primary election or as a write-in candidate.[32]

A section of the Election Code states that a "permanent abode" is necessary for residence for voting purposes,[33] although application of that general principle to specific cases is of necessity left to the courts.

SECTION 5. BOARD OF ELECTIONS

A State Board of Elections shall have general supervision over the administration of the registration and election laws throughout the State. The General Assembly by law shall determine the size, manner of selection and compensation of the Board. No political party shall have a majority of members of the Board.

Creation of a State Board of Elections was proposed on the floor of the 1970 convention to deal with the growing need for a central authority to interpret election laws and coordinate procedures for holding elections.[34] This section authorizes the General Assembly to decide the number and method of selection of the members of the Board. Since political bias on the Board could endanger the fairness of elections throughout the state, it also prohibits any political party from having a majority on the Board.

In 1973 the General Assembly provided for a four-member Board. The highest-ranking leader of the majority and minority party in each house of the General Assembly was to nominate two persons. The Governor would select one person nominated by each legislative leader to be a member of the Board. Any deadlocks on the Board were to be resolved by the following "tie-breaker" method: one member would be chosen by lot to be disqualified from voting on the issue, and the remaining three members would then decide it.[35]

In 1976 the Illinois Supreme Court held those provisions unconstitutional for two reasons: (1) The selection method violated Article 5, subsection 9(a), stating in part that "[t]he General Assembly shall have no power to elect or appoint officers of the Executive Branch," because the Court held that the Board was primarily an executive agency. (2) The tie-breaker provision violated the requirement of this section that no political party have a majority on the Board, since after use of the tie-breaker one political party ordinarily would have two-thirds of the members of the Board able to vote on the issue.[36]

The General Assembly then amended those sections to provide for an eight-member Board, all appointed by the Governor but four of whom would be selected by the Governor from a list of names provided by an executive-branch official of a different party than the Governor.[37] No tie-breaker provision was made. No reported case has challenged the constitutionality of this arrangement.

The Illinois Supreme Court in another 1976 case held that members of the Board, like other officers appointed by the Governor, can be removed by the Governor only for cause (see Article 5, section 10). That case also held that due to the independent nature of the Board, whether cause exists is judicially reviewable.[38]

In 1999 the Illinois Supreme Court, in a 4-3 decision, held that an Election Code section on Board investigations of campaign funding complaints required a public hearing on a complaint *unless* a majority (5 members) of the Board vote to dismiss it.[39] But in 2003 that section was amended to say that a complaint is to be dismissed if the Board "fails to determine" that a complaint was filed on justifiable grounds[40]—thus requiring the votes of 5 members to cause a public hearing to be held.

SECTION 6. GENERAL ELECTION

As used in all articles of this Constitution except Article VII, "general election" means the biennial election at which members of the General Assembly are elected. Such election shall be held on the Tuesday following the first Monday of November in even-numbered years or on such other day as provided by law.

Defining the time for the general election reflects an intent to elect as many state officers as possible at the same time so as to increase voter turnout. This practice began in the judicial article of the 1870 Constitution—as extensively changed by an amendment adopted in 1962 and effective in 1964—which provided for judges to be elected at the same time as legislators.[41] Local elections, provided for in Article 7, are exempted to allow them to be held at a different time.[42]

SECTION 7. INITIATIVE TO RECALL GOVERNOR

(a) The recall of the Governor may be proposed by a petition signed by a number of electors equal in number to at least 15% of the total votes cast for Governor in the preceding gubernatorial election, with at least 100 signatures from each of at least 25 separate counties. A petition shall have been signed by the petitioning electors not more than 150 days after an affidavit has been filed with the State Board of Elections providing notice of intent to circulate a petition to recall the Governor. The affidavit may be filed no sooner than 6 months after the beginning of the Governor's term of office. The affidavit shall have been signed by the proponent of the recall petition, at least 20 members of the House of Representatives, and at least 10 members of the Senate, with no more than half of the signatures of members of each chamber from the same established political party.

(b) The form of the petition, circulation, and procedure for determining the validity and sufficiency of a petition shall be as provided by law. If the petition is valid and sufficient, the State Board of Elections shall certify the petition not more than 100 days after the date the petition was filed, and the question "Shall (name) be recalled from the office of Governor?" must be submitted to the electors at a special election called by the State Board of Elections, to occur not

more than 100 days after certification of the petition. A recall petition certified by the State Board of Elections may not be withdrawn and another recall petition may not be initiated against the Governor during the remainder of the current term of office. Any recall petition or recall election pending on the date of the next general election at which a candidate for Governor is elected is moot.

(c) If a petition to recall the Governor has been filed with the State Board of Elections, a person eligible to serve as Governor may propose his or her candidacy by a petition signed by a number of electors equal in number to the requirement for petitions for an established party candidate for the office of Governor, signed by petitioning electors not more than 50 days after a recall petition has been filed with the State Board of Elections. The form of a successor election petition, circulation, and procedure for determining the validity and sufficiency of a petition shall be as provided by law. If the successor election petition is valid and sufficient, the State Board of Elections shall certify the petition not more than 100 days after the date the petition to recall the Governor was filed. Names of candidates for nomination to serve as the candidate of an established political party must be submitted to the electors at a special primary election, if necessary, called by the State Board of Elections to be held at the same time as the special election on the question of recall established under subsection (b). Names of candidates for the successor election must be submitted to the electors at a special successor election called by the State Board of Elections, to occur not more than 60 days after the date of the special primary election or on a date established by law.

(d) The Governor is immediately removed upon certification of the recall election results if a majority of the electors voting on the question vote to recall the Governor. If the Governor is removed, then (i) an Acting Governor determined under subsection (a) of Section 6 of Article V shall serve until the Governor elected at the special successor election is qualified and (ii) the candidate who receives the highest number of votes in the special successor election is elected Governor for the balance of the term.

This section was proposed by the General Assembly in 2009 and adopted by the voters in 2010,[43] following the impeachment, conviction, and removal from office of Governor Rod Blagojevich in January 2009.

SECTION 8. VOTER DISCRIMINATION

No person shall be denied the right to register to vote or to cast a ballot in an election based on race, color, ethnicity, status as a member of a language minority, national origin, religion, sex, sexual orientation, or income.

This section was proposed by the General Assembly and adopted by the voters in 2014.[44]

Article 4. The Legislature

Unlike Congress, which has only the powers explicitly given it by the U.S. Constitution and the additional powers needed to carry out those stated powers, a state legislature has every legislative power that is not denied by the state or federal Constitution. That includes direct authority over all subordinate units of government such as counties, townships, municipalities, and special districts—although the Illinois General Assembly's authority over local governments is significantly limited by at least two constitutional provisions:

(1) Home rule under Article 7, section 6, and a few lesser powers guaranteed to non-home-rule units by Article 7, sections 7 and 8.

(2) The prohibition in Article 4, section 13 on special and local laws "when a general law is or can be made applicable."

Thus the General Assembly has almost complete control over units of local government, except for being restricted by the home-rule and other powers granted by Article 7 and being required to act through general laws applying to any unit that is within a reasonable population or other classification. Cases on those two limitations are described under the parts of the Constitution cited above.

Legislative delegation of authority

Legislative actions are sometimes challenged not for taking too many powers from other bodies, but for giving too many powers to them. It is well established that although the General Assembly cannot give away any of its legislative powers, it may set up a general statutory scheme designed to reach a result and leave details for reaching it to a governmental agency, subject to later oversight by the General Assembly and review by the courts to determine whether the agency has exceeded its authority.[1] But an agency may not be left free to carry out a legislative purpose as it sees fit without standards,[2] or allowed to determine to whom a law will apply.[3] How much discretion government agencies may exercise is often a matter of judgment for the courts.

The courts deem a legislative call of a binding referendum to be a delegation of legislative power to the voters. Illinois cases (mostly predating the 1970 Constitution, but still cited by the courts) say that the General Assembly cannot do that unless a constitutional provision specifically allows it; but the cases add that the General Assembly can enact a law and make its application depend, at least in a portion of the state, on referendum approval.[4]

Delegation of legislative power to private, nongovernmental bodies is generally unconstitutional,[5] but even that rule is sometimes subject to practical realities.[6]

SECTION 1. LEGISLATURE—POWER AND STRUCTURE

The legislative power is vested in a General Assembly consisting of a Senate and a House of Representatives elected by the electors from 59 Legislative Districts and 118 Representative Districts.

The 1870 Constitution, as amended by the voters in 1954, provided for 58 senatorial districts and 59 representative districts. Three representatives were elected from each representative district at large, using cumulative voting. Under that system, each voter had three votes for House candidates at each election, and could distribute them in any of three ways: 1 vote for each of three candidates; 1½ votes for each of two candidates; or all 3 votes for one candidate.[7] The 1970 Constitution changed this only slightly, by increasing the number of senatorial districts to 59 and making senatorial districts and representative districts the same—calling them "Legislative" districts. Three representatives were still elected from each such district by cumulative voting.

In 1980 the voters approved the so-called "Legislative Cutback" amendment that had been proposed by initiative under Article 14, section 3. It required each Legislative district to be divided into two Representative districts, each to elect one representative. The amendment also abolished cumulative voting and reduced the size of the House of Representatives from 177 to 118, effective with the November 1982 election.

SECTION 2. LEGISLATIVE COMPOSITION

(a) One Senator shall be elected from each Legislative District. Immediately following each decennial redistricting, the General Assembly by law shall divide the Legislative Districts as equally as possible into three groups. Senators from one group shall be elected for terms of four years, four years and two years; Senators from the second group, for terms of four years, two years and four years; and Senators from the third group, for terms of two years, four years and four years. The Legislative Districts in each group shall be distributed substantially equally over the State.

Since all seats must be redistricted every 10 years, this subsection provides for all Senate seats to be up for election in the year following the redistricting; they then go through 2- and 4-year terms in stages, so there will be some Senate seats up for election every 2 years. Sections of the Election Code divide Senate seats into three groups and currently provide a method for determining which of them will have terms of 4, 4, and 2 years; 4, 2, and 4 years; and 2, 4, and 4 years until the 2022 election.[8]

(b) Each Legislative District shall be divided into two Representative Districts. In 1982 and every two years thereafter one Representative shall be elected from each Representative District for a term of two years.

This provision is from the "Legislative Cutback" amendment of 1980.

(c) To be eligible to serve as a member of the General Assembly, a person must be a United States citizen, at least 21 years old, and for the two years preceding his election or appointment a resident of the district which he is to represent. In the general election following a redistricting, a candidate for the General Assembly may be elected from any district which contains a part of the district in which he resided at the time of the redistricting and reelected if a resident of the new district he represents for 18 months prior to reelection.

The statement in the Constitution of requirements for membership in the General Assembly prevents any statute from adding further requirements.[9]

Two Illinois Appellate Court cases in 1994 held that incumbent state legislators, whose district boundaries had changed since their last elections, could establish residency in new districts that included parts of their old districts by renting quarters in those new districts and residing there, even though other members of their immediate families continued to reside in their former residences that were not in those new districts.[10]

(d) Within thirty days after a vacancy occurs, it shall be filled by appointment as provided by law. If the vacancy is in a Senatorial office with more than twenty-eight months remaining in the term, the appointed Senator shall serve until the next general election, at which time a Senator shall be elected to serve for the remainder of the term. If the vacancy is in a Representative office or in any other Senatorial office, the appointment shall be for the remainder of the term. An appointee to fill a vacancy shall be a member of the same political party as the person he succeeds.

Illinois law provides for a Senate vacancy to be filled by the "legislative committee," and a House vacancy by the "representative committee," of the vacating legislator's district and party. These committees are composed of leaders of that political party in the district.[11] The Illinois Supreme Court upheld this provision in 1988.[12]

(e) No member of the General Assembly shall receive compensation as a public officer or employee from any other governmental entity for time during which he is in attendance as a member of the General Assembly.

No member of the General Assembly during the term for which he was elected or appointed shall be appointed to a public office which shall have been created or the compensation for which shall have been increased by the General Assembly during that term.

The perennial issue of outside public employment of legislators was debated at the 1970 convention, and eventually resolved with this compromise provision. It allows outside public officeholding or employment, but prohibits payment from another governmental entity for time during which the legislator attends the General Assembly. In addition, Illinois Attorneys General have issued a large number of opinions on whether specific pairs of offices are compatible, based on possible conflicts of interest and inconsistent duties between the two offices. A 2014 opinion by the Attorney General advised that a state legislator could work as a city police detective during the same time period in which he served in the General Assembly, but could not be paid or accrue benefits from the city for work while the General Assembly was in session.[13]

Legislators are also barred from appointments, during their terms, to an office that has been created or made more lucrative during their present term. Past Illinois Constitutions contained similar provisions, which are designed to remove any incentive there might be to create or raise the salary of an office if a legislator hoped to be appointed to it.

SECTION 3. LEGISLATIVE REDISTRICTING

(a) Legislative Districts shall be compact, contiguous and substantially equal in population. Representative Districts shall be compact, contiguous, and substantially equal in population.

(b) In the year following each Federal decennial census year, the General Assembly by law shall redistrict the Legislative Districts and the Representative Districts.

If no redistricting plan becomes effective by June 30 of that year, a Legislative Redistricting Commission shall be constituted not later than July 10. The Commission shall consist of eight members, no more than four of whom shall be members of the same political party.

The Speaker and Minority Leader of the House of Representatives shall each appoint to the Commission one Representative and one person who is not a member of the General Assembly. The President and Minority Leader of the Senate shall each appoint to the Commission one Senator and one person who is not a member of the General Assembly.

The members shall be certified to the Secretary of State by the appointing authorities. A vacancy on the Commission shall be filled within five days by the authority that made the original appointment. A Chairman and Vice Chairman shall be chosen by a majority of all members of the Commission.

Not later than August 10, the Commission shall file with the Secretary of State a redistricting plan approved by at least five members.

If the Commission fails to file an approved redistricting plan, the Supreme Court shall submit the names of two persons, not of the same political party, to the Secretary of State not later than September 1.

Not later than September 5, the Secretary of State publicly shall draw by random selection the name of one of the two persons to serve as the ninth member of the Commission.

Not later than October 5, the Commission shall file with the Secretary of State a redistricting plan approved by at least five members.

An approved redistricting plan filed with the Secretary of State shall be presumed valid, shall have the force and effect of law and shall be published promptly by the Secretary of State.

The Supreme Court shall have original and exclusive jurisdiction over actions concerning redistricting the House and Senate, which shall be initiated in the name of the People of the State by the Attorney General.

The General Assembly must be redistricted after each decennial federal Census. Redistricting is to be attempted initially by the General Assembly. If it fails, the legislative leaders are to appoint an eight-member redistricting commission to draw up a districting plan. An Illinois Supreme Court rule states procedures for filing redistricting contests with the Court under this section.[14] The history of redistricting under the 1970 Constitution is summarized below.

1971 redistricting

The General Assembly failed to agree on a redistricting plan, and a redistricting commission was appointed and drafted a redistricting plan. Hearing a suit challenging the plan, the Illinois Supreme Court held that this section does not violate the U.S. Constitution by denying participation in the redistricting process to groups other than the two major parties. But the Court also held that some legislative leaders who had appointed themselves and their aides to the redistricting commission had thereby violated the intent behind this section.[15] Nonetheless, the Court held the plan drawn up by the commission constitutionally acceptable, and adopted it as a provisional plan for the 1972 elections. In June 1973 the General Assembly adopted that plan of districting for the remainder of the decade.[16] In a 1974 case the Illinois Supreme Court held that senators elected in 1972 for 4-year terms need not run again in 1974; they could finish the 4-year terms to which they had been elected under the 1971 redistricting.[17]

1981 redistricting

The General Assembly again failed to agree on a redistricting plan; a commission created under this section failed to agree on a plan; and the tie-breaking provision (in subsection (b), seventh paragraph) was used. The resulting commission plan was modified somewhat by the Illinois Supreme Court[18] and federal district court in Chicago[19] before taking effect.

1991 redistricting

The General Assembly passed a redistricting bill, but the Governor vetoed it. Thus another redistricting commission was created. As in 1981, the commission was unable to agree on a redistricting plan, so a tie-breaking member was added. The commission then filed a plan, which the Illinois Attorney General challenged. The Illinois Supreme Court in a December 1991 order returned the plan to the Commission for further work. The Court complained of getting inadequate information on which to judge the plan's validity, and pointed to several proposed districts as possibly violating the constitutional requirement of compactness, or as diluting the votes of particular racial groups (and thus violating the requirement of Article 3, section 3 that all elections be free and equal). The Court threatened to order an at-large election unless a valid plan was proposed by a date in January 1992.[20]

The commission then proposed a revised redistricting plan, which the Illinois Supreme Court in a second opinion reluctantly approved. The Court said it did so because the only other choices at that late date were to order an at-large election, or to hold a delayed special election for legislators. The Court expressed frustration at Illinois' redistricting process, and invited the General Assembly to "correct this process" because "[t]he rights of the voters should not be part of a game of chance."[21] Three of the Court's seven members expressed the opinion that Illinois' provision for random selection of a tie-breaking member for a deadlocked legislative redistricting commission violates the Due Process clause of the Fourteenth Amendment to the U.S. Constitution.[22]

2001 redistricting

The General Assembly did not pass a redistricting bill. A legislative redistricting commission was named, but as in earlier decades did not agree on a redistricting plan; so a tie-breaking member was appointed. The enlarged commission filed a redistricting plan, which was challenged in several cases (later consolidated into two) before the Illinois Supreme Court. It upheld the plan, over dissents by two members faulting the procedures used by the commission and the shapes of some resulting districts.[23] Separately, challengers attacked the constitutionality of the tie-breaking procedure in a suit in federal district court; but that court held that this plan (reported to be unique among the states) was not unconstitutional—a decision that the U.S. Supreme Court affirmed without issuing an opinion.[24]

2011 redistricting

The General Assembly passed a redistricting bill, which the Governor signed.[25]

A 1992 Illinois Appellate Court case held that a county board need not (and implied that, due to the "one person, one vote" requirement, it would have been improper to) take into account the residents of a prison, who cannot vote, when drawing county board districts.[26]

SECTION 4. ELECTION

Members of the General Assembly shall be elected at the general election in even-numbered years.

As indicated in the commentary to section 2, each legislative election applies to (1) all House seats and (2) all Senate seats that are completing a term, of either 2 or 4 years. At the first election after a redistricting (in every year ending in "2"), all House *and* Senate seats are up for election.

SECTION 5. SESSIONS

(a) The General Assembly shall convene each year on the second Wednesday of January. The General Assembly shall be a continuous body during the term for which members of the House of Representatives are elected.

The provision for the General Assembly to be a continuous body throughout the biennium for which it was elected prevents any problem of bills from the first session of a 2-year General Assembly dying, or the General Assembly or subordinate bodies ceasing to have official existence and authority, between sessions.

(b) The Governor may convene the General Assembly or the Senate alone in special session by a proclamation stating the purpose of the session; and only business encompassed by such purpose, together with any impeachments or confirmation of appointments shall be transacted. Special sessions of the General Assembly may also be convened by joint proclamation of the presiding officers of both houses, issued as provided by law.

A statute sets the procedure for the leaders of both houses to call a special session.[27] A 1972 Attorney General's opinion advised on several questions about the conduct of special sessions.[28]

(c) Sessions of each house of the General Assembly and meetings of committees, joint committees and legislative commissions shall be open to the public. Sessions and committee meetings of a house may be closed to the public if two-thirds of the members elected to that house determine that the public interest so requires; and meetings of joint committees and legislative commissions may be so closed if two-thirds of the members elected to each house so determine.

This provision complements the Open Meetings Act, which applies to almost all governmental bodies operating under the state's authority but explicitly exempts the General Assembly and its committees and commissions.[29] Since the latter are covered by this constitutional provision rather than the Act, none of the Act's exceptions apply to them. A related provision is subsection 7(a) of this article, requiring committees and commissions of the General Assembly to give "reasonable public notice" of all meetings.

SECTION 6. ORGANIZATION

(a) A majority of the members elected to each house constitutes a quorum.

A "majority of the members elected to each house" means a majority of its full intended membership, regardless of deaths, resignations, or any other causes of vacancies. It is often called a "constitutional majority" because the Constitution requires such a majority for various kinds of actions, including passing bills (subsection 8(c)). A constitutional majority in the Senate is 30, and in the House is 60.

(b) On the first day of the January session of the General Assembly in odd-numbered years, the Secretary of State shall convene the House of Representatives to elect from its membership a Speaker of the House of Representatives as presiding officer, and the Governor shall convene the Senate to elect from its membership a President of the Senate as presiding officer.

The 1970 Constitution took from the Lieutenant Governor the office of Senate President, which the Lieutenant Governor had under the 1870 Constitution.

At the start of the 82nd General Assembly in 1981, the Senate had a dispute over electing its President because neither party could provide 30 votes to do so. The Governor, presiding over the Senate as called for in this subsection, declared that the vote needed to elect a President was only a majority of the members who were present and voting (if a quorum was present), and declared elected as President the Republican candidate (who got 29 votes after virtually all Democratic members left the floor). But in a suit by Democratic members, the Illinois Supreme Court held, by a bare vote of 4 (including one justice who concurred only in the result, not in its reasoning) to 3, that the Republican candidate had not been elected. The three justices comprising the core of the majority concluded that 30 votes are needed to elect the Senate President. The justice who concurred in the result argued instead that the Senate can decide for itself how many votes are needed, but that it had not done so and therefore no valid

election had occurred.[30] The Governor afterward reconvened the Senate, and the Democratic candidate was elected with 30 votes.[31]

(c) For purposes of powers of appointment conferred by this constitution, the Minority Leader of either house is a member of the numerically strongest political party other than the party to which the Speaker or the President belongs, as the case may be.

The 1870 Constitution did not mention minority leaders. The 1970 Constitution gives them formal status and duties, such as in naming members to a legislative redistricting commission (subsection 3(b)).

(d) Each house shall determine the rules of its proceedings, judge the elections, returns and qualifications of its members and choose its officers. No member shall be expelled by either house, except by a vote of two-thirds of the members elected to that house. A member may be expelled only once for the same offense. Each house may punish by imprisonment any person, not a member, guilty of disrespect to the house by disorderly or contemptuous behavior in its presence. Imprisonment shall not extend beyond twenty-four hours at one time unless the person persists in disorderly or contemptuous behavior.

Under the first sentence, each election contest for a legislative seat must be determined by the house to which the election applies. The U.S. Constitution provides similarly for Congress.[32] Although this could be awkward if a large number of seats in one house were contested, it prevents the difficulty that could result if courts were called on to decide election contests of an equal branch of government.

Controversies over whether candidates for the General Assembly meet the standards to get on the ballot are normally decided by the courts before a primary election occurs, rather than waiting until after the general election for the legislative house to which an election pertains to decide the issue.[33]

SECTION 7. TRANSACTION OF BUSINESS

(a) Committees of each house, joint committees of the two houses and legislative commissions shall give reasonable public notice of meetings, including a statement of subjects to be considered.

No reported court decision has construed the phrase "reasonable public notice of meetings" as used in this provision. A 1993 Attorney General's opinion advised that a legislative Rules Committee could not meet without giving reasonable public notice of each meeting, including a statement of subjects to be considered.[34] The practice in the General Assembly is to post notices of committee and commission meetings outside the rooms where they will be held. They are also posted on the General Assembly's Internet site.

(b) Each house shall keep a journal of its proceedings and a transcript of its debates. The journal shall be published and the transcript shall be available to the public.

This provision was new in the 1970 Constitution. Thus, transcripts of the actual words spoken in sessions of each house do not exist for the time before July 1, 1971, when most of the 1970 Constitution (including this provision) took effect. Transcripts are prepared from audio recordings of proceedings on the floor. Two Attorney General's opinions in 1972 advised on several issues related to the recording and transcribing of legislative debates.[35]

Legislative journals, which give only a summary of actions in each house, are available back to the 1830s.

(c) Either house or any committee thereof as provided by law may compel by subpoena the attendance and testimony of witnesses and the production of books, records and papers.

A 1974 Illinois Appellate Court decision held that despite this subsection, a legislative committee or subcommittee does not have authority to subpoena witnesses without a specific delegation of authority from its house.[36]

SECTION 8. PASSAGE OF BILLS

(a) The enacting clause of the laws of this State shall be: "Be it enacted by the People of the State of Illinois, represented in the General Assembly."

(b) The General Assembly shall enact laws only by bill. Bills may originate in either house, but may be amended or rejected by the other.

These formal requirements ensure that to have the force of law, a document must be explicitly labeled as a bill by having the enacting clause at its beginning, and must be passed as a bill and signed by the Governor or have the Governor's veto overridden. Thus, the Illinois Supreme Court held long ago that a joint resolution, which is merely passed by both houses, cannot have the force of law.[37]

(c) No bill shall become a law without the concurrence of a majority of the members elected to each house. Final passage of a bill shall be by record vote. In the Senate at the request of two members, and in the House at the request of five members, a record vote may be taken on any other occasion. A record vote is a vote by yeas and nays entered on the journal.

This requirement of a so-called "constitutional majority" applies only to final passage of bills. The rules of each house currently allow amendments to bills to be adopted on the floor by a majority of those present and voting.[38]

In 1985 the Illinois Supreme Court upheld the Compensation Review Act, under which the Compensation Review Board recommended salaries of legislators and other major public officers, which were to take effect unless *both* legislative houses voted either to reject a recommendation by the Board, or to reduce all recommended increases in the same proportion.[39] The Court deemed that sufficient compliance with the constitutional provisions[40] for salaries of state officers to be set "by law." One argument that the Court made to support that conclusion was that salary increases cannot actually take effect unless the General Assembly appropriates enough money to pay them.[41] On the other hand, in 2004 the Illinois Supreme Court held that a section of Article 6, preventing judicial salaries from being diminished during a judge's term,

invalidated a law that blocked annual inflation adjustments to judicial salaries—adjustments that a 1990 report of the Compensation Review Board had recommended, and that the General Assembly had allowed to take effect after the report was issued.[42] Most provisions of the Compensation Review Act (including those creating the Board) were repealed in 2009[43]—but the Board's 1990 recommendation of annual inflation adjustments in salaries has remained in effect, except in years when the General Assembly enacted temporary laws blocking such increases.[44]

(d) A bill shall be read by title on three different days in each house. A bill and each amendment thereto shall be reproduced and placed on the desk of each member before final passage.

Bills, except bills for appropriations and for the codification, revision or rearrangement of laws, shall be confined to one subject. Appropriation bills shall be limited to the subject of appropriations.

A bill expressly amending a law shall set forth completely the sections amended.

The Speaker of the House of Representatives and the President of the Senate shall sign each bill that passes both houses to certify that the procedural requirements for passage have been met.

Subsection (d) contains several major requirements for the process of making laws. Each is discussed below.

Reading by title on three days

This requirement was intended to allow some deliberation in the legislative process, and to give legislators and the public an opportunity to learn about bills before they are voted on. But its effectiveness has been greatly reduced by the "enrolled bill rule" discussed below under "Leaders' signatures to certify procedural compliance." Under that rule, the signatures of the Speaker of the House and President of the Senate have been held to be conclusive evidence that a bill was properly passed, even though the entire text enacted had been substituted, on Second Reading in the Senate, for a completely different text that the House had passed.[45]

Single subject

The 1870 Constitution required that each bill be limited to a single subject, *and* that the subject be expressed in the bill's title.[46] The 1970 Constitution eliminated the requirement of expressing the subject in the title, but made no change in the requirement that a bill be limited to one subject.

The single-subject requirement is intended partly to prevent "logrolling" (putting diverse provisions in a bill to appeal to various groups of legislators, most of whom might not vote for individual parts if each part were subject to a separate vote).[47] It is also intended to prevent surprise of legislators and the public by inclusion in a bill of provisions they did not suspect it contained. Such provisions in state constitutions result from a 1795 Georgia law that was slipped past legislators with a provision selling land to speculators for almost nothing.[48] Illinois courts have said that the single-subject requirement does not limit how comprehensive a

bill can be, if the matters with which it deals have a natural or logical connection to one another.[49] Also, an act amending a comprehensive law may contain any provision that might have been included in the law being amended without violating this section.[50]

But a law is invalid if it includes "incongruous and unrelated matters"[51] or "discordant provisions that by no fair intendment can be considered as having any legitimate relation to each other."[52] A clear example was a 1972 law attempting to take away local powers to regulate many different occupations and professions by listing state laws that regulated those fields and saying that the state's regulation of them was exclusive. The Illinois Supreme Court held that this violated the single-subject requirement in addition to other constitutional provisions.[53]

Later cases have strengthened that holding. Major recent cases decided by the Illinois Supreme Court on the single-subject requirement are described below.

Laws held invalid

In 1997 the Illinois Supreme Court struck down an act that created a child sex offender notification law; changed some sex crimes; imposed a tax on petroleum-based fuels to pay environmental costs; changed penalties for marijuana possession; changed provisions on granting of parole; allowed some kinds of monitoring by employers of employees' telephone conversations with customers; and changed provisions on courts' holding hearings on defendants' fitness to stand trial, among other topics addressed.[54]

In 1999 the Illinois Supreme Court struck down an act that addressed the duties and jurisdictions of local law-enforcement agencies; the insanity defense; convictions of and penalties for drug crimes; lengths of prison time to be actually served by persons convicted of several kinds of violent crimes; forfeitures of assets used in drug crimes; and hospital liens.[55] The Court commented that "the most lenient examination of the Act shows that its contents encompass at least two unrelated subjects: matters relating to the criminal justice system, and matters relating to hospital liens."[56] Other 1999 cases struck down an act that addressed mostly criminal matters but also included a provision on mortgage foreclosures;[57] and an act that addressed several violent-crime issues but also had provisions on licensing of residential youth-care facilities and civil penalties for violating regulations under the Special Supplemental Nutritional Program for Women, Infants, and Children (WIC).[58]

A 2001 Illinois Supreme Court decision struck down an act that addressed the following topics: penalties for disorderly conduct; making a false call to a 911 center; allowable delays in hearings in juvenile court regarding abused, neglected, or dependent children; and "no-knock" entry by police with a search warrant in described situations.[59]

In 2004 the Illinois Supreme Court struck down an act that addressed several issues of criminal law (which the Court said was proper), but also addressed the Attorney General's authority to file counterclaims on behalf of state employees who are sued civilly.[60]

In 2005 the Illinois Supreme Court struck down an act that addressed the following topics, among others: creating a Research Park Authority and a Geographic Information Council; changing provisions on short-term state borrowing; making various changes to the taxes on income and on sales (including sales of motor fuels, cigarettes, and cannabis), and to state regulation and taxation of charitable games; offering a property tax exemption to some homeowners over age 65; and requiring prisoners to pay the Department of Corrections for their upkeep.[61]

Laws upheld

In 1999 the Illinois Supreme Court (with two dissenting votes) upheld the fiscal year 1996 budget implementation act.[62] The majority said that unlike the acts that had been held to violate the single-subject rule, the budget implementation act was aimed at a single goal: adjusting state spending to match revenues. Thus, even though it addressed many specific topics, the Court said they were encompassed within one subject:

> In enacting Public Act 89-21, the General Assembly was not attempting to unite obviously discordant provisions under some broad and vague category. To the contrary, the legislature's expressed purpose for Public Act 89-21 was to implement the state's budget for the 1996 fiscal year. The legislature therefore included within that enactment all the means reasonably necessary to accomplish its purpose.[63]

In 2000 the Illinois Supreme Court (again with two dissents) upheld an act that (1) allowed county collectors to cease trying to sell mineral rights for nonpayment of taxes if 10 consecutive years of offering them for sale were unsuccessful, and (2) changed the law on the conditions under which real estate held in a tenancy by the entirety can be sold for debts of one of the spouses who hold in it that form of tenancy.[64] The majority considered the subject of that act to be property law.

A 2002 Illinois Supreme Court case upheld an act that made a number of changes to various areas of law, reasoning that all addressed the topics of criminal law and corrections, which are related to each other.[65]

A 2011 Illinois Supreme Court case upheld a group of four acts (three substantive acts and an appropriations act) that, taken together, imposed or increased a number of taxes; appropriated money for a variety of capital projects; and required quarterly reports by the Governor's office on all state capital projects. Each of the bills that enacted the acts stated that it would be ineffective, either in whole or in part, unless another (specifically identified) bill among the four also became law. Persons challenging the four acts argued that those provisions effectively made them one act, which addressed too many subjects to comply with the single-subject requirement. The Supreme Court, in a long opinion, cited the need for legislative compromise in enacting a major capital spending program as one reason to hold that the facts just described did not make those acts invalid.[66]

Examination of these cases shows that Illinois courts try to uphold laws against single-subject attacks. If it can plausibly be argued that all parts of an act have the same general purpose, a single-subject challenge is likely to fail. Furthermore, such a purpose can be quite broad—such as balancing the state budget, or preventing crime—if the act does indeed address it broadly. By contrast, the acts that were held invalid did not deal broadly with any subject. Instead, each seemed to have been constructed from several very specific provisions, most of which had earlier been introduced as separate bills. Such combinations of provisions are at most risk of single-subject challenges.

Appropriation bills limited to appropriations

The restriction of appropriation bills to appropriations is partly for the purpose of preserving the separation of powers between the legislative and executive branches. It prohibits inclusion of substantive provisions in an appropriations bill, which the Governor might feel compelled to sign immediately to keep the state government operating.[67] Under this requirement, the Illinois Supreme Court invalidated a section in a bill appropriating funds to the state Department of Labor that attempted to prohibit establishment of a Department office within 500

feet of a school,[68] and a section in another appropriations act attempting to authorize some federal grants to be spent without appropriation by the General Assembly; the Court said that was not an appropriation.[69]

On the other hand, the Illinois Supreme Court upheld a provision in an act authorizing issuance of bonds for transportation that made a continuing, irrevocable appropriation of money to pay off the bonds if the General Assembly failed to do so. The Court said that to the extent that provision conflicted with this subsection, it was authorized by Article 9, subsection 9(b), which says "[a]ny law providing for the incurring or guaranteeing of [state] debt shall set forth the specific purposes and the manner of repayment."[70] The Court has also held that inclusion in a tax act of a provision allocating the proceeds of the tax did not convert it into an appropriations measure and thus violate this requirement;[71] nor did provisions placing conditions on how appropriated funds could be spent.[72]

The Illinois Supreme Court has stated that if an appropriations act contains a substantive provision, the remedy is to invalidate the substantive provision rather than the entire act. The Court's rationale for treating the provision limiting appropriations acts to appropriations differently from the single-subject requirement (also in this subsection) is that if a substantive act addresses more than one subject, there is no neutral basis for courts to decide which part(s) to keep and which to invalidate; but if an act is an appropriations act, any non-appropriations provision in it is out of place.[73]

Amended sections to be set forth completely

This requirement prevents the express amendment of laws by merely referring to them by title and section. It does not prevent a new law from affecting, by implication, the operation of another law.[74] The Illinois Supreme Court has observed:

> Where a law is complete in itself, it is valid although its effect may be to repeal, modify, or amend existing laws by implication. . . . It is not necessary, when a new act is passed, that all prior acts modified by it by implication shall be reenacted and published at length.[75]

By contrast, in at least two cases in which acts attempted to amend existing statutes by naming their titles without setting forth the texts of the sections to be amended, the Illinois Supreme Court held them invalid.[76]

A more difficult case under this requirement involved an act amending the Insurance Code. Part of the act said that an existing section of the Code, not set forth in the act, would thereafter deny some powers to home-rule units. The existing section had not previously restricted home-rule units because it was enacted under the 1870 Constitution; and (as discussed under Article 7, section 6) pre-1970 Constitution laws do not limit home-rule powers. The Illinois Supreme Court held that the amendatory act was proper and restricted home-rule powers.[77]

Multiple amendments by same General Assembly

A perennial source of confusion for Illinois lawyers and courts is this question: If two or more acts amend the same statutory section in the same year, how did the General Assembly intend the amended section to read? Such "multiple amendments" occur in every Illinois General Assembly. More than one legislator (or even the same legislator) may decide to propose multiple changes to the same section in the same year. The practice in Illinois is to keep such proposed changes in multiple bills, rather than combining them into an "omnibus" bill. That practice is, to a large extent, made necessary by this subsection's single-subject requirement.

For example, one or more bills may propose substantive changes to one section, while one or more other bills—on quite different subjects—propose changes to other sections but also propose "conforming amendments" to the first section (such as changing how it names a law, or a state agency, that is being renamed in the other sections). Combining all those provisions into one bill would, in many cases, violate the single-subject requirement.

Nearly all bills of each legislative session are drafted and introduced months before they pass their second house (mostly in May). Also, significant substantive provisions are sometimes "amended onto" a bill that has already gone some distance in the legislative process; the added provisions may be taken verbatim from other bills, drafted months before. Each bill, in "set[ting] forth completely" each section being amended, reflects the version of that section that was law *when the bill was drafted*.

Proposed changes to a section are indicated by underlining of added text and striking through of text to be deleted. One bill might propose to change only subsection (a) of a given section, while another bill that year might propose to change only subsection (c) of that section. If both bills become law, the result is (1) one Public Act containing a new version of subsection (a) and the old versions of all other subsections in that section, and (2) another Public Act containing a new version of subsection (c), but the old versions of all its other subsections.

Some persons who are not conversant with Illinois legislative practice, and/or do not fully grasp the implications of the "set forth completely" requirement, apparently believe that any act passed later re-enacts the old version of all text that it sets forth but does not indicate as amended. Thus, in the example above, they believe that if the act amending subsection (c) was finally passed after the act amending subsection (a), the later-passed act repeals all changes to subsection (a) that were made by the earlier-passed act.

That interpretation is *not* consistent with the Constitution and Illinois legislative rules and practices. In the example given, the General Assembly voted for the changes to both subsection (a) and subsection (c) to become law—each on the effective date of the act making them. But under the "set forth completely" requirement, each bill that would amend any part of a statutory section *must* include the *existing* version of all text in the section that it does not propose to change. Thus, inclusion in a bill (and resulting Public Act) of older versions of parts of a section shows no legislative intent to repeal other recent acts that have amended those parts. Rather, it is mandatory under the "set forth completely" requirement.

Many Illinois Supreme or Appellate Court cases, under both the 1870 and 1970 Constitutions, have recognized that fact.[78] However, a few other cases construed text that was merely "set forth completely" in an act as expressing a legislative intent to make part of a section revert to the wording it had before another amendatory act.

An example of such confusion—which involved several Illinois Appellate Court cases decided in multiple districts but was eventually resolved by the Illinois Supreme Court—arose from the following complex history: Section 2-622 of the Code of Civil Procedure[79] lists requirements to be met when filing suits for medical malpractice. A 1995 act seeking to reform liability suits[80] made a few changes by insertion and deletion in section 2-622, along with many changes to other provisions. But in December 1997 the Illinois Supreme Court invalidated the entire 1995 act (after holding much of it unconstitutional and concluding that the General Assembly would not have passed it without those invalidated provisions).[81] Therefore, under well-established legal principles,[82] every section that had been amended by the 1995 act—including section 2-622—reverted to its wording before the 1995 act amended it.

Then, in February 1998, the General Assembly passed a bill to amend section 2-622, which "set forth completely" the version of the section *as it had been amended in 1995* rather than the pre-1995 version that was once again in effect. That should not be surprising, because the Illinois Supreme Court's opinion striking down the 1995 act was issued only a few weeks before final passage of the bill in February 1998; and the text passed then apparently came from one or both of two other bills[83] that had passed the House in 1997, long before the Court's decision.

The 1998 bill became law,[84] adding to that section only three words of substantive text ("or a naprapath") that had no connection to the issues addressed by the Illinois Supreme Court in striking down the 1995 law. Nevertheless, several Illinois Appellate Court panels—and even three members of the Illinois Supreme Court—thought that the 1998 act, in merely "set[ting] forth completely" the section as it existed after being amended in 1995, *re-enacted the 1995 changes* (which had not been held unconstitutional in themselves, but were struck down in the belief that they were not severable from the provisions that were held unconstitutional). What seems to have carried the day in the Illinois Supreme Court, leading to a 4-3 decision overruling the Appellate Court cases,[85] was that the chief sponsor of the bill in each house, when presenting the conference report that added those three words to the section, indicated that the only effect intended was to add those three words.[86]

The need for better understanding of this topic can also be inferred from remarks in two 2008 Appellate Court opinions, which said that the drafters of a bill that would enact one act "simply overlooked what had been added by" a bill passed a few days earlier (that also became law).[87] The drafter of a later-passed bill could not have "overlooked" the contents of an earlier-passed bill, because both bills were drafted months before either of them passed the General Assembly. Under the rules of each house, amending a bill that is about to pass the second house to make it consistent with another bill that has just passed both houses would require returning the bill to Second Reading[88] for a floor amendment in the second house. That amendment could be adopted only with the approval of the Rules Committee (if in the House) or the Committee on Assignments (if in the Senate), or of a substantive committee to which one of those committees refers the bill.[89] If a bill that has passed its house of origin is amended in the second house, it must be returned to the first house for concurrence with that amendment. Attempting to make such late-session changes every time two or more bills that are being considered propose to amend the same section would greatly delay legislative action on the hundreds of bills passed in the final weeks of each spring legislative session.

A still weightier point is this: No act is enacted unless and until the Governor approves (or the General Assembly overrides a veto of) the bill proposing it. Merely passing a *bill* that *proposes* to amend a statutory section does not change that section unless and until that bill is enacted and takes effect. Thus, if the General Assembly did amend a bill to "set forth completely" changes that were only *proposed* in another bill that had passed both houses but was not yet law, it would be violating the constitutional requirement that each bill "set forth completely" the section (of law) that the bill seeks to amend.

A careful reading of the Statute on Statutes section on multiple amendments by the same General Assembly[90] is instructive on this point. After saying that two or more such acts are to be construed together unless they irreconcilably conflict, it adds:

> An irreconcilable conflict between 2 or more Acts which amend the same section of an Act exists only if the amendatory Acts *make* inconsistent *changes* in the section as it theretofore existed. [emphasis added][91]

Text that is merely "set forth completely" as required by the constitutional provision does not *make changes* in anything. It merely *shows the context* of whatever changes the bill (and act) makes in that section—as required by this constitutional provision. Under the practice of the General Assembly since 1969, changes to a statutory section are denoted by underlining (in bills) or italics (in Public Acts) of new text, and by strikethroughs of deleted text.[92] Any text that is *not* so designated as added or deleted does not "make . . . changes in the section as it theretofore existed." It should be ignored when comparing acts amending the same section.

The preceding discussion can be summarized as follows: In each section of a Public Act that amends an existing section of law, the only *operative* provisions are the marked additions and deletions. All other wording in a section being amended merely shows the context. An understanding of this could prevent much confusion when interpreting amendatory acts.

Fortunately, this is usually only a temporary problem for any section that is amended more than once in a session, because the Legislative Reference Bureau drafts a "revisory" bill[93] to re-enact the section with all changes made to it by all acts (unless there really *is* an inconsistency among them—in which case the General Assembly must decide how to reword the section). The revisory bill is then enacted during the next legislative session.

Leaders' signatures to certify procedural compliance

This provision was intended to put into the Constitution the "enrolled bill rule" under which the signatures of the legislative leaders are conclusive evidence that procedural requirements have been followed. The Illinois Supreme Court has held that the enrolled bill rule applies to the requirement in this subsection that each bill be read on three days; the Court has refused to invalidate laws for alleged failure to have been read on three days if the leaders' signatures were on them.[94] But the Court has warned that it may not indefinitely allow legislative circumvention of the requirement of reading each bill on three days in each house.[95]

The Illinois Supreme Court has held that the "enrolled bill" rule does not apply to the requirements that each bill address only one subject, and that appropriations measures be limited to appropriations. The Court examines the text of each law challenged under these provisions to determine whether it complies with them.[96]

SECTION 9. VETO PROCEDURE

(a) Every bill passed by the General Assembly shall be presented to the Governor within 30 calendar days after its passage. The foregoing requirement shall be judicially enforceable. If the Governor approves the bill, he shall sign it and it shall become law.

(b) If the Governor does not approve the bill, he shall veto it by returning it with his objections to the house in which it originated. Any bill not so returned by the Governor within 60 calendar days after it is presented to him shall become law. If recess or adjournment of the General Assembly prevents the return of a bill, the bill and the Governor's objections shall be filed with the Secretary of State within such 60 calendar days. The Secretary of State shall return the bill and objections to the originating house promptly upon the next meeting of the same General Assembly at which the bill can be considered.

(c) The house to which a bill is returned shall immediately enter the Governor's objections upon its journal. If within 15 calendar days after such entry that house by a record vote of three-fifths of the members elected passes the bill, it shall be delivered immediately to the second house. If within 15 calendar days after such delivery the second house by a record vote of three-fifths of the members elected passes the bill, it shall become law.

(d) The Governor may reduce or veto any item of appropriations in a bill presented to him. Portions of a bill not reduced or vetoed shall become law. An item vetoed shall be returned to the house in which it originated and may become law in the same manner as a vetoed bill. An item reduced in amount shall be returned to the house in which it originated and may be restored to its original amount in the same manner as a vetoed bill except that the required record vote shall be a majority of the members elected to each house. If a reduced item is not so restored, it shall become law in the reduced amount.

(e) The Governor may return a bill together with specific recommendations for change to the house in which it originated. The bill shall be considered in the same manner as a vetoed bill but the specific recommendations may be accepted by a record vote of a majority of the members elected to each house. Such bill shall be presented again to the Governor and if he certifies that such acceptance conforms to his specific recommendations, the bill shall become law. If he does not so certify, he shall return it as a vetoed bill to the house in which it originated.

This section establishes the Governor's veto powers, which are among the most extensive in the nation. There are four kinds of vetoes: a total veto, which can apply to any kind of bill; item and reduction vetoes, for appropriations bills; and an amendatory veto, for substantive (non-appropriations) bills.

The reduction and amendatory veto powers that this section gave the Governor, when added to the item veto power that existed under the previous Constitution, allow the Governor the option of changing bills if he basically approves of them but finds some parts unacceptable. If the General Assembly disagrees with a Governor's veto, amendatory veto, or item veto, it can override it by vote of three-fifths of the members elected to each house. Acceptance of the Governor's amendatory recommendations, or restoration of an amount reduced by the Governor, requires only a majority of the members elected to each house.

The cases arising under these veto provisions have resulted from uncertainty about two things: the scope of the Governor's amendatory veto power, and the effective dates of laws amendatorily vetoed (discussed under section 10 below). As to the scope of amendatory vetoes, the Illinois Supreme Court has stated that an amendatory veto may not propose a completely new bill;[97] change the fundamental purpose of a bill; or make "substantial or expansive changes" in it.[98] However, the Court has held that the Governor may make more than technical corrections.[99] Indeed, the voters in 1974 rejected a proposed constitutional amendment to restrict the Governor's amendatory veto power to technical corrections and matters of form.[100]

The Court has upheld amendatory vetoes, agreed to by the General Assembly, that (1) reduced the rate of the additional corporate income tax that partially replaced the personal property tax from 2.85% to 2.5%; (2) made several changes that the Court described as minor improvements dealing with the "clarity, fairness and practical requirements" of a bill;[101] and (3) made many changes to a bill on public employee labor relations, including extending it to

cover a bi-state agency, restricting injunctions against strike-related activity, prohibiting mandatory "fair share" payments from going to political candidates, and adding two state department directors to the body that considers decisions by arbitrators after an impasse between unionized employees and a unit of government.[102]

Another innovation in this section is putting a time limit of 30 days on the transmission of bills to the Governor. After receiving a bill, the Governor has 60 days to act on it. If the Governor does not act by that time, the bill is enacted automatically.

SECTION 10. EFFECTIVE DATE OF LAWS

The General Assembly shall provide by law for a uniform effective date for laws passed prior to June 1 of a calendar year. The General Assembly may provide for a different effective date in any law passed prior to June 1. A bill passed after May 31 shall not become effective prior to June 1 of the next calendar year unless the General Assembly by the vote of three-fifths of the members elected to each house provides for an earlier effective date.

The uniform effective date now provided by statute is January 1 of the year after passage.[103] Thus, if the Governor approves a bill as originally passed, its effective date is determined as follows:

- If such a bill passes both houses by the intended session cutoff of midnight May 31, it takes effect the following January 1, *unless* its text states a different effective date.

- If such a bill is passed after May 31, it cannot take effect before June 1 of the next year, unless *both* of the following are true: (1) its text states a different effective date, and (2) it is passed by at least three-fifths of the members elected to each house.

The intended session cutoff date was June 30 until the voters approved an amendment to this section in 1994.[104] An accompanying statute formerly said that bills passed after June 30 without three-fifths majorities would take effect the following July 1. A 1994 act changed that default effective date to June 1.[105]

Effective dates of bills vetoed and later enacted

The main problem with this section has been determining when a bill that receives a total, amendatory, or item veto, but is later enacted, was "passed" for effective-date purposes. The Illinois Supreme Court has developed these rules on that question:

- If a bill is initially passed before midnight of the intended session cutoff date (now May 31) and then is amendatorily vetoed, and the General Assembly accepts the Governor's recommendations, its date of "pass[age]" is when the General Assembly accepts those recommendations.[106] Assuming that it does so after May 31, the new law cannot take effect until June 1 of the next year, *unless* it contains an earlier effective date *and* is passed by three-fifths of the members elected to each house. (Even if both of those things are true, an amendatorily vetoed bill does not become law until the Governor certifies that the General Assembly's acceptance conforms to his recommendations.)

- By contrast, if a bill is totally vetoed, and the General Assembly overrides the veto, its date of "passage" is its original passage date.[107] Thus, if it was originally passed before midnight on May 31, it can take effect the following January 1—or a different date stated in its text. (The rationale for this different treatment is the public's different needs for information about the texts of totally versus amendatorily vetoed bills. If a bill is totally vetoed, its text is available and can be read by persons who may be affected by it; if it then becomes law by override, they can know whether it applies to them. But if a bill is amendatorily vetoed, it may not get its final text until the General Assembly votes to accept the Governor's recommendations—if it does so. Thus a later effective date is needed to allow the public to learn about the provisions of a law that results from an amendatory veto.)

- If a bill is amendatorily vetoed, but the amendatory veto is overridden, its date of "passage" for effective-date purposes apparently is the date of its original passage by both houses.[108]

All of these rules on effective dates are subject to one additional rule: A law's effective date cannot precede the day it becomes law.[109] Thus, for example, if a bill is passed before midnight May 31 and says that it takes effect on July 15 of that year, but the Governor signs it on August 8, the effective date of the resulting law is August 8. (However, on at least one occasion, in 1984, the Illinois Supreme Court applied a change in law that had been passed by the General Assembly but was not yet effective when the relevant events took place. Shortly before a murder was committed, the General Assembly passed a bill to change the criteria for the death penalty; but its enactment was delayed by an amendatory veto recommending changes to an unrelated part of the bill, and the General Assembly accepted those changes. Applying the resulting act to the defendant benefited him by making him ineligible for the death penalty.[110])

A 2017 Attorney General's opinion advised that the date of passage, for effective-date purposes, of a bill was not affected by its sponsor's filing of a motion to reconsider its final passage and later withdrawal of that motion.[111]

SECTION 11. COMPENSATION AND ALLOWANCES

A member shall receive a salary and allowances as provided by law, but changes in the salary of a member shall not take effect during the term for which he has been elected.

This section is only slightly revised from a provision in the 1870 Constitution. In an Illinois Appellate Court case, the General Assembly's 1978-79 "lame duck" pay increase, voted after the 1978 election but before the 1979 session began, was held not to violate this section although many members-elect of the 81st General Assembly voted on the bill in the 80th General Assembly.[112]

Based on court cases holding that this and similar constitutional provisions merely require that the method of determining a salary be fixed before an officer's term—not that the actual amount of salary be fixed—the Attorney General in 1978 advised that a law enacted before the beginning of an officer's term could validly provide periodic pay increases during that term, based on an objective index of the rate of inflation.[113]

In 1985 the Illinois Supreme Court upheld the Compensation Review Act,[114] under which salaries for legislators, major executive officers, and judges were recommended by the Compensation Review Board and, if not disapproved by the General Assembly, thereafter took effect. The Court said this was sufficient compliance with the constitutional requirement that salaries be "provided by law."[115] The Board was abolished by a 2009 act.[116] But the Board's 1990 report had called for periodic increases in the pay of legislators and other high state officers based in part on an inflation index. Such automatic increases, except to the extent they have been temporarily blocked by laws, have continued to take effect even though the Board no longer exists.[117]

In 1990 the Illinois Supreme Court held under this section that an increase in the extra pay for legislative and committee leaders could not constitutionally take effect during the terms to which they were elected.[118]

SECTION 12. LEGISLATIVE IMMUNITY

Except in cases of treason, felony or breach of peace, a member shall be privileged from arrest going to, during, and returning from sessions of the General Assembly. A member shall not be held to answer before any other tribunal for any speech or debate, written or oral, in either house. These immunities shall apply to committee and legislative commission proceedings.

The immunity provided in the first sentence is mostly outdated, since it applies only to civil arrest (which almost never occurs now). It does not immunize a legislator from arrest for criminal offenses such as speeding.[119]

The second sentence, which is similar to the "Speech or Debate" clause in the U.S. Constitution, is still important. It protects legislators from defamation suits for their statements in the course of legislating, including service on committees and commissions. But legislators' statements made outside the legislative environment (such as in newsletters to constituents) apparently are not protected by this provision.[120]

SECTION 13. SPECIAL LEGISLATION

The General Assembly shall pass no special or local law when a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination.

Either of the following kinds of actions may be held to violate this section's restriction on special or local laws:

(1) Making a law apply to one or more particular persons or things named in that law.

(2) Making a law apply to a described class of persons or things that is illogical and improper. This kind of violation overlaps with the prohibition on denying equal protection of the laws in Article 1, section 2.

The General Assembly must sometimes name specific localities, universities, contractors, etc. in laws appropriating money to them or otherwise making specific provisions for them. That is permissible under this section, because a general law cannot be made applicable to such particular subjects.[121] But if the courts conclude that a special or local law gives an unfair advantage to, or imposes an unfair burden on, a class of persons, groups, or local governments, it will be held to violate this section.[122]

The Illinois Supreme Court has stated that challenges to laws under this section are normally decided under the same standards as challenges under the equal protection requirement in Article 1, section 2. A law so challenged must meet the "rational basis" test to be upheld—unless it affects fundamental rights or employs a suspect classification, in which case it must meet a higher standard.[123] (See discussion in the commentary to Article 1, section 2.)

Population classifications

Chicago and Cook County obviously present potential problems under this section, since they are unique in Illinois in the sizes of their populations. But the Illinois courts have held that a law may apply to a class of localities determined by population (such as all cities or counties above some population threshold), even though there is now only one member of that class, *if* there is a valid reason for that law to treat populous localities differently from less populous ones.[124] However, several laws discriminating among municipalities or counties based on arbitrary population numbers[125] or other numerical classifications[126] have been held to lack any rational basis and thus to be invalid under this section. That fate is particularly likely to befall a law that applies to local governments with populations between two stated numbers (rather than to all local governments that are below, or all that are above, a stated population); or a law that, for any other reason, applies to only one or a few local governments that do not clearly differ in relevant respects from local governments to which the law does not apply.

Other issues

The Illinois courts have upheld against attack under this section statutes of limitation that set strict time limits for bringing suits for particular kinds of harm (for medical malpractice, 2 years after discovery and in any event 4 years after any negligent act;[127] and for construction defects, 2 years after discovery and in any event 12 years after any negligent act[128]).

The Illinois Supreme Court also upheld, by a 4-3 majority, a law requiring that each plaintiff in a medical malpractice case attach to the complaint an affidavit that a health professional has found reasonable cause for suit, and attach the health professional's report indicating the basis for that determination.[129] Among other grounds on which that law was challenged, plaintiffs had claimed that it violated this section by applying only to medical malpractice suits. The Court also upheld laws that authorize local governments in populous areas to require developers to pay fees to defray costs of additional traffic caused by their developments.[130]

The Illinois Supreme Court in 2001 upheld an act that relieved health-care providers of the existing requirement to plead "special damages" (harm beyond the expenses and inconvenience of litigation) when suing unsuccessful malpractice plaintiffs for maliciously suing them. The Court considered that act to be rationally based on the differences between the situations of health-care professionals and others who are sued.[131] On the other hand, the Court in 1997 struck down a law that placed a $500,000 limit on compensatory damages for noneconomic injuries in personal injury cases.[132] And in 2003 the Court struck down a law that made it harder for plaintiffs to sue automobile dealers for alleged consumer fraud than to sue similar kinds of defendants on that basis.[133]

SECTION 14. IMPEACHMENT

The House of Representatives has the sole power to conduct legislative investigations to determine the existence of cause for impeachment and, by the vote of a majority of the members elected, to impeach Executive and Judicial officers. Impeachments shall be tried by the Senate. When sitting for that purpose, Senators shall be upon oath, or affirmation, to do justice according to law. If the Governor is tried, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected. Judgment shall not extend beyond removal from office and disqualification to hold any public office of this State. An impeached officer, whether convicted or acquitted, shall be liable to prosecution, trial, judgment and punishment according to law.

In a 1969 case decided under the 1870 Constitution, the Illinois Supreme Court held that a legislative investigation of alleged improprieties by some members of that Court was unauthorized.[134] This section overruled that case, making it clear that the House of Representatives has authority to conduct investigations that *might* lead to impeachment of executive or judicial officers, in addition to its authority actually to impeach such officers.

Impeachment proceedings historically have been rare in Illinois. Apparently only one judge has been impeached by the House in the state's entire history (in 1833); the Senate did not convict.[135] In 1997, the House created a Special Investigative Committee to investigate the conduct of Supreme Court Chief Justice James D. Heiple,[136] but no impeachment resulted.

In 2008-09, impeachment proceedings were held against Governor Rod R. Blagojevich on numerous charges arising from his actions in office. He was impeached by the House of the 95th General Assembly early in 2009.[137] A few days later, the House of the 96th General Assembly affirmed that impeachment.[138] The Senate of the 96th General Assembly then voted to convict him and bar him from holding any public office of the state.[139]

Due to the rarity of impeachment proceedings, neither house has permanent rules for them. However, the House Special Investigative Committee in 1997 adopted 20 rules to govern impeachment procedures for then-Chief Justice Heiple.[140] During the impeachment proceedings against Governor Blagojevich, the Senate adopted rules for hearing and considering charges filed against him.[141]

SECTION 15. ADJOURNMENT

(a) When the General Assembly is in session, neither house without the consent of the other shall adjourn for more than three days or to a place other than where the two houses are sitting.

(b) If either house certifies that a disagreement exists between the houses as to the time for adjourning a session, the Governor may adjourn the General Assembly to a time not later than the first day of the next annual session.

A Governor who adjourns the General Assembly is said to "prorogue" the session. To prevent arbitrary prorogation, this section gives the Governor that power only if one house certifies that there is a disagreement over when to adjourn. During regular spring sessions, the two houses pass weekly joint resolutions stating when they will adjourn and for how long.

In 1963, the Governor adjourned the General Assembly at the request of the House. The Illinois Supreme Court later held that his action was effective despite the refusal of members of the Senate of one party to acknowledge his action and leave the Senate chamber.[142]

Article 5. The Executive

The Executive Article describes in general terms the basic powers and duties of each of the state's elected executive officers. It continues the practice of having each such officer elected. But unlike previous Illinois Constitutions, it provides for the Lieutenant Governor to be elected on the same ticket as the Governor.

SECTION 1. OFFICERS

The Executive Branch shall include a Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller and Treasurer elected by the electors of the State. They shall keep the public records and maintain a residence at the seat of government during their terms of office.

This section lists what traditionally have been called the "constitutional" officers—the six elected officers in the state's executive branch whose offices are created by the Constitution. (Of course the Constitution also creates a number of other offices—including those of state legislators, judges, the Auditor General, the "chief state educational officer," and even some county officials.) Sections 8 through 18 describe the powers and duties of those six officers. The Illinois Supreme Court, interpreting similar provisions in the 1870 Constitution, said that the General Assembly cannot take away any constitutionally granted powers of an officer.[1] But the Court also held that the General Assembly may add duties for an officer if the new duties are not inconsistent with those listed in the Constitution.[2]

SECTION 2. TERMS

These elected officers of the Executive Branch shall hold office for four years beginning on the second Monday of January after their election and, except in the case of the Lieutenant Governor, until their successors are qualified. They shall be elected at the general election in 1978 and every four years thereafter.

Under the 1870 Constitution, executive officers were elected in the same years as U.S. Presidents. The 1970 Constitution's Transition Schedule continued that practice through the 1976 election; but beginning in 1978, the state's executive officers have been elected in even-numbered years that are not Presidential election years. This was intended to allow voters to focus on those state elections with less distraction from federal elections.

SECTION 3. ELIGIBILITY

To be eligible to hold the office of Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller or Treasurer, a person must be a United States citizen, at least 25 years old, and a resident of this State for the three years preceding his election.

The statement in the Constitution of requirements for election to executive office probably prevents a statute from adding further requirements.[3]

SECTION 4. JOINT ELECTION

In the general election for Governor and Lieutenant Governor, one vote shall be cast jointly for the candidates nominated by the same political party or petition. The General Assembly may provide by law for the joint nomination of candidates for Governor and Lieutenant Governor.

During the time when the 1970 constitutional convention was meeting, the Governor and Lieutenant Governor were of different political parties, which the convention believed to be a source of friction. This section required candidates for Governor and Lieutenant Governor to run as teams in the general election. As authorized by its second sentence, in 2011 the General Assembly provided for them to run as teams in the primary election also.[4]

SECTION 5. CANVASS—CONTESTS

The election returns for executive offices shall be sealed and transmitted to the Secretary of State, or other person or body provided by law, who shall examine and consolidate the returns. The person having the highest number of votes for an office shall be declared elected. If two or more persons have an equal and the highest number of votes for an office, they shall draw lots to determine which of them shall be declared elected. Election contests shall be decided by the courts in a manner provided by law.

A section of the Election Code that formerly provided for statewide election contests to be decided by a specially appointed three-judge panel of trial judges was held unconstitutional by the Illinois Supreme Court in 1983; the Court said that such a panel was not among the constitutionally created "courts" that this section authorizes to decide election contests.[5] The General Assembly later replaced that provision with a section granting the Illinois Supreme Court jurisdiction over statewide election contests.[6]

SECTION 6. GUBERNATORIAL SUCCESSION

(a) In the event of a vacancy, the order of succession to the office of Governor or to the position of Acting Governor shall be the Lieutenant Governor, the elected Attorney General, the elected Secretary of State, and then as provided by law.

This section does not use the word "elected" before "Lieutenant Governor" because there is no provision for appointing a replacement Lieutenant Governor if the elected one leaves office before a successor is elected (see section 7's last sentence). A 1981 law provides for the following line of succession to the Governorship after the elected Secretary of State: the elected Comptroller, the elected Treasurer, the President of the Senate, and the Speaker of the House.[7]

(b) If the Governor is unable to serve because of death, conviction on impeachment, failure to qualify, resignation or other disability, the office of Governor shall be filled by the officer next in line of succession for the remainder of the term or until the disability is removed.

(c) Whenever the Governor determines that he may be seriously impeded in the exercise of his powers, he shall so notify the Secretary of State and the officer next in line of succession. The latter shall thereafter become Acting Governor with the duties and powers of Governor. When the Governor is prepared to resume office, he shall do so by notifying the Secretary of State and the Acting Governor.

(d) The General Assembly by law shall specify by whom and by what procedures the ability of the Governor to serve or to resume office may be questioned and determined. The Supreme Court shall have original and exclusive jurisdiction to review such a law and any such determination and, in the absence of such a law, shall make the determination under such rules as it may adopt.

No statute prescribes procedures for questioning the ability of the Governor to serve or to resume service. An Illinois Supreme Court rule, issued under the authority of this subsection, provides in broad outline for the filing of original actions[8] in the Supreme Court to resolve such questions.[9] In addition, Illinois' Emergency Interim Executive Succession Act provides that, in the event of an attack on the United States, the powers of executive officers at state and local levels can be exercised by successors whom those officers have designated by title.[10]

SECTION 7. VACANCIES IN OTHER ELECTIVE OFFICES

If the Attorney General, Secretary of State, Comptroller or Treasurer fails to qualify or if his office becomes vacant, the Governor shall fill the office by appointment. The appointee shall hold office until the elected officer qualifies or until a successor is elected and qualified as may be provided by law and shall

not be subject to removal by the Governor. If the Lieutenant Governor fails to qualify or if his office becomes vacant, it shall remain vacant until the end of the term.

Some delegates at the 1970 constitutional convention wanted to abolish the office of Lieutenant Governor. The convention decided to keep the office, but not fill any vacancy in it between elections. Doing so would have been mostly futile, since the convention was unwilling to let anyone who had been appointed to fill a vacancy in an executive officer take over the Governorship (see section 6), and the Lieutenant Governor has no other constitutional duties.

SECTION 8. GOVERNOR—SUPREME EXECUTIVE POWER

The Governor shall have the supreme executive power, and shall be responsible for the faithful execution of the laws.

This is the first of several sections setting forth the powers of the Governor. This section states the powers that are most general. The Illinois Supreme Court has commented that this provision does not empower the Governor to establish new legal requirements by executive order or otherwise; as to persons not under his jurisdiction, he may only execute and enforce existing law.[11] The Governor does exercise control over agencies under him through his power to remove subordinates (section 10) and his authority (recognized under Article 13, section 2) to establish ethical standards for agencies under him.[12]

SECTION 9. GOVERNOR—APPOINTING POWER

(a) The Governor shall nominate and, by and with the advice and consent of the Senate, a majority of the members elected concurring by record vote, shall appoint all officers whose election or appointment is not otherwise provided for. Any nomination not acted upon by the Senate within 60 session days after the receipt thereof shall be deemed to have received the advice and consent of the Senate. The General Assembly shall have no power to elect or appoint officers of the Executive Branch.

The Illinois Supreme Court held that the Governor's power (as it was defined in the 1870 Constitution) to appoint "all officers whose election or appointment is not otherwise provided for" applies only to offices at the state level, not at lower levels, and that it is merely a catchall provision as to offices for which no other method of appointment is provided.[13] The General Assembly may provide for someone other than the Governor to appoint any officer whose selection is not governed by the Constitution, if the method chosen does not violate any specific constitutional restriction (such as this subsection's prohibition on appointment of executive officers by the General Assembly). The Illinois Supreme Court has held that the Governor could not be required by law to appoint members of the State Board of Elections from nominations made by legislative leaders,[14] and that legislative leaders could not appoint members of the State Fair Board.[15] The reason in both cases was that those agencies exercised significant executive functions, and the Court concluded that their members were officers of the executive branch for purposes of this subsection.

A federal district court in 2003 ruled on appointments that former Governor George H. Ryan had made to the Illinois Industrial Commission (now called the Illinois Workers' Compensation Commission). He had attempted simultaneously to appoint one person to a seat on the Commission for a few months, and to appoint another person to the same seat effective at the end of that time—even though the statute creating the Commission gives each member a 4-year term.[16] The federal district judge refused to issue a preliminary injunction barring the Governor who succeeded Ryan from removing the second appointee, holding that Ryan's second appointment to the seat had been ineffective because he could not appoint a person to any term other than the statutory 4-year term, except to fill a vacancy due to death, resignation, or other legally valid cause.[17] Although that case involved mostly statutory interpretation, it did emphasize the constitutional roles of both the Senate and the House in creating offices and confirming nominations to them.

Two Attorney General's opinions in recent decades have addressed questions about the effects of gubernatorial nominations near the end of a General Assembly. A 2001 opinion advised that if the Governor makes temporary appointments while the Senate is in recess (see subsection (b) and commentary to it), to offices whose incumbents' terms are expiring, those temporary appointees start new terms and thus qualify for the salaries applying in the next term for each office.[18] In 2011 the Attorney General advised that if the Governor makes a nomination less than 60 session days before the final adjournment of a General Assembly, the period of 60 session days mentioned in subsection (a)'s second sentence continues to run into the next General Assembly.[19]

(b) If, during a recess of the Senate, there is a vacancy in an office filled by appointment by the Governor by and with the advice and consent of the Senate, the Governor shall make a temporary appointment until the next meeting of the Senate, when he shall make a nomination to fill such office.

(c) No person rejected by the Senate for an office shall, except at the Senate's request, be nominated again for that office at the same session or be appointed to that office during a recess of that Senate.

These two subsections were intended to provide some continuity in the appointment process so state government can continue during a recess of the Senate, and to prevent a Governor from exploiting a Senate recess to appoint temporarily a person whom the Senate had rejected.

Statutory provisions enacted in the 21st century seek to restrict the Governor's appointing power further.[20] They are somewhat complex. Their provisions addressing future appointments are summarized below. (The first three groups of restrictions are subject to two exceptions, which are described after them.)

- Holding over after a term ends. For a gubernatorial appointee to an office that

  (1) needed and received Senate confirmation, and

  (2) either

    (a) provides a salary or *per diem* payments, or

    (b) is on a public university's board of trustees,

if no replacement is nominated and confirmed within 60 calendar days after the appointee's term ends, the position becomes vacant.[21]

- Temporary appointments. If, as authorized by subsection 9(b), the Governor makes a temporary appointment during a Senate recess to an office that needs Senate confirmation, the appointee's term ends immediately after "the next meeting of the Senate" unless, on or before that meeting date, the Governor files a message with the Senate nominating that person to the office. A "meeting of the Senate" for this purpose does not include a day on which the Senate meets only in perfunctory session.[22]

- Acting appointees. If the Governor designates a person as the "acting" holder of an office that needs Senate confirmation, that designation can last no longer than 60 calendar days unless, within those 60 days, the Governor files a message with the Senate nominating the person to that office. The statute also directs the Governor to file any such designation of a person as an "acting" appointee with the Senate. It adds that no one may be designated as an "acting" appointee more than once during the same session of the Senate, except at the Senate's request.[23]

  If the Senate has rejected a nominee for an office that needs Senate confirmation, the Governor may not designate that person as an "acting" appointee to that office during that General Assembly.[24]

The exceptions to the restrictions described above are that they do not apply to appointments by the Governor of members of the State Board of Elections, or of the Director of the Illinois Power Agency.[25]

- 'Lame duck' appointments. Other sections seek to restrict the duration of appointments by an outgoing Governor, or by bodies to which he could appoint any members, late in the outgoing Governor's term.

  One group of such sections applies to any appointment by an outgoing Governor, to a position requiring Senate confirmation, if the Senate provides such confirmation during the last 90 days of that Governor's term. Such an appointee cannot serve beyond the 60th day of the next Governor's term (unless reappointed by the new Governor), and thereafter may be replaced by the next Governor.[26]

  Another section says that if, during the last 90 days of an outgoing Governor's term, a public body—at least one of whose members the Governor has the power to appoint—appoints, employs, or contracts with a person to serve in an executive management position with the public body, that person will not remain in that position beyond the next Governor's 60th day in office unless the public body "retain[s]" the person by action in an open meeting after the new Governor takes office.[27]

SECTION 10. GOVERNOR—REMOVALS

The Governor may remove for incompetence, neglect of duty, or malfeasance in office any officer who may be appointed by the Governor.

In an 1878 case the Illinois Supreme Court held that a Governor's determination that there was cause for removal under a similar provision of the 1870 Constitution could not be judicially reviewed.[28] The practical effect of that holding was that officers of the executive branch appointed by the Governor served at the Governor's pleasure. That apparently is still true of those directly under the Governor—including the heads of Civil Administrative Code departments. The U.S. Court of Appeals for the 7th Circuit, in Chicago, in 1974 held the same regarding the chairman of the Illinois Liquor Control Commission.[29] (However, such federal interpretations of a state's Constitution are not binding on that state's courts.)

On the other hand, the Illinois Supreme Court in 1976 held that members of the State Board of Elections (and probably other independent boards and commissions in the executive branch) can be removed only for a cause stated in this section, which can be judicially reviewed.[30] That holding was due to the need for those agencies to be objective and free from political pressure. The Court found persuasive U.S. Supreme Court decisions in 1935 and 1958 that had held similarly as to independent federal commissions.[31]

A 2017 Illinois Appellate Court decision held that the Governor's removal of a member of the Prisoner Review Board was not subject to judicial review, stating that the Board is not an independent, quasi-judicial body like the State Board of Elections.[32] The Illinois Supreme Court granted a petition to review that decision, but had not decided it by publication time.

The Illinois Supreme Court has held that this section, along with other sources of authority, enabled the Governor to require disclosure of economic interests by employees in departments and agencies under him.[33]

SECTION 11. GOVERNOR—AGENCY REORGANIZATION

The Governor, by Executive Order, may reassign functions among or reorganize executive agencies which are directly responsible to him. If such a reassignment or reorganization would contravene a statute, the Executive Order shall be delivered to the General Assembly. If the General Assembly is in annual session and if the Executive Order is delivered on or before April 1, the General Assembly shall consider the Executive Order at that annual session. If the General Assembly is not in annual session or if the Executive Order is delivered after April 1, the General Assembly shall consider the Executive Order at its next annual session, in which case the Executive Order shall be deemed to have been delivered on the first day of that annual session. Such an Executive Order shall not become effective if, within 60 calendar days after its delivery to the General Assembly, either house disapproves the Executive Order by the record vote of a majority of the members elected. An Executive Order not so disapproved shall become effective by its terms but not less than 60 calendar days after its delivery to the General Assembly.

This provision, modeled after a federal law,[34] allows the Governor to reorganize agencies under him if either (1) the reorganization would not contravene a statute or (2) it would contravene a statute, but it is sent to the General Assembly and neither house objects within 60 days.

This authority for reorganization one step at a time provides an alternative to reorganizations by statute—which historically were infrequent but massive. The Executive Reorganization Implementation Act, enacted in 1979, sets forth procedures for reorganizations by the Governor and attempts to limit the kinds of reorganizations that can be made.[35] To give greater public notice of such reorganizations, it also directs that if an executive order providing for reorganization takes effect, it is to be printed by the Secretary of State in the state's session laws, and a bill incorporating the changes is to be drafted for the General Assembly's next annual session.[36]

SECTION 12. GOVERNOR—PARDONS

The Governor may grant reprieves, commutations and pardons, after conviction, for all offenses on such terms as he thinks proper. The manner of applying therefor may be regulated by law.

The Governor's longstanding power to grant pardons or other relief to convicted persons is continued in this Constitution, but made more flexible by allowing such grants "on such terms as he thinks proper" to allow conditional pardons.[37] As allowed by the second sentence, a section of the Unified Code of Corrections regulates procedures for applying for clemency.[38] The Illinois Supreme Court has held that a pardon by the Governor does not allow the pardonee to have the record of arrest expunged under statutory provisions that allow such expunction if a person is arrested but released without conviction.[39]

The Illinois Supreme Court has stated that the Governor's clemency power is not subject to control by the courts or the legislature. The only recognized restrictions on it are that the Governor cannot convert a conviction of one crime into a conviction of another crime, or (of course) increase the punishment for a crime of which the person was convicted.[40] The history and nature of the Governor's pardoning power were discussed at length in a 2004 Illinois Appellate Court case.[41]

Shortly before leaving office in January 2003, Governor George H. Ryan commuted the death sentences of all persons sentenced to death in Illinois. The Attorney General challenged that action. The Illinois Supreme Court held that this section gives Governors essentially unlimited power to issue as many pardons (or commutations) as they want—even to prisoners who have not petitioned for clemency.[42] But the Court added:

> As a final matter, we note that clemency is the historic remedy employed to prevent a miscarriage of justice where the judicial process has been exhausted. [citation]. We believe that this is the purpose for which the framers gave the Governor this power in the Illinois Constitution. The grant of this essentially unreviewable power carries with it the responsibility to exercise it in the manner intended. Our hope is that Governors will use the clemency power in its intended manner—to prevent miscarriages of justice in individual cases.[43]

In a 1970 case decided under a similar provision in the 1870 Constitution, an Illinois Appellate Court panel held that the Governor's pardoning power included the ability to restore a federal felon to rights of citizenship given by the state, including the right to hold public office.[44] That decision was not appealed.

The federal Court of Appeals in Chicago, in a 2009 case arising under Illinois law, stated that petitioners for executive clemency have no legally protectable interest in prompt action by the Governor on their petitions.[45]

SECTION 13. GOVERNOR—LEGISLATIVE MESSAGES

The Governor, at the beginning of each annual session of the General Assembly and at the close of his term of office, shall report to the General Assembly on the condition of the State and recommend such measures as he deems desirable.

The requirement of a "state of the state" message parallels the U.S. Constitution's direction that the President periodically report to Congress on the "State of the Union."[46] Article 8, section 2 requires an annual budget message by the Governor to the General Assembly.

SECTION 14. LIEUTENANT GOVERNOR—DUTIES

The Lieutenant Governor shall perform the duties and exercise the powers in the Executive Branch that may be delegated to him by the Governor and that may be prescribed by law.

The Lieutenant Governor was president of the Senate under the 1870 Constitution, but now has only duties assigned by the Governor or by law. Statutes give the Lieutenant Governor duties that include chairing or sitting on several state boards, commissions, and other bodies.[47]

SECTION 15. ATTORNEY GENERAL—DUTIES

The Attorney General shall be the legal officer of the State, and shall have the duties and powers that may be prescribed by law.

Starting at least as early as 1915, the Illinois Supreme Court interpreted a similar provision in the 1870 Constitution to mean that the Attorney General had not only the powers and duties given by statute, but also those historically held by the English officer called the Attorney General.[48] Those included the exclusive power to represent the government in litigation in which it was the real party in interest, so the Court concluded that only the Attorney General could do that in Illinois. It has also held, under both the 1870 and 1970 Constitutions, that the General Assembly can assign additional powers and duties to the Attorney General, but cannot take away any of that office's common-law powers.[49]

The 1970 constitutional convention made no substantive change in describing the Attorney General's powers. The Illinois Supreme Court has continued to interpret them broadly. The following are major examples:

- It held invalid a part of the Illinois Governmental Ethics Act authorizing the Secretary of State to employ counsel and issue advisory opinions on the Act's requirement that public

officials and some public employees file statements of economic interests, because the Attorney General has a statutory duty to issue legal opinions to state officers.[50]

- It held that the Illinois Environmental Protection Agency could not prosecute cases before the Illinois Pollution Control Board, because that conflicted with the power of the Attorney General to represent the state.[51]

- It held that private plaintiffs could not sue on the state's behalf for an accounting and recovery of funds alleged to have been bribes to legislators;[52] alleged to have been illegally received by the Secretary of State's office;[53] or alleged to have been wrongfully taken by firms dealing with the state.[54]

In one of those cases,[55] the Court held invalid a statutory provision authorizing private citizens to sue persons alleged to have defrauded the state if public officials refuse to sue them,[56] saying that only the Attorney General has authority to do that.

The Court has held that state agencies ordinarily may not appoint other counsel to represent them in court without the Attorney General's approval.[57] However, an Illinois Appellate Court decision allowed an agency to appoint its own counsel to prosecute an appeal where the Attorney General was not interested in appealing but had no objection if the agency wanted to.[58]

The Attorney General has been allowed to withdraw from representing one state agency in a proceeding and begin representing an opposing agency, where his office had not yet taken any active steps to represent the first agency and thus had no conflict of interests.[59] The Attorney General has even been allowed to represent state agencies that were formally on opposing sides in a suit, where the courts concluded that such representation did not create an actual conflict in the Attorney General's duties.[60] When there *is* an actual conflict, private counsel may be appointed to represent the party(ies) adverse to the Attorney General's position.[61] An Illinois Appellate Court decision required the Attorney General to pay for private counsel who had successfully represented a public official in a suit in which the Attorney General represented opposing officials.[62]

The Illinois Supreme Court held that the Attorney General could sue on behalf of the state for alleged fraud against a local public authority that was partly funded by the state.[63]

An Illinois Appellate Court decision held that the law now called the Illinois False Claims Act—which authorizes private persons to file suit on behalf of the state, claiming that others are defrauding it, but enables the Attorney General to intervene in such suits and take them over—is not inconsistent with the Attorney General's powers as the state's legal officer.[64]

The Attorney General's duties parallel, and at times overlap, those of state's attorneys (addressed in Article 6, sec. 19). The Illinois Supreme Court has held that under this section and some statutes, an Assistant Attorney General could appear before a local grand jury and carry out an entire criminal prosecution if the state's attorney in that county did not object.[65] The courts often apply to state's attorneys principles similar or identical to those applicable to the Attorney General.

The act establishing the statutory duties of the office of the Attorney General provides for it to issue legal opinions to the Governor and other state officers on matters relating to their duties upon request.[66] Official Attorney General's opinions are often relied on by officials, and may persuade courts, but are not binding on courts.[67] Official opinions of the Attorney General have been issued much more rarely in this century than they were before. The Attorney General does not ordinarily provide official opinions to individual legislators except legislative officers, committee chairpersons, and minority spokespersons who have legal questions related

to their duties. But if possible, the office may provide informal guidance to legislators on state legal issues.

SECTION 16. SECRETARY OF STATE—DUTIES

The Secretary of State shall maintain the official records of the acts of the General Assembly and such official records of the Executive Branch as provided by law. Such official records shall be available for inspection by the public. He shall keep the Great Seal of the State of Illinois and perform other duties that may be prescribed by law.

The Secretary of State has an extremely long list of responsibilities, mostly conferred by statute.[68] The function of keeping official records is performed by the Index Department in the Secretary of State's office.

SECTION 17. COMPTROLLER—DUTIES

The Comptroller, in accordance with law, shall maintain the State's central fiscal accounts, and order payments into and out of the funds held by the Treasurer.

The Comptroller replaced the office of Auditor of Public Accounts that existed under the 1870 Constitution. The Comptroller's major function is to "pre-audit" claims for payments out of state funds, allowing only those that are permitted by law. Several statutes govern the Comptroller's actions.[69]

A 2012 Illinois Appellate Court decision held that a taxpayer's estate, which had overpaid estate tax, could not get a judicial order that the State Comptroller and State Treasurer pay a refund to the estate, because the appropriation for such refunds had been exhausted.[70] That holding was not appealed.

SECTION 18. TREASURER—DUTIES

The Treasurer, in accordance with law, shall be responsible for the safekeeping and investment of monies and securities deposited with him, and for their disbursement upon order of the Comptroller.

The Treasurer controls the state's bank accounts and securities, making payments from them with the approval of the Comptroller. The Illinois Supreme Court held under the 1870 Constitution that the Treasurer had substantial discretion to decide how to invest state funds, within any restrictions imposed by statutes.[71] This section does not appear to change that holding. However, statutes put some restrictions on the Treasurer's deposit of state funds with financial institutions.[72]

SECTION 19. RECORDS—REPORTS

All officers of the Executive Branch shall keep accounts and shall make such reports as may be required by law. They shall provide the Governor with information relating to their respective offices, either in writing under oath, or otherwise, as the Governor may require.

The second sentence is a weakened carryover from a provision in the 1870 Constitution, and appears to have little effect today. But it reflects the principle that the Governor is the state's chief executive officer, responsible for the execution of all state laws.

SECTION 20. BOND

Civil officers of the Executive Branch may be required by law to give reasonable bond or other security for the faithful performance of their duties. If any officer is in default of such a requirement, his office shall be deemed vacant.

The amounts for which statutes require executive officers to be bonded range from $10,000 for the Attorney General,[73] who does not have much direct opportunity to control disposition of state money, to $1 million for the Comptroller,[74] who does. Apparently no bond is required of the Governor. Sections of the Official Bond Act provide for required bonding of state officers, employees, and other personnel to be supplied by a blanket bond or a self-insurance program, in either case by the Department of Central Management Services.[75]

SECTION 21. COMPENSATION

Officers of the Executive Branch shall be paid salaries established by law and shall receive no other compensation for their services. Changes in the salaries of these officers elected or appointed for stated terms shall not take effect during the stated terms.

Based on court decisions holding that provisions such as this one merely require that the method of determining salary be fixed before an officer's term—not that the actual amount of salary be fixed—the Attorney General in 1978 advised that a law enacted before the beginning of an officer's term could validly provide periodic pay increases during that term using an objective index of inflation rates.[76]

In 1985 the Illinois Supreme Court upheld the Compensation Review Act, under which salaries of legislators, major executive officers, and judges were recommended by the Compensation Review Board and, if the General Assembly did not disapprove, thereafter took effect. The Court said this was sufficient compliance with the constitutional requirement that salaries be "established by law."[77] (The Compensation Review Board was later abolished by law.[78]) See also the commentary on the Act under Article 4, section 11.

The Illinois Supreme Court has held that this section does not restrict changes in state's attorneys' salaries, since they are not officers of the executive branch of state government but rather are provided for in Article 6, sec. 19.[79]

Article 6. The Judiciary

This article of the 1970 Constitution is, to a large extent, a revision of the replacement Judicial article for the 1870 Constitution that the voters approved in 1962 (effective in 1964), superseding the original Judicial article of the 1870 Constitution. The 1962 Judicial article replaced the several kinds of courts that Illinois had until 1964 with a system of only three kinds of courts: circuit (trial), appellate, and supreme. The 1970 Constitution kept essentially the same system, but with some changes—especially in the powers of the Illinois Supreme Court and the structure of the judicial disciplinary system. A 1998 constitutional amendment authorized stronger procedures for judicial discipline.

SECTION 1. COURTS

The judicial power is vested in a Supreme Court, an Appellate Court and Circuit Courts.

These are the only Illinois courts provided by the Constitution. The present circuit courts superseded various trial courts of limited jurisdiction, such as county courts, municipal courts, and probate courts, that existed before the 1962 Judicial Article took effect in 1964. But the circuit courts have some administrative divisions, such as small claims court in every circuit[1] and specialized divisions in populous circuits.

The Court of Claims, which hears suits against the state, is not a court in the constitutional sense, but a combined legislative-administrative agency to hear claims and recommend payment to the General Assembly.[2] (A 1983 act amending the Court of Claims Act stated that the Court of Claims is within the legislative branch.[3])

Scope of judicial powers

Illinois courts jealously resist perceived legislative encroachments on their powers. Examples follow:[4]

Laws held invalid

In 1977 the Supreme Court struck down a law stating that the prosecution and defense in criminal trials could each question prospective jurors, calling this an unconstitutional legislative interference with judicial procedures.[5]

In 1983 it struck down a law providing for a special panel of three circuit judges to hear election contests, saying the provision was a legislative attempt to alter the basic character of the court system.[6]

In 1991 it struck down a law setting conditions under which a convicted person could be released on bail during an appeal,[7] on the ground that a Supreme Court rule providing for appeals did not set such conditions.[8]

In 1995 and 2005 it held that application of the Illinois Public Labor Relations Act to court reporters would violate the Supreme Court's administrative powers over Illinois courts.[9]

In 1996 it struck down a law that barred courts from imposing civil contempt sanctions if the acts for which such sanctions were to be imposed (unlawful interference with child custody) had resulted in criminal convictions, stating that the law attempted to restrict courts' "inherent authority" to punish contempt.[10]

In 1997 it struck down a law that called on courts to use contempt powers to punish prisoners convicted of some sex crimes who refused to provide DNA samples as required by the law. The Court said that applying the law would take away judicial discretion regarding whether to issue contempt orders.[11]

Also in 1997, the Illinois Supreme Court struck down a law requiring each plaintiff in a medical malpractice suit to waive the confidentiality of that plaintiff's treatment records, saying that the law encroached on the Supreme Court's ability to regulate judicial procedures.[12]

In 2010 the Court struck down a law limiting noneconomic damages in medical malpractice cases, saying that it interfered with the "fundamentally judicial prerogative" to decide whether damages assessed by juries are excessive.[13]

Illinois Appellate Court cases have held that the General Assembly may not authorize prosecutors to appeal trial judges' bail decisions, saying that doing so infringes an Illinois Supreme Court rule regulating grounds for appealing such nonfinal decisions in criminal cases.[14]

Laws upheld

The Illinois Supreme Court in two 1992 cases upheld a law requiring each plaintiff in a medical malpractice suit to attach to the complaint an affidavit that a health professional had found reasonable cause for suing, and to attach the health professional's report indicating the basis for that determination.[15] A bare majority (four members) of the Court reasoned that this requirement largely duplicated existing requirements (1) that the plaintiff or plaintiff's attorney certify by signing the complaint that there is a valid basis for suing, and (2) in most cases, that a health professional testify at the trial. The majority said this law did not give judicial powers to a nonjudicial person (the health professional) because that person was expressing a medical opinion, not an ultimate legal opinion.[16] One of the four members of the majority read the law as *allowing* but not *requiring* the trial court to dismiss a complaint that is not accompanied by these documents.[17]

A 2002 Illinois Supreme Court case upheld a law adding a mandatory additional number of years to a sentence for home invasion if the home invader was armed with a firearm when committing the crime.[18]

Illinois Supreme and Appellate Court cases apply a statutory provision that bars a plaintiff in a civil suit for injury or physical damage from any recovery if the evidence shows that the plaintiff was more than 50% responsible for the harm.[19]

The Illinois Supreme Court has stated that the General Assembly has "concurrent constitutional authority [with the Supreme Court] to enact complementary statutes" dealing with court procedures and evidence.[20]

Illinois courts' treatment of laws making changes in substantive legal provisions that courts had earlier interpreted are discussed under Article 1, section 16, "Retroactive changes in civil laws" heading.

SECTION 2. JUDICIAL DISTRICTS

The State is divided into five Judicial Districts for the selection of Supreme and Appellate Court Judges. The First Judicial District consists of Cook County. The remainder of the State shall be divided by law into four Judicial Districts of substantially equal population, each of which shall be compact and composed of contiguous counties.

The current boundaries of Illinois court districts were drawn by a 1963 act.[21]

The Illinois Supreme Court has held that the First Judicial District is legally distinct from the County of Cook although they consist of the same territory.[22] That decision arose under a section of the Election Code that requires persons forming a "new political party" in a district or political subdivision to file "a complete list of candidates of such party for all offices to be filled in . . . such district or political subdivision . . . ."[23] The Court said that the provision did not require persons seeking to establish a new political party in Cook County to propose a slate of judicial candidates for the First Judicial District.

The Illinois Supreme Court held unconstitutional a 1989 law subdividing the First Judicial District into three subdistricts.[24] That holding is discussed under section 5 below. The Illinois Supreme Court also struck down a 1997 act redrawing district lines, because it divided Cook County into three districts and split some judicial circuits between judicial districts.[25]

Federal courts have held that the federal constitutional requirement that election districts be apportioned so each person's vote has equal weight ("one person, one vote") does not, in general, apply to electing judges, because they do not represent groups of people.[26] However, the U.S. Supreme Court in 1991 held (with three members dissenting) that section 2 of the federal Voting Rights Act of 1965[27] could apply to claims of vote dilution in judicial elections.[28] The U.S. Court of Appeals for the Seventh Circuit in 1998 rejected a Republican Party challenge to Illinois' at-large method for electing three members of the Illinois Supreme Court from the First Judicial District (Cook County). But the court's rationale was that the plaintiffs had not alleged facts that, if proven, would show an unfairly discriminatory motive behind that method of election.[29]

SECTION 3. SUPREME COURT—ORGANIZATION

The Supreme Court shall consist of seven Judges. Three shall be selected from the First Judicial District and one from each of the other Judicial Districts. Four Judges constitute a quorum and the concurrence of four is necessary for a decision. Supreme Court Judges shall select a Chief Justice from their number to serve for a term of three years.

As noted under section 2, the federal constitutional requirement that election districts be apportioned so each person's vote has equal weight has been held not to apply to judicial elections, but section 2 of the Voting Rights Act of 1965 may apply to some of those elections. Section 2 and this section give approximately equal weight to voters in the First Judicial District (Cook County) and those in the other four districts, while providing an odd number of judges on the Illinois Supreme Court to reduce the possibility of tied decisions.

If one or more members of the Court are disqualified from participating in a case, and as a result it is not possible to get a majority consisting of at least four members to decide the case, the Court follows the practice (similar to that of the U.S. Supreme Court) of allowing the disposition below that is being appealed to stand. Such an action decides that case, but does not set a precedent on the issues involved in that case.[30] (As stated under section 5 below, the Illinois Supreme Court has stated that a different rule applies to the Illinois Appellate Court, because it has many judges and the Illinois Supreme Court could assign one or more of them to complete a three-judge Appellate Court panel if necessary.)

SECTION 4. SUPREME COURT—JURISDICTION

(a) The Supreme Court may exercise original jurisdiction in cases relating to revenue, mandamus, prohibition or habeas corpus and as may be necessary to the complete determination of any case on review.

A court exercises "original" jurisdiction if a litigant goes to it directly without starting in a lower court. The four categories of original jurisdiction listed in this section are discretionary with the Illinois Supreme Court; it may refuse to hear such a case under original jurisdiction. A litigant also has the option to file such a case in a lower court in lieu of filing it as an original case in the Supreme Court.

In addition to the jurisdiction given here, the Illinois Supreme Court has expansively construed its administrative power over Illinois courts, under section 16, as authorizing it to issue orders to individual courts telling them how to dispose of specific cases, even though the lower courts' orders were not appealable. Cases so holding are cited under section 16.

(b) Appeals from judgments of Circuit Courts imposing a sentence of death shall be directly to the Supreme Court as a matter of right. The Supreme Court shall provide by rule for direct appeal in other cases.

The other criminal cases in which an Illinois Supreme Court rule allows direct appeals from circuit (trial) courts to the Supreme Court are those in which circuit courts held Illinois or federal laws invalid.[31] In civil cases, the rules allow direct appeals to the Supreme Court if Illinois or federal laws were held invalid, and also allow direct appeals from rulings ordering compliance with circuit courts' administrative orders.[32]

(c) Appeals from the Appellate Court to the Supreme Court are a matter of right if a question under the Constitution of the United States or of this State arises for the first time in and as a result of the action of the Appellate Court, or if a division of the Appellate Court certifies that a case decided by it involves a question of such importance that the case should be decided by the Supreme Court. The Supreme Court may provide by rule for appeals from the Appellate Court in other cases.

An Illinois Supreme Court rule also allows an appeal to it as a matter of right from an Illinois Appellate Court decision holding an Illinois or federal statute invalid.[33] Appeals to the Illinois Supreme Court in other kinds of cases are subject to its discretion. It has not issued exact rules for determining what other kinds of cases it will hear, but has listed some criteria that it uses in deciding whether to hear civil appeals.[34]

If a party wants to appeal an Illinois Appellate Court decision, but does not have an absolute right to appeal under the Supreme Court rules described under subsection (b), the party must file a "petition for leave to appeal" with the Illinois Supreme Court.[35] If that Court chooses to hear the appeal, it grants "leave to appeal," authorizing the party to begin the process of appealing the decision. The Supreme Court denies leave to appeal in a large majority of such cases. Although denying leave to appeal may suggest that a majority of the Court's

members did not think the decision below was clearly incorrect, it does *not* constitute affirmance of the decision below,[36] and has no effect as a precedent.

SECTION 5. APPELLATE COURT—ORGANIZATION

The number of Appellate Judges to be selected from each Judicial District shall be provided by law. The Supreme Court shall prescribe by rule the number of Appellate divisions in each Judicial District. Each Appellate division shall have at least three Judges. Assignments to divisions shall be made by the Supreme Court. A majority of a division constitutes a quorum and the concurrence of a majority of the division is necessary for a decision. There shall be at least one division in each Judicial District and each division shall sit at times and places prescribed by rules of the Supreme Court.

The Illinois Supreme Court held unconstitutional a 1989 law subdividing the First Judicial District (coextensive with Cook County) into three subdistricts. The Court noted a distinction between this article's subsection 7(a), which says the General Assembly may divide a *circuit* for selection of circuit judges, and section 5, which does not mention statutory division of an appellate *district*. The Court also quoted statements from delegates at the 1970 constitutional convention indicating that, to avoid possible problems with the constitutional requirement of "one person, one vote," Appellate Court judges should be elected at large from each appellate district.[37]

A division of the Illinois Appellate Court ordinarily consists of a panel of three judges. Illinois cases have held that substantive motions in the Appellate Court must be heard before three judges,[38] at least two of whom must be in office and concur when they file a decision for it to be valid.[39] The Illinois Supreme Court has stated that if an Illinois Appellate Court panel lacks two judges willing and able to agree how to decide a case, the decision being appealed should *not* automatically stand (as happens if the Supreme Court cannot get four votes to decide a case). That is because the Illinois Appellate Court has many judges among its five districts, one or more of whom the Supreme Court could assign temporarily to fill a vacancy in an Appellate Court panel that is unable to decide a case.[40]

One Appellate Court

Although Illinois has five judicial *districts* from which Illinois Supreme and Appellate Court judges are elected—and in each of which Illinois Appellate Court judges sit—there is only one Illinois Appellate Court.[41] It is well-established that a decision in one district of the Appellate Court sets a precedent that is binding on trial courts statewide unless another Appellate Court decision conflicts with it, but it is *not* binding on Illinois Appellate Court judges in other districts.[42] Different districts of the Appellate Court sometimes disagree on a legal issue, in which event the Illinois Supreme Court usually accepts appeals from their decisions and resolves the issue.

SECTION 6. APPELLATE COURT—JURISDICTION

Appeals from final judgments of a Circuit Court are a matter of right to the Appellate Court in the Judicial District in which the Circuit Court is located except in cases appealable directly to the Supreme Court and except that after a

trial on the merits in a criminal case, there shall be no appeal from a judgment of acquittal. The Supreme Court may provide by rule for appeals to the Appellate Court from other than final judgments of Circuit Courts. The Appellate Court may exercise original jurisdiction when necessary to the complete determination of any case on review. The Appellate Court shall have such powers of direct review of administrative action as provided by law.

A party losing in a circuit (trial) court has a right to at least one appeal (either to that district of the Illinois Appellate Court, or in rare cases directly to the Illinois Supreme Court)—except that under the last clause of the first sentence of this section, if a criminal defendant is acquitted at trial, no appeal by the state is allowed. That exception is consistent with the prohibitions on double jeopardy in the U.S. and Illinois Constitutions;[43] but the Illinois Supreme Court has held that the exception goes beyond those constitutional provisions in some ways.[44]

The constitutional right of appeal to the Appellate Court applies only to "final" judgments of trial courts.[45] There is no *constitutional* right to appeal trial courts' nonfinal ("interlocutory") orders;[46] but Illinois Supreme Court rules allow several kinds of nonfinal orders to be appealed.[47]

The Illinois Supreme Court in the 1970s held that since this section allows appeals as a matter of right from final judgments of circuit courts, parties appealing (appellants) cannot be required to post bonds or meet other substantive conditions if that would restrict their right of appeal.[48] An Illinois Supreme Court Rule sets forth principles for courts to follow if a party appeals a monetary judgment against that party, and an opposing party asks that the appellant be required to post a bond to guarantee that the judgment, if upheld on appeal, will be paid.[49]

The Illinois Supreme Court has also held that because this section's second sentence authorizes it to issue rules on appealing rulings by circuit courts that are not final judgments, statutes authorizing such appeals in some cases were unconstitutional.[50]

The last sentence of this section implies that the General Assembly may authorize Illinois Appellate Court review of agency decisions. The Administrative Review Law[51] (part of the Code of Civil Procedure) provides, with only one stated exception, for circuit courts to be the default venue for such reviews.[52] But more specific statutes authorize Appellate Court review of a number of other kinds of administrative decisions—including at least some kinds of decisions by the State Board of Elections;[53] Property Tax Appeal Board;[54] Illinois Independent Tax Tribunal;[55] Illinois Labor Relations Board;[56] Educational Labor Relations Board;[57] local school boards;[58] Illinois Commerce Commission;[59] Pollution Control Board;[60] Illinois Emergency Management Agency;[61] and Human Rights Commission.[62]

The Illinois Supreme Court describes a court's power to review an administrative decision as an exercise of "special statutory jurisdiction" as distinct from its constitutional jurisdiction.[63] Such "special statutory jurisdiction" exists only if the party seeking review complies strictly with all applicable statutory requirements[64]—including naming the proper party(ies) against whom review is sought.[65]

SECTION 7. JUDICIAL CIRCUITS

(a) The State shall be divided into Judicial Circuits consisting of one or more counties. The First Judicial District shall constitute a Judicial Circuit. The Judicial Circuits within the other Judicial Districts shall be as provided by law. Circuits composed of more than one county shall be compact and of contiguous counties. The General Assembly by law may provide for the

division of a circuit for the purpose of selection of Circuit Judges and for the selection of Circuit Judges from the circuit at large.

The Illinois Supreme Court, citing this subsection along with other support, struck down statutory provisions that (1) allowed judges to be elected by the voters of an entire judicial circuit but (2) required that some of those judges reside in a particular county in that circuit.[66] That case is discussed under section 11 below.

(b) Each Judicial Circuit shall have one Circuit Court with such number of Circuit Judges as provided by law. Unless otherwise provided by law, there shall be at least one Circuit Judge from each county. In the First Judicial District, unless otherwise provided by law, Cook County, Chicago, and the area outside Chicago shall be separate units for the selection of Circuit Judges, with at least twelve chosen at large from the area outside Chicago and at least thirty-six chosen at large from Chicago.

These provisions resulted from the particular arrangement of judges and courts that existed in Cook County when the 1962 Judicial Article took effect. That Article, and the 1970 Constitution, largely adopted the existing system for electing judges from various localities, while allowing those provisions to be changed by law if other arrangements seem more desirable. In 2006 the Illinois Supreme Court upheld an act that reduced the number of judges to be elected in two counties below the number that an earlier act had called for. The later act took effect after the end of the period for candidates to file nominating papers for new judgeships; but the Court held that the candidates who had filed had no legally protectable interest in the possibility of being elected, and that the General Assembly has full power under this subsection to decide how many judges each circuit is to have.[67]

In 1993 the Illinois Supreme Court held that it was improper for an Illinois Appellate Court panel hearing an appeal of a contest of a judicial primary election for a circuit judgeship, in which the result was unclear, to allow both candidates for the judgeship to serve in the same court.[68]

(c) Circuit Judges in each circuit shall select by secret ballot a Chief Judge from their number to serve at their pleasure. Subject to the authority of the Supreme Court, the Chief Judge shall have general administrative authority over his court, including authority to provide for divisions, general or specialized, and for appropriate times and places of holding court.

An Illinois Supreme Court rule says that a majority of the judges in a circuit can adopt rules governing civil and criminal cases that are consistent with state law and Illinois Supreme Court rules. Such rules are then to be filed with the state court administrator. The chief judge of a circuit can also issue general orders providing for assignment of judges.[69]

SECTION 8. ASSOCIATE JUDGES

Each Circuit Court shall have such number of Associate Judges as provided by law. Associate Judges shall be appointed by the Circuit Judges in each circuit as the Supreme Court shall provide by rule. In the First Judicial District, unless otherwise provided by law, at least one-fourth of the Associate

Judges shall be appointed from, and reside, outside Chicago. The Supreme Court shall provide by rule for matters to be assigned to Associate Judges.

This section created the new office of associate judge (similar to the former office of magistrate), to be appointed by the circuit judges in each circuit. An Illinois Supreme Court rule normally allows associate judges to be assigned to try any case except those for which defendants could be imprisoned over 1 year (felonies). But the rule also allows the chief judge of a circuit, if authorized by the Illinois Supreme Court based on a showing of need, to make temporary assignments of individual associate judges to hear felony cases.[70]

SECTION 9. CIRCUIT COURTS—JURISDICTION

Circuit Courts shall have original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office. Circuit Courts shall have such power to review administrative action as provided by law.

This section unites all trial-level judicial powers (which until 1964 were exercised by a variety of kinds of trial courts) in the circuit courts. The Illinois Supreme Court has construed the changes made in 1964, and retained in the 1970 Constitution, as granting circuit courts the broadest possible jurisdiction, subject to only minor exceptions.[71] Circuit courts may hear any case to which the state judicial power applies, except the two kinds of cases listed in this section (over which the Illinois Supreme Court has exclusive jurisdiction) and review of administrative agency decisions if statutorily entrusted to the Illinois Appellate Court (see commentary to section 6). The Illinois Supreme Court has invalidated laws that sought to require arbitration of some automobile accident claims as a prerequisite to suing in court,[72] or to require binding arbitration of medical malpractice claims,[73] both on the ground that they sought to take away constitutional powers of circuit courts.

However, Illinois cases make a sharp distinction between powers that historically were judicial and the powers of administrative agencies (modern legislative creations, authorized to issue regulations on specific subjects and to decide administrative cases involving the regulated entities). The second sentence of this section authorizes the General Assembly to regulate how circuit courts can review actions by such agencies. (The commentary under section 6 discusses judicial review of administrative decisions.)

Persons seeking to challenge an administrative agency's actions must normally comply with any law that requires them to exhaust remedies within that agency before going to court.[74] Also, Illinois Appellate Court decisions have held that if the right to file a particular kind of suit in court was created by statute, rather than being historically part of the judicial power, the requirements of the statute governing such suits must be followed.[75] For example, most complaints under the Environmental Protection Act must be filed with the Pollution Control Board as provided in that Act—although the courts have held that suits for injunctions to prevent future pollution, or to recover cleanup costs, can be brought in circuit courts.[76]

The Illinois Educational Labor Relations Act divests the circuit courts of jurisdiction to vacate or enforce arbitration awards in public school labor disputes,[77] or to enjoin such arbitration.[78] However, in some kinds of situations, court decisions say that an administrative agency and circuit courts have "concurrent jurisdiction" over a subject.[79]

Illinois Appellate Court decisions have held that the divisions of the circuit court in a populous county such as Cook are only for administrative convenience; assignment of a case to one division does not prevent the judge hearing the case from dealing with subjects normally handled by other divisions.[80]

SECTION 10. TERMS OF OFFICE

The terms of office of Supreme and Appellate Court Judges shall be ten years; of Circuit Judges, six years; and of Associate Judges, four years.

Under subsection 12(d), judicial terms begin on the first Monday of December.

SECTION 11. ELIGIBILITY FOR OFFICE

No person shall be eligible to be a Judge or Associate Judge unless he is a United States citizen, a licensed attorney-at-law of this State, and a resident of the unit which selects him. No change in the boundaries of a unit shall affect the tenure in office of a Judge or Associate Judge incumbent at the time of such change.

The statement in the Constitution of qualifications for being a judge prevents a statute from adding further ones.[81] Citing that principle in part, the Illinois Supreme Court in 1988 struck down provisions allowing circuit judges in some circuits to be elected by voters of the entire circuit but requiring them to be residents of particular counties in the circuit.[82] The Court also cited an exchange on the floor of the 1970 constitutional convention, which it said showed an intent by delegates that judicial candidates not be required to reside in particular parts of a circuit.[83]

The Illinois Supreme Court in 2011 held that in a judicial circuit that includes subcircuits, "the unit which selects" a judge means the subcircuit from which the judge is elected, and a lawyer must be a resident of the subcircuit from which election is sought when filing a statement of candidacy to be eligible for election from that subcircuit.[84]

A 1983 Illinois Appellate Court decision upheld this section's requirement that every candidate for a judgeship be a licensed lawyer.[85]

SECTION 12. ELECTION AND RETENTION

Illinois' current judicial selection system contains elements of both (1) partisan election (and re-election) of judges, and (2) what is often called "merit selection" of judges (appointment of persons selected by nominating commissions, followed by uncontested elections for retention near the end of each term). Illinois judicial candidates usually are nominated at primary elections and run under party labels in the general election. A person who has once been elected to a specific judicial position need not run against anyone for re-election, but runs for retention unopposed, the question being only whether to keep the judge in office. The 1970 Constitution increased the fraction of those voting who are needed to retain a judge in office from a simple majority to three-fifths. A challenge in federal court to that increase failed.[86]

Some 18 circuit judges were denied retention in the six general elections from 1984 to 1994. Over half of those denials occurred in 1990, in the wake of Operation Greylord—a federal investigation into judicial corruption in Cook County. One Illinois Appellate Court judge failed to be retained in 2004 while simultaneously running (unsuccessfully) for an Illinois Supreme Court seat.

(a) Supreme, Appellate and Circuit Judges shall be nominated at primary elections or by petition. Judges shall be elected at general or judicial elections as the General Assembly shall provide by law. A person eligible for the office of Judge may cause his name to appear on the ballot as a candidate for Judge at the primary and at the general or judicial elections by submitting petitions. The General Assembly shall prescribe by law the requirements for petitions.

An Illinois Appellate Court panel in 1992 held that subsection (a) does not prevent political parties from filling vacancies in judicial nominations that result from lack of candidates running in the primary.[87] But the Illinois Supreme Court reversed on a statutory ground, and its opinion cast serious doubt on the correctness of the Appellate Court panel's constitutional holding.[88] Provisions in the Election Code authorize the filling by party committees of vacancies in nominations.[89]

A 2016 Illinois Appellate Court decision held that sitting judges could resign, effective at the ends of their terms, and run in contested elections for the seats they were vacating.[90] Presumably their motivation for doing so is that in contested elections they need to receive only the highest number of votes for the office to be elected,[91] versus the requirement under subsection 12(d) to receive three-fifths of the votes cast on the issue of retention to be retained.

(b) The office of a Judge shall be vacant upon his death, resignation, retirement, removal, or upon the conclusion of his term without retention in office. Whenever an additional Appellate or Circuit Judge is authorized by law, the office shall be filled in the manner provided for filling a vacancy in that office.

(c) A vacancy occurring in the office of Supreme, Appellate or Circuit Judge shall be filled as the General Assembly may provide by law. In the absence of a law, vacancies may be filled by appointment by the Supreme Court. A person appointed to fill a vacancy 60 or more days prior to the next primary election to nominate Judges shall serve until the vacancy is filled for a term at the next general or judicial election. A person appointed to fill a vacancy less than 60 days prior to the next primary election to nominate Judges shall serve until the vacancy is filled at the second general or judicial election following such appointment.

Subsection (c) provides that vacancies occurring during the terms of judges are to be filled as provided by law (there is none at present)—or if none, by appointments made by the Illinois Supreme Court. Appointed judges are not eligible under subsection (d) to seek retention, but may circulate petitions and run against other candidates in contested elections.

(d) Not less than six months before the general election preceding the expiration of his term of office, a Supreme, Appellate or Circuit Judge who has been elected to that office may file in the office of the Secretary of State a

declaration of candidacy to succeed himself. The Secretary of State, not less than 63 days before the election, shall certify the Judge's candidacy to the proper election officials. The names of Judges seeking retention shall be submitted to the electors, separately and without party designation, on the sole question whether each Judge shall be retained in office for another term. The retention elections shall be conducted at general elections in the appropriate Judicial District, for Supreme and Appellate Judges, and in the circuit for Circuit Judges. The affirmative vote of three-fifths of the electors voting on the question shall elect the Judge to the office for a term commencing on the first Monday in December following his election.

In 2006 the Illinois Supreme Court held that the General Assembly could not require judges seeking retention in office to file for retention more than 6 months before the general election (the deadline mentioned in subsection (d)).[92] The Election Code had required such filings by the first Monday in December preceding the general election.[93]

(e) A law reducing the number of Appellate or Circuit Judges shall be without prejudice to the right of the Judges affected to seek retention in office. A reduction shall become effective when a vacancy occurs in the affected unit.

SECTION 13. PROHIBITED ACTIVITIES

(a) The Supreme Court shall adopt rules of conduct for Judges and Associate Judges.

(b) Judges and Associate Judges shall devote full time to judicial duties. They shall not practice law, hold a position of profit, [or] **hold office under the United States or this State or unit of local government or school district or in a political party. Service in the State militia or armed forces of the United States for periods of time permitted by rule of the Supreme Court shall not disqualify a person from serving as a Judge or Associate Judge.**

The Illinois Supreme Court has issued standards of judicial conduct that, among other things, impose limitations on business activities and compensation for nonjudicial service; disqualifications due to conflicts of interest; and some limited disclosures of economic interests.[94]

Parts of one Illinois Supreme Court rule, on avoiding inappropriate political activity, were held unconstitutional by the U.S. Court of Appeals for the 7th Circuit, in Chicago, in 1993 for unduly restricting the speech of candidates for judicial office (including judges seeking retention in office).[95] The Illinois Supreme Court amended the rule soon afterward by making it less restrictive of such speech.[96]

SECTION 14. JUDICIAL SALARIES AND EXPENSES—FEE OFFICERS ELIMINATED

Judges shall receive salaries provided by law which shall not be diminished to take effect during their terms of office. All salaries and such expenses as may be provided by law shall be paid by the State, except that Appellate, Circuit and Associate Judges shall receive such additional compensation from counties within their district or circuit as may be provided by law. There shall be no fee officers in the judicial system.

Judicial Salaries

In 1985 the Illinois Supreme Court upheld the Compensation Review Act, under which salaries of legislators, major executive officers, and judges were recommended by the Compensation Review Board and, unless the General Assembly disapproved, took effect without further action. The Court said this was sufficient compliance with the requirement that judicial salaries be "provided by law."[97]

The Illinois Supreme Court has confirmed the apparent intent expressed in this section that the General Assembly by law may require counties to provide additional compensation to their judges.[98]

In 2004 the Illinois Supreme Court held that this section made invalid a law that blocked annual inflation adjustments to judicial salaries (adjustments that a 1990 report of the Compensation Review Board had recommended, and that the General Assembly had allowed to take effect after that report was issued).[99]

Fee Officers

The last sentence of this section, prohibiting fee officers in the judicial system, abolished the offices of masters in chancery and other minor judicial officers who formerly were paid by fees for their work.[100] It has occasioned considerable difficulty in determining what other kinds of offices were abolished. Illinois courts have held that this provision invalidated a law requiring arbitration of some automobile accident claims because, in addition to infringing on the jurisdiction of circuit courts, it required arbitrators who would collect fees;[101] and that a court could not appoint a commissioner to sell some land because he would be a fee officer.[102] Another decision held that commissioners could be appointed to determine whether real property held in joint ownership was susceptible of division, since these would be merely "lesser administrative assistants" rather than officers.[103] A later Illinois Supreme Court decision held that a statutory provision requiring arbitration of two major issues in uninsured-motorist claims did not violate this section,[104] although the grounds for that decision (by a 4-3 vote) were not very clearly stated. In a still later (2015) case, the Court tried to reconcile prior holdings by stating that the prohibition on fee officers was aimed at officers who (1) have a direct role in adjudicating court cases and (2) are compensated by fees charged to litigants.[105] (In that case the Court held that a $50 fee for filing a mortgage foreclosure action, with $1 to be kept by the circuit clerk, did not violate this section because circuit clerks are not directly involved in adjudication.[106])

SECTION 15. RETIREMENT—DISCIPLINE

The original 1970 Constitution had a section on this topic. But much of the current text shown below came from a constitutional amendment seeking to strengthen the judicial disciplinary process, which the voters approved in 1998.[107] That amendment was proposed following impeachment proceedings against a member of the Illinois Supreme Court. Although the impeachment effort was unsuccessful, the episode brought to public attention the possibility of conflicts of interest in the judicial disciplinary process. The commentary below points out substantive changes made by the 1998 constitutional amendment.

(a) The General Assembly may provide by law for the retirement of Judges and Associate Judges at a prescribed age. Any retired Judge or Associate Judge, with his or her consent, may be assigned by the Supreme Court to judicial service for which he or she shall receive the applicable compensation in lieu of retirement benefits. A retired Associate Judge may be assigned only as an Associate Judge.

Subsection (a) was not substantively changed in 1998. Its first sentence has resulted in considerable litigation, as a result of which there currently is no effective judicial retirement age in Illinois. An act requiring retirement of judges at age 70 was upheld (as to federal issues) by federal courts in 1979.[108] Statutory amendments later extended the date of mandatory retirement to the end of the term in which a judge turns 75.[109] A majority of an Illinois Appellate Court panel held in 1992 that the act, although setting a compulsory *retirement* age for judges,[110] did not prevent an otherwise qualified lawyer (or judge) from running in a contested election for a judgeship even after age 75. The majority pointed out that the act says only that a judge is automatically *retired* at the end of the term after turning 75; it does not say that a person cannot *run* for a judgeship after that age. The dissenter called this an "absurd result," which courts should presume was not intended.[111]

When a similar issue arose in a 2009 case, the Illinois Supreme Court agreed with the dissenter in the 1992 case and explicitly overruled the 1992 decision. The Court held that the act was meant to prevent sitting judges from being considered for retention in office *or* election to judicial office after the ends of the terms in which they turn 75. But the Court also held the act unconstitutional for denying equal protection between *sitting judges* and *lawyers seeking election as judges* (in each case after turning 75), to whom the act does not specifically apply. The Court acknowledged that the General Assembly can try to enact a law on judicial retirement that will be upheld. But it added: "It may well be that the route to mandatory retirement for judges lies in [a] constitutional amendment."[112] The act has not been amended since that decision.

(b) A Judicial Inquiry Board is created. The Supreme Court shall select two Circuit Judges as members and the Governor shall appoint four persons who are not lawyers and three lawyers as members of the Board. No more than two of the lawyers and two of the non-lawyers appointed by the Governor shall be members of the same political party. The terms of Board members shall be four years. A vacancy on the Board shall be filled for a full term in the manner the original appointment was made. No member may serve on the Board more than eight years.

(c) The Board shall be convened permanently, with authority to conduct investigations, receive or initiate complaints concerning a Judge or Associate Judge, and file complaints with the Courts Commission. The Board shall not file a complaint unless five members believe that a reasonable basis exists (1) to charge the Judge or Associate Judge with willful misconduct in office, persistent failure to perform his duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute, or (2) to charge that the Judge or Associate Judge is physically or mentally unable to perform his duties. All proceedings of the Board shall be confidential except the filing of a complaint with the Courts Commission. The Board shall prosecute the complaint.

A 1972 decision by the U.S. Court of Appeals for the 7th Circuit, in Chicago, held that a sitting judge's removal by the former Illinois Courts Commission (established under the 1962 Judicial Article) did not constitute criminal punishment, and thus did not violate the immunity that he had been granted for purposes of testifying in a criminal proceeding about the matters that later resulted in his removal from judicial office.[113]

The 1998 constitutional amendment did not change subsections (b) and (c).

Disciplinary procedures

This section prescribes a two-step process for judicial discipline. The Judicial Inquiry Board, composed of non-lawyers, lawyers, and judges, acts like a prosecutor to investigate charges against judges and bring those it deems meritorious to the Courts Commission. The Courts Commission, composed mostly of judges, has power to impose punishments up to and including removal from office for judicial misconduct.

In a 1978 case involving confidentiality of the judicial disciplinary process, the Illinois Supreme Court decided, although with no majority opinion, that a judge who was both a defendant in a criminal prosecution, and (due to that criminal prosecution) also under investigation by the Judicial Inquiry Board, could not require that Board to reveal to him all information in its investigatory file on him, but only evidence plainly negating his guilt. (All six members of the Court who participated in the case apparently believed that federal due process principles required at least that much disclosure of the Board's evidence.)[114]

In a case arising in the 1980s after a lawyer had filed a complaint with the Judicial Inquiry Board (and allegedly complained orally to other persons) about a judge's actions, and the judge sued the lawyer for defamation, the Illinois Supreme Court held that the judge could not require the lawyer to disclose the nature of what he had communicated to the Board. Forcing such disclosure would have violated this subsection's requirement that "[a]ll proceedings of the Board shall be confidential except the filing of a complaint with the Courts Commission." But the Court added that the judge could require the lawyer to reveal what information, otherwise discoverable, the lawyer had disclosed to anyone *other* than the Board.[115] Similarly, a 2008 Illinois Appellate Court decision observed that the requirement for confidentiality of the Board's proceedings bars only disclosures by the Board; it does not keep confidential anything that a private party voluntarily discloses outside the process of filing a complaint with the Board.[116]

An Illinois Appellate Court decision held that the Judicial Inquiry Board could not compel the Chicago Bar Association to disclose to the Board the nature or sources of information the Bar Association had on violations by associate judges of standards of judicial conduct. The Bar Association had received information on judges in confidence from lawyers and others, and used it to advise the Cook County circuit court on whether to re-appoint associate judges.

The Appellate Court held that the interests of the Bar Association, and of those giving it information in confidence, outweigh the interest of the Judicial Inquiry Board in obtaining the information, because few people would be willing to volunteer damaging information about a sitting judge without being assured of confidentiality.[117]

(d) The Board shall adopt rules governing its procedures. It shall have subpoena power and authority to appoint and direct its staff. Members of the Board who are not Judges shall receive per diem compensation and necessary expenses; members who are Judges shall receive necessary expenses only. The General Assembly by law shall appropriate funds for the operation of the Board.

The 1998 constitutional amendment did not change this subsection.

(e) An independent Courts Commission is created consisting of one Supreme Court Judge selected by that Court as a member and one as an alternate, two Appellate Court Judges selected by that Court as members and three as alternates, two Circuit Judges selected by the Supreme Court as members and three as alternates, and two citizens selected by the Governor as members and two as alternates. Members and alternates who are Appellate Court Judges must each be from a different Judicial District. Members and alternates who are Circuit Judges must each be from a different Judicial District.

Members and alternates of the Commission shall not be members of the Judicial Inquiry Board. The members of the Commission shall select a chairperson to serve a two-year term.

The Commission shall be convened permanently to hear complaints filed by the Judicial Inquiry Board. The Commission shall have authority after notice and public hearing, (1) to remove from office, suspend without pay, censure or reprimand a Judge or Associate Judge for willful misconduct in office, persistent failure to perform his or her duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute, or (2) to suspend, with or without pay, or retire a Judge or Associate Judge who is physically or mentally unable to perform his or her duties.

The 1998 constitutional amendment changed subsection (e) by describing the Courts Commission as an "independent" body; expanding its membership from five to seven by adding two members of the general public appointed by the Governor, and providing for alternate members; prohibiting Commission members and alternates from also sitting on the Judicial Inquiry Board; and allowing the Board to select its chairperson. The 1998 amendment also required that members and alternates who are Appellate Court judges each be from a different judicial district, and similarly for circuit judges.

(f) The concurrence of four members of the Commission shall be necessary for a decision. The decision of the Commission shall be final.

Despite this subsection's statement that "The decision of the Commission shall be final," in a 1977 case in which the Courts Commission had imposed discipline on a trial judge for issuing to criminal defendants a number of orders that the Commission believed were without legal authority, the Illinois Supreme Court ordered the Commission to expunge its order and stated that the Commission had no authority to determine the legality of the judge's orders. The Court also said that the standards set forth in subsection (c) "were intended to serve only as a guide to the Board in determining whether an alleged violation of [the Illinois Supreme Court's] rules warranted the filing of a formal complaint,"[118] and that a judge's actions are subject to discipline only if they violate one of the Supreme Court's rules of judicial conduct.

On the other hand, when the Courts Commission in 1981 refused to impose discipline on a judge for admitted violations of an Illinois Supreme Court rule, the Illinois Supreme Court upheld that decision, saying that the Commission had authority to interpret the rules and decide which violations of them were serious.[119]

With the expansion of the Commission from five to seven regular members by the 1998 constitutional amendment, the majority needed for a decision was increased from three to four.

(g) The Commission shall adopt comprehensive rules to ensure that its procedures are fair and appropriate. These rules and any amendments shall be public and filed with the Secretary of State at least 30 days before becoming effective.

The 1998 constitutional amendment added the statement that the Commission's rules should ensure fair procedures, and required them to be public and be filed with the Secretary of State.

All remaining subsections were added by the 1998 constitutional amendment—although the substance of subsection (i), and of subsection (j)'s second sentence, were in the original 1970 Constitution.

(h) A member of the Commission shall disqualify himself or herself, or the other members of the Commission shall disqualify a member, with respect to any proceeding in which disqualification or recusal would be required of a Judge under rules of the Supreme Court, under rules of the Commission, or by law.

If a Supreme Court Judge is the subject of a proceeding, then there shall be no Supreme Court Judge sitting as a member of the Commission with respect to that proceeding. Instead, an alternate Appellate Court Judge not from the same Judicial District as the subject Supreme Court Judge shall replace the subject Supreme Court Judge. If a member who is an Appellate Court Judge is the subject of a proceeding, then an alternate Appellate Court Judge shall replace the subject Appellate Court Judge. If an Appellate Court Judge who is not a member is the subject of a proceeding and an Appellate Court Judge from the same Judicial District is a member, then an alternate Appellate Court Judge shall replace that member.

If a member who is a Circuit Judge is the subject of a proceeding, then an alternate Circuit Judge shall replace the subject Circuit Judge. If a Circuit Judge who is not a member is the subject of a proceeding and a Circuit Judge from the same Judicial District is a member, then an alternate Circuit Judge shall replace that member.

If a member of the Commission is disqualified under this Section with respect to any proceeding, that member shall be replaced by an alternate on a rotating basis in a manner provided by rule of the Commission. The alternate shall act as member of the Commission with respect to that proceeding only.

(i) The Commission shall have power to issue subpoenas.

(j) Members and alternates of the Commission who are not Judges shall receive per diem compensation and necessary expenses; members and alternates who are Judges shall receive necessary expenses only. The General Assembly shall provide by law for the expenses and compensation of the Commission.

SECTION 16. ADMINISTRATION

General administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules. The Supreme Court shall appoint an administrative director and staff, who shall serve at its pleasure, to assist the Chief Justice in his duties. The Supreme Court may assign a Judge temporarily to any court and an Associate Judge to serve temporarily as an Associate Judge on any Circuit Court. The Supreme Court shall provide by rule for expeditious and inexpensive appeals.

The Illinois Supreme Court has construed this section as empowering it to issue orders to lower courts controlling their disposition of specific cases that were being heard, or had been heard, before those courts, even though the lower courts' decisions were not appealable.[120] But in recent decisions the Court has stated that such "supervisory orders" are disfavored, and normally will be used only (1) to provide relief not available in the normal appellate process or (2) to prevent a lower court from acting beyond its authority.[121]

The Illinois Supreme Court has also said that a statute that conflicts with an Illinois Supreme Court rule governing procedure or administration of courts is invalid.[122] And the Court has construed its rulemaking authority as allowing it by rule to create a new kind of action in circuit courts: a suit to discover the identities of possible defendants without first filing a substantive suit against any of them.[123]

SECTION 17. JUDICIAL CONFERENCE

The Supreme Court shall provide by rule for an annual judicial conference to consider the work of the courts and to suggest improvements in the administration of justice and shall report thereon annually in writing to the General Assembly not later than January 31.

In addition to providing for an annual judicial conference of all judges, Illinois Supreme Court rules provide for an executive committee of the judicial conference,[124] and for a conference of chief circuit judges.[125]

SECTION 18. CLERKS OF COURTS

(a) The Supreme Court and the Appellate Court Judges of each Judicial District, respectively, shall appoint a clerk and other non-judicial officers for their Court or District.

(b) The General Assembly shall provide by law for the election, or for the appointment by Circuit Judges, of clerks and other non-judicial officers of the Circuit Courts and for their terms of office and removal for cause.

(c) The salaries of clerks and other non-judicial officers shall be as provided by law.

Circuit clerks are elected in Illinois.[126] The Illinois Supreme Court has held that clerks of circuit courts are nonjudicial officers of the judicial branch of state government—not county officers—even though county boards are required to set and pay their salaries.[127] The Illinois Supreme Court also rejected a trial judge's order raising the salaries of a county probation officer and youth-home superintendent. It said that authority to set such salaries is granted by law to the county board and cannot be assumed by courts, except in extreme cases of failure to provide for the needs of the courts.[128]

Finally, the Illinois Supreme Court has prohibited the State Labor Relations Board from considering counties to be joint employers along with the state of other nonjudicial court employees, such as bailiffs, stenographers, and jury commission clerks, for union bargaining purposes. Although counties pay their salaries, the Court held that this did not make them joint employers with the state.[129]

SECTION 19. STATE'S ATTORNEYS—SELECTION, SALARY

A State's Attorney shall be elected in each county in 1972 and every fourth year thereafter for a four year term. One State's Attorney may be elected to serve two or more counties if the governing boards of such counties so provide and a majority of the electors of each county voting on the issue approve. A person shall not be eligible for the office of State's Attorney unless he is a United States citizen and a licensed attorney-at-law of this State. His salary shall be provided by law.

A state's attorney represents the people of the state in court, and is the attorney and legal advisor for the county government.[130] Those facts give state's attorneys, and their offices, a somewhat 'dual' status in government: partly state but partly local, and partly executive but with duties that are somewhat judicial. The Illinois Supreme Court stated in 2014 that although this section is in the Judicial article, state's attorneys and their offices are in the executive branch of government.[131] (That holding may put in doubt some older federal cases that described staff of an Illinois state's attorney as exercising judicial powers—at least as to criminal proceedings.[132]) Illinois courts have categorized state's attorneys as state officers for at least some purposes.[133]

The Illinois Supreme Court has held that state's attorneys have constitutionally derived powers, including discretion over whether to file civil suits on behalf of the citizenry at large. Accordingly, the Court has struck down some statutes that authorized private citizens to file such suits.[134] The Court in 2016 upheld the authority of a state's attorney to petition it for a writ ordering a trial judge to change a criminal sentence that did not comply with sentencing laws.[135]

This section and the Counties Code[136] authorize two or more counties to elect a single state's attorney jointly, but apparently none have done so.

The Illinois Supreme Court has held that since this section does not prohibit changes in salaries of state's attorneys during their terms in office, their salaries may be raised at any time.[137] A 2006 Illinois Appellate Court decision held similarly as to reductions in their salaries.[138]

Article 7. Local Government

The Local Government Article contains a major innovation in government: Home rule for many municipalities and at least one county. Home rule limited "Dillon's Rule"[1]—the long-established legal doctrine that since municipalities and other local governments are creatures of the state, they have no powers except those specifically given by statute. Dillon's rule, which was followed by courts in Illinois and the U.S. generally, required statutory authorization for every kind of local regulation or taxation. This was believed to hamper Illinois' larger cities and Cook County in dealing with their problems. The 1970 constitutional convention decided to reverse Dillon's Rule as to those units of local government—allowing them to regulate, tax, and otherwise address matters of local concern except to the extent they are prohibited by statute from doing so.

This article also guarantees several powers to non-home-rule municipalities and counties. All other units of local government, and school districts, are still fully subject to Dillon's Rule.

SECTION 1. MUNICIPALITIES AND UNITS OF LOCAL GOVERNMENT

"Municipalities" means cities, villages and incorporated towns. "Units of local government" means counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts.

Due in part to the large number and various kinds of local governments in Illinois, determining what classification a local government fits into is a recurring problem. This section attempts to simplify that task by defining two terms that are used throughout this article. Illinois courts have held that the Chicago Transit Authority and Chicago Housing Authority,[2] and local airport authorities[3] are "units of local government" within this definition. Several Attorney General's opinions have advised on whether other local government entities are "units of local government" within the definition.[4]

SECTION 2. COUNTY TERRITORY, BOUNDARIES AND SEATS

(a) The General Assembly shall provide by law for the formation, consolidation, merger, division, and dissolution of counties, and for the transfer of territory between counties.

(b) County boundaries shall not be changed unless approved by referendum in each county affected.

(c) County seats shall not be changed unless approved by three-fifths of those voting on the question in a county-wide referendum.

These provisions were taken, with some changes, from the 1870 Constitution. No county boundaries have been changed in Illinois in well over a century.

SECTION 3. COUNTY BOARDS

(a) A county board shall be elected in each county. The number of members of the county board shall be fixed by ordinance in each county within limitations provided by law.

The Illinois Supreme Court held that the second sentence of subsection (a), by giving a county board power to determine its size, prevents county voters from changing the number of members of the county board by referendum.[5] (The Transition Schedule's subsection 5(a) provides an exception for counties not under township organization that elect three-member county boards.) A 1974 Attorney General's opinion advised that under this subsection and some sections of what is now the Counties Code,[6] county boards can change their size only as part of the decennial redistricting (and within the limits set in those Counties Code sections).[7]

(b) The General Assembly by law shall provide methods available to all counties for the election of county board members. No county, other than Cook County, may change its method of electing board members except as approved by county-wide referendum.

For counties under township organization, the Counties Code provides for apportioning county board seats, and sets the minimum and maximum number of seats on a county board.[8] The 17 counties not under township organization, in southern or southwest-central Illinois, each elect three commissioners by default because the 1870 Constitution so provided, and the Transition Schedule says they are to continue doing so unless the number is changed by referendum.[9] But the Counties Code now has provisions for some counties not under township organization, by referendum, to choose to elect more than three commissioners.[10]

A 1991 Attorney General's opinion, citing this subsection and a Counties Code provision,[11] advised that a county could not elect its board members from districts in such a way that *all* voters of the county would choose the member(s) from each district.[12]

(c) Members of the Cook County Board shall be elected from two districts, Chicago and that part of Cook County outside Chicago, unless (1) a different method of election is approved by a majority of votes cast in each of the two districts in a county-wide referendum or (2) the Cook County Board by ordinance divides the county into single member districts from which members of the County Board resident in each district are elected. If a different method of election is adopted pursuant to option (1) the method of election may thereafter be altered only pursuant to option (2) or by county-wide referendum. A different method of election may be adopted pursuant to option (2) only once and the method of election may thereafter be altered only by county-wide referendum.

A 1973 federal district court decision held that, due to population shifts, the Cook County board must be reapportioned from its historical combination of 10 Chicago and 5 suburban members to 10 Chicago and 6 suburban members.[13] In a 1982 case the federal courts raised the required number of suburban members to 7.[14] See also the Transition Schedule's subsection 5(b).

SECTION 4. COUNTY OFFICERS

(a) Any county may elect a chief executive officer as provided by law. He shall have those duties and powers provided by law and those provided by county ordinance.

The County Executive Law within the Counties Code allows any county (other than Cook, which already had a county executive) to decide by referendum to begin electing a county executive.[15] Under that law, voters can be sent a ballot question proposing one, but not both, of the following: (1) To adopt the county executive form of government, with county home rule. (2) To adopt the county executive form of government without county home rule.[16]

In 2002, the Illinois Supreme Court upheld a law authorizing several local officials in the Regional Transportation Authority (RTA) area—including some Cook County board members—to appoint directors of the RTA and of its service boards (Metra and Pace), but granting no such authority to the Cook County President. The Court remarked that the Constitution does not confer any specific powers on county executives.[17]

(b) The President of the Cook County Board shall be elected from the County at large and shall be the chief executive officer of the County. If authorized by county ordinance, a person seeking election as President of the Cook County Board may also seek election as a member of the Board.

(c) Each county shall elect a sheriff, county clerk and treasurer and may elect or appoint a coroner, recorder, assessor, auditor and such other officers as provided by law or by county ordinance. Except as changed pursuant to this Section, elected county officers shall be elected for terms of four years at general elections as provided by law. Any office may be created or eliminated and the terms of office and manner of selection changed by county-wide referendum. Offices other than sheriff, county clerk and treasurer may be eliminated and the terms of office and manner of selection changed by law. Offices other than sheriff, county clerk, treasurer, coroner, recorder, assessor and auditor may be eliminated and the terms of office and manner of selection changed by county ordinance.

These rather complicated provisions attempt to draw the boundaries between the state's and each county's powers regarding county officers and their duties. Several county offices must exist unless eliminated by countywide ordinance or (for some offices) by law; others are permissive with the county board. Although subsection (c) indicates that the office of county clerk cannot be eliminated by county ordinance, the Illinois Supreme Court upheld a Cook County ordinance transferring the Cook County Clerk's auditing powers to a newly created office of county comptroller.[18] This change left the Cook County Clerk with substantially the same powers as other county clerks.

The Illinois Supreme Court in 1984 held that the Cook County Board could not, by ordinance, increase the number of members of the county's Board of (tax) Appeals from two to three and correspondingly provide that a decision of that board would require the favorable votes of two of the three.[19]

In another case, the method of selection of a county board chairman was changed, by countywide referendum as allowed in subsection (c)'s third sentence, from appointment to election. The Illinois Supreme Court upheld the change.[20] On the other hand, the Court has

held that the authority given by subsection (c) for a change by law in the manner of selection of some county officers could not be used to permit vacancies to be filled by the county political party central committee of the same party as the vacating officer, since that was an unconstitutional delegation of power to a private body.[21]

The Illinois Supreme Court has held that a sheriff, as an independently elected county officer, is not an agent or employee of the county or of the county board.[22] However, that Court—responding to a question certified to it by the federal Court of Appeals in Chicago—stated that under an Illinois statute, a county was required to indemnify its sheriff's office for the amount for which the sheriff (acting in his official capacity) had settled a suit against the sheriff.[23]

The Attorney General has advised that after an office of county coroner had been abolished by referendum, a county board could not re-establish the same office under another name.[24]

(d) County officers shall have those duties, powers and functions provided by law and those provided by county ordinance. County officers shall have the duties, powers or functions derived from common law or historical precedent unless altered by law or county ordinance.

County officers have both common-law powers and powers given by statute or ordinance; but their common-law powers can be changed by statute or ordinance. This provision overruled a 1947 decision by the Illinois Supreme Court that the historical powers of a sheriff, including custody of court buildings, could not be taken away by law.[25]

In 2016 the Illinois Supreme Court considered a Cook County ordinance authorizing its Independent Inspector General to issue subpoenas during investigations of county offices. An elected county officer argued that the ordinance infringed on his ability to supervise and regulate the office without interference. But the Court pointed out that this subsection (along with other constitutional and statutory provisions) authorizes changes by statute or ordinance in the powers and duties of county officers, and upheld the Inspector General ordinance.[26]

(e) The county treasurer or the person designated to perform his functions may act as treasurer of any unit of local government and any school district in his county when requested by any such unit or school district and shall so act when required to do so by law.

This provision was included in the hope that it might save money by leading to unification of financial functions of various local governments in a single county office.[27] Apparently only one current statute requires county treasurers to act as treasurers for other units of local government.[28] That provision applies in a city of over 50,000 that has two or more townships within its boundaries; the powers of the townships are to be assumed by the county board.[29]

SECTION 5. TOWNSHIPS

The General Assembly shall provide by law for the formation of townships in any county when approved by county-wide referendum. Townships may be consolidated or merged, and one or more townships may be dissolved or divided, when approved by referendum in each township affected. All townships in a county may be dissolved when approved by a referendum in the total area in which township officers are elected.

The continued existence of township government in Illinois has been controversial. This section says that individual townships may be abolished by referendum. But there do not appear to be any statutory provisions for doing so (such provisions would need to address transfer of the functions performed by the abolished township to another unit of local government).[30] A section of the Township Code authorizes county boards to adopt plans to *consolidate* townships, with referendum approval, so that none has less than $10 million in assessed valuation.[31] The Township Code also authorizes any of the following to be done by referendum: two or more adjoining townships to become one;[32] three adjoining townships to be consolidated into two;[33] or a township that is substantially coterminous with a municipality to be dissolved and its functions assumed by that municipality.[34]

The Illinois courts have held that if a city annexes land in an adjoining township, thus automatically causing the land to become part of a township that is legally coterminous with the city, the result is not a division of a township within the meaning of this section so as to require referendum approval.[35]

SECTION 6. POWERS OF HOME RULE UNITS

Introduction

The most far-reaching innovation in the 1970 Constitution is this section, granting home rule to municipalities of over 25,000 and any county that elects a chief executive officer (only Cook County so far). Any municipality or county may become, or cease to be, a home-rule unit by referendum. Home rule reversed the longstanding legal doctrine called "Dillon's Rule" regarding the powers of local governments, which stated that they have only powers given by statute.[36] The scope of home-rule powers was intentionally made broad and imprecise, to give local governments freedom to try to solve their problems without statutory authorization. The main limits on home-rule powers stated in this section are these:

- Actions under home rule must pertain to a home-rule unit's government and affairs, rather than to problems of the area, state, or nation (subsection 6(a)).

- Some powers are constitutionally restricted or denied to home-rule units (subsections 6(d) and (e)).

- The General Assembly by majority vote can provide for exclusive exercise by the state of what would otherwise be home-rule powers (subsection 6(h)).

- The General Assembly by three-fifths vote in each house can block home-rule actions on a subject even if the state does not exercise powers on that subject (subsection 6(g)).

Regarding the relationship between state laws and home-rule ordinances, the Illinois Supreme Court has repeatedly held that:

- An ordinance that is within home-rule powers supersedes, inside that home-rule unit, a conflicting law enacted before the 1970 Constitution took effect.[37]

- Even a law enacted after the 1970 Constitution took effect will not limit home-rule powers unless it explicitly says that it does.[38] (But as described below under "Pre-emption of home rule," this issue is more complex than such a simple statement would suggest.)

- Any statute giving significant powers to non-home-rule municipalities, but purportedly not applying to municipalities having home rule, unconstitutionally discriminates against home-rule units and thus must be applied to all municipalities.[39]

More than 200 Illinois municipalities, along with Cook County, have home rule.[40]

Due to the interrelations among the parts of section 6, this commentary will discuss it as a whole before dealing with issues specific to each subsection.

Powers that home-rule units can exercise

Taxation

The Illinois Supreme Court has upheld home-rule taxes on the following activities or things among others:

- Alcoholic beverages—retail sale, tax based on amount and alcohol content.[41]

- Amusements—attendance.[42]

- Cigarettes—sale and use, based on number.[43]

- Employment—a monthly amount for each person employed.[44]

- Fuels for transportation.[45]

- Motor vehicles—operation in a city by residents, or in unincorporated areas of a home-rule county by residents of those areas.[46]

- Parking in a parking garage.[47]

- Property—sale or rental of specified kinds.[48]

It is also clear that home-rule units can, without statutory authorization, levy property taxes above the limits that would otherwise apply (subject to any debt limits in subsection 6(k)).[49]

However, the General Assembly has taken away from home-rule units the powers to tax the sale, purchase, and use of tangible personal property based on price or gross receipts (such as sales and use taxes)—with exceptions for the following kinds of taxes:

- Statutorily authorized home-rule municipal and county retailers' occupation, service occupation, and use taxes.

- A statutorily authorized tax on soft drinks in Chicago.

- Alcoholic beverage taxes.
- Taxes on cigarettes and other tobacco products (in a home-rule county, and in home-rule municipalities that imposed such taxes before July 1993).
- Taxes on use of hotel or motel rooms.
- Taxes on lease proceeds.
- Taxes on food and/or alcoholic drinks prepared for immediate consumption.
- In a home-rule county, taxes on transfers of real property.[50]

In addition, the Illinois Supreme Court struck down a Chicago "service tax" on amounts paid by consumers for services,[51] and a gross-revenue tax on utility bills.[52] The Court also held that Cook County could not change the annual schedule for collecting property taxes, since that would affect all taxing units in the county—not only the county government.[53]

Several cases have addressed whether one unit of government can require another unit of government to collect a tax (such as on sales) imposed by the first unit within the first unit's area. The Illinois Supreme Court held that a home-rule city could not impose tax-collection and recordkeeping requirements on a school district, due to pervasive state involvement in and regulation of local schools, but that a park district did have to comply with the home-rule city's tax ordinance.[54] The Court also upheld a Chicago city tax on boat moorings at facilities of the Chicago Park District.[55] Illinois Appellate Court decisions have held that (1) Cook County could collect an amusement tax at a facility owned by a home-rule village, despite a village ordinance attempting to prevent such collection,[56] and (2) due to the state's broad powers to establish educational institutions, a home-rule unit could not require a state university to collect taxes on parking and amusements on its campus within the home-rule unit.[57] The Illinois Supreme Court held that Chicago could not collect its tax on the use (including leasing or renting) of property within its borders by requiring car rental companies that have business locations in Chicago to collect the tax on customers residing in Chicago who rent vehicles from those companies' locations that are outside but within 3 miles of Chicago.[58]

Criminal law

An Illinois Appellate Court decision said that a home-rule unit must expunge the arrest records of some arrested persons if required by law, even if its ordinances should provide otherwise.[59] Another Illinois Appellate Court decision said that home-rule municipalities could not offer drivers alleged to have committed moving violations ways to reduce the consequences that the Illinois Vehicle Code imposes for such violations.[60] The Attorney General has advised that a home-rule unit cannot contravene a state criminal law, such as by authorizing gambling.[61] On the other hand, before the General Assembly enacted a law barring home-rule units from setting minimum drinking ages,[62] Illinois Appellate Court cases held that home-rule units could ban sales of alcohol to persons who were above the state's minimum drinking age at that time for beer and wine (19) but were not yet 21, thus raising the drinking age within their boundaries to 21,[63] and could otherwise regulate alcohol retailing more strictly than state law did.[64] And Illinois Supreme and Appellate Court cases have held that a trial court must impose the minimum sentence required by a home-rule municipal ordinance although state law did not set a minimum sentence (or state law set a lower minimum sentence) for that offense.[65]

The above legal authorities indicate that although home-rule units cannot permit what the General Assembly has prohibited, they *can* prohibit things that state law does not prohibit—unless the General Assembly explicitly blocks such local prohibitions. As an example of this general principle, past Illinois cases upheld home-rule ordinances prohibiting possession of handguns by most persons, which was stricter than state law (although such cases may not be consistent with later U.S. Supreme Court cases interpreting the U.S. Constitution's Second Amendment).[66] Possibly contrary to these cases was a decision by an Illinois Appellate Court panel that a home-rule unit could not define a crime (in this case, trespass) more broadly than the state's Criminal Code defined it.[67]

Personnel and public contracts

The Supreme Court has held that home-rule municipalities may, without referendum, abolish civil-service restrictions on police appointments,[68] and reduce firefighters' mandatory retirement age from the statutory 63 years to 60.[69] The Court also held that the state's law regulating county civil service is not binding on home-rule Cook County.[70] Illinois Appellate Court decisions have held that a home-rule city need not follow statutory procedures for dismissing personnel,[71] and can impose heavier sanctions for misconduct on firefighters than are allowed by statute.[72] But another Appellate Court decision held that home rule does not shield a city from the prohibition in this article's subsection 9(b) on raising the salary of an elected officer during the officer's term.[73]

An Appellate Court decision upheld a trial court's refusal to hold that Cook County's human rights commission lacked jurisdiction to address a claim of unlawful discrimination brought by a school superintendent against a school district. Although that case involved a request for a writ of *mandamus*—a remedy rarely used by courts—rather than an appeal of a final decision by the commission, the Appellate Court judges stated that the county (through its human rights commission) was exercising concurrent jurisdiction with the state under subsection 6(i).[74]

The Illinois Supreme Court has held that a home-rule city must follow the state's "prevailing wage" law.[75]

Business regulation

Illinois Appellate and Supreme Court decisions have upheld home-rule ordinances imposing some requirements on lessors of real property in their dealings with tenants.[76] Illinois Appellate Court decisions have upheld home-rule ordinances regulating massage parlors,[77] requiring sprinklers in nursing homes,[78] and requiring towing companies to post signs warning that unauthorized vehicles will be towed.[79]

The Illinois Supreme Court has held that although the state's Highway Advertising Control Act of 1971 opens with a general statement that local regulation of billboards should be consistent with the Act, that statement does not prevent home-rule units from regulating billboards more restrictively than the Act does, since the Act does not specifically say that they cannot.[80]

Debt

A home-rule unit is not bound by pre-1970 Constitution laws limiting how much debt it can incur.[81] An Illinois Appellate Court case even upheld a home-rule municipality's issuance of revenue bonds to finance construction of stores within 10 miles of its boundaries, for the stated purpose of providing jobs for its residents. But the court added that such actions may not be constitutional in all situations.[82] Subsections 6(j) and (k) set standards for statutory limits on local debt.

Court operations

The Illinois Supreme Court held that Cook County could not levy a higher court filing fee than provided by law, since such fees restrict access to the state's courts.[83] Similarly, Illinois Appellate Court cases have held that a home-rule municipality could not require a property owner to pay the municipality's attorney's fees after the owner was successfully sued for violating a municipal ordinance, since that burdened access to the courts;[84] and that home-rule municipalities could not impose barriers to owners wanting to de-annex their land under statutory procedures, which would have blocked the landowners' access to courts until they met the local requirements.[85] An Illinois Appellate Court case held that a home-rule unit cannot prescribe the manner of judicial review of its administrative actions.[86]

Form of government

Subsection 6(f) contains several provisions on home-rule units' officers and forms of government. Those topics are discussed under that subsection.

Methods by which home-rule powers can be exercised

The Illinois Supreme Court in 1980 stated that a home-rule unit's governing body could exercise home rule by simply voting *not* to put a proposition on the ballot (the Court held that a pre-1970 law authorizing such referenda, if applied to home-rule units, would infringe on home rule). No ordinance was needed to exercise home-rule powers.[87] In a 1994 case, the Illinois Supreme Court held that a home-rule unit could exercise home rule by making and enforcing a "recapture" agreement with a real estate developer to help pay for infrastructure that might be needed for future development in the same area.[88] A 2003 Illinois Appellate Court decision held that Cook County could procure pharmaceutical products by a negotiated process followed by a vote by the county board to award the contract, even though a county ordinance required competitive bidding.[89]

However, a 1985 Illinois Appellate Court case stated that a municipality (whether or not it has home rule) can impose requirements or prohibitions on the general public only by enacting ordinances. The court stated that a contract with a business, or even a resolution adopted by the municipal governing body, would not give sufficient notice to the public of a requirement or prohibition.[90]

Statutory restriction of home-rule powers

Some kinds of activities are forbidden to home-rule units by subsection 6(d) or restricted by subsection 6(e). Under subsection 6(d), a home-rule unit cannot incur debt payable from property taxation for a term longer than 40 years, or create a felony. Subsection 6(e) allows a home-rule unit to create a crime punishable by more than 6 months' confinement, or impose a licensing or earnings tax, only if permitted by law. Thus these activities are forbidden in the absence of an authorizing statute.

Any other home-rule activities, except those described in subsection 6(*l*), can be forbidden by law. Depending on whether the state regulates the activity, such a law will require either an ordinary constitutional majority or a three-fifths majority in each house to have that effect. If the state regulates the activity, a mere constitutional majority in each house is enough to block home-rule powers (subsection 6(h)). If the state does not regulate the activity, a three-fifths majority in each house is needed (subsection 6(g)).

The General Assembly has used its powers to exclude home-rule units from a number of activities, including the licensing of a large number of professions and occupations that the state licenses;[91] changing the minimum drinking age;[92] and reducing the requirements of the Open Meetings Act.[93]

It is unclear how large a majority in each house of the General Assembly is required to regulate home-rule units' own operations, as opposed to regulating private entities that home-rule units may also seek to regulate. The proceedings of the 1970 constitutional convention are inconclusive on this point,[94] and there appear to be no court cases definitively deciding it.[95]

Pre-emption of home rule

If neither the Constitution nor a statute *explicitly* forbids home-rule units from acting on a particular subject, there remains the possibility that one or more statutes may be deemed to do so by implication. The doctrine that a law can address a subject so broadly that it impliedly blocks lower levels of government from taking action on that subject is called "pre-emption." Deciding whether specific Congressional enactments pre-empt state laws has long been a vexing problem for federal courts. Home rule raises similar issues in Illinois. The result is a complex and ever-evolving body of cases. Below is a brief discussion of the history of this issue in Illinois courts so far. This topic is certain to continue requiring the attention of courts and home-rule units.

In the first decades under the 1970 Constitution, some Illinois Appellate Court cases struck down home-rule ordinances simply on the basis that state laws addressed the same subject, even though those laws did not mention home rule—or cite subsection (g) or (h) of this section, which authorize the General Assembly, by a sufficient majority in each house, to remove a topic from the scope of home rule. Some of those opinions used forms of the word "pre-emption;"[96] others simply said that the comprehensiveness of a state law removed the subject of that law from the scope of home rule.[97] But such invalidations of home-rule ordinances based simply on the *existence* of extensive state laws on the same subjects seem difficult to reconcile with a statutory provision saying that a law (if enacted after January 12, 1977) does not restrict home-rule powers unless it explicitly says that it does.[98]

A perhaps more tenable position, reflected in some other Illinois court decisions, is that although a state law on a subject addressed by a home-rule ordinance does not explicitly pre-empt home rule, the state law *suggests* that the topic addressed by the ordinance is of more than local concern and thus is outside the grant of home-rule powers in subsection 6(a). In one of the Appellate Court cases referred to above, the majority based its holding that the subject was pre-empted on the argument that because a state agency had regulated the subject for a considerable time *before* the 1970 Constitution, the convention delegates and voters in 1970 could not have deemed that subject a matter of mere local concern and thus within home rule.[99]

However, that logical tactic is not available if (a) the General Assembly first significantly addressed a subject in a law enacted after the 1970 Constitution took effect, and (b) that law does not explicitly limit home rule. If such a law was enacted after January 12, 1977, adherence to the statutory provision cited above[100] would logically require that the law be held not to pre-empt home rule.

The Illinois Supreme Court began stating,[101] with increasing emphasis,[102] that any statutory limitation of home-rule powers (whenever it was enacted) must be explicit to be effective. But it is not clear that its statements to that effect can be reconciled with its holdings such as one in

1988 on Illinois' Prevailing Wage Act—that home-rule units must require contractors on public projects to pay wages determined to be "prevailing" even though the Act never mentions home rule.[103]

Two Illinois Supreme Court cases in 2011 and 2013[104] made further attempts to establish principles for deciding such cases; but the lengthy majority and dissenting opinions in those cases show how contentious the issue remains. Both cases cited as helpful two 1972 articles[105] by Professor David Baum, who was counsel to the 1970 constitutional convention's Local Government Committee. Professor Baum advocated reading subsections 6(a) and 6(i) together to find a sort of presumption against pre-emption; but he added that courts should find pre-emption of home-rule actions in "the clearest cases of oppression, injustice, or interference by local ordinances with vital state policies."[106]

The first of the two cases just mentioned addressed whether Chicago could require online marketplaces, through which owners of tickets to entertainment events offer them for sale, to collect a local amusements tax on any tickets resold through the online marketplaces. The Illinois Supreme Court's 4-3 majority stated that a topic should be "off-limits to [home rule under subsection 6(a)] only where the state has a vital interest and a traditionally exclusive role."[107] But the majority held (based on the history of Illinois laws and Chicago ordinances on the topic) that the state had both a greater, and a more longstanding, interest and role in regulating the market for ticket resales than did Chicago. Therefore, that topic did not "pertain[] to its government and affairs" under subsection 6(a) and was pre-empted by state law.[108] A lengthy dissent, expressing the views of the other three members of the Court, argued that the majority opinion had seriously weakened home rule.[109]

But less than 6 months after the opinions in that case became final, some members of the majority became dissenters (and vice versa) in the second case. It addressed the validity of a Chicago ordinance imposing requirements for condominium associations to provide financial records upon request by unit owners. The ordinance went considerably beyond the requirements of two state laws (the Condominium Property Act and the General Not For Profit Corporation Act of 1986). The majority opinion, representing the views of five members of the Court, returned to a more expansive view of home rule. The majority appeared to say that courts should ask only two questions when considering the validity of a home-rule ordinance on a topic also addressed by state law: (1) Does the ordinance pertain to the home-rule unit's local government and affairs? (2) If so, has the General Assembly explicitly limited or pre-empted local ordinances on that topic? The majority seemed to say that if the answer to (1) is "yes" and the answer to (2) is "no," the ordinance is within home rule. Since the Chicago ordinance merely imposed stricter requirements on condominium associations than state laws did, and those laws did not explicitly pre-empt home rule, the Court upheld the ordinance.[110]

In a 2016 case, the Court (unanimously this time) upheld a Cook County ordinance authorizing the county's Independent Inspector General to issue subpoenas to county officers.[111] The part of the Court's opinion that addressed home rule focused on whether the state or the county has "the most vital interest" in solving the problem of potential county corruption.[112] Concluding that this issue is of greater interest to counties than to the state, the Court upheld the ordinance.

Illinois Appellate Court cases have held that if a state law *does* pre-empt a particular home-rule ordinance, the law does not 'repeal' the ordinance but only hold it in abeyance. Thus, if the pre-empting law is later repealed or changed so that it no longer pre-empts such ordinances, the ordinance (if not yet repealed by the home-rule unit) is once again in effect.[113]

An Illinois Appellate Court decision held that Article 13, section 4 on sovereign immunity prevents home-rule units from re-establishing sovereign immunity for themselves.[114]

Text and commentary on specific provisions

Section 6 follows, with commentary after each subsection on issues specific to it.

(a) A County which has a chief executive officer elected by the electors of the county and any municipality which has a population of more than 25,000 are home rule units. Other municipalities may elect by referendum to become home rule units. Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt.

The County Executive Law within the Counties Code allows the voters of a county to adopt the county executive form of government. At the option of the county board if it proposes the referendum, or of the persons who draft a petition requesting a referendum if that method is used, the ballot question is to propose either (1) that the county adopt the county executive form of government *with* home rule, or (2) that the county adopt that form of government *without* home rule.[115] At least 11 Illinois counties have held referenda that could have resulted in adopting home rule (apparently all in the 1970s). All were defeated, and Cook County remains the only Illinois county with home rule.

Illinois courts have upheld the automatic grant of home rule to municipalities of over 25,000 against claims that it violates the equal voting rights of their residents (because their governing bodies get home rule automatically, while governing bodies of less populous municipalities get it only if approved by referendum). The courts said that large communities have greater problems and need more powers than small ones.[116] A law provides that if a municipality has home rule due to having a population over 25,000, but its population then drops below that threshold, it will retain home rule by statute unless its voters abolish it by referendum. Such a referendum must be held at the first general election after an official census shows the population under 25,001, unless there has been such a referendum in the past 2 years.[117]

(b) A home rule unit by referendum may elect not to be a home rule unit.

Home rule has been abandoned by a few Illinois municipalities—most notably Rockford in 1983.

(c) If a home rule county ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction.

The Illinois Supreme Court held that imposition of nearly identical taxes (on sales of motor vehicles) by Cook County and several of its municipalities did not create a conflict between the county and the municipalities; both kinds of taxes must be paid where they applied.[118] On the other hand, an Illinois Appellate Court case held that a home-rule county need not get approval of a home-rule city to expand a county highway that was on the edge of the city and partly within it.[119]

The Illinois Supreme Court has noted that a home-rule unit has no extraterritorial powers under the Constitution, and thus can act outside its boundaries only with statutory authority.[120] The General Assembly has given at least one significant extraterritorial power to municipalities (with or without home rule): to plan and zone unincorporated land for 1½ miles outside their boundaries—but only where there is no county zoning.[121]

(d) A home rule unit does not have the power (1) to incur debt payable from ad valorem property tax receipts maturing more than 40 years from the time it is incurred or (2) to define and provide for the punishment of a felony.

The same debt restrictions are imposed on non-home-rule local governments (see sections 7 and 8 of this Article).

See the commentary above under "Powers that home-rule units can exercise," "Criminal law" heading for a discussion of cases on the application of home rule to criminal prosecutions.

(e) A home rule unit shall have only the power that the General Assembly may provide by law (1) to punish by imprisonment for more than six months or (2) to license for revenue or impose taxes upon or measured by income or earnings or upon occupations.

Subsection (e)'s item (2) was intended to prevent home-rule units from imposing, without statutory authority, income or similar taxes, or imposing licensing taxes that are designed to raise revenue and are set at substantially higher levels than needed to cover the cost of regulating licensees. The Illinois Supreme Court has struck down local ordinances imposing taxes on utility companies (or their customers) calculated as percentages of the companies' gross revenues, saying they were occupation taxes that had not been authorized by statute.[122] (That case did not affect the validity of the municipal utility tax authorized by statute.[123]) The Court also struck down a Chicago ordinance imposing a "service tax" analogous to a sales tax, on payments by consumers for services, since it was a tax "measured by income or earnings or upon occupations" that had not been authorized by law.[124] The Court also struck down a city tax on membership fees for health and racquetball clubs, saying it was a "service occupation tax."[125]

Similarly, the Court held invalid a home-rule tax on operators of racetracks at the rate of 10¢ per spectator. The Court said this was a tax on occupations, since (1) it applied only to racetrack operators and (2) the "legal incidence" of the tax was on them.[126]

An Illinois Appellate Court decision upheld fees imposed by Cook County on landfill operators and solid waste transfer stations, concluding that they were reasonable in relation to the county's costs of regulating those entities and thus did not constitute "licensing for revenue."[127]

(f) A home rule unit shall have the power subject to approval by referendum to adopt, alter or repeal a form of government provided by law, except that the form of government of Cook County shall be subject to the provisions of Section 3 of this Article. A home rule municipality shall have the power to provide for its officers, their manner of selection and terms of office only as approved by referendum or as otherwise authorized by law. A home rule county shall have the power to provide for its officers, their manner of selection and terms of office in the manner set forth in Section 4 of this Article.

The first sentence of subsection (f) means that a municipality must use one of the forms of government set forth in the Illinois Municipal Code, unless its voters approve a change. But

deciding what constitutes a municipality's "form of government" requires careful line-drawing. The courts have upheld ordinances, approved by referendum, changing the office of village clerk from elective to appointive and increasing the number of village trustees,[128] and changing a city's elections from partisan to nonpartisan.[129] But the courts struck down attempts, *without* referendum, to make major changes in a city's system of government, including transferring the power to appoint major municipal officers from the mayor to the council;[130] transferring power to hire and fire city employees from individual commissioners in a commission city[131] to their subordinate department heads;[132] and authorizing recall of local officials.[133] An Illinois Appellate Court decision held that a home-rule city could not impose a new qualification on a candidate for municipal office (filing a statement of financial interests called for by ordinance) without referendum approval.[134]

The Illinois Supreme Court has held that the Cook County Board could not, by ordinance without referendum approval, increase the size of the Cook County Board of (tax) Appeals from two to three members.[135] The Court also held that a simple reduction in the number of votes on the Cook County Board that was needed to appropriate a large amount of money did not constitute a change in the county's form of government requiring referendum approval,[136] but that a reduction in the majority needed to override a veto by the County Board President was such a change, and thus needed referendum approval.[137] A later Illinois Appellate Court decision struck down attempts, by Cook County ordinance without referendum, to transfer, contrary to statute, the power to hire commissioners' staffs from the County Board President to the individual commissioners, and to give a group of commissioners power to approve expenditures in connection with employment of commissioners' staff.[138]

Illinois courts have held that a home-rule municipality's "form of government" under this subsection does not include its civil service system,[139] or whether its police chief can be authorized by ordinance to make temporary police appointments.[140]

The Illinois Supreme Court has held that members of a board of police commissioners are not "officers" of a home-rule government described in this subsection, so their selection could be changed without a referendum;[141] and that a home-rule municipality may, without referendum, abolish civil-service restrictions on police appointments.[142]

Where a "referendum" on a proposed change in municipal election procedures was passed before the ordinance to make the change was drafted, and the ordinance went beyond what the referendum question described, the Illinois Supreme Court held the ordinance invalid.[143]

Section 7 allows non-home-rule units to make the same kinds of changes by referendum as are allowed by this subsection. But as noted in the commentary under that section, the courts have not interpreted those powers liberally.

(g) The General Assembly by a law approved by the vote of three-fifths of the members elected to each house may deny or limit the power to tax and any other power or function of a home rule unit not exercised or performed by the State other than a power or function specified in subsection (*l*) of this section.

(h) The General Assembly may provide specifically by law for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power or a power or function specified in subsection (*l*) of this Section.

(i) Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General

Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive.

These three subsections authorize the General Assembly to restrict or prohibit the exercise by home-rule units of any powers except those guaranteed by subsection 6(*l*). This subject is discussed in detail under "Statutory restriction of home-rule powers" above. If the state does not regulate a particular activity, a three-fifths majority in each house is needed to prohibit home-rule units from regulating it (subsection 6(g)). If the state does regulate it, a mere majority of the members elected to each house is sufficient (subsection 6(h)). In the latter situation, to the extent the statute does not specifically limit or prohibit home-rule powers, home-rule units can exercise them in addition to the state's exercise (subsection 6(i)).

Two major areas of such "concurrent" state-local regulation are discussed below, along with a third subject (zoning) that sometimes causes conflicts between nearby units of local government.

Alcoholic beverages

Persons selling alcoholic drinks must in general comply with both state and home-rule regulation. Illinois Appellate Court decisions have held that a home-rule city could require managers of establishments selling liquor to live in the city although a state law, which did not specifically limit home-rule powers, appeared to forbid such requirements;[144] and that even though the state at the time prohibited only persons under 19 from drinking beer and wine, home-rule units could extend the prohibition to cover all persons under 21.[145] (The General Assembly later pre-empted home-rule power to set minimum drinking ages.)[146] Other Appellate Court decisions held that home rule did not prevent enforcement of local-option referenda, authorized by state law, prohibiting sale of alcoholic drinks in individual precincts.[147] In those cases there were no home-rule ordinances specifically permitting alcohol sales, so there was no conflict between state and home-rule powers. But on the different subject of property taxes, the Illinois Supreme Court has held that even a local referendum permitted by statute cannot limit the tax rate to be levied by a home-rule unit.[148] In that case a home-rule ordinance imposing a higher tax rate created a conflict between the referendum and home-rule powers.

Environmental protection

The powers of different levels of government often conflict on the topic of environmental protection. In general, the state's Environmental Protection Act and regulations under it are the final authority for resolving such conflicts, even involving home-rule units.[149] The courts have also said the following on this subject:

- Home rule does not empower a local unit to require a regional or larger governmental agency to comply with the local unit's environmental protection requirements,[150] or to regulate pollution originating beyond the home-rule unit's boundaries,[151] since such actions would not be "pertaining to its government and affairs" under subsection 6(a).

- On the other hand, a home-rule municipality can restrict water pollution releases within its borders by a regulated utility company.[152]

- Home-rule units may "legislate concurrently" with the state regarding such things as landfills.[153]

- Non-home-rule units cannot, by zoning, prevent establishment of landfills that have been approved by the Illinois EPA.[154] However, the General Assembly later amended the Environmental Protection Act to help resolve disputes between state and local environmental regulation. These provisions (1) establish procedures for municipal or county decisions on whether to allow regional pollution control facilities,[155] and (2) prohibit Illinois EPA issuance of permits for most kinds of pollution facilities unless their plans meet local zoning and similar requirements.[156] The prohibition just described was applied in a 1990 case.[157]

Zoning

Home-rule units can generally zone land subject only to constitutional requirements; they need not comply with zoning provisions of state law.[158] The courts have also to some extent upheld the power of home-rule units to control construction within their boundaries by other units of government. The Illinois Supreme Court has held that a park district must comply with the zoning ordinance of a home-rule municipality in which it is located,[159] and that a school district must comply with zoning and stormwater requirements of a home-rule municipality in which it is located.[160] Illinois Appellate Court cases have held that a county must comply with building, electrical, sewer, and similar ordinances of a home-rule municipality in which it builds a dog pound (but need not comply with municipal zoning ordinances, since that would tend to frustrate the legislative intent behind the Animal Control Act);[161] and that a public building commission must comply with a home-rule municipality's building regulations.[162]

On the other hand, the courts have rejected attempts by home-rule municipalities to control construction intended to benefit transportation through and beyond their municipal boundaries. These included attempts by municipalities to require their approval of county projects to widen county roads passing through their territory,[163] and an attempt by a home-rule city to prevent establishment by the Regional Transportation Authority of a regional bus storage and maintenance center.[164]

(j) The General Assembly may limit by law the amount of debt which home rule counties may incur and may limit by law approved by three-fifths of the members elected to each house the amount of debt, other than debt payable from ad valorem property tax receipts, which home rule municipalities may incur.

(k) The General Assembly may limit by law the amount and require referendum approval of debt to be incurred by home rule municipalities, payable from ad valorem property tax receipts, only in excess of the following percentages of the assessed value of its taxable property: (1) if its population is 500,000 or more, an aggregate of three percent; (2) if its population is more than 25,000 and less than 500,000, an aggregate of one percent; and (3) if its population is 25,000 or less, an aggregate of one-half percent. Indebtedness which is outstanding on the effective date of this Constitution or which is thereafter approved by referendum or assumed from another unit of local government shall not be included in the foregoing percentage amounts.

In other words:

(1) The General Assembly can limit how much debt can be incurred by a home-rule *county*, in a law passed by a constitutional majority of each house.

(2) The General Assembly can limit debt that can be incurred by home-rule *municipalities* (except debt to be repaid from property taxes) in a law passed with a three-fifths majority of each house.

(3) Home-rule municipalities, without legislative or referendum approval, can incur debt payable from property taxes up to the percentages of assessed value stated in subsection 6(k). Debt that existed when the 1970 Constitution took effect, or that has been approved by referendum or assumed from other local governments, does not count toward those percentage limits.

One of the first home-rule court decisions held that home-rule Cook County was not bound by a law, predating the 1970 Constitution, that required referendum approval to issue bonds.[165] Under subsection 6(j), a home-rule county can incur debt unless that power is limited by law.

(*l*) The General Assembly may not deny or limit the power of home rule units (1) to make local improvements by special assessment and to exercise this power jointly with other counties and municipalities, and other classes of units of local government having that power on the effective date of this Constitution unless that power is subsequently denied by law to any such other units of local government or (2) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services.

The authority for home-rule units to make improvements, or provide services, to special areas inside their boundaries or jointly with other units of government was intended to provide an alternative to creating new special districts to provide limited services in those areas. Non-home-rule units also have these powers under section 7. Before the General Assembly had "provided by law" a method for home-rule units to levy additional taxes on limited areas within their boundaries to fund special services, the Illinois Supreme Court held that they could not do so.[166] Such a law was later enacted, and the Illinois Supreme Court upheld its application.[167] The Court also held that a home-rule city had considerable discretion in deciding what kinds of property within a special-service area should be subject to the special tax.[168]

(m) Powers and functions of home rule units shall be construed liberally.

This provision was included to prevent courts from reinstating "Dillon's Rule" by interpreting home-rule powers narrowly.

SECTION 7. COUNTIES AND MUNICIPALITIES OTHER THAN HOME RULE UNITS

Counties and municipalities which are not home rule units shall have only powers granted to them by law and the powers (1) to make local improvements by special assessment and to exercise this power jointly with other counties and municipalities, and other classes of units of local government having that power on the effective date of this Constitution unless that power is subsequently

denied by law to any such other units of local government; (2) by referendum, to adopt, alter or repeal their forms of government provided by law; (3) in the case of municipalities, to provide by referendum for their officers, manner of selection and terms of office; (4) in the case of counties, to provide for their officers, manner of selection and terms of office as provided in Section 4 of this Article; (5) to incur debt except as limited by law and except that debt payable from ad valorem property tax receipts shall mature within 40 years from the time it is incurred; and (6) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services.

Even counties and municipalities without home rule are guaranteed six of the powers that section 6 gives to home-rule units. This changed the previous rule that local governments had only the powers given them by statute. In addition to these powers, Article 9, subsection 4(a) allows counties of over 200,000 to divide real property into classes with different tax rates (subject to some limitations).

The very few court decisions on powers guaranteed to non-home-rule units have not interpreted them broadly.[169] As noted under subsection 3(a), the Illinois Supreme Court held that county voters by referendum could not change the size of a non-home-rule county's board. The Court stated that a change in the size of a local governing board is not a change in the local unit's "form of government" under item (2) of this section.[170] An Illinois Appellate Court decision held that item (2) allowing an alteration in form of government, and item (3) allowing a change in municipal officers, manner of selection, and terms of office, did not authorize a local referendum that would allow recall of local officers.[171] And Illinois Appellate Court cases appeared to say that a non-home-rule municipality cannot modify the forms of government provided in the Illinois Municipal Code, with or without a referendum.[172]

Items (5) and (6) in this section were in part intended to reduce the pressure to create special districts (such as water districts, fire protection districts, and mosquito abatement districts), some of which were created because existing units of local government lacked borrowing or other powers needed to provide those services.

SECTION 8. POWERS AND OFFICERS OF SCHOOL DISTRICTS AND UNITS OF LOCAL GOVERNMENT OTHER THAN COUNTIES AND MUNICIPALITIES

Townships, school districts[,] special districts and units, designated by law as units of local government, which exercise limited governmental powers or powers in respect to limited governmental subjects shall have only powers granted by law. No law shall grant the power (1) to any of the foregoing units to incur debt payable from ad valorem property tax receipts maturing more than 40 years from the time it is incurred, or (2) to make improvements by special assessments to any of the foregoing classes of units which do not have that power on the effective date of this Constitution. The General Assembly shall provide by law for the selection of officers of the foregoing units, but the officers shall not be appointed by any person in the Judicial Branch.

As to these limited-purpose units of government, Dillon's Rule (that they have no powers except those given by statute) still applies. Furthermore, no statute can authorize them to borrow money repayable from property taxes for a longer time than the Constitution allows non-home-rule municipalities and counties to borrow (40 years), or give the power to make special tax assessments for special improvements to any such limited-purpose units that did not have that power when the 1970 Constitution took effect.

The Illinois Supreme Court has held that a park district must comply with the zoning ordinance of the municipality in which it is located.[173]

The prohibition on appointments by anyone in the judicial branch eliminated the last remnants of the powers of county judges to appoint officers of special districts. Some of those powers had been retained when county judges became circuit judges under the 1962 Judicial article, effective in 1964.

SECTION 9. SALARIES AND FEES

(a) Compensation of officers and employees and the office expenses of units of local government shall not be paid from fees collected. Fees may be collected as provided by law and by ordinance and shall be deposited upon receipt with the treasurer of the unit. Fees shall not be based upon funds disbursed or collected, nor upon the levy or extension of taxes.

This subsection prohibits the fee system used under the 1870 Constitution, in which the salaries of various local officers were paid only from fees their offices collected, with any excess going to the local treasury. The Illinois Supreme Court under this section invalidated laws that allowed a recorder of deeds to keep half the price of Real Estate Transfer Tax stamps as fees;[174] that allowed township or county collectors to take deductions or fees from taxes collected for other units of local government;[175] and that allowed sheriffs to keep a percentage of the proceeds of judicial sales of property.[176]

However, an Illinois Appellate Court panel upheld a law allowing any county collector to be reimbursed for the "actual costs" of collecting drainage assessments for (and, in that case, acting as treasurer for) a drainage district.[177] Apparently the important distinction in that case was that the amount to be charged to the drainage district was based on the collector's actual costs of providing those services, rather than being a percentage of the assessments collected.

Also, the Illinois Supreme Court in 2015 upheld a statutory system under which county recorders collect a $10 surcharge when recording any document related to real estate, with $9 of that used to fund a state program to support rental housing and the remaining $1 used for two county purposes. The Court said this exaction did not involve the funding of recorders' offices or other county offices, so it did not violate this subsection.[178] An earlier Illinois Appellate Court decision held that this subsection is not violated by laws authorizing a county recorder of deeds to collect a fee for filing documents, with the proceeds used to pay expenses of office automation. The court said that because the fees were paid into the county treasury and controlled by county appropriation, the purpose of this subsection to abolish "fee offices" was satisfied.[179] And an Attorney General's opinion advised that fines and forfeitures are not "fees" within the meaning of this subsection, and thus may go into a fund used to help pay the salaries of a state's attorney and assistants.[180]

An Illinois Appellate Court decision held that this subsection does not apply to the office of circuit court clerk, who is an officer of the judicial branch rather than a county officer.[181]

The Illinois Supreme Court has held that a county cannot constitutionally keep interest earned on tax monies that the county treasurer has collected for distribution to other taxing districts in the county;[182] and that the state cannot keep interest earned on Municipal Retailers' Occupation (sales) tax receipts collected for local governments that levy that tax.[183]

(b) An increase or decrease in the salary of an elected officer of any unit of local government shall not take effect during the term for which that officer is elected.

The Illinois Supreme Court held under this subsection that supplements to raise county clerks' salaries, provided by a law that took effect during their terms, could not be paid during those terms. Indeed, the Court said (citing older cases) that such an increase during an officer's term was barred even if the officer was given additional duties at the same time.[184] A 2014 Illinois Appellate Court decision held that despite the lack of an appropriation to pay statutory stipends to supplement county treasurers' salaries, courts could order state officials to pay the stipends, because failure to pay them would result in violating this subsection.[185]

An Illinois Appellate Court decision held that this prohibition cannot be circumvented by adding to a mayor's salary a new, separate amount for his duties as liquor control commissioner—a post he had held for his entire mayoral term. The court stated that home rule does not supersede the prohibition of this subsection.[186] On the other hand, the Illinois Supreme Court held that the Cook County Board did not violate this subsection by raising members' salaries after the election but before their new terms began[187]—an action similar to one by the General Assembly that an Appellate Court case also upheld.[188]

A series of Attorney General's opinions advised that an officer's compensation may change during the officer's term due to changing population in the officer's constituency, or due to inflation, if the method of increase is objective and is established before the beginning of the officer's term.[189] Some other Attorney General's opinions have dealt with applications of this subsection to specific situations.[190]

The Illinois Supreme Court has held that this section does not prohibit increases in the salaries of state's attorneys during their terms. The reasoning of the Court's majority was basically that although state's attorneys are elected by voters in each county, they are officers of the state (provided for in Article 6, section 19).[191] A 2006 Illinois Appellate Court decision held similarly regarding a statute blocking an inflation adjustment in state's attorneys' salaries, because they are not county officers to whom a constitutional provision on salaries applies.[192]

SECTION 10. INTERGOVERNMENTAL COOPERATION

(a) Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities.

(b) Officers and employees of units of local government and school districts may participate in intergovernmental activities authorized by their units of government without relinquishing their offices or positions.

(c) The State shall encourage intergovernmental cooperation and use its technical and financial resources to assist intergovernmental activities.

This innovation in the 1970 Constitution is a further attempt to provide an alternative to creating special districts. It is supplemented by the Intergovernmental Cooperation Act,[193] which repeats much of the substance of this section but includes more detailed authority for cooperation among governmental units. Two major issues that have arisen under these provisions are discussed below.

Kinds of agreements that are permissible

Illinois Appellate Court decisions[194] and Attorney General's opinions[195] have stated broadly that this section allows governments to transfer only powers that they already have; it does not grant them any new substantive powers.

Two Illinois Appellate Court decisions (in the same district) held that two municipalities with an unincorporated area between them could not make an enforceable agreement marking a boundary line between them, up to which each would annex—even though (in the second case) this section and the Intergovernmental Cooperation Act were cited as support for the agreement.[196] The judges in both cases interpreted such agreements as attempting to give each municipality a power (to block the other municipality from annexing beyond the line) that it did not have before the agreement. But the General Assembly later expressly authorized neighboring municipalities to make such agreements.[197] Another Illinois Appellate Court case held that this section authorized a city and county to make an agreement under which the county would condemn land for public use even though the condemnation was partly to benefit the city, which was not itself authorized by statute to condemn the land.[198]

An Illinois Appellate Court decision held that a contract between a village and a fire protection district, requiring the district to levy at its maximum statutory rate and transfer most of the proceeds to the village in return for fire protection by it, was invalid—but the reason given was that the contract did not base the rate of tax on the need for funds over its 10-year term, not that it was not supported by this section.[199]

The Attorney General has advised that this section allows one municipality to contract to provide police protection to others,[200] and permits a county to contract to provide protection to a municipality[201] or to a homeowners' association in an unincorporated area.[202]

Other Attorney General's opinions have advised that this section authorizes a county to contract with a municipality for the state's attorney to prosecute violations of municipal ordinances if the state's attorney agrees;[203] to contract with a private firm to bid on properties at tax sales;[204] and to contract with licensed veterinarians to confine dangerous dogs.[205] On the other hand, the Attorney General advised that the county board of a non-home-rule county could not contract with a nonprofit organization to provide information or services to the aged, since the county itself had no statutory authority to provide such services.[206]

Liability under agreements

A 1990 case in the U.S. Court of Appeals in Chicago addressed the troublesome issue of liability under intergovernmental agreements. The city of Waukegan made such an agreement with the county, giving the county authority to patrol their joint waterfront. A boy drowned, allegedly due to a county policy (enforced in part by a city police officer on the scene) to stop

private persons from rescuing drowning persons. His mother sued both the city and the county, arguing that the city was liable for acquiescing in the county's policy, which allegedly violated the boy's constitutional right not to be deprived of life without due process of law. Although holding that the county could be liable, the federal Court of Appeals said the city was not liable because, under the agreement, the city "had no authority to influence the county's procedures" and was at most only vicariously responsible for the county's actions—which, under federal court cases, was not sufficient to make it liable.[207]

Another issue that may be raised by an intergovernmental agreement is whether it creates incompatibility between offices in two public bodies that make the agreement. A 1997 Illinois Appellate Court decision stated that this section did not abolish the longstanding rule that offices that have conflicting interests are incompatible. But the Appellate Court did not find an incompatibility between the two offices in that case, since interactions between the two public bodies would be unusual and could be addressed if a person who was an officer of both bodies declined to participate in a decision by one body affecting the other body.[208]

SECTION 11. INITIATIVE AND REFERENDUM

(a) Proposals for actions which are authorized by this Article or by law and which require approval by referendum may be initiated and submitted to the electors by resolution of the governing board of a unit of local government or by petition of electors in the manner provided by law.

(b) Referenda required by this Article shall be held at general elections, except as otherwise provided by law. Questions submitted to referendum shall be adopted if approved by a majority of those voting on the question unless a different requirement is specified in this Article.

Subsection (b) applies only to referenda required by this Article 7. The Illinois Supreme Court held that the referendum on creating the Regional Transportation Authority in the Chicago area could be passed by a majority of voters properly marking ballots, rather than the higher standard of a majority of those voting on the question, since it was not a referendum required by this Article.[209] A section of the Election Code establishes procedures for local referenda held under the 1970 Constitution.[210]

An Attorney General's opinion pointed out that this section does not provide substantive authority for units of local government to alter or repeal their forms of government by referendum. Any such authority must come from another source, such as a statute.[211]

SECTION 12. IMPLEMENTATION OF GOVERNMENTAL CHANGES

The General Assembly shall provide by law for the transfer of assets, powers and functions, and for the payment of outstanding debt in connection with the formation, consolidation, merger, division, dissolution and change in the boundaries of units of local government.

The intent behind this section was to make it easier for local government units to be changed and consolidated. Statutes that existed in some form before the 1970 Constitution

allow consolidation of each of several kinds of local government units with adjoining units of the same kind.[212] Sections added more recently provide similarly for townships.[213] The Attorney General has advised that in the absence of a statute providing for dissolution of a kind of unit of local government, it may not be dissolved.[214]

Article 8. Finance

The Finance Article replaced various restrictions on uses of public funds and credit with a single requirement that public assets and credit be used only for public purposes. It also required that records pertaining to public funds be available; that the state have annual budgets; and that new auditing systems be used.

SECTION 1. GENERAL PROVISIONS

(a) Public funds, property or credit shall be used only for public purposes.

This provision replaced various restrictions on uses of public funds or credit in the 1870 Constitution with the single restriction that public assets and credit may be used only for public purposes. The Illinois Supreme Court has upheld, as serving a public purpose, use of public assets or credit for urban redevelopment,[1] industrial development,[2] creation of and aid to mass transit,[3] expanding facilities for the public to attend sporting events,[4] enforcing child-support obligations,[5] and even transporting students to private schools along regular public school bus routes.[6] The fact that some benefits will flow to private organizations does not make expenditures unconstitutional, if the expenditures serve a public purpose.[7]

On the other hand, the Illinois Supreme Court has held that paying legal fees for the defense of public officials against criminal charges, which did not arise from the lawful exercise of powers of their offices, is not a public purpose under this provision.[8] The Court has also held that a local officer's use of an official credit card to get money to gamble at a casino—even though the officer repaid from his own funds the amounts he charged—could constitute official misconduct under a Criminal Code section stating that it is a crime if a public officer or employee "[k]nowingly performs an act which he knows he is forbidden by law to perform."[9] An Illinois Appellate Court decision held that displaying advertising for a shopping center on a water tower that a city had bought from the shopping center owners was an improper use of the municipally owned tower.[10]

Several Attorney General's opinions have addressed leasing of county-owned real estate to other persons or organizations. Those opinions advised that not only must such leases be for adequate consideration to the county (unless the county is authorized by law to make a donation to the lessee),[11] but the use to which the lessee puts the property must itself benefit the public, such as providing space for other units of government or for legislators.[12] But the outright sale of public property to anyone is permitted, if the price is adequate.[13] The Attorney General has also stated that use of public funds for political campaigns is unconstitutional.[14]

In a 2011 case, the Illinois Supreme Court held that parts of the fees charged annually to motorcyclists and put into a special fund—described by law as "a trust fund outside of the State treasury"—could be "swept" (transferred) as required by a later law to the General Revenue Fund to help pay general state expenses. The Court took that position based on the constitutional principle that the General Assembly cannot foreclose a later General Assembly's actions (or even its own later actions). The Court treated the statutory phrase "trust fund outside of the State treasury" as essentially meaningless, holding that all funds collected by law from motorcyclists were state funds and thus subject to legislative appropriation.[15]

(b) The State, units of local government and school districts shall incur obligations for payment or make payments from public funds only as authorized by law or ordinance.

As the committee that proposed this provision at the constitutional convention stated, it is intended to say clearly that only legislative bodies, at the state or local level, may authorize the spending of public funds. The Committee's proposal commented: "The judicial and executive branches may make decisions which affect expenditure of funds, but they do not have the power to authorize the expenditure."[16] The policy of this subsection is also confirmed in a statute prohibiting state officers and agencies from contracting any indebtedness on behalf of the state, or assuming to bind the state, in an amount exceeding what is appropriated, "unless expressly authorized by law."[17]

The Illinois Supreme Court has upheld a statute providing for issuance of some bonds, which stated that if the General Assembly did not appropriate enough money to pay the bondholders, that statute would act as an irrevocable, continuing appropriation of money for that purpose.[18] The Court said there is no requirement that every appropriation be limited to 1 year—although section 2 of this article does provide for an annual *process* of budgeting and appropriation. The Court has also said that this subsection does not prevent courts from fashioning remedies in suits against the state, even though that might require state funds to be spent.[19] (However, the state is not usually subject to suit in state courts, except in the Court of Claims under restrictions set forth in the Court of Claims Act.[20])

A 1979 Illinois Appellate Court case held that the Governor could not impound (refuse to spend) funds that had been appropriated.[21] The Illinois Supreme Court reversed, solely on the ground that the appropriation had lapsed and therefore the issue was moot.[22] Thus, there is no decision by the Illinois Supreme Court on the merits of that issue.

A 1991 Illinois Appellate Court decision held that state employees could not be paid without a current appropriation for that purpose.[23] A 2016 Illinois Supreme Court case held that annual pay increases called for in a union contract could not be implemented without a sufficient appropriation.[24] The basis for that decision was rather narrow: that the Illinois Public Labor Relations Act, under which the union contracted with the state, explicitly makes such multi-year contracts subject to "the appropriation power of the employer."[25]

Citing that 2016 decision, a 2017 Illinois Appellate Court case held that social service providers contracting with the state could not be paid in the absence of an appropriation for that purpose.[26]

Seemingly contrary to those cases, the Fifth District of the Illinois Appellate Court in 2015 upheld a temporary restraining order directing the State Comptroller to continue paying many state employees despite the absence of an appropriation for that purpose.[27] However, that decision is unpublished and, under an Illinois Supreme Court rule,[28] has no precedential value. The 2017 Illinois Appellate Court decision cited above pointed out several reasons why the 2015 decision (from another district of the Appellate Court) may not be persuasive—noting in particular that it was based in large part on a 2014 Appellate Court decision[29] that was reversed by the 2016 Illinois Supreme Court decision cited above.[30]

In 1993, the Illinois Supreme Court vacated a decision that (due to unclear election results) had allowed two candidates for one judicial vacancy to serve in the same court. Among other reasons, the Supreme Court said that both candidates could not serve because that would effectively create a judicial seat for which there was no appropriation, in violation of this subsection.[31] A 2012 Illinois Appellate Court decision held that a taxpayer's estate, which had overpaid estate tax, could not get a judicial order that the State Comptroller and State Treasurer pay a refund to the estate, because the money appropriated for such refunds had been exhausted.[32] That decision was not appealed.

(c) Reports and records of the obligation, receipt and use of public funds of the State, units of local government and school districts are public records available for inspection by the public according to law.

Illinois' Freedom of Information Act sets forth detailed procedures for obtaining public information, including inspecting and copying records.[33] Many court cases apply the Act to specific situations.

SECTION 2. STATE FINANCE

(a) The Governor shall prepare and submit to the General Assembly, at a time prescribed by law, a State budget for the ensuing fiscal year. The budget shall set forth the estimated balance of funds available for appropriation at the beginning of the fiscal year, the estimated receipts, and a plan for expenditures and obligations during the fiscal year of every department, authority, public corporation and quasi-public corporation of the State, every State college and university, and every other public agency created by the State, but not of units of local government or school districts. The budget shall also set forth the indebtedness and contingent liabilities of the State and such other information as may be required by law. Proposed expenditures shall not exceed funds estimated to be available for the fiscal year as shown in the budget.

The executive branch is primarily responsible for preparing a comprehensive budget proposal, which by law is to be sent to the General Assembly by the third Wednesday in February each year.[34] The requirement of an annual budget was new in the 1970 Constitution, along with the specification of some components of that budget. A statute requires further details in the budget proposal.[35] Revenue estimates for the coming fiscal year are made by the Governor's Office of Management and Budget for purposes of the balanced-budget requirement.[36]

As mentioned under section 1, the Illinois Supreme Court has said that this section does not prohibit appropriations that are continuing or that otherwise cover more than one fiscal year.[37] But the Attorney General has advised that this section *does* preclude making the entire appropriations process biennial, as it was until 1969.[38]

(b) The General Assembly by law shall make appropriations for all expenditures of public funds by the State. Appropriations for a fiscal year shall not exceed funds estimated by the General Assembly to be available during that year.

This provision does not mean as much as it may appear to. A number of kinds of public funds are spent without current appropriations by the General Assembly.[39] In 1998 the Illinois Supreme Court upheld a statutory system under which the Illinois State Toll Highway Authority holds its revenues in a special fund and disburses them as authorized by statute, in lieu of state appropriations.[40] But there must be some state or federal law authorizing an expenditure, or at least a court order, to comply with the prohibition in subsection 1(b) on payments from public funds that are not authorized by law. A few laws appear to authorize specific state agencies to receive, hold, and spend federal funds for the uses for which they were provided to the state[41]—although those laws may imply that such spending must have been authorized by an appropriation of some kind by the General Assembly.

The Illinois Supreme Court held invalid a law providing that the Director of Public Aid and the Governor could transfer funds, already appropriated, among the major categorical programs administered by the (former) Department of Public Aid. The Court said that was an unconstitutional delegation of the appropriation power to the executive branch.[42]

An Illinois Appellate Court decision held that fees that litigants are required by law to pay in connection with court cases are not "public funds" of the state under this section.[43]

SECTION 3. STATE AUDIT AND AUDITOR GENERAL

(a) The General Assembly shall provide by law for the audit of the obligation, receipt and use of public funds of the State. The General Assembly, by a vote of three-fifths of the members elected to each house, shall appoint an Auditor General and may remove him for cause by a similar vote. The Auditor General shall serve for a term of ten years. His compensation shall be established by law and shall not be diminished, but may be increased, to take effect during his term.

(b) The Auditor General shall conduct the audit of public funds of the State. He shall make additional reports and investigations as directed by the General Assembly. He shall report his findings and recommendations to the General Assembly and to the Governor.

By providing for the post-audit of all public funds of the state by a legislatively appointed officer, the Constitution gave the General Assembly tools to ensure that public funds are being spent as it directs. These provisions were an indirect result of a scandal in the 1950s in which the elected Auditor of Public Accounts was discovered to be embezzling large amounts of state money. The Revenue and Finance Committee proposal at the 1970 constitutional convention said this about the proposed new office of Auditor General:

> The Committee believes that this position should be filled by a person of integrity and ability, who should enjoy the security of long tenure in order to assure his independence and freedom of action. For this reason, [the proposal] provides a long term of office and requires an extraordinary vote for appointment.[44]

The General Assembly implemented this section by enacting the Illinois State Auditing Act.[45] It authorizes the Auditor General to make post-audits and investigations of all state agencies (a term defined to include almost all legislative, executive, and judicial agencies of

the state), and requires those agencies to make all their financial records available at the Auditor General's request.[46] The Act also authorizes the Auditor General to audit a federally funded program or activity if the federal government will pay for the audit or the Legislative Audit Commission approves.[47]

The Illinois Supreme Court refused to allow the Auditor General to audit the records of agencies it had created to supervise licensing and discipline of lawyers.[48] The Auditor General argued that these agencies' funds are "public funds" within the meaning of the Constitution, because they are collected by public agencies under compulsion. The Court took the position that funds spent by these agencies are not public funds, and that the separation of powers shielded the agencies from the auditing requirement of this section. In a 1982 opinion, the Attorney General agreed with the Auditor General's position.[49]

On the other hand, the Illinois Supreme Court (in a legal action filed by the head of the Administrative Office of the Illinois Courts) ordered the Auditor General to audit the spending of funds that are appropriated to the court system.[50] A later suit filed by the Chicago Bar Association was decided by the First District of the Illinois Appellate Court (with one member of the three-judge panel dissenting) consistently with the Illinois Supreme Court's position.[51]

In 2003 the Illinois Supreme Court held that under this provision and the Illinois State Auditing Act, the Auditor General could not conduct a management and compliance audit of Chicago's airport operations, because no state appropriations were made specifically for its airports. Two members of the Court dissented, arguing that the General Assembly has power under the Constitution to authorize an audit of Chicago's use of public funds at its airports due to large amounts of state public funds going to Chicago generally.[52]

The Legislative Audit Commission receives reports by the Auditor General, and may recommend remedial measures if the reports show deficiencies in the activities of state agencies. The Commission also can direct the Auditor General to undertake related studies and investigations.[53]

SECTION 4. SYSTEMS OF ACCOUNTING, AUDITING AND REPORTING

The General Assembly by law shall provide systems of accounting, auditing and reporting of the obligation, receipt and use of public funds. These systems shall be used by all units of local government and school districts.

The Local Government Accounting Systems Act directs the State Comptroller to establish "advisory guidelines" for accounting systems, to be available to all local governments that are not audited by the Auditor General. To the extent practicable, such systems are to follow Generally Accepted Accounting Principles (GAAP).[54] The Comptroller has not issued such regulations, but does require financial reports from local governments (if state law requires them to be sent to the state) to use a standard form. Statutes provide for auditing of municipalities,[55] counties,[56] and some other kinds of local governments.[57]

Article 9. Revenue

The Revenue article significantly modernized Illinois' tax system. It explicitly authorized state income taxation (whose constitutionality under the 1870 Constitution was debated but was upheld in 1969 by the Illinois Supreme Court[1]); abolished annual taxation of personal property, effective in 1979; explicitly authorized populous counties to classify real property to be assessed at different percentages of market value; and increased the amount the state can borrow without a referendum.

SECTION 1. STATE REVENUE POWER

The General Assembly has the exclusive power to raise revenue by law except as limited or otherwise provided in this Constitution. The power of taxation shall not be surrendered, suspended, or contracted away.

This section describes the General Assembly's power of taxation in the broadest possible terms. It includes the power to raise revenue through taxation in any manner not specifically prohibited by the Illinois or U.S. Constitution.[2] But some taxing powers for local governments are "otherwise provided in this Constitution," Article 7, sections 6 and 7.

The second sentence prohibits the state from making agreements with private entities to release them from tax liability. It does not prevent the General Assembly from granting additional taxing powers to local governments. The Illinois Supreme Court has held that this section was not violated by a law authorizing the Regional Transportation Authority to collect taxes on motor fuel and parking, and allocating part of the state's motor vehicle registration fees collected in Chicago to the RTA.[3] The Court also held that this section helped support a law requiring Chicago, a home-rule city, to levy taxes as required by a state-created board to rescue its schools from a financial crisis.[4]

SECTION 2. NON-PROPERTY TAXES—CLASSIFICATION, EXEMPTIONS, DEDUCTIONS, ALLOWANCES AND CREDITS

In any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly. Exemptions, deductions, credits, refunds and other allowances shall be reasonable.

These two sentences impose general restrictions on taxes other than property taxes. The state and its local governments are authorized to impose a variety of such taxes. But if government divides taxpayers into classes with different rates by class, the classes must be logical and all persons or situations in each class must be taxed at a uniform rate. On the other hand, the second sentence allows "reasonable" exemptions from such taxes. That provision permits, for example, lower taxes on the sale of food and drugs, and personal exemptions from income tax.

Many Illinois court cases have commented that this section imposes a stricter requirement of reasonableness than does the guarantee of equal protection in Article 1, section 2. Thus, they have stated that if a law meets the requirements of this section, it automatically meets equal protection requirements as they apply to taxation.[5]

The Illinois Supreme Court has decided a number of cases under the 1970 Constitution on the reasonableness of tax laws that had different rates or applications based on rather minor differences in the persons or things taxed. Major holdings are described below.

Taxes upheld

- Chicago's "wheel tax" on automobiles, with lower rates for cars with small or mid-sized engines than those with large engines.[6]

- Chicago's tax on employment of persons, at a flat rate per employee per month, applying only to employers of 15 or more persons.[7]

- A state tax on cigarettes, allowing distributors to keep a "discount" to reimburse the cost of collection, with the discount per case larger for the first $700,000 a distributor handled per year than for amounts beyond that sum.[8]

- A Chicago "transaction tax" on (1) on the sale of real property, with lower rates for non-residents of the city than for residents, and (2) the lease or rental of personal property, not applying to all personal property.[9]

- A Chicago tax on the transmission of messages, which exempted interstate transmissions.[10]

- A Regional Transportation Authority tax on sales in its six-county area, at rates of 1% in Cook County and 0.25% elsewhere.[11]

- A sales tax to fund construction of a new convention center in Chicago, applying only to food bought at restaurants or otherwise for immediate consumption, and within only a limited area around the convention center.[12]

- A tax on limousines and buses departing O'Hare and Midway Airports, to fund that convention center. Although the tax was imposed on all private transportation services taking passengers from those airports (regardless of their destinations), the Court held that it was reasonable to believe that such services receive benefits from the convention center—either directly or through "spillover" effects on the greater Chicago transportation market.[13]

- A temporary added tax on each riverboat casino operator that had annual adjusted gross receipts over $200 million, with proceeds used to support the state's horse racing industry.[14]

- A tax on distributors of tobacco products other than cigarettes, with the proceeds earmarked to support health care and long-term care. The Court stated that there is no requirement that a tax apply to all persons or other entities that might be thought to contribute to the problems for which its proceeds are to be used.[15]

An Illinois Appellate Court decision upheld an Illinois Income Tax Act provision taxing capital gains that accrued before the Act took effect if they were received by corporations, but not if they were received by other taxpayers.[16]

Taxes held invalid

- Under a similar provision in the 1870 Illinois Constitution, the Illinois Supreme Court struck down a "service occupation tax" law that taxed providers of some kinds of services but not providers of other services, and that taxed service providers only if they conveyed an item or items of personal property along with their services.[17]

- A Chicago service tax ordinance. The Illinois Supreme Court said it was invalid not only because it violated Article 7, subsection 6(e), but also because it exempted securities and commodities dealers—who the Court said provided similar and in some cases the same services as those provided by businesses that the ordinance did tax.[18]

- An Illinois Department of Revenue ruling that taxed makers and distributors of beverages made by diluting distilled alcohol at higher rates than makers and distributors of "wine coolers" made by fermentation without distillation. The two kinds of products had similar alcohol levels and the Illinois Supreme Court said there was no "real and substantial difference" between them, so the classification was unreasonable.[19]

- An "infrastructure maintenance fee" imposed by a municipality, under statutory authority, on communications providers for their use of public rights-of-way (the Illinois Supreme Court held the fee invalid only to the extent it was imposed on wireless communications providers, since they did not use public rights-of-way for wireless communications).[20] The General Assembly then amended the statute to say that the fee was meant to be used for "any lawful corporate purpose"—not only to compensate local governments for use of public rights-of-way.[21] (Effective on a later date, the amendatory act also repealed the authority for a municipal "infrastructure maintenance" fee and, in its place, authorized a "Simplified Municipal Telecommunications Tax".[22])

SECTION 3. LIMITATIONS ON INCOME TAXATION

(a) A tax on or measured by income shall be at a non-graduated rate. At any one time there may be no more than one such tax imposed by the State for State purposes on individuals and one such tax so imposed on corporations. In any such tax imposed upon corporations the rate shall not exceed the rate imposed on individuals by more than a ratio of 8 to 5.

This subsection authorizes one state income tax on individuals and one on corporations, each at a flat rate rather than graduated rates. Due to fears that political pressure might push the corporate income tax to destructive levels, the ratio by which the corporate income tax rate can exceed the individual income tax rate is not allowed to exceed 8-to-5. But subsection 5(c) allows an additional tax on corporations, to replace the personal property tax on corporations, which can cause the total corporate income tax rate to exceed that 8-5 ratio. Under Article 7, subsection 6(e)(2) and sections 7 and 8, local governments can impose income taxes only if the General Assembly authorizes them to do so, which it has not.

(b) Laws imposing taxes on or measured by income may adopt by reference provisions of the laws and regulations of the United States, as they then exist or

thereafter may be changed, for the purpose of arriving at the amount of income upon which the tax is imposed.

Illinois bases most of the numbers used for calculating state income tax liability on those calculated for federal income tax purposes (such as adjusted gross income). But an Illinois Appellate Court decision pointed out that the state need not adopt the federal provisions completely. This subsection's grant of authority is merely for convenience; it does not require the state to follow any tax policies set by Congress.[23]

SECTION 4. REAL PROPERTY TAXATION

(a) Except as otherwise provided in this Section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law.

(b) Subject to such limitations as the General Assembly may hereafter prescribe by law, counties with a population of more than 200,000 may classify or [[24]] continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class. The level of assessment or rate of tax of the highest class in a county shall not exceed two and one-half times the level of assessment or rate of tax of the lowest class in that county. Real property used in farming in a county shall not be assessed at a higher level of assessment than single family residential real property in that county.

(c) Any depreciation in the value of real estate occasioned by a public easement may be deducted in assessing such property.

These provisions attempt to deal with the difficult problem of fairness in real property taxation. The general rule of uniformity set forth in subsection 4(a) is modified by the authority given in subsection 4(b) for counties of over 200,000 to divide real property into classes with differing assessment levels. Subsection 4(b) attempts to limit any unfairness in such classification by making it subject to limitation by the General Assembly, and by restricting the ratio between the highest and lowest assessment levels to 2.5-to-1. The Illinois Supreme Court has held that this authority to classify does not violate the U.S. Constitution and did not require an enabling law.[25] But the General Assembly later enacted a law providing that any such classification is effective only if established by county ordinance.[26] Cook County classifies property for taxation under its ordinances.

Other provisions that modify the requirement of uniformity in real estate taxation are Article 7, subsection 6(*l*) and section 7, items (1) and (6), authorizing special assessments and special service areas in which additional property taxes can be imposed to fund improvements for the areas being taxed.[27]

The Illinois Supreme Court in at least three cases has interpreted Article 9 as impliedly authorizing the General Assembly to make reasonable classifications of real property for tax purposes. Those cases upheld laws that limited increases in assessed valuations of land used in farming;[28] provided for farm structures with no current farm use to be ignored in valuing farm property;[29] and allowed pollution-control equipment used by utility companies to be assessed at low values.[30]

Individual taxpayers have on occasion been able to convince courts that their properties were assessed so far above the prevailing percentage of market value as to violate this section's requirement of uniformity.[31]

The Illinois Supreme Court has held that "impact fees" imposed on builders, to help defray the costs of upgrading local transportation infrastructure, are not taxes on real property subject to this section.[32]

SECTION 5. PERSONAL PROPERTY TAXATION

(a) The General Assembly by law may classify personal property for purposes of taxation by valuation, abolish such taxes on any or all classes and authorize the levy of taxes in lieu of the taxation of personal property by valuation.

(b) Any ad valorem personal property tax abolished on or before the effective date of this Constitution shall not be reinstated.

These two subsections have no further effect because of the abolition of personal property taxation by the next subsection.

(c) On or before January 1, 1979, the General Assembly by law shall abolish all ad valorem personal property taxes and concurrently therewith and thereafter shall replace all revenue loss by units of local government and school districts as a result of the abolition of ad valorem personal property taxes subsequent to January 2, 1971. Such revenue shall be replaced by imposing statewide taxes, other than ad valorem taxes on real estate, solely on those classes relieved of the burden of paying ad valorem personal property taxes because of the abolition of such taxes subsequent to January 2, 1971. If any taxes imposed for such replacement purposes are taxes on or measured by income, such replacement taxes shall not be considered for purposes of the limitations of one tax and the ratio of 8 to 5 set forth in Section 3(a) of this Article.

In November 1970—just before the 1970 Constitution was ratified—Illinois voters approved an amendment to the old (1870) Constitution, abolishing the personal property tax "as to individuals" effective January 1, 1971—6 months before most provisions of the 1970 Constitution would take effect. The General Assembly was unable to agree on a plan to abolish all remaining taxation of personal property as required by this section. But in 1979 the Illinois Supreme Court held that this section had automatically abolished all such taxation, effective January 1, 1979.[33]

Later in 1979, the General Assembly enacted a replacement tax act,[34] which the Illinois Supreme Court upheld.[35] Its most important feature was adding 2.85% (declining to 2.5% in 1981) to the corporate income tax rate. The Court held that this was permitted by this section's last sentence, which says that personal property tax replacement taxes do not count toward the 8-5 ratio limitation on the corporate income tax set forth in section 3. The revenue from this extra rate, and revenue from other taxes imposed by the 1979 law, are distributed to local taxing units under a statutory formula.[36]

The Illinois Supreme Court has upheld the Mobile Home Local Services Tax Act, with rates varying by the number of square feet in each structure.[37] The Court held that even if the tax is a personal property tax, it is constitutional because it is not an *ad valorem* personal property tax (one based on an assessment of the monetary value of property).[38]

SECTION 6. EXEMPTIONS FROM PROPERTY TAXATION

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes. The General Assembly by law may grant homestead exemptions or rent credits.

Illinois court decisions state that to qualify for a tax exemption, property must be both owned by a tax-exempt organization and used exclusively for exempt purposes.[39] If land is to be exempt from taxation as government property, a governmental entity must ordinarily own the land itself; ownership and use of buildings on land leased from a private owner will not suffice.[40] The courts also construe narrowly the permitted grounds for exemption. For example, they have refused to allow charitable tax exemptions to homes for the aged if residents must pay substantial monthly fees and meet the homes' standards of health to stay.[41] And the courts refused to allow exemptions, as "property used exclusively for agricultural and horticultural societies," of real property used by a grange (a nonprofit farm-related organization)[42] or an organization holding an annual reunion to display old-time threshing equipment and skills.[43] Illinois cases say that the General Assembly cannot grant exemptions from property taxation that are broader than this section allows,[44] but that the General Assembly can make such exemptions narrower than those authorized by this section.[45]

On the other hand, the Illinois Supreme Court upheld, under the second sentence of this section, statutory provisions granting partial homestead exemptions from taxation of residences of the elderly,[46] and of owners who use property as their principal dwelling places.[47] The Court also upheld laws allowing exemption of part of the value of improvements made to existing structures after the laws took effect, and providing that church parsonage property used for a religious purpose could be exempted from property tax. But the Court pointed out that a parsonage is not automatically eligible for an exemption; the owners must show that its primary use is religious rather than simply providing a residence for a pastor and family.[48]

An Illinois Appellate Court case held that fraternity houses owned by colleges are exempt from property taxation.[49]

Hospital exemptions

An issue arising in recent decades is whether nonprofit hospitals, to be exempt from real property taxation, must provide substantial charitable benefit to their communities. In a 2010 case the Illinois Supreme Court held that a hospital should provide a substantial amount of charity care, or help relieve burdens on public bodies in other ways, to qualify for tax exemption. But the members of the Court who participated in that case were split on whether courts should try to quantify how much charitable activity is necessary to get a tax exemption, or leave that to the General Assembly.[50]

In 2012 the General Assembly added to the Property Tax Code a section making a nonprofit hospital eligible for property tax exemption if the value of its charitable activities and

services at least equals its "estimated property tax liability" (with both numbers to be calculated under standards set out in that section).[51] A 2016 Illinois Appellate Court case held the added section unconstitutional because its standard of eligibility for an exemption did not—as this section of the Constitution does—require that the property actually be used for charitable purposes.[52] On appeal, the Illinois Supreme Court held that (for complex procedural reasons) the trial court's decision had not yet been appealable to the Appellate Court; the case was returned to the trial court for further proceedings.[53]

But in a separate case in 2018, the Illinois Supreme Court upheld the added section against a "facial" challenge.[54] (Such a challenge asserts that a law is unconstitutional "on its face"—without regard to how it applies in specific situations.) The Court construed the section as permitting, not requiring, that a hospital meeting the statutory criteria be exempted from property taxation. The Court said "it will be time enough to consider [possible problems with the application of the section] when they arise."[55] This seems likely to continue being a contentious issue in the future.

Northwestern University exemption

Despite this section, an exemption of all the property of Northwestern University from property taxation, given in its charter enacted before the 1870 Constitution, still operates because the charter is a contract that binds the state.[56] But the economic effect of Northwestern's total exemption—as to property it owns but does not use for educational purposes—has been undone by a law providing that when real estate exempt from taxation is leased to a lessee that is not exempt, the property is to be taxed as that of the lessee.[57] The Illinois Supreme Court upheld that law.[58]

SECTION 7. OVERLAPPING TAXING DISTRICTS

The General Assembly may provide by law for fair apportionment of the burden of taxation of property situated in taxing districts that lie in more than one county.

The General Assembly has provided that when real property in a single taxing district is assessed at different percentages of market value by assessors for different counties in the district, the Department of Revenue, at the request of an assessing official or at least 25 interested taxpayers, is to equalize the burden of taxation at a uniform percentage of market value.[59] Before enactment of that law, the Illinois Supreme Court in 1974 upheld objections to real estate taxes based on different percentage assessment levels in different counties containing parts of one school district.[60]

SECTION 8. TAX SALES

(a) Real property shall not be sold for the non-payment of taxes or special assessments without judicial proceedings.

(b) The right of redemption from all sales of real estate for the non-payment of taxes or special assessments, except as provided in subsections (c) and (d),

shall exist in favor of owners and persons interested in such real estate for not less than 2 years following such sales.

(c) The right of redemption from the sale for nonpayment of taxes or special assessments of a parcel of real estate which: (1) is vacant non-farm real estate or (2) contains an improvement consisting of a structure or structures each of which contains 7 or more residential units or (3) is commercial or industrial property; shall exist in favor of owners and persons interested in such real estate for not less than one year following such sales.

(d) The right of redemption from the sale for non-payment of taxes or special assessments of a parcel [of] **real estate which: (1) is vacant non-farm real estate or (2) contains an improvement consisting of a structure or structures each of which contains 7 or more residential units or (3) is commercial or industrial property; and upon which all or a part of the general taxes for each of 2 or more years are delinquent shall exist in favor of owners and persons interested in such real estate for not less than 6 months following such sales.**

(e) Owners, occupants and parties interested shall be given reasonable notice of the sale and the date of expiration of the period of redemption as the General Assembly provides by law.

This section governs the sale of real property due to nonpayment of taxes, and "redemption" of that property if, within a specified time after its sale, the former owner pays all taxes and charges on it. An amendment to this section, approved by the voters in November 1980, reduced the minimum time during which redemptions must be allowed on some kinds of property with commercial value from 2 years to 90 days.[61] A second constitutional amendment, approved by the voters in November 1990,[62] subdivided the kinds of property to which shorter redemption periods apply into two groups, depending on how long taxes on them have been delinquent. For such property on which taxes have been delinquent for at least 2 years, the redemption period is now 6 months; for such property on which taxes have been delinquent for less than 2 years, the redemption period is 1 year.

SECTION 9. STATE DEBT

(a) No State debt shall be incurred except as provided in this Section. For the purpose of this Section, "State debt" means bonds or other evidences of indebtedness which are secured by the full faith and credit of the State or are required to be repaid, directly or indirectly, from tax revenue and which are incurred by the State, any department, authority, public corporation or quasi-public corporation of the State, any State college or university, or any other public agency created by the State, but not by units of local government, or school districts.

(b) State debt for specific purposes may be incurred or the payment of State or other debt guaranteed in such amounts as may be provided either in a law passed by the vote of three-fifths of the members elected to each house of the

General Assembly or in a law approved by a majority of the electors voting on the question at the next general election following passage. Any law providing for the incurring or guaranteeing of debt shall set forth the specific purposes and the manner of repayment.

Under the 1870 Constitution, state debt totaling over $250,000 was prohibited unless approved in a referendum by a majority of the number of persons voting for state legislators at that election.[63] To avoid that antiquated dollar limit, the General Assembly often created semi-independent "authorities" such as the Illinois Building Authority. Those authorities borrowed in their own names to construct state buildings, then collected rent from the state to pay the debts. To make such devices unnecessary, the 1970 Constitution allows debts that bind the state directly if they are approved by either three-fifths of each legislative house or a majority of voters voting on the question. Debts that will be repaid only from user fees or other non-tax sources—and thus are not backed by the state's "full faith and credit"—do not need such approval (subsection 9(f)).

The Illinois Supreme Court has interpreted these provisions rather liberally in favor of issuing debt, holding that the Regional Transportation Authority Act did not create state debt even though the state pledged to allocate specific tax revenues to repay RTA bonds. The Court pointed out that the state did not pledge to provide however much the RTA would need to pay off the bonds, or pledge to back up the bonds if the Authority defaulted.[64] A similar holding applied to debt issued by the Metropolitan Pier and Exposition Authority.[65]

(c) State debt in anticipation of revenues to be collected in a fiscal year may be incurred by law in an amount not exceeding 5% of the State's appropriations for that fiscal year. Such debt shall be retired from the revenues realized in that fiscal year.

(d) State debt may be incurred by law in an amount not exceeding 15% of the State's appropriations for that fiscal year to meet deficits caused by emergencies or failures of revenue. Such law shall provide that the debt be repaid within one year of the date it is incurred.

The Short Term Borrowing Act authorizes the Governor, Comptroller, and Treasurer together to borrow up to 5% of the amount of state appropriations, to smooth imbalances occurring during a fiscal year. Such debt must be repaid by the end of that fiscal year.[66] The Act also authorizes those three officials to borrow up to 15% of the amount appropriated for a fiscal year, which need not be repaid for 12 months. But that provision can be used only after giving the Clerk of the House, Secretary of the Senate, and Secretary of State 30 days' written notice and recommendations for corrective action to restore the state's fiscal soundness.[67]

(e) State debt may be incurred by law to refund outstanding State debt if the refunding debt matures within the term of the outstanding State debt.

(f) The State, departments, authorities, public corporations and quasi-public corporations of the State, the State colleges and universities and other public agencies created by the State, may issue bonds or other evidences of indebtedness which are not secured by the full faith and credit or tax revenue of the State nor required to be repaid, directly or indirectly, from tax revenue, for such purposes and in such amounts as may be authorized by law.

Refunding bonds, and revenue bonds (which will be repaid only if the issuing agency receives enough revenues from the designated non-tax source), may be authorized by a law approved by a simple majority of the members elected to each house of the General Assembly.

SECTION 10. REVENUE ARTICLE NOT LIMITED

This Article is not qualified or limited by the provisions of Article VII of this Constitution concerning the size of the majorities in the General Assembly necessary to deny or limit the power to tax granted to units of local government.

Under this section, powers given to the General Assembly by this article, such as the power in subsection 4(b) to put limits on the classification of real property by counties over 200,000, apparently can be exercised by a majority of members elected, even if home-rule taxing powers are affected.

SECTION 11. TRANSPORTATION FUNDS

(a) No moneys, including bond proceeds, derived from taxes, fees, excises, or license taxes relating to registration, title, or operation or use of vehicles, or related to the use of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, airports, or to fuels used for propelling vehicles, or derived from taxes, fees, excises, or license taxes relating to any other transportation infrastructure or transportation operation, shall be expended for purposes other than as provided in subsections (b) and (c).

(b) Transportation funds may be expended for the following: the costs of administering laws related to vehicles and transportation, including statutory refunds and adjustments provided in those laws; payment of highway obligations; costs for construction, reconstruction, maintenance, repair, and betterment of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, airports, or other forms of transportation; and other statutory highway purposes. Transportation funds may also be expended for the State or local share of highway funds to match federal aid highway funds, and expenses of grade separation of highways and railroad crossings, including protection of at-grade highways and railroad crossings, and, with respect to local governments, other transportation purposes as authorized by law.

(c) The costs of administering laws related to vehicles and transportation shall be limited to direct program expenses related to the following: the enforcement of traffic, railroad, and motor carrier laws; the safety of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, or airports; and the construction, reconstruction, improvement, repair, maintenance, operation, and administration of highways, under any related provisions of law or any purpose related or incident to, including grade separation of highways and railroad crossings. The limitations to the costs of administering laws related to vehicles and transportation under this subsection (c) shall also include direct program expenses related to workers' compensation claims for

death or injury of employees of the State's transportation agency; the acquisition of land and the erection of buildings for highway purposes, including the acquisition of highway rights-of-way or for investigations to determine the reasonable anticipated future highway needs; and the making of surveys, plans, specifications, and estimates for the construction and maintenance of flight strips and highways. The expenses related to the construction and maintenance of flight strips and highways under this subsection (c) are for the purpose of providing access to military and naval reservations, defense-industries, defense-industry sites, and sources of raw materials, including the replacement of existing highways and highway connections shut off from general use at military and naval reservations, defense-industries, and defense-industry sites, or the purchase of rights-of-way.

(d) None of the revenues described in subsection (a) of this Section shall, by transfer, offset, or otherwise, be diverted to any purpose other than those described in subsections (b) and (c) of this Section.

(e) If the General Assembly appropriates funds for a mode of transportation not described in this Section, the General Assembly must provide for a dedicated source of funding.

(f) Federal funds may be spent for any purposes authorized by federal law.

This section was added by a constitutional amendment proposed by the General Assembly and adopted by the voters in November 2016.[68] Some judicial interpretation of it may be needed if transportation interests, citing subsection (a), argue that particular revenues are "related to" or "relating to" transportation uses, or are "derived from" charges on transportation, and thus can be used only for purposes listed in subsections (b) and (c). Another potential uncertainty about this section may be whether it applies fully to municipalities and counties that impose taxes on motor fuels or transportation services.

Article 10. Education

The Education Article replaced the former Superintendent of Public Instruction with a State Board of Education, with its members appointed by the Governor from around the state. It also strengthened the state's commitment to tax-paid education through high school, and continued the 1870 Constitution's prohibition on use of public funds for religious instruction.

SECTION 1. GOAL—FREE SCHOOLS

A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities.

The State shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law.

The State has the primary responsibility for financing the system of public education.

As its title suggests, this section is largely hortatory rather than establishing enforceable standards. The Illinois Supreme Court has held that it does not require that any specific kind of education be provided, such as special education for students who are alleged to need it.[1] In a later case, the Court held that the quality of public education is a matter for legislative rather than judicial determination, so no particular level of quality of education need be provided.[2] But an Illinois Appellate Court decision held that what special education the state does provide must be free; parents cannot be required to pay part of the cost of special education for their children even in private schools, if the state or a local school system has sent them there because it lacks the facilities to educate them itself.[3]

The Illinois Supreme Court has held that this section's requirement of free elementary and secondary schools applies only to tuition charges; a school district may charge parents for workbooks, maps, and other items (except textbooks, if provided free under statute).[4] A 2010 Illinois Appellate Court case held that drivers' education courses likewise are not within the scope of "free" public education.[5]

The Illinois Supreme Court in 1973 held that the state's "primary responsibility" for education does not require the state to provide at least half of school funding.[6] The Illinois Supreme Court in 1996 and 1999 rejected further challenges to the Illinois public school financing system,[7] stating that the quality of education is a matter to be determined by the General Assembly. The Illinois Supreme Court has held that this section does not restrict the General Assembly from cutting state aid to districts that fail to meet state requirements for number of days in a school year.[8]

Two Illinois Appellate Court decisions have held that community colleges are not part of the public school system called for in this section, and thus are not subject to it.[9]

SECTION 2. STATE BOARD OF EDUCATION—CHIEF STATE EDUCATIONAL OFFICER

(a) There is created a State Board of Education to be elected or selected on a regional basis. The number of members, their qualifications, terms of office and manner of election or selection shall be provided by law. The Board, except as limited by law, may establish goals, determine policies, provide for planning and evaluating education programs and recommend financing. The Board shall have such other duties and powers as provided by law.

(b) The State Board of Education shall appoint a chief state educational officer.

The General Assembly has provided by law for the State Board of Education to have nine members appointed by the Governor with Senate confirmation, chosen as follows: one each from Chicago and suburban Cook County; two from the "collar" counties around Cook County; two from other counties; and three at-large members (one of whom is to chair the Board).[10] The "chief state educational officer" mentioned here is the State Superintendent of Education.

SECTION 3. PUBLIC FUNDS FOR SECTARIAN PURPOSES FORBIDDEN

Neither the General Assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church, or for any sectarian purpose.

This section was taken verbatim from the 1870 Constitution. The Illinois Supreme Court has said that if a law is valid under the part of the First Amendment to the U.S. Constitution prohibiting government establishment of religion, it will also be valid under this section.[11] In 1910 the Illinois Supreme Court held that Bible reading in public schools violated this section in the 1870 Constitution,[12] preceding by more than 50 years a similar holding by the U.S. Supreme Court under the First Amendment.[13] In 1973 the Illinois Supreme Court held unconstitutional statutory provisions for annual grants to parents of private-school students and payment of the costs of textbooks and related services for them.[14]

On the other hand, the Court upheld a law requiring public school districts to provide, with some exceptions, transportation along regular bus routes to private-school students.[15] This was viewed more as a measure to protect students from weather and traffic than as aid to private schools. Two 2001 Illinois Appellate Court decisions, which the Illinois Supreme Court declined to review, upheld a law offering tax credits to parents for some of the costs of sending their children to either public or private (including religious) schools, on the grounds that it was not an appropriation of public funds and that it served a public purpose.[16]

The Illinois Supreme Court has upheld the issuance of tax-free state bonds to construct a building for secular use at a religiously affiliated college. But the Court held that local governments could not invest in those bonds, since that would be lending public credit to a religious institution.[17]

Article 11. Environment

The Environment Article, new in the 1970 Constitution, attempts to guarantee both the state and its residents powers to protect the environment. The authorization it provides for individual enforcement has not been successfully used, perhaps due to governmental enforcement and the practical difficulties facing individual persons seeking to fight pollution.

SECTION 1. PUBLIC POLICY—LEGISLATIVE RESPONSIBILITY

The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for the implementation and enforcement of this public policy.

The General Assembly has enacted many laws to protect the environment. The most important, the Environmental Protection Act,[1] was enacted in 1970 while the constitutional convention was meeting. Other laws deal with specific aspects of environmental protection such as disposal and recycling of solid waste;[2] restricting discharges of pollutants into surface waters;[3] protection of groundwater;[4] reclamation of land used for strip mining;[5] regulation of use of land in treating wastewater;[6] and regulation of use of pesticides and lawn-care products.[7]

In a 1984 case, the Illinois Supreme Court rejected an argument that this section creates a "fundamental" right to a healthful environment—which apparently was intended to support an argument that any law with possibly adverse effects on the environment should be subjected to "strict scrutiny."[8]

SECTION 2. RIGHTS OF INDIVIDUALS

Each person has the right to a healthful environment. Each person may enforce this right against any party, governmental or private, through appropriate legal proceedings subject to reasonable limitation and regulation as the General Assembly may provide by law.

The committee that proposed this article at the constitutional convention said it considered this section's second sentence to be the "heart" of the article.[9] It was intended to abolish the judicial requirement of "special injury" for standing in environmental suits.[10] That requirement said that to be heard in court against an alleged polluter, a person must show an injury that is different from or greater than the harm to the general public. The committee said that if, for example, a town's air is being polluted, any citizen of the town should be able to sue on behalf of all its citizens to stop the pollution.[11]

However, this section appears to have had no effect in practice. A 1974 Illinois Appellate Court decision held that private citizens could not block a joint federal-state project on a river, which they argued would harm the environment. The court said "the alleged causal connection between the destroying of the habitat of the game and wildlife to be hunted and the right to a healthful environment is too remote to warrant the relief sought."[12] The Illinois Supreme Court in a 1995 case gave this section a similarly narrow interpretation, saying that its only purpose

was to abolish the "special injury" requirement, and that plaintiffs must still show that they have a "cognizable cause of action" to be able to sue to block actions alleged to harm the environment.[13] In 1999 the Court similarly refused to allow a person to sue a city under this section to block construction of a dam and reservoir on a creek.[14]

Two Illinois Appellate Court cases denied other attempts to use this section for environmental protection or redress. A 1984 case held that a state law excluding some automobile racing events from the Pollution Control Board's powers to regulate noise did not violate this section;[15] and a 1997 case held that this section did not create a private right of action against a seller of real estate for failure to disclose to the buyer that it was contaminated.[16]

However, private persons or groups can oppose pollution by filing complaints with the Pollution Control Board under the Environmental Protection Act.[17] The private right to sue guaranteed by this section may have some value as a 'safety valve' if agencies charged with protecting the environment fail to do so.

Article 12. Militia

This article provides for a state militia with little change from the 1870 Constitution, except for including all able-bodied persons in the state as members of the militia (rather than only able-bodied men aged 18 to 45). The committee that proposed it at the constitutional convention said that inclusion of a militia article in the new Constitution was intended to express the state's right of self-preservation, and "to add integrity to the concept of the state as a separate governmental entity within the federal system."[1] The role of states in controlling their militias was reduced by the National Defense Act of 1916, which established the National Guard as the official organized militia of the United States, under the general supervision of the national government.[2]

SECTION 1. MEMBERSHIP

The State militia consists of all able-bodied persons residing in the State except those exempted by law.

The "militia" described here includes both the state's organized militia, who have received military training, and its unorganized militia—composed of all other able-bodied persons who are not exempt.[3] The corresponding provision in the 1870 Constitution was narrower, including in the unorganized militia only able-bodied men aged 18 to 45.[4]

SECTION 2. SUBORDINATION OF MILITARY POWER

The military shall be in strict subordination to the civil power.

This provision was taken from the Bill of Rights of the 1870 Constitution. It states a fundamental principle of a democratic society.

SECTION 3. ORGANIZATION, EQUIPMENT AND DISCIPLINE

The General Assembly shall provide by law for the organization, equipment and discipline of the militia in conformity with the laws governing the armed forces of the United States.

The national government exercises general supervision over state militias, which are now part of the National Guard.[5]

SECTION 4. COMMANDER-IN-CHIEF AND OFFICERS

(a) The Governor is commander-in-chief of the organized militia, except when they are in the service of the United States. He may call them out to enforce the laws, suppress insurrection or repel invasion.

(b) The Governor shall commission militia officers who shall hold their commissions for such time as may be provided by law.

Subsection 4(a) parallels the U.S. Constitution's statement that the President is "Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States . . . ."[6] The Military Code of Illinois, in the Illinois Compiled Statutes, governs the state's organized militia, called the Illinois National Guard.[7]

SECTION 5. PRIVILEGE FROM ARREST

Except in cases of treason, felony or breach of peace, persons going to, returning from or on militia duty are privileged from arrest.

There is a similar provision for state legislators in Article 4, section 12, first sentence. Presumably this provision, like that one, applies only to "civil arrest"—not arrests for violating criminal laws or ordinances.

Article 13. General Provisions

Article 13 is a potpourri of provisions that did not fit logically into any other article. Its most notable sections are those requiring statements of economic interests by public officers, and guaranteeing pensions of public employees.

SECTION 1. DISQUALIFICATION FOR PUBLIC OFFICE

A person convicted of a felony, bribery, perjury or other infamous crime shall be ineligible to hold an office created by this Constitution. Eligibility may be restored as provided by law.

The general purpose behind this section is simple: To bar from public office those who have shown a serious lack of trustworthiness, except to the extent the statutes again allow them to seek office. But the statutory provisions on this topic are complex and not easily reconciled with one another. "Infamous crimes" are not precisely defined. The Illinois Supreme Court, in a case under a similar provision in the 1870 Constitution, commented that a felony is infamous "if it is inconsistent with commonly accepted principles of honesty and decency, or involves moral turpitude."[1] But this section is broader, applying to *all* felonies plus any other crimes determined to be infamous. It, or its predecessor in the 1870 Constitution, has been held to apply to crimes against the laws of the U.S. or of other states, as well as Illinois crimes.[2]

An Election Code section says that a person convicted of an infamous crime as defined in another law (which has since been repealed[3]) is prohibited from holding any office of trust or profit "unless such person is again restored to such rights by the terms of a pardon for the offense or otherwise according to law."[4] But a provision in the Unified Code of Corrections may imply (albeit indirectly) that eligibility to hold a public office—*if* it was created by the Illinois Constitution—is automatically restored upon completion of the sentence for a felony: "A person convicted of a felony shall be ineligible to hold an office created by the Constitution of this State until the completion of his sentence."[5]

That inference may be supported by another provision of the Unified Code of Corrections, saying that rights of a person discharged from parole (or from mandatory supervised release, which replaced it) "shall be restored under" the section that includes the sentence just quoted.[6]

The combined effect of those provisions of the Constitution, Election Code, and Unified Code of Corrections, if they all apply, appears to be as follows:

(1) Persons convicted of infamous crimes are disqualified from later serving in offices *not* created by the Constitution.

(2) Persons convicted of felonies can run for offices that *were* created by the Constitution immediately after completing their sentences (including mandatory supervised release).

The Illinois courts have read those provisions that way. An Illinois Appellate Court panel, in a 1980 case, found no reasonable basis for barring a person who had completed a sentence from running for a local office *not* created by the Constitution while allowing anyone who had completed a sentence to run for an office that *was* created by the Constitution. Thus, that panel

of judges held that the person could run for a local office even though it was not created by the Constitution.[7] That decision was not appealed.

Another district of the Appellate Court held the opposite in 2006. The judges in that case held that it was rational for the General Assembly to exclude persons with criminal records from local offices *not* created by the Constitution, because "the opportunities and the means to scrutinize candidates for municipal offices and to oversee the activities of those elected are significantly less than the opportunities for scrutiny and oversight of those who run for and serve in constitutional offices."[8] That decision also was not appealed. But in two cases decided together in 2007, the Illinois Supreme Court endorsed that decision, holding that under a provision of the Illinois Municipal Code,[9] a person with a felony record could not run for a city council seat.[10]

A 2014 Illinois Appellate Court decision, citing the Election Code provision mentioned above, held the same regarding a school board seat.[11] A 2018 Illinois Appellate Court decision (which was still subject to revision at publication time), citing the Illinois Municipal Code provision, held the same regarding election to the office of mayor.[12] A 2014 decision by the U.S. Court of Appeals for the Seventh Circuit reached a similar result; it also rejected arguments that the Illinois Election Code provision violates the constitutional requirement of equal protection, and that it violates the First Amendment to the U.S. Constitution.[13]

In a case decided in 1970 under the 1870 Constitution, an Illinois Appellate Court panel held that the Governor's pardoning power included the ability to restore a federal felon to rights of citizenship given by the state, including the ability to hold public office.[14] That decision was not appealed.

SECTION 2. STATEMENT OF ECONOMIC INTERESTS

All candidates for or holders of state offices and all members of a Commission or Board created by this Constitution shall file a verified statement of their economic interests, as provided by law. The General Assembly by law may impose a similar requirement upon candidates for, or holders of, offices in units of local government and school districts. Statements shall be filed annually with the Secretary of State and shall be available for inspection by the public. The General Assembly by law shall prescribe a reasonable time for filing the statement. Failure to file a statement within the time prescribed shall result in ineligibility for, or forfeiture of, office. This Section shall not be construed as limiting the authority of any branch of government to establish and enforce ethical standards for that branch.

Governmental Ethics Act

The Illinois Governmental Ethics Act[15] implements this section. It requires annual economic disclosure statements from all holders of or candidates for elected state executive, legislative, or judicial offices; many gubernatorial appointees who had to be confirmed by the Senate or who supervise state universities, pension funds, or investments; and members of boards or commissions created by the Constitution. The Act also requires such statements from nonteaching state employees who have discretion in exercising governmental powers or procuring goods or services for the state; candidates for or holders of most elective or appointive offices in local governments, school and community college districts, and zoning or planning boards; and local government and school employees who have discretion in exercising

governmental powers.[16] The Illinois Supreme Court has held that the General Assembly has power to require disclosure statements from such classes of officers and employees.[17]

The Illinois Supreme Court in a 1992 case under the Act held that a candidate should not be disqualified due to mere inadvertent inaccuracy or omission in a statement of economic interests. The Court pointed out that the Act disqualifies a candidate who completely *fails* to file a statement within the time allowed, and imposes penalties if a candidate *willfully* files a false or incomplete statement.[18]

Other ethical and reporting requirements

The Illinois Supreme Court upheld a 1973 executive order imposing similar disclosure requirements on persons appointed by the Governor and on some persons employed under him.[19] But the Court struck down a provision in the order saying that persons doing business with the state must file statements disclosing political contributions they had made. It held that the Governor had no authority to impose such requirements on persons not in the executive branch.[20]

In addition to the constitutional and statutory requirements on judges, Illinois Supreme Court rules establish ethical standards, which the Courts Commission may enforce.[21] See the discussion under Article 6, section 15.

The more recently enacted State Officials and Employees Ethics Act[22] imposes many other requirements intended to protect the integrity of government service.

SECTION 3. OATH OR AFFIRMATION OF OFFICE

Each prospective holder of a State office or other State position created by this Constitution, before taking office, shall take and subscribe to the following oath or affirmation:

"I do solemnly swear (affirm) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of . . . to the best of my ability."

Two separate oath provisions in the 1870 Constitution were combined into this general oath requirement, which applies to all prospective holders of constitutionally created state offices or positions. Prospective holders of other offices or positions need not take this oath, but may be required by statute to take a different one.[23]

SECTION 4. SOVEREIGN IMMUNITY ABOLISHED

Except as the General Assembly may provide by law, sovereign immunity in this State is abolished.

The doctrine of sovereign immunity, which originated in English common law, prohibits suits against a government without its consent. The doctrine has received much criticism in modern times, and many states have limited or abolished it. The Illinois Supreme Court judicially abolished sovereign immunity as to school districts in 1959; later cases extended the abolition to other kinds of local governments.[24]

A provision in the 1870 Constitution guaranteed the sovereign immunity of the state.[25] But the General Assembly long ago created an agency, first called the Commission on Claims and later the Court of Claims, to hear claims against the state and recommend to the General Assembly payment of those it found to be justified.[26] A 1983 act amending the Court of Claims Act stated that the Court of Claims is a part of the legislative branch.[27]

The committee that proposed this section at the 1970 constitutional convention wanted to leave the General Assembly free to decide whether the state would be liable to suit. But it decided to put the onus on the General Assembly to determine the conditions in which such suits would be heard.[28] The General Assembly responded by enacting the State Lawsuit Immunity Act,[29] effective the day this section of the Constitution took effect (January 1, 1972).[30] That Act, as amended, continues the state's immunity from suit—other than suits under the Court of Claims Act, the Illinois Public Labor Relations Act, or the State Officials and Employees Ethics Act,[31] and several other types of suits that a section of the State Lawsuit Immunity Act excludes from that immunity.[32] The Court of Claims Act limits the amount payable per claimant in tort (civil legal wrongs) cases, except those arising from the operation of state vehicles.[33]

Whether a suit is against the state depends not on who is named as a defendant, but on whether the suit seeks to control the actions of the state or subject it to liability.[34] If the state would be directly and adversely affected by an unfavorable judgment, it is a "real party in interest" and the suit is against it.[35] But the Illinois Supreme Court has said that a suit is not against the state if it "contests the conduct of State officials in the enforcement of an allegedly unconstitutional law and in allegedly proceeding in violation of law."[36] Thus it is sometimes unclear whether a suit naming the state as a defendant should be filed in a circuit court or in the Court of Claims.

Cases under the 1970 Constitution appear to establish that state universities are parts of the state government for sovereign immunity purposes.[37]

The Illinois Supreme Court in 1992 held that sovereign immunity and public official's immunity did not bar a judgment against a State Police officer for negligently driving a police car while traveling to the scene of a reported disturbance that was not within his primary responsibility to patrol major highways. The Court said that if a state employee is negligent by violating a duty that arises independently of state employment (in this case, the duty to drive with due care when not pursuing a suspect), the suit is not against the state and the employee can be liable like any other person.[38]

The U.S. Court of Appeals in Chicago has held that this section did not waive the state's immunity from suit in federal courts under the Eleventh Amendment to the U.S. Constitution.[39] But federal cases under the Eleventh Amendment—somewhat like the Illinois Supreme Court cases described above regarding this section—say that a state is not exempt from suits alleging that its officials are violating the U.S. Constitution and/or federal laws. Also, U.S. Supreme Court cases have held that some provisions of the U.S. Constitution (including the Fourteenth Amendment) impliedly authorize Congress to permit some kinds of suits against states despite the Eleventh Amendment,[40] if such authorization is direct and explicit.[41]

Laws on state and local liability

This section empowers the General Assembly to determine how much, if any, sovereign immunity local governments have.[42] The liability of local governments and their employees for torts has been limited by the Local Governmental and Governmental Employees Tort Immunity Act.[43] It restricts the grounds for which, and the time during which, tort suits may be brought against local governments. Another law exempts the state, local governments, and school districts from complying with assignments of their employees' wages to pay creditors.[44] The Illinois Supreme Court has held that the state is not immune from a suit by a third person

to garnish wages that the state owes an employee.[45] But an Illinois Appellate Court decision suggests that this may be of little value to one who is owed money by a state employee if the state opposes garnishment, because the constitutional courts (those created by Article 6) cannot impose a money judgment on the state in such cases.[46]

A 1982 Illinois Appellate Court decision held that a home-rule city could not prohibit garnishment actions against it, since the court considered that to be an attempt by the city to assert sovereign immunity. The court noted that this section begins "Except as the General Assembly may provide by law"—not "Except as the General Assembly *and other legislative bodies* may provide"—indicating that home rule does not include power to re-establish sovereign immunity.[47] But the same district of the Appellate Court in 1992 held that a person with an unpaid judgment against a city could not seize its city hall to satisfy the judgment. The two-judge majority cited earlier Illinois cases holding that as a matter of public policy, winners of judgments cannot seize municipal property for payment, since that could disrupt essential municipal operations and endanger lives. The court said that a successful plaintiff has other remedies, including forcing the city to issue bonds and raise taxes to pay a judgment. But a partly different two-judge majority in the same case held that the winner of the judgment could seize a vacant former industrial site owned by the city to help pay an award in his favor.[48]

SECTION 5. PENSION AND RETIREMENT RIGHTS

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.

This section was proposed and adopted on the floor of the 1970 constitutional convention. (It was initially added to the Legislative Article,[49] but the convention later moved it to this Article.[50]) Because it was proposed on the floor, there is no committee report explaining what effects it was intended to have. Comments in floor debate by its proponents and opponents[51] indicate a lack of consensus on what it would do. But its two main proponents in that debate—Delegates Henry I. Green and Helen C. Kinney—said it was modeled on a 1938 amendment to New York's Constitution[52] that is virtually identical in substance to this section.[53] Delegate Green initially suggested that a major purpose of the proposed section was to require the General Assembly to provide more funding for, and eventually to eliminate the unfunded liabilities of, the state's public pension systems.[54] Delegate Kinney seems to have thought of it as blocking municipalities that would get home rule under the new Constitution from using home rule to "abandon" their pension funds.[55]

But after some other delegates warned that the section might be interpreted to require immediate (or at least rapid) funding of pension liabilities,[56] its two main proponents narrowed their descriptions of it, saying that it would require only that retirees under public pension systems get the benefits they were promised when they were hired.[57] Delegate Kinney described the proposed section that way multiple times:

> Benefits not being diminished really refers to this situation: If a police officer accepted employment under a provision where he was entitled to retire at two-thirds of his salary after twenty years of service, that could not subsequently be changed to say he was entitled to only one-third of his salary after thirty years of service, or perhaps entitled to nothing.[58]

> . . . .
>
> The thrust of [the proposal] is that people who do accept employment will not find at a future time that they are not entitled to the benefits they thought they were when they accepted the employment.
>
> . . . .
>
> All we are seeking to do is to guarantee that people will have the rights that were in force at the time they entered into the agreement to become an employee, and as Mr. Green has said, if the benefits are $100 a month in 1971, they should be not less than $100 a month in 1990.[59]

Delegate Green similarly stated:

> What we are trying to merely say is that if you mandate the public employees in the state of Illinois to put in their 5 percent or 8 percent or whatever it may be monthly, and you say when you employ these people, "Now, if you do this, when you reach sixty-five, you will receive $287 a month," that is, in fact, is [*sic*] what you will get.[60]

At two earlier points in the debate, Delegate Kinney acknowledged that a pension formula might be changed after a person began public employment in a way that would result in a larger pension upon retirement.[61] She did not directly state an opinion on whether the proposed section would 'lock in' such increases; but a comment by her may suggest that it would not.[62]

Delegate Kinney's statements early in the debate—suggesting that at least a major reason for the proposal was to prevent the new Constitution's grant of home rule from enabling local governments that would get home rule to override state pension laws as to their retirees—were echoed by at least one other supporter[63] and at least one opponent.[64] But no supporter said that the proposed section was meant to apply *only* to local pension funds.

The comments described above, read together, seem to indicate that the proponents' intent was that no public employee pension fund could be abolished, or otherwise fail to pay amounts due to each member under the benefits formula as it existed when that member entered service under it.

Early cases under the section

Many cases have been decided under this section. In the first few decades after 1970, the Illinois Supreme Court stated some basic principles for applying it:

- It protects only pension rights already earned—not any right to earn more benefits by continuing to work, such as beyond a mandatory retirement age.[65]

- It did not invalidate Illinois Pension Code provisions denying pensions to retired public officers or employees who are convicted of employment-related felonies, since those Pension Code provisions by their terms apply only to persons who entered service after their effective dates. Thus, those provisions have limited the "contractual relationship" between pension funds and those members from the beginning of their service.[66]

- It does not directly require public employers to fund their pension plans adequately—at least unless there is an imminent risk of default by a pension fund.[67]

However, citing this section, the Illinois Supreme Court in early cases invalidated laws that:

- Changed the salary rates used to calculate judges' pension benefits, from the rate paid on the final day of service to the average rate paid during the last year of service (as to judges who began judicial service before the effective date of that statutory change).[68]

- Restricted the ability of public employees to buy pension credit for past military service (as to those who began service under a pension fund before that statutory change took effect).[69]

Major Illinois Appellate Court cases on this section are described later in this commentary.

Recent cases

In the second decade of the 21st century, as public and legislative attention focused on public pension funds' accrued liabilities, the Illinois Supreme Court decided cases with far-reaching effects on state and local governments. In a 2014 case, the Court interpreted this section very expansively, holding that it covers not only pensions but also subsidies that the state was paying toward premiums for state retirees' health coverage.[70] Because that case came to the Court after a trial court dismissed challenges to the 2012 act reducing those subsidies,[71] and the Supreme Court reversed and returned the case to that court for further proceedings, the exact ramifications of its decision are unclear. One member of the Court dissented at length, stating that subsidies for health care are not benefits of "[m]embership in" a public "pension or retirement system."[72]

The second case, in 2015, addressed a 2013 law[73] that sought to adjust the state's pension liabilities using a combination of measures, including raising the minimum age of pension eligibility for employees who were relatively young when the law was enacted; limiting the maximum amount of pay that would be counted toward a pension; limiting the statutory 3% automatic annual increases in pensions after retiring; and omitting those annual increases in some years. After a thorough discussion of the history of this section at the constitutional convention and afterward, the Court held that the 2013 law violated this section. (The Court did not separately analyze the constitutionality of each change made by the 2013 law, but simply held the law unconstitutional in its entirety.)[74] A significant footnote in its opinion addressed whether benefit increases are 'locked in' after they take effect:

> Additional benefits may always be added, of course [citation], and the State may require additional employee contributions or other consideration in exchange [citation]. However, once the additional benefits are in place and the employee continues to work, remains a member of a covered retirement system, and complies with any qualifications imposed when the additional benefits were first offered, the additional benefits cannot be unilaterally diminished or eliminated. [citations][75]

Several older Illinois Appellate Court cases (including ones cited in that footnote but omitted from the quotation above) had held that employees who continue serving after pension benefit formulas are changed by increasing benefits are guaranteed the new, higher benefits. The rationale of those cases was that by continuing to serve and make pension contributions after benefit formulas were increased, the employees provided additional consideration (actions that

one party to a contract is required to take in return for actions the other party is required to take)—effectively making a new contract involving higher benefits.[76]

Two Illinois Appellate Court decisions similarly applied this section to prevent statutory reductions in benefits from being applied to police officers who served for a number of years and then went onto disability before the statutory reductions took effect.[77]

In 2016 the Illinois Supreme Court considered a 2013 law[78] that sought to make adjustments to local government pension fund liabilities similar to the changes to state pension funds under the 2013 law, cited above,[79] that it had already held unconstitutional. It held that law unconstitutional as well.[80]

The Illinois Supreme Court decided another case under this section in 2016. Although it stated little new doctrine on this section, it affirmed statements from previous cases that the section protects only the rights that public employees actually had while employed—which can be subject to limitations on duration of benefits or other conditions, *if* those conditions were already in the Pension Code or in a contract covering that employment during the employees' service.[81]

Effects of revived pension restriction

Several Illinois Appellate Court cases have dealt with the following series of events in the 1970s: At the time the 1970 Constitution took effect, the Illinois workers' compensation law required that disability or survivors' benefits from a public pension system to a former public employee, or to survivors of a deceased public employee, be reduced by any workers' compensation payments the employee or survivors had received for the same disability or death.[82] That provision was repealed in 1974;[83] but in 1977 similar provisions were inserted into five articles of the Pension Code.[84] Most Appellate Court panels dealing with these facts have held that the 1974 repeal, followed by a public employee's continued service and contributions to a public pension system after that repeal, vested a right in that employee to full benefits without the reduction that was, once again, required by the 1977 law.[85] Of course, public employees who began working after the 1977 reduction provisions took effect were subject to those reduction provisions. One Appellate Court panel held the other way, stating that this section does not give public employees a vested right to changes in their pension system that benefit them.[86] (That decision was the first among this group of decisions, and no attempt was made to appeal it to the Illinois Supreme Court.)

SECTION 6. CORPORATIONS

Corporate charters shall be granted, amended, dissolved, or extended only pursuant to general laws.

Many corporations established before 1870 received special charters granting them specific privileges. The 1870 Constitution ended the practice of granting such charters.[87] However, some of those corporations may still exist; and due to the U.S. Constitution's prohibition on states' impairing the obligations of contracts,[88] privileges that were guaranteed by pre-1870 corporate charters cannot now be taken away. See the discussion under Article 1, section 16.

The 1870 Constitution guaranteed shareholders in corporations the right of cumulative voting for directors; each shareholder could concentrate some or all votes to help elect one director, rather than voting for one candidate for each vacancy.[89] Although the present Constitution

contains no such provision, the Transition Schedule's section 8 protects the right of shareholders of pre-1971 corporations to vote cumulatively. The Illinois Supreme Court has held that this right can be abolished by unanimous consent of a corporation's shareholders.[90]

SECTION 7. PUBLIC TRANSPORTATION

Public transportation is an essential public purpose for which public funds may be expended. The General Assembly by law may provide for, aid, and assist public transportation, including the granting of public funds or credit to any corporation or public authority authorized to provide public transportation within the State.

The General Assembly presumably would have authority, even without this section, to provide for public transportation. But this section ensures that public transportation will be treated under Article 8, subsection 1(a) as a public purpose, for which public funds may be spent and public credit used. The General Assembly has provided for subsidized public transportation in laws including the Transportation Bond Act[91] and the Regional Transportation Authority Act,[92] which have been upheld.[93]

SECTION 8. BRANCH BANKING

Branch banking shall be authorized only by law approved by three-fifths of the members voting on the question or a majority of the members elected, whichever is greater, in each house of the General Assembly.

The 1870 Constitution contained an even more restrictive section, requiring referendum approval of any law or amendment to a law authorizing or creating banking corporations.[94] Under the current provision, an ordinary constitutional majority of each house can authorize branch banking, unless opponents vote against such a bill in sufficient numbers to make "three-fifths of the members voting on the question" a higher requirement. The Illinois Supreme Court held that Chicago's home-rule powers did not empower it to authorize branch banking.[95] But in 1993 the General Assembly authorized unlimited bank branching throughout Illinois, and even into other states if permitted by their laws.[96]

Article 14. Constitutional Revision

In addition to the power of the General Assembly under previous Constitutions to propose amendments to the Illinois Constitution, this article allows voters to propose amendments to change the General Assembly's operations. This article also seeks to regulate the actions of the General Assembly in proposing or ratifying federal constitutional amendments. Those new provisions in the 1970 Constitution have resulted in several court decisions.

SECTION 1. CONSTITUTIONAL CONVENTION

(a) Whenever three-fifths of the members elected to each house of the General Assembly so direct, the question of whether a Constitutional Convention should be called shall be submitted to the electors at the general election next occurring at least six months after such legislative direction.

(b) If the question of whether a Convention should be called is not submitted during any twenty-year period, the Secretary of State shall submit such question at the general election in the twentieth year following the last submission.

(c) The vote on whether to call a Convention shall be on a separate ballot. A Convention shall be called if approved by three-fifths of those voting on the question or a majority of those voting in the election.

(d) The General Assembly, at the session following approval by the electors, by law shall provide for the Convention and for the election of two delegates from each Legislative District; designate the time and place of the Convention's first meeting which shall be within three months after the election of delegates; fix and provide for the pay of delegates and officers; and provide for expenses necessarily incurred by the Convention.

(e) To be eligible to be a delegate a person must meet the same eligibility requirements as a member of the General Assembly. Vacancies shall be filled as provided by law.

(f) The Convention shall prepare such revision of or amendments to the Constitution as it deems necessary. Any proposed revision or amendments approved by a majority of the delegates elected shall be submitted to the electors in such manner as the Convention determines, at an election designated or called by the Convention occurring not less than two nor more than six months after the Convention's adjournment. Any revision or amendments proposed by the Convention shall be published with explanations, as the Convention provides, at least one month preceding the election.

(g) The vote on the proposed revision or amendments shall be on a separate ballot. Any proposed revision or amendments shall become effective, as the Convention provides, if approved by a majority of those voting on the question.

This article provides two methods of constitutional revision on any subject: by convention (this section) and by proposals from the General Assembly (section 2). Under subsections 1(b) and (c), the question whether to call a constitutional convention must be sent to the voters at least every 20 years. That question was sent to the voters in 1988 and 2008.[1] It received "Yes" votes from fewer than 25% of those voting on the question in 1988,[2] and from fewer than 33% of those voting on the question in 2008[3]—far below three-fifths of those voting on the question, and also less than the alternative basis for approval (a majority of those voting at the election).

Before the 2008 referendum, litigants challenged some statements in the proposed "Official Explanation" of the question to the voters. A trial court ordered the Secretary of State to issue a "corrective notice" to voters amending some of those statements; an Illinois Appellate Court decision upheld that order.[4]

SECTION 2. AMENDMENTS BY GENERAL ASSEMBLY

(a) Amendments to this Constitution may be initiated in either house of the General Assembly. Amendments shall be read in full on three different days in each house and reproduced before the vote is taken on final passage. Amendments approved by the vote of three-fifths of the members elected to each house shall be submitted to the electors at the general election next occurring at least six months after such legislative approval, unless withdrawn by a vote of a majority of the members elected to each house.

(b) Amendments proposed by the General Assembly shall be published with explanations, as provided by law, at least one month preceding the vote thereon by the electors. The vote on the proposed amendment or amendments shall be on a separate ballot. A proposed amendment shall become effective as the amendment provides if approved by either three-fifths of those voting on the question or a majority of those voting in the election.

(c) The General Assembly shall not submit proposed amendments to more than three Articles of the Constitution at any one election. No amendment shall be proposed or submitted under this Section from the time a Convention is called until after the electors have voted on the revision or amendments, if any, proposed by such Convention.

The 1870 Constitution as originally ratified—until the 1950 "Gateway Amendment"[5] made it easier to amend—allowed the General Assembly to propose amendments to no more than one article of the Constitution "at the same session."[6] The 1950 amendment, among other changes, raised that limit to three articles, and the 1970 Constitution kept that limit. Early in the 20th century, while the limit was one article, the Illinois Supreme Court was asked to decide the validity of a constitutional amendment that expressly amended Article 4 of the 1870 Constitution, and by implication amended at least two other articles (it authorized the General Assembly to enact a law creating a charter or other comprehensive system of municipal government for Chicago, which of necessity affected multiple articles of the Constitution). The Court held that the 1870 Constitution's limit of proposed amendments to one article per legislative session applied only to express amendments, not implied ones. The Court reasoned that

a contrary holding would make many kinds of amendments to the Constitution impossible to propose.[7]

A section of the Election Code restricts the number of questions of public policy (with several exceptions) that can be on the ballot "with respect to a political subdivision" at one election. It states no such limitation on proposed constitutional amendments.[8] That section also allows no more than three "advisory" questions to be sent to the state's voters at one general election. Constitutional amendments proposed by initiative under section 3 of this article are explicitly exempt from that restriction.[9]

A statute deals with various details on proposing constitutional amendments, either legislatively or by initiative as authorized by section 3.[10]

The General Assembly has sent 21 proposed amendments of the 1970 Constitution to the voters. They are summarized below.

Adopted amendments

1980: Amended Article 9, section 8 to reduce the time allowed for redemption of some kinds of real property sold for nonpayment of taxes.[11]

1982: Amended Article 1, section 9 to expand the class of suspects who can be denied bail.[12]

1986: Amended Article 1, section 9 by further expanding the class of suspects who can be denied bail.[13]

1988: Amended Article 3, section 1 to lower the minimum voting age to 18 and reduce the minimum residency requirement for voting to 30 days.[14]

1990: Amended Article 9, section 8 again, to subdivide the kinds of real property having a shorter period for redemption after sale for nonpayment of taxes into two groups—one with a redemption period of 6 months, and the other with a redemption period of 1 year.[15]

1992: Added to Article 1 a new section 8.1 on rights of crime victims.[16]

1994: Two amendments were proposed and adopted:

(1) Amended Article 1, section 8 to remove the requirement of face-to-face confrontation in criminal trials between witnesses and defendants.[17]

(2) Amended Article 4, section 10 to change the intended legislative adjournment date from June 30 to May 31.[18]

1998: Amended Article 6, section 15 to strengthen the process for discipline of judges charged with misconduct.[19]

2010: Amended Article 3, section 7 to authorize recall of the Governor.[20]

2014: Two amendments were proposed and adopted:

(1) Amended Article 1, section 8.1 to expand the rights of crime victims.[21]

(2) Added to Article 3 a new section 8 prohibiting discrimination on various grounds in voter registration and voting.[22]

2016: Added to Article 9 a new section 11 restricting how the proceeds of taxes on transportation-related activities can be spent.[23]

In addition, as noted under section 3 below, the voters in 1980 approved an amendment to Article 4, sections 1 to 3 that was proposed by initiative petition. It reduced the size of the House of Representatives by one-third, and abolished cumulative voting for House members.

Rejected amendment proposals

1974: To limit the Governor's amendatory veto to changes in matters of form and correction of technical errors.[24]

1978: Two amendments were proposed but rejected:

(1) To eliminate the requirement in Article 9, subsection 5(c) that the General Assembly abolish all remaining taxation of personal property.[25]

(2) To exempt veterans' organizations from property tax.[26]

1984: To exempt veterans' organizations from property tax.[27]

1986: To exempt veterans' organizations from property tax, and require state reimbursement to local governments for lost revenues.[28]

1988: To change redemption periods for real property sold for nonpayment of taxes.[29] (However, a nearly identical proposal was approved by the voters in 1990.)

1992: To require "equality of educational opportunity" and make the state carry the "preponderant financial responsibility for financing" public schools.[30]

2012: To amend Article 13 by adding a section 5.1 that would have prevented any non-appropriations bill that would raise benefits of any public employee pension system from being enacted without a three-fifths vote of members elected to each house (two-thirds if the bill was totally vetoed, or was amendatorily vetoed and the Governor's recommendations were accepted), and would have required a three-fifths vote to enact any local government or school district pay increase, or for any public pension fund board to make a "beneficial determination" regarding a pension.[31]

SECTION 3. CONSTITUTIONAL INITIATIVE FOR LEGISLATIVE ARTICLE

Amendments to Article IV of this Constitution may be proposed by a petition signed by a number of electors equal in number to at least eight percent of the total votes cast for candidates for Governor in the preceding gubernatorial election. Amendments shall be limited to structural and procedural subjects contained in Article IV. A petition shall contain the text of the proposed amendment and the date of the general election at which the proposed amendment is to be submitted, shall have been signed by the petitioning electors not more than twenty-four months preceding that general election and shall be filed with the Secretary of State at least six months before that general election. The procedure for determining the validity and sufficiency of a petition shall be provided by law. If the petition is valid and sufficient, the proposed amendment shall be submitted to the electors at that general election and shall become effective if approved by either three-fifths of those voting on the amendment or a majority of those voting in the election.

This section allows a limited constitutional revision by initiative. Proposed amendments must be restricted to "structural and procedural subjects contained in" Article 4. A proposal at the 1970 constitutional convention to allow constitutional revision by initiative, without limit as to subject, was defeated.[32] But the convention did decide to allow changes by initiative of the General Assembly's basic structure and operations, believing that the General Assembly would be unlikely to propose such changes itself. As mentioned above in the discussion of section 2, a statute addresses various details for proposing constitutional amendments.[33]

In a 1976 case the Illinois Supreme Court interpreted the restriction of initiated amendments to "structural and procedural subjects" to mean that each proposed amendment by initiative must propose *both* structural *and* procedural changes. The Court kept off the ballot a group of proposed amendments seeking to tighten the dual-officeholding restriction in Article 4, subsection 2(a); prohibit a legislator from voting if the legislator has a conflict of interest; and prohibit payment of salary to legislators in advance.[34] On the other hand, in 1980 the Court allowed on the ballot a proposed amendment by initiative to Article 4, sections 1 to 3 to reduce the number of House seats from 177 to 118 and abolish cumulative voting for House members.[35] The voters approved that proposal in November 1980, and it took effect starting with the November 1982 election.

A 1982 Illinois Appellate Court decision held that a proposed constitutional amendment by initiative, which would have allowed voters to pass ordinary laws by initiative, was an attempt to diffuse legislative powers rather than to change the General Assembly's structure and procedures, and thus could not go onto the ballot.[36]

In 1990 the Illinois Supreme Court refused to allow on the ballot another amendment proposed by initiative. It would have required a three-fifths vote in each house to pass any bill that would increase state revenues. It also would have imposed some requirements on procedures of the House and Senate Revenue Committees. The Court said the proposal appeared to be designed to comply with its 1976 decision construing this section as requiring any proposed amendment by initiative to deal with *both* structural *and* procedural subjects. But in the 1990 case, the Court did not focus on the "structural and procedural" requirement, but on the requirement that any amendment proposed by initiative be "limited to . . . subjects contained in" Article 4. The Court said that if it were permissible to add a three-fifths vote requirement and other provisions by initiative—thus increasing the difficulty of raising revenues—similar provisions could be used to shift the balance of power in the General Assembly on any other issue.

The Court said this would violate an intent of the 1970 constitutional convention that the initiative authorized by this section not be used to enact "substantive" provisions—which the convention delegates considered more fitting for statutes.[37]

In 1994 the Illinois Supreme Court held (although by only a 4-3 majority) that an initiated proposal to amend the Constitution could not go on the ballot. The proposed amendment would have amended Article 4 to prevent anyone from serving a total of more than 8 years in the General Assembly, starting with the first General Assembly seated after the amendment was approved by the voters. The four-person majority said the initiative proposed to change neither the structure nor the procedures of the General Assembly, and thus was not authorized by this section. The dissent argued that the Court had misinterpreted the phrase "structural and procedural subjects" in its 1976 case. The dissent also pointed to the Court's statement in the 1990 case that the true purpose of that quoted phrase is to prevent the initiative process from being used to add to the Constitution "substantive" provisions—which the dissent said a limit on legislative terms is not.[38]

A 2014 Illinois Appellate Court decision refused to allow on the ballot a proposal, initiated under this section, that sought to reduce the size of the Senate, increase the size of the House, limit each legislator's time in office to 8 years, and increase the legislative vote needed to override a Governor's veto from three-fifths to two-thirds. The Appellate Court judges stated that the proposed limit on legislative terms did not meet this section's "structural and procedural subjects" requirement.[39] That decision was not appealed.

In 2016, the Illinois Supreme Court (by a 4-3 majority) refused to allow on the ballot a proposal under this section that would have directed the Auditor General, through a multi-step process to be employed after each federal Census, to create an Independent Redistricting Commission that would draw state legislative districts for the next decade. The Court stated that because the initiated measure would have added to the Auditor General's constitutional duties the tasks of screening and selecting persons who would help create the proposed Commission, it exceeded this section's limitation of initiated constitutional amendments to "structural and procedural subjects contained in" the Legislative article.[40]

SECTION 4. AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

The affirmative vote of three-fifths of the members elected to each house of the General Assembly shall be required to request Congress to call a Federal Constitutional Convention, to ratify a proposed amendment to the Constitution of the United States, or to call a State Convention to ratify a proposed amendment to the Constitution of the United States. The General Assembly shall not take action on any proposed amendment to the Constitution of the United States submitted for ratification by legislatures unless a majority of the members of the General Assembly shall have been elected after the proposed amendment has been submitted for ratification. The requirements of this Section shall govern to the extent that they are not inconsistent with requirements established by the United States.

The 1970 constitutional convention included a requirement of a three-fifths vote in each house to ratify proposed amendments to the U.S. Constitution, so as to require the same size of majority for giving the state's assent to a federal constitutional amendment as for proposing an amendment to the Illinois Constitution. But the Attorney General advised,[41] and a three-judge federal district court held,[42] that this supermajority requirement is not authorized by the U.S. Constitution for ratifying federal constitutional amendments, and thus does not bind the General Assembly. Nevertheless, the rules of each house currently match the three-fifths provision of this section.[43]

The Attorney General similarly advised that this section's requirement that a majority of members of the General Assembly have been elected between the time when Congress (or a national constitutional convention) proposes an amendment, and the General Assembly votes on it, does not bind the General Assembly.[44]

Transition Schedule

The following Schedule Provisions shall remain part of this Constitution until their terms have been executed. Once each year the Attorney General shall review the following provisions and certify to the Secretary of State which, if any, have been executed. Any provisions so certified shall thereafter be removed from the Schedule and no longer published as part of this Constitution.

SECTION 2. PROSPECTIVE OPERATION OF BILL OF RIGHTS

Any rights, procedural or substantive, created for the first time by Article I shall be prospective and not retroactive.

SECTION 4. JUDICIAL OFFICES

(a) On the effective date of this Constitution, Associate Judges and magistrates shall become Circuit Judges and Associate Judges, respectively, of their Circuit Courts. All laws and rules of court theretofore applicable to Associate Judges and magistrates shall remain in force and be applicable to the persons in their new offices until changed by the General Assembly or the Supreme Court, as the case may be.

(d) Until otherwise provided by law and except to the extent that the authority is inconsistent with Section 8 of Article VII, the Circuit Courts shall continue to exercise the non-judicial functions vested by law as of December 31, 1963, in county courts or the judges thereof.

SECTION 5. LOCAL GOVERNMENT

(a) The number of members of a county board in a county which, as of the effective date of this Constitution, elects three members at large may be changed only as approved by county-wide referendum. If the number of members of such a county board is changed by county-wide referendum, the provisions of Section 3(a) of Article VII relating to the number of members of a county board shall govern thereafter.

(c) Townships in existence on the effective date of this Constitution are continued until consolidated, merged, divided or dissolved in accordance with Section 5 of Article VII.

SECTION 6. AUTHORIZED BONDS

Nothing in Section 9 of Article IX shall be construed to limit or impair the power to issue bonds or other evidences of indebtedness authorized but unissued on the effective date of this Constitution.

SECTION 8. CUMULATIVE VOTING FOR DIRECTORS

Shareholders of all corporations heretofore organized under any law of this State which requires cumulative voting of shares for corporate directors shall retain their right to vote cumulatively for such directors.

The Illinois Supreme Court upheld a law allowing the shareholders of a corporation organized before the 1970 Constitution, by unanimous vote, to abolish cumulative voting rights in that corporation.[1]

An Illinois Appellate Court decision held that this section did not prevent a corporation from adopting a "poison pill" designed to dilute the voting rights of any shareholder who acquired more than 10% of its shares. Acquiring shareholders had argued that the poison pill would prevent them from ever getting enough votes to elect even one director by cumulative voting, thus making useless the guarantee of cumulative voting for corporations that were chartered before the 1970 Constitution. But the Appellate Court said the guarantee of cumulative voting rights did not prohibit such indirect effects.[2]

SECTION 9. GENERAL TRANSITION

The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations and rules of court not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution. The validity of all public and private bonds, debts and contracts, and of all suits, actions and rights of action, shall continue as if no change had taken place. All officers filling any office by election or appointment shall continue to exercise the duties thereof, until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution or laws enacted pursuant thereto.

An Illinois law prevents workers' compensation decisions by the Workers' Compensation Commission, in cases of claims against the state, from being appealed in court.[3] An Illinois Appellate Court decision cited this section of the Transition Schedule as support for upholding that provision due to the state's sovereign immunity, despite the statement in Article 13, section 4 that sovereign immunity is abolished "[e]xcept as the General Assembly may provide by law . . . ." An injured employee had argued that asserting the state's sovereign immunity against appeals of the Commission's decisions would require a re-enactment of that statutory provision after the 1970 Constitution took effect (an argument apparently inspired by Illinois courts' holdings that a law enacted before the 1970 Constitution does not restrict home-rule powers). But the Appellate Court panel said the state's sovereign immunity from appeals of Commission decisions need not be re-enacted to continue.[4]

Endnotes

Explanation of citations

Court cases

Citations to court cases (except as described in the next paragraph) give the volume number, an abbreviation of the name of that series of volumes, and the page number. As examples, "123 Ill. 2d 456" would mean a case reported in volume 123 of the Illinois Reports, 2d Series, starting at page 456; and "456 Ill. App. 3d 789" would mean a case reported in volume 456 of the Illinois Appellate Reports, 3d Series, starting at page 789. After citing a case to the official Illinois Reports or Illinois Appellate Reports, each note below gives a parallel citation to that case in the Northeastern Reporter published by Thomson Reuters, which contains the same text but has different headnotes (brief summaries of points decided in the case). A hypothetical citation to the Northeastern Reporter is "579 N.E.2d 680," which would mean a case reported in volume 579 of the Northeastern Reporter, 2d Series, starting at page 680.

The Illinois Supreme Court required a new system for official citations to Illinois Supreme or Appellate Court opinions filed after June 2011. A citation using that system begins with the year of decision, followed by "IL" (Supreme Court) or "IL App (__)" (Appellate Court—the underline stands for the number of the Appellate Court district that decided the case), followed by a six-digit case number. Endnotes below citing Illinois cases filed after June 2011 give such official citations for them, followed by parallel citations to the Northeastern Reporter.

The notation "review denied by Ill. Sup. Ct." means that the Illinois Supreme Court denied a request for "leave to appeal," which anyone seeking to appeal a case from the Illinois Appellate Court must seek (except in the few cases in which the losing party has a right to an automatic appeal to the Illinois Supreme Court). Similarly, a notation "cert. den." or "app. dis." followed by a volume and page number of the United States Reports ("U.S.") or Thomson Reuters' Supreme Court Reporter ("S. Ct.") means that a party asked the U.S. Supreme Court to review the decision of the lower court in the case, but the U.S. Supreme Court refused to take the case. Such refusal by the Illinois or U.S. Supreme Court to take up a case on appeal does not indicate either approval (or disapproval) by the higher court of the decision below. However, lawyers often look at such a refusal as some evidence that the high court did not consider the decision below to be clearly erroneous.

Laws

Illinois statutes currently in effect are cited here to the Illinois Compiled Statutes (ILCS), the codification system for all permanent Illinois laws, which took effect January 1, 1993. These statutes are available in print and online. A citation to ILCS consists of a chapter number; "ILCS;" the act number; a slash; and the number of a section within that act. As an example, "20 ILCS 15/5" means Illinois Compiled Statutes, chapter 20, act 15, section 5. Statutes that were repealed before 1993 are cited to the former Illinois Revised Statutes—an unofficial codification system that was arranged by chapter number and by section number in each chapter.

Citations to current federal laws have this format: 12 U.S. Code sec. 345. That citation means United States Code, title 12, section 345.

Article 1. Bill of Rights

1. People v. Brown, 407 Ill. 565, 95 N.E.2d 888 (1950).
2. Figura v. Cummins, 4 Ill. 2d 44, 122 N.E.2d 162 (1954).
3. People v. McPherson, 65 Ill. App. 3d 772, 382 N.E.2d 858 (1978); Wilson v. Bishop, 82 Ill. 2d 364, 412 N.E.2d 522 (1980).
4. Grattan v. Ahlberg Bearing Co., 373 Ill. 455, 26 N.E.2d 499 (1940); Estate of Oliver v. Wildermuth, 50 Ill. App. 3d 1, 365 N.E.2d 281 (1977).
5. People v. Scott, 326 Ill. 327, 157 N.E. 247 (1927); People v. Ruffalo, 69 Ill. App. 3d 532, 388 N.E.2d 114 (1979).
6. Meador v. City of Salem, 51 Ill. 2d 572, 284 N.E.2d 266 (1972); Commonwealth Edison Co. v. Dept. of Local Gov't Affairs, 126 Ill. App. 3d 277, 466 N.E.2d 1351 (1984); Town of Northville v. Village of Sheridan, 274 Ill. App. 3d 784, 655 N.E.2d 22 (1995).
7. Cronin v. Lindberg, 66 Ill. 2d 47, 360 N.E.2d 360 (1976). See the discussion of that and later cases in Village of Schaumburg v. Doyle, 277 Ill. App. 3d 832 at 835-37, 661 N.E.2d 496 at 499-500 (1996).
8. In re Petition of Village of Vernon Hills, 168 Ill. 2d 117, 658 N.E.2d 365 (1995); Folta v. Ferro Engineering, 2015 IL 118070, 43 N.E.3d 108 (2015).
9. See, for example, Casparis Stone Co. v. Industrial Board of Illinois, 278 Ill. 77, 115 N.E. 822 (1917); Schuman v. Chicago Transit Auth., 407 Ill. 313, 95 N.E.2d 447 (1950); Heimgaertner v. Benjamin Elec. Mfg. Co., 6 Ill. 2d 152, 128 N.E.2d 691 (1955). The 1870 Constitution's provision on local or special laws was Art. 4, sec. 22.
10. The many cases in which the Illinois Supreme Court has so stated include Nevitt v. Langfelder, 157 Ill. 2d 116, 623 N.E.2d 281 (1993); Arvia v. Madigan, 209 Ill. 2d 520, 809 N.E.2d 88 (2004); and People v. Mosley, 2015 IL 115872, 33 N.E.3d 137 (2015).
11. Two such cases were Winter v. Barrett, 352 Ill. 441, 186 N.E. 113 (1933) and Central Television Service, Inc. v. Isaacs, 27 Ill. 2d 420 at 428, 189 N.E.2d 333 at 337 (1963).
12. See, for example, People v. Lindner, 127 Ill. 2d 174, 535 N.E.2d 829 (1989).
13. Seifert v. Standard Paving Co., 64 Ill. 2d 109, 355 N.E.2d 537 (1976); Fujimura v. Chicago Transit Auth., 67 Ill. 2d 506, 368 N.E.2d 105 (1977).
14. Rios v. Jones, 63 Ill. 2d 488, 348 N.E.2d 825 (1976), app. dis. 429 U.S. 934.
15. Anderson v. Wagner, 79 Ill. 2d 295, 402 N.E.2d 560 (1979).
16. Broeckl v. Chicago Park Dist., 131 Ill. 2d 79, 544 N.E.2d 792 (1989), cert. den. 494 U.S. 1005.
17. Haughton v. Haughton, 76 Ill. 2d 439, 394 N.E.2d 385 (1979).
18. People v. Cook, 81 Ill. 2d 176, 407 N.E.2d 56 (1980).
19. Empress Casino Joliet Corp. v. Giannoulias, 406 Ill. App. 3d 1040, 942 N.E.2d 783 (2011), review denied by Ill. Sup. Ct.2011 IL 112003, 949 N.E.2d 1097; Marks v. Vanderventer, 2015 IL 116226, 39 N.E.3d 915 (2015).
20. See Massachusetts Bd. of Retirement v. Murgia, 427 U.S. 307 at 312 n. 3, 96 S. Ct. 2562 at 2566 (1976). Sex has been declared a suspect classification in Illinois under the 1970 Constitution, Art. 1 sec. 18: People v. Ellis, 57 Ill. 2d 127, 311 N.E.2d 98 (1974).

21. Massachusetts Bd. of Retirement v. Murgia, 427 U.S. 207 at 312 n. 3, 96 S. Ct. 2562 (1976); People ex. rel. Tucker v. Kotsos, 68 Ill. 2d 88, 368 N.E.2d 903 (1977); Rawlings v. Ill. Dept. of Law Enforcement, 73 Ill. App. 3d 267, 391 N.E.2d 758 (1979).
22. Cantwell v. Connecticut, 310 U.S. 296, 60 S. Ct. 900 (1940); School Dist. of Abington Twp. v. Schempp, 374 U.S. 203, 83 S. Ct. 1560 (1963).
23. People ex rel. Klinger v. Howlett, 56 Ill. 2d 1, 305 N.E.2d 129 (1973); People v. Falbe, 189 Ill. 2d 635, 727 N.E.2d 200 (2000).
24. People ex rel. Ring v. Board of Ed. of Dist. 24, 245 Ill. 334, 92 N.E. 251 (1910).
25. People ex rel. Wallace v. Labrenz, 411 Ill. 618, 104 N.E.2d 769 (1952), cert. den. 344 U.S. 824.
26. Bodewes v. Zuroweste, 15 Ill. App. 3d 101, 303 N.E.2d 509 (1973), review denied by Ill. Sup. Ct.
27. Wood v. School Dist. No. 651, 18 Ill. App. 3d 33, 309 N.E.2d 408 (1974).
28. Opyt's Amoco, Inc. v. Village of South Holland, 149 Ill. 2d 265, 595 N.E.2d 1060 (1992).
29. Schneider v. New Jersey, 308 U.S. 147, 60 S. Ct. 146 (1939); Bigelow v. Virginia, 421 U.S. 809, 95 S. Ct. 2222 (1975).
30. People v. DiGuida, 152 Ill. 2d 104, 604 N.E.2d 336 (1992); City of Chicago v. Pooh Bah Enterprises, Inc., 224 Ill. 2d 390, 865 N.E.2d 133 (2006), cert. den. 552 U.S. 941.
31. People v. Sterling, 52 Ill. 2d 287, 287 N.E.2d 711 (1972); People v. DiGuida, 152 Ill. 2d 104, 604 N.E.2d 336 (1992).
32. Seidelman v. Kouvavus, 57 Ill. App. 3d 350, 373 N.E.2d 53 (1978).
33. Barr v. Kelso-Burnett Co., 106 Ill. 2d 520, 478 N.E.2d 1354 (1985).
34. Talsky v. Dept. of Registration and Education, 68 Ill. 2d 579, 370 N.E.2d 173 (1977), cert. den. 439 U.S. 820.
35. Redemske v. Village of Romeoville, 85 Ill. App. 3d 286, 406 N.E.2d 602 (1980).
36. Schiller Park Colonial Inn, Inc. v. Berz, 63 Ill. 2d 499, 349 N.E.2d 61 (1976).
37. P.A. 80-1198 (1978).
38. City of Chicago v. Groffman, 68 Ill. 2d 112, 368 N.E.2d 891 (1977).
39. Village of Skokie v. National Socialist Party, 69 Ill. 2d 605, 373 N.E.2d 21 (1978).
40. Dendor v. Board of Fire & Police Comm'rs, 11 Ill. App. 3d 582, 297 N.E.2d 316 (1973) (overruled as to another issue by Lockett v. Chicago Police Board, 133 Ill. 2d 349 at 356, 549 N.E.2d 1266 at 1269 (1990)); Hasenstab v. Board of Fire & Police Comm'rs, 71 Ill. App. 3d 244, 389 N.E.2d 588 (1979).
41. Shewmake v. Board of Fire & Police Comm'rs, 71 Ill. App. 3d 1052, 390 N.E.2d 536 (1979).
42. Schafer v. Board of Fire & Police Comm'rs, 69 Ill. App. 3d 677, 387 N.E.2d 976 (1979).
43. Griggs v. Board of Fire Comm'rs, 102 Ill. App. 3d 614, 430 N.E.2d 188 (1981).
44. Lupo v. Board of Fire & Police Comm'rs, 82 Ill. App. 3d 449, 402 N.E.2d 624 (1979).
45. Rudd v. Lake County Electoral Bd., 2016 IL App (2d) 160649, 60 N.E.2d 979 (2016). The statutory provision upheld is 10 ILCS 5/7-43, last paragraph.
46. Trayling v. Board of Fire & Police Comm'rs of Bensenville, 273 Ill. App. 3d 1, 652 N.E.2d 386 (1995); People v. Reynolds, 302 Ill. App. 3d 722, 706 N.E.2d 49 (1999).
47. New York Times Co. v. Sullivan, 376 U.S. 254, 84 S. Ct. 710 (1964).
48. Farnsworth v. Tribune Co., 43 Ill. 2d 286, 253 N.E.2d 408 (1969).

49. Colson v. Stieg, 89 Ill. 2d 205, 433 N.E.2d 246 (1982).
50. Philadelphia Newspapers, Inc. v. Hepps, 475 U.S. 767, 106 S. Ct. 1558 (1986).
51. People v. Heinrich, 104 Ill. 2d 137, 470 N.E.2d 966 (1984).
52. P.A. 84-1047, sec. 1 (1984), repealing former Ill. Rev. Stat., ch. 38, secs. 27-1 and 27-2. A much older law (740 ILCS 145/0.01 ff., enacted in 1874) makes a few kinds of defamatory allegations subject to civil suit.
53. Elfbrandt v. Russell, 384 U.S. 11, 86 S. Ct. 1238 (1966).
54. People v. Thompson, 56 Ill. App. 3d 557, 372 N.E.2d 117 (1978).
55. People v. Witzkowski, 53 Ill. 2d 216, 290 N.E.2d 236 (1972), app. dis. 434 U.S. 883.
56. City of Chicago v. Weiss, 51 Ill. 2d 113, 281 N.E.2d 310 (1972), cert. den. 409 U.S. 896.
57. Mapp v. Ohio, 367 U.S. 643, 81 S. Ct. 1684 (1961) and cases following it.
58. People v. Heflin, 71 Ill. 2d 525, 376 N.E.2d 1367 (1978), cert. den. 439 U.S. 1074; People v. Luetkemeyer, 74 Ill. App. 3d 708, 393 N.E.2d 117 (1979), cert. den. 446 U.S. 938; and In re Interest of J.A., 85 Ill. App. 3d 567, 406 N.E. 958 (1980) (searches and seizures); Bianco v. American Broadcasting Companies, 470 F. Supp. 182 (N.D. Ill. 1979) and People v. Smith, 72 Ill. App. 3d 956, 390 N.E.2d 1356 (1979) (invasions of privacy).
59. Oden v. Cahill, 79 Ill. App. 3d 768, 398 N.E.2d 1061 (1979).
60. People v. Joyner, 50 Ill. 2d 302, 278 N.E.2d 756 (1972).
61. People v. Campbell, 67 Ill. 2d 308, 367 N.E.2d 949 (1977), cert. den. 435 U.S. 942.
62. People v. Miller, 36 Ill. App. 3d 542, 345 N.E.2d 1 (1975).
63. People v. Connolly, 55 Ill. 2d 421, 303 N.E.2d 409 (1973).
64. The many such cases (decided under earlier versions of the statutory section—730 ILCS 5/5-4-3) include People v. Beachem, 374 Ill. App. 3d 145, 871 N.E.2d 805 (2007), aff'd as to other issues 229 Ill. 2d 237, 890 N.E.2d 515 (2008), and In re Keith C., 378 Ill. App. 3d 252, 880 N.E.2d 1157 (2007), review denied by Ill. Sup. Ct. 227 Ill. 2d 581, 888 N.E.2d 1184 (upholding application of the section to a juvenile). But see People v. Ealy, 2015 IL App (2d) 131106, 53 N.E.3d 109 (2015), review denied by Ill. Sup. Ct. 2016 IL 120357, 48 N.E.3d 1094.
65. Mapp v. Ohio, 367 U.S. 643, 81 S. Ct. 1684 (1961).
66. People v. Brocamp, 307 Ill. 448, 138 N.E. 728 (1923); City of Chicago v. Lord, 7 Ill. 2d 379, 130 N.E.2d 504 (1955).
67. Illinois v. Krull, 480 U.S. 340, 107 S. Ct. 1160 (1987); Heien v. North Carolina, 574 U.S. ___, 135 S. Ct. 530 (2014).
68. People v. Gaytan, 2015 IL 116223, 32 N.E.3d 641 (2015); People v. Holmes, 2017 IL 120407, 90 N.E.3d 412 (2017).
69. People v. Gaytan, 2015 IL 116223, 32 N.E.3d 641 (2015), citing People v. Caballes, 221 Ill. 2d 282, 851 N.E.2d 26 (2006); People v. Holmes, 2017 IL 120407, 90 N.E.3d 412 (2017) (2017).
70. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, p. 32 (explanation of Proposal No. 1 of Bill of Rights Committee).
71. Stein v. Howlett, 52 Ill. 2d 570, 289 N.E.2d 409 (1972), app. dis. 412 U.S. 925. The Act is in 5 ILCS 420/1-101 ff.
72. Illinois State Employees' Ass'n v. Walker, 57 Ill. 2d 512, 315 N.E.2d 9 (1974), cert. den. 419 U.S. 1058. Part of the executive order, No. 73-4, is printed in the opinion in that case.

73. Hope Clinic for Women, Ltd. v. Flores, 2013 IL 112673, 991 N.E.2d 745 (2013) (plurality opinion by Burke, J. and specially concurring opinion by Thomas, J., agreeing on this point).
74. Kunkel v. Walton, 179 Ill. 2d 519, 689 N.E.2d 1047 (1997). The provisions held invalid were in 735 ILCS 5/2-1003(a) as amended by P.A. 89-7 (1995). Those provisions were effectively repealed by P.A. 99-110 (2015), which amended that section of the Code of Civil Procedure based on the text of the provisions before P.A. 89-7.
75. People v. Nesbitt, 405 Ill. App. 3d 823, 938 N.E.2d 600 (2010).
76. State Journal-Register v. University of Illinois Springfield, 2013 IL App (4th) 120881, 994 N.E.2d 705 (2013). The Act is in 5 ILCS 140/1 ff.
77. Carlson v. Jerousek, 2016 IL App (2d) 151248, 68 N.E.3d 520 (2016).
78. The provisions in effect at the time of the 1970 constitutional convention were in section 14-2 of the Criminal Code of 1961. See now 720 ILCS 5/14-2(a-5), referring to procedures set forth in 725 ILCS 5/108A-1 ff. and 5/108B-1 ff. (added after 1970).
79. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, pp. 30-31 (explanation of Proposal No. 1 of Bill of Rights Committee).
80. People v. Richardson, 60 Ill. 2d 189, 328 N.E.2d 260 (1975), app. dis., cert. den. 423 U.S. 805.
81. People v. Gervasi, 89 Ill. 2d 522, 434 N.E.2d 1112 (1982).
82. People v. Shinkle, 128 Ill. 2d 480, 539 N.E.2d 1238 (1989).
83. People v. Armbrust, 2011 IL App (2d) 100955, 956 N.E.2d 580 (2011).
84. People v. Jenkins, 2012 IL App (2d) 091168, 964 N.E.2d 1231 (2012).
85. A major example is American Civil Liberties Union of Illinois v. Alvarez, 679 F.3d 583 (7th Cir. 2012).
86. People v. Clark, 2014 IL 115776, 6 N.E.2d 154 (2014) and People v. Melongo, 2014 IL 114852, 6 N.E.2d 120 (2014).
87. P.A. 98-1142 (2014), amending 720 ILCS 5/14-2.
88. 720 ILCS 5/14-2(a).
89. P.A. 99-352, sec. 20-155, amending 720 ILCS 5/14-2(e).
90. Hurtado v. California, 110 U.S. 516, 4 S. Ct. 111 (1884); Branzburg v. Hayes, 408 U.S. 665 at 688 n. 25, 92 S. Ct. 2646 at 2660 (1972); LanFranco v. Murray, 313 F.3d 112 (2d Cir. 2002).
91. P.A. 79-671 (1975).
92. 725 ILCS 5/111-2(a) and (b).
93. People v. Kent, 54 Ill. 2d 161, 295 N.E.2d 710 (1972); People v. Creque, 72 Ill. 2d 515, 382 N.E.2d 793 (1978), cert. den. 441 U.S. 912. See also People ex rel. Hatch v. Elrod, 190 Ill. App. 3d 1004, 547 N.E.2d 1264 (1989), review denied by Ill. Sup. Ct. 131 Ill. 2d 566, 553 N.E.2d 402, cert. den. 498 U.S. 845 (indictment issuance soon after crime makes up for lack of a preliminary hearing).
94. 725 ILCS 5/111-2(f), upheld in People v. Redmond, 67 Ill. 2d 242, 367 N.E.2d 702 (1977), cert. den. 434 U.S. 1078.
95. People v. Mitchell, 68 Ill. App. 3d 370, 386 N.E.2d 153 (1979); People v. Davis, 397 Ill. App. 3d 1058, 923 N.E.2d 345 (2010).
96. 725 ILCS 5/109-3.1. See also 725 ILCS 5/114-1(a)(11).

97. Right to counsel: Gideon v. Wainwright, 372 U.S. 335, 83 S. Ct. 792 (1963).
Right to be informed of nature of accusation: In re Oliver, 333 U.S. 257, 68 S. Ct. 499 (1948); Spinkellink v. Wainwright, 578 F.2d 582 (5th Cir. 1978), cert. den. 440 U.S. 976.
Right to confront witnesses: Dutton v. Evans, 400 U.S. 74, 91 S. Ct. 210 (1970).
Right to compel attendance of defense witnesses: Washington v. Texas, 388 U.S. 14, 87 S. Ct. 1920 (1967).
Speedy trial: Klopfer v. North Carolina, 386 U.S. 213, 87 S. Ct. 988 (1967).
Public trial: In re Oliver, 333 U.S. 257, 68 S. Ct. 499 (1948); U.S. ex rel. Bennett v. Rundle, 419 F.2d 599 (3d Cir. 1969).
Impartial trial: Parker v. Gladden, 385 U.S. 363, 87 S. Ct. 468 (1966).
Trial by jury (with some limitations): Duncan v. Louisiana, 391 U.S. 145, 88 S. Ct. 1444 (1968).
98. United States v. Hayman, 342 U.S. 205, 72 S. Ct. 263 (1952); United States v. Gagnon, 470 U.S. 522, 105 S. Ct. 1482 (1985).
99. 725 ILCS 5/103-6.
100. People v. Bolden, 59 Ill. App. 3d 32, 374 N.E.2d 1307 (1978); People v. Black, 2011 IL App (5th) 080089, 953 N.E.2d 958 (2011).
101. 725 ILCS 5/109-1(a-5).
102. Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525 (1975); People v. Baker, 92 Ill. 2d 85, 440 N.E.2d 856 (1982); People v. Trotter, 2015 IL App (1st) 131096, 36 N.E.3d 918 (2015), review denied by Ill. Sup.Ct. 39 N.E.3d 1010.
103. People v. Seal, 2015 IL App (4th) 130775, 38 N.E.3d 642 (2015). See also Ill. Sup. Ct. Rule 401.
104. People v. Baez, 241 Ill. 2d 44, 946 N.E.2d 359 (2011); People v. Trotter, 2015 IL App (1st) 131096, 36 N.E.3d 918 (2015), review denied by Ill. Sup. Ct. 2015 IL 119667, 39 N.E.3d 1010.
105. People v. Trotter, 2015 IL App (1st) 131096, 36 N.E.3d 918 (2015), review denied by Ill. Sup. Ct. 2015 IL 119667, 39 N.E.3d 1010.
106. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); People v. Hale, 2013 IL 113140, 996 N.E.2d 607 (2013); People v. Morgan, 2015 IL App (1st) 131938, 44 N.E.3d 433 (2015).
107. People v. Sandoval, 135 Ill. 2d 159, 552 N.E.2d 726 (1990), cert. den. 498 U.S. 938. The statutory provision is 725 ILCS 5/115-7.
108. The statutory marital privilege is now stated in 725 ILCS 5/115-16, second paragraph.
109. People v. Foskey, 136 Ill. 2d 66, 554 N.E.2d 192 (1990).
110. People v. Fitzpatrick, 158 Ill. 2d 360, 633 N.E.2d 685 (1994).
111. The constitutional amendment was proposed by 88th General Assembly Senate Joint Resolution 123.
112. Maryland v. Craig, 497 U.S. 836, 110 S. Ct. 3157 (1990). The Court's bare majority of five justices emphasized that they were upholding the Maryland law only as applied in that case, not giving it blanket approval. The Illinois Supreme Court earlier, in People v. Bastien, 129 Ill. 2d 64, 541 N.E.2d 670 (1989), struck down a since-repealed law providing for testimony of child victims of sex crimes to be videotaped and later shown in court. Such videotaping, unlike live closed-circuit television, would prevent a defendant from

raising objections or asking questions about the testimony as it occurred.

113. P.A. 88-674 (1994).
114. People v. Van Brocklin, 293 Ill. App. 3d 156, 687 N.E.2d 1119 (1997).
115. 725 ILCS 5/106B-5.
116. 725 ILCS 5/103-5.
117. People v. Anderson, 53 Ill. 2d 437, 292 N.E.2d 364 (1973); People v. Richards, 81 Ill. 2d 454, 410 N.E.2d 833 (1980); People v. Staten, 159 Ill. 2d 419 at 426, 639 N.E.2d 550 at 554 (1994) (apparently endorsing cases so holding).
118. See People v. Staten, 159 Ill. 2d 419 at 427, 639 N.E.2d 550 at 555 (1994); People v. Crane, 195 Ill. 2d 42, 743 N.E.2d 555 (2001).
119. People ex rel. Daley v. Joyce, 126 Ill. 2d 209, 533 N.E.2d 873 (1988).
120. People v. Powell, 281 Ill. App. 3d 68, 666 N.E.2d 365 (1996); People v. Brown, 2013 IL App (2d) 110327, 988 N.E.2d 706 (2013).
121. The constitutional amendment was proposed by 87th General Assembly House Joint Resolution—Constitutional Amendment 28 (1992).
122. The constitutional amendment was proposed by 98th General Assembly House Joint Resolution—Constitutional Amendment 1 (2014).
123. 725 ILCS 120/1 ff.
124. People v. Richardson, 196 Ill. 2d 225, 751 N.E.2d 1104 (2001).
125. Robinson v. California, 370 U.S. 660, 82 S. Ct. 1417 (1962); Rhodes v. Chapman, 452 U.S. 337, 101 S. Ct. 2392 (1981).
126. People ex rel. Hemingway v. Elrod, 60 Ill. 2d 74, 322 N.E.2d 837 (1975).
127. See 720 ILCS 5/9-1(b).
128. 725 ILCS 5/119-1.
129. The constitutional amendment was proposed by 82nd General Assembly Senate Joint Resolution 36.
130. The constitutional amendment was proposed by 84th General Assembly Senate Joint Resolution 22.
131. People ex rel. Hemingway v. Elrod, 60 Ill. 2d 74, 322 N.E.2d 837 (1975).
132. People v. Purcell, 201 Ill. 2d 542, 778 N.E.2d 695 (2002), on later appeal on other grounds 364 Ill. App. 3d 283, 846 N.E.2d 203 (2006), review denied by Ill. Sup. Ct. 221 Ill. 2d 664, 857 N.E.2d 681, cert. den. 549 U.S. 1233. The statutory provision invalidated is 725 ILCS 5/110-4(b).
133. P.A. 100-1 (2017), adding several provisions to the Code of Criminal Procedure (725 ILCS 5/100-1 ff.), including 725 ILCS 5/110-5(a-5), 5/110-6(a-5), and 5/110-14(c).
134. U.S. Const., Art. I, sec. 9, cl. 2.
135. Gasquet v. Lapeyre, 242 U.S. 367, 37 S. Ct. 165 (1917); Geach v. Olsen, 211 F.2d 682 (7th Cir. 1954).
136. Malloy v. Hogan, 378 U.S. 1, 84 S. Ct. 1489 (1964) (self-incrimination); Brown v. Ohio, 431 U.S. 161, 97 S. Ct. 2221 (1977) (double jeopardy).
137. People v. Davis, 11 Ill. App. 3d 775, 298 N.E.2d 350 (1973); Hoban v. Rochford, 73 Ill. App. 3d 671, 392 N.E.2d 88 (1979), review denied by Ill. Sup. Ct.
138. Hoban v. Rochford, 73 Ill. App. 3d 6571, 392 N.E.2d 88 (1979), review denied by Ill. Sup. Ct.

139. Griffin v. California, 380 U.S. 609, 85 S. Ct. 1229 (1965); People v. Herrett, 137 Ill. 2d 195, 561 N.E.2d 1 (1990); People v. Smith, 402 Ill. App. 3d 538, 931 N.E.2d 864 (2010).
140. Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602 (1966).
141. Edwards v. Arizona, 451 U.S. 477, 101 S. Ct. 1880 (1981). The many Illinois cases on this topic include People v. Chapman, 194 Ill. 2d 186, 743 N.E.2d 48 (2001); People v. Schuning, 399 Ill. App. 3d 1073, 928 N.E.2d 128 (2010); and People v. Stolberg, 2014 IL App (2d) 130963, 18 N.E.3d 927 (2014).
142. United States v. Mara, 410 U.S. 19, 93 S. Ct. 774 (1973); People v. Schmoll, 77 Ill. App. 3d 762, 396 N.E.2d 634 (1979).
143. United States v. Thomann, 609 F.2d 560 (1st Cir. 1979).
144. Schmerber v. California, 384 U.S. 757, 86 S. Ct. 1826 (1966); Grimes v. United States, 405 F.2d 477 (5th Cir. 1968).
145. United States v. Dionisio, 410 U.S. 1, 93 S. Ct. 764 (1973); Veazey v. LaSalle Telecommunications, Inc., 334 Ill. App. 3d 926, 779 N.E.2d 364 (2002) (civil case, but court stated that being required to give a voice exemplar would not violate the right in a criminal context).
146. People v. McCauley, 163 Ill. 2d 414, 645 N.E.2d 923 (1994).
147. Moran v. Burbine, 475 U.S. 412, 106 S. Ct. 1135 (1986).
148. An example of the complex issues that can arise in such cases is offered by People v. Correa, 244 Ill. App. 3d 307, 614 N.E.2d 1246 (1993), vacated 152 Ill. 2d 566, 623 N.E.2d 268 (1993). The Illinois Supreme Court vacated the Illinois Appellate Court's decision based on a new U.S. Supreme Court decision: United States v. Dixon, 509 U.S. 688, 113 S. Ct. 2849 (1993).
149. See the discussions of these three kinds of double jeopardy in Illinois v. Vitale, 447 U.S. 410 at 415, 100 S. Ct. 2260 at 2264 (1980) and People v. Stefan, 146 Ill. 2d 324 at 331-32, 586 N.E.2d 1239 at 1244 (1992).
150. In re P.S., 169 Ill. 2d 260, 661 N.E.2d 329 (1996).
151. Wilson v. Department of Revenue, 169 Ill. 2d 306, 662 N.E.2d 415 (1996). The statute imposing the tax is 35 ILCS 520/1 ff.
152. Department of Revenue of Montana v. Kurth Ranch, 511 U.S.767, 114 S. Ct. 1937 (1994). The Illinois Supreme Court had earlier cautiously upheld the state's tax in Rehg v. Illinois Department of Revenue, 152 Ill. 2d 504, 605 N.E.2d 525 (1992); but in Wilson v. Department of Revenue (see preceding note) it held that the U.S. Supreme Court's later decision in *Kurth Ranch* required it to overrule the *Rehg* case. However, see also United States v. Ursery, 518 U.S. 267, 116 S. Ct. 2135 (1996) and Hudson v. United States, 522 U.S. 93, 118 S. Ct. 488 (1997), holding that civil forfeitures and other civil sanctions were not sufficiently criminal in nature to cause criminal penalties for essentially the same offenses to violate the Double Jeopardy clause.
153. Wilson v. Department of Revenue, 169 Ill. 2d 306, 662 N.E.2d 415 (1996); Consiglio v. Department of Financial and Professional Regulation, 2013 IL App (1st) 121142, 988 N.E.2d 1020 (2013), aff'd 2014 IL 116023, 25 N.E.3d 570 (2014).
154. People v. Towns, 269 Ill. App. 3d 907, 646 N.E.2d 1366 (1995). Compare People v. Krizek, 271 Ill. App. 3d 533, 648 N.E.2d 313 (1995) (mere *seizure* of drug-related property as a step in a process intended to lead to forfeiture is not a punishment, so prosecution for

the drug crime is not barred).

155. United States v. Wheeler, 435 U.S. 313, 98 S. Ct. 1079 (1978); People v. Porter, 156 Ill. 218, 620 N.E.2d 381 (1993).
156. 720 ILCS 5/3-4(c)(1).
157. Tibbs v. Florida, 457 U.S. 31, 102 S. Ct. 2211 (1982); People v. Holloway, 92 Ill. 2d 381, 442 N.E.2d 191 (1982); People v. Brown, 2103 IL 114196, 1 N.E.3d 888 (2013). See also 720 ILCS 5/3-4.
158. Oregon v. Kennedy, 456 U.S. 667, 102 S. Ct. 2083 (1982); People v. Townsend, 119 Ill. App. 3d 529, 456 N.E.2d 938 (1983); People v. Cervantes, 2013 IL App (2d) 110191, 991 N.E.2d 521 (2013).
159. Those cases began with People v. Wisslead, 94 Ill. 2d 190, 446 N.E.2d 512 (1983), in which the Illinois Supreme Court, by a 4-3 margin, held that section 11 was violated by provisions of the Criminal Code of 1961 that authorized higher penalties for armed violence based on unlawful restraint committed using a dangerous weapon than were authorized for kidnapping committed using such a weapon.
160. People v. Sharpe, 216 Ill. 2d 481, 839 N.E.2d 492 (2005).
161. 216 Ill. 2d at 521, 839 N.E.2d at 517.
162. People v. Moss, 206 Ill. 2d 503 at 522, 795 N.E.2d 208 at 220 (2003).
163. 216 Ill. 2d at 521, 839 N.E.2d at 517.
164. 216 Ill. 2d at 522, 839 N.E.2d at 518.
165. People v. Sharpe, 216 Ill. 2d at 517, 839 N.E.2d at 514; People ex rel. Birkett v. Konetski, 233 Ill. 2d 185 at 206-07, 909 N.E.2d 783 at 799 (2009); People v. Patterson, 2014 IL 115102, 25 N.E.3d 526 (2014). See also People v. Clemons, 2012 IL 107821, 968 N.E.2d 1046 (2012).
166. People v. Clemons, 2012 IL 107821, 968 N.E.2d 1046 (2012).
167. Miller v. Alabama, 567 U.S. 460, 132 S. Ct. 2455 (2012). The Illinois Supreme Court applied that case's holding in People v. Reyes, 2016 IL 119271, 63 N.E.3d 884 (2016).
168. People v. Howard, 147 Ill. 2d 103, 588 N.E.2d 1044 (1991), cert. den. 113 S. Ct. 215.
169. See, as examples, People v. Brownell, 79 Ill. 2d 508, 404 N.E.2d 181 (1980), cert. dis. 449 U.S. 811 (death); People v. Taylor, 102 Ill. 2d 201, 464 N.E.2d 1059 (1984) (life in prison).
170. See, as examples, People v. Wright, 18 Ill. App. 3d 1028, 310 N.E.2d 494 (1974), review denied by Ill. Sup. Ct.; People v. James, 38 Ill. App. 3d 594, 348 N.E.2d 295 (1976), app. dis. 429 U.S. 1082; People v. Gomez, 120 Ill. App. 3d 545, 458 N.E.2d 565 (1983), review denied by Ill. Sup. Ct.; People v. Castro, 151 Ill. App. 3d 664, 503 N.E.2d 376 (1987); People v. D'Angelo, 223 Ill. App. 3d 754, 585 N.E.2d 1239 (1992), review denied by Ill. Sup. Ct. 145 Ill. 2d 638, 596 N.E.2d 632.
171. See, for example, People v. Shriner, 198 Ill. App. 3d 748, 555 N.E.2d 1257 (1990), review denied by Ill. Sup. Ct. 564 N.E.2d 845; People v. Knott, 224 Ill. App. 3d 236, 586 N.E.2d 479 (1991), vac'd as moot due to defendant's death 621 N.E.2d 611; People v. Dunigan, 263 Ill. App. 3d 83, 635 N.E.2d 522 (1994); People v. Smith, 274 Ill. App. 3d 84, 653 N.E.2d 944 (1995); and People v. Collins, 2015 IL App (1st) 131145, 42 N.E.3d 1 (2015), cert. den. ___ U.S. ___, 136 S. Ct. 2465. The "habitual criminal" provisions are now in 730 ILCS 5/5-4.5-95.
172. U.S. Const., Art. III, sec. 3, cl. 2.

173. Polyvend, Inc. v. Puckorius, 77 Ill. 2d 287, 395 N.E.2d 1376 (1979), app. dis. 444 U.S. 1062. Those provisions are now in 30 ILCS 500/50-5(a).
174. Kerner v. State Employees' Retirement System, 72 Ill. 2d 507, 382 N.E.2d 243 (1978), cert. den. 441 U.S. 923. The prohibition on payments to members of the State Employees' Retirement System who are convicted of employment-related felonies is in 40 ILCS 5/14-149; similar provisions are in other articles of the Illinois Pension Code.
175. The Interstate Corrections Compact is set forth in 730 ILCS 5/3-4-4.
176. Sayles v. Thompson, 99 Ill. 2d 122, 457 N.E.2d 440 (1983).
177. Sullivan v. Midlothian Park Dist., 51 Ill. 2d 274, 281 N.E.2d 659 (1972); DeLuna v. St. Elizabeth's Hospital, 147 Ill. 2d 57 at 72, 588 N.E.2d 1139 at 1145 (1992); AIDA v. Time Warner Entertainment Co., 332 Ill. App. 3d 154, 772 N.E.2d 953 (2002), review denied by Ill. Sup. Ct. 202 Ill. 2d 597, 787 N.E.2d 154.
178. Schoeberlein v. Purdue Univ., 129 Ill. 2d 372, 54 N.E.2d 283 (1989); People v. Averett, 237 Ill. 2d 1, 927 N.E.2d 1191 (2010).
179. Smith v. Hill, 12 Ill. 2d 588, 147 N.E.2d 321 (1958); Siegall v. Solomon, 19 Ill. 2d 145, 166 N.E.2d 5 (1960). These laws are now in 740 ILCS 5/1 ff. and 740 ILCS 15/1 ff.
180. Folta v. Ferro Engineering, 2015 IL 118070, 43 N.E.3d 108 (2015).
181. Heck v. Schupp, 394 Ill. 296, 68 N.E.2d 464 (1946); Berz v. City of Evanston, 2013 IL App (1st) 123763, 997 N.E.2d 733 (2013) (municipality could not arbitrarily abolish an existing right to sue).
182. Zalduendo v. Zalduendo, 45 Ill. App. 3d 849, 360 N.E.2d 386 (1977), review denied by Ill. Sup. Ct.
183. Crocker v. Finley, 99 Ill. 2d 444, 459 N.E.2d 1346 (1984).
184. Wenger v. Finley, 185 Ill. App. 3d 907, 541 N.E.2d 1220 (1989), review denied by Ill. Sup. Ct. 545 N.E.2d 134.
185. Mellon v. Coffelt, 313 Ill. App. 3d 619, 730 N.E.2d 102 (2000), review denied by Ill. Sup. Ct. 191 Ill. 2d 534, 738 N.E.2d 928; Rose v. Pucinski, 321 Ill. App. 3d 92, 746 N.E.2d 800 (2001), review denied by Ill. Sup. Ct. 195 Ill. 2d 598, 755 N.E.2d 483; Gatz v. Brown, 2017 IL App (1st) 160579, 73 N.E.3d 1273 (2017).
186. Minneapolis & St. L. R.R. v. Bombolis, 241 U.S. 211, 36 S. Ct. 595 (1916); State Farm Mut. Auto Ins. Co. v. Baasch, 644 F.2d 94 at 97 (2d Cir. 1981).
187. Reese v. Laymon, 2 Ill. 2d 614, 119 N.E.2d 271 (1954); Martin v. Heinold Commodities, Inc., 163 Ill. 2d 33 at 72-74, 643 N.E.2d 734 at 753 (1994).
188. See People ex rel. Daley v. Joyce, 126 Ill. 2d 209, 533 N.E.2d 873 (1988) (majority and dissenting opinions) and cases cited there.
189. People ex rel. Daley v. Joyce, 126 Ill. 2d 209, 533 N.E.2d 873 (1988). The law (Ill. Rev. Stat. 1987 and 1989, ch. 38, sec. 115-1) was repealed by P.A. 87-410 (1991). See its replacement in 725 ILCS 5/115-1.
190. People v. Martin, 47 Ill. 2d 331, 265 N.E.2d 685 (1970), cert. den. 403 U.S. 921; People v. Dennis, 28 Ill. App. 3d 74, 328 N.E.2d 135 (1975).
191. Fried v. Danaher, 46 Ill. 2d 469, 263 N.E.2d 820 (1970), app. dis. 402 U.S. 902.
192. Colgrove v. Battin, 413 U.S. 149, 93 S. Ct. 2448 (1973).
193. Kakos v. Butler, 2016 IL 120377, 63 N.E.3d 901 (2016). The act held unconstitutional was P.A. 98-1132 (2014).

194. People ex rel. O'Malley v. 6323 North LaCrosse Ave., 158 Ill. 2d 453, 634 N.E.2d 743 (1994). The Act is in 725 ILCS 150/1 ff.
195. People v. Arman, 215 Ill. App. 3d 687, 576 N.E.2d 11 (1991), review denied by Ill. Sup. Ct. 580 N.E.2d 120. The law involved was the Narcotics Profit Forfeiture Act, 725 ILCS 175/1 ff.
196. People v. Woerly, 50 Ill. 2d 327, 278 N.E.2d 787 (1972).
197. In re Jones, 46 Ill. 2d 500, 263 N.E.2d 863 (1970); In re K.J., 381 Ill. App. 3d 349, 885 N.E.2d 1116 (2008). However, the Juvenile Court Act gives a statutory right to a jury trial in a limited number of kinds of proceedings under that Act.
198. Grand Trunk Western Ry. v. Industrial Comm'n, 291 Ill. 167, 125 N.E. 748 (1919).
199. Martin v. Heinold Commodities, Inc., 163 Ill. 2d 33 at 75, 643 N.E.2d 734 at 754 (1994).
200. City of Monmouth v. Pollution Control Bd., 57 Ill. 2d 482, 313 N.E.2d 161 (1974).
201. Anderson v. Klasek, 393 Ill. App. 3d 219, 913 N.E.2d 615 (2009).
202. Johnson v. Rolston, 45 Ill. App. 3d 419, 359 N.E.2d 1115 (1977).
203. People v. Harris, 41 Ill. App. 3d 690, 354 N.E.2d 648 (1976), review denied by Ill. Sup. Ct.
204. Kazubowski v. Kazubowski, 45 Ill. 2d 405, 259 N.E.2d 282 (1970), cert. den. 400 U.S. 926.
205. In re Petition of Blacklidge, 359 Ill. 482, 195 N.E. 3 (1935); Shatz v. Paul, 7 Ill. App. 2d 23, 129 N.E.2d 348 (1955). See 735 ILCS 5/12-107.
206. 730 ILCS 5/5-9-1(e).
207. Chicago, B. & Q. R.R. v. Chicago, 166 U.S. 226, 17 S. Ct. 581 (1897); San Diego Gas & Elec. Co. v. City of San Diego, 450 U.S. 621, 101 S. Ct. 1287 (1981).
208. Morton Grove Park Dist. v. American Nat'l Bank & Trust Co., 78 Ill. 2d 353, 399 N.E.2d 1295 (1980); Warner/Elektra/Atlantic Corp. v. County of DuPage, 991 F.2d 1280 (7th Cir. 1993).
209. People ex rel. Director of Finance v. Young Women's Christian Ass'n of Springfield, 86 Ill. 2d 219, 427 N.E.2d 70 (1981).
210. Southwestern Illinois Development Auth. v. National City Environmental, LLC, 199 Ill. 2d 225, 768 N.E.2d 1 (2002).
211. Federal Elec. Co. v. Zoning Bd. of Appeals, 398 Ill. 142, 75 N.E.2d 359 (1947).
212. County of Cook v. Priester, 62 Ill. 2d 357, 342 N.E.2d 41 (1976).
213. U.S. Const. Amdt. 5, final clause.
214. An illuminating pair of U.S. Supreme Court holdings for comparison are Yee v. City of Escondido, 503 U.S. 519, 112 S. Ct. 1532 (1992) (upholding a law and ordinance that, in combination, required an owner of a mobile home park to allow a tenant to stay if the tenant paid the locally limited rent, since there was no "physical" taking of real estate) and Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 102 S. Ct. 3164 (1982) (striking down a law allowing a cable company to install cables in apartment buildings for nominal compensation to the owners, because it authorized a "physical invasion" of their property).
215. Canel v. Topinka, 212 Ill. 2d 311, 818 N.E.2d 311 (2004). Illinois has now enacted the Revised Uniform Unclaimed Property Act; see 765 ILCS 1026/15-101 ff.
216. Cwik v. Giannoulias, 237 Ill. 2d 409, 930 N.E.2d 990 (2010).
217. Turnipseed v.Brown, 391 Ill. App. 3d 88, 908 N.E.2d 546 (2009), review denied by Ill.

Sup. Ct. 233 Ill. 2d 601, 919 N.E.2d 366, cert. den. 559 U.S. 1068.

218. Empress Casino Joliet Corp. v. Giannoulias, 231 Ill. 2d 62, 896 N.E.2d 277 (2008). The act upheld was P.A. 94-804 (2006).
219. Dolan v. City of Tigard, 512 U.S. 374 at 384, 114 S. Ct. 2309 at 2316 (1994).
220. Pioneer Trust & Savings Bank v. Village of Mount Prospect, 22 Ill. 2d 375, 176 N.E.2d 799 (1961).
221. Northern Illinois Home Builders Ass'n v. County of Du Page, 165 Ill. 2d 25, 649 N.E.2d 384 (1995). See also Amoco Oil Co. v. Village of Schaumburg, 277 Ill. App. 3d 926, 661 N.E.2d 380 (1995), review denied by Ill. Sup. Ct. 167 Ill. 2d 549, 667 N.E.2d 1055, cert. den. 519 U.S. 976.
222. People v. Ramsey, 192 Ill. 2d 154 at 157, 735 N.E.2d 533 at 535 (2000); People ex rel. Birkett v. Konetski, 233 Ill. 2d 185 at 209, 909 N.E.2d 783 at 800 (2009).
223. U.S. Const., Art. I, sec. 10, cl. 1.
224. Stein v. Howlett, 52 Ill. 2d 570 at 584, 289 N.E.2d 409 at 416 (1972), app. dis. 412 U.S. 925; In re Samuels, 126 Ill. 2d 509, 535 N.E.2d 808 (1989).
225. People v. Malchow, 193 Ill. 2d 413, 739 N.E.2d 433 (2000).
226. People ex rel. Birkett v. Konetski, 233 Ill. 2d 185, 909 N.E.2d 783 (2009). The Sex Offender Registration Act is in 730 ILCS 150/1 ff.
227. People v. Leroy, 357 Ill. App. 3d 530, 828 N.E.2d 769 (2005), review denied by Ill. Sup. Ct. 216 Ill. 2d 713, 839 N.E.2d 1032; People v. Morgan, 377 Ill. App. 3d 821, 881 N.E.2d 507 (2007), review denied by Ill. Sup. Ct. 227 Ill. 2d 592, 888 N.E.2d 1187. That prohibition is now in 720 ILCS 5/11-9.3(b-5).
228. People v. Anderson, 53 Ill. 2d 437, 292 N.E.2d 364 (1973); People v. Massarella, 80 Ill. App. 3d 552, 400 N.E.2d 436 (1979), cert. den. 449 U.S. 1077.
229. People v. Myers, 44 Ill. App. 3d 860, 359 N.E.2d 197 (1977); People v. Goff, 57 Ill. App. 3d 384, 373 N.E.2d 71 (1978).
230. Cases so holding include People v. Leonard, 391 Ill. App. 3d 926, 911 N.E.2d 403 (2009), review denied by Ill. Sup. Ct. 233 Ill. 2d 582, 919 N.E.2d 360; People v. Tolentino, 409 Ill. App. 3d 598, 949 N.E.2d 1167 (2011), review denied by Ill. Sup. Ct. 2011 IL 112553, 955 N.E.2d 479, cert. den. 565 U.S. 1215; and People v. Black, 2012 IL App (1st) 110055, 975 N.E.2d 706 (2012), review denied by Ill. Sup. Ct. 2014 IL 114857, 3 N.E.3d 796. The "armed habitual criminal" section is 720 ILCS 5/24-1.7.
231. People v. Shumpert, 126 Ill. 2d 344, 533 N.E.2d 1106 (1989). The act involved was P.A. 84-1450 (1987).
232. Tiller v. Klincar, 138 Ill. 2d 1, 561 N.E.2d 576 (1990), cert. den. 498 U.S. 1031.
233. Roth v. Yackley, 77 Ill. 2d 423, 396 N.E.2d 520 (1979); In re Marriage of Cohn, 93 Ill. 2d 190 at 203, 443 N.E.2d 541 at 547 (1982); Bates v. Board of Educ., Allendale Comm. Cons. Sch. Dist., 136 Ill. 2d 260 at 267, 555 N.E.2d 1 at 4 (1990). See also Stroick v. Village of West Dundee, 319 Ill. App. 3d 468, 744 N.E.2d 1279 (2001), review denied by Ill. Sup. Ct. 195 Ill. 2d 599, 755 N.E.2d 483.
234. Sanelli v. Glenview State Bank, 108 Ill. 2d 1 at 10, 483 N.E.2d 226 at 229-230 (1985); In re Petition of Kirchner, 164 Ill. 2d 468 at 495, 649 N.E.2d 324 at 336-37 (1995).
235. Examples are Schlenz v. Castle, 84 Ill. 2d 196, 417 N.E.2d 1336 (1981); Bates v. Board of Educ., Allendale Comm. Cons. Sch. Dist., 136 Ill. 2d 260 at 267, 555 N.E.2d 1 at 4 (1990);

and Allegis Realty Investors v. Novak, 223 Ill. 2d 318, 860 N.E.2d 246 (2006), cert. den. 550 U.S. 904. By contrast, Application of County Collector v. American Nat'l Bank & Trust Co., 132 Ill. 2d 64, 547 N.E.2d 107 (1989) struck down a "validating law" as an attempt to invade home-rule powers.

236. Mitchell v. Mahin, 51 Ill. 2d 452 at 456, 283 N.E.2d 465 at 467 (1972); In re Marriage of Cohn, 93 Ill. 2d 190 at 203, 443 N.E.2d 541 at 547 (1982); Bates v. Board of Educ., Allendale Comm. Cons. Sch. Dist., 136 Ill. 2d 260 at 267, 555 N.E.2d 1 at 4 (1990).
237. Wilson v. Dept. of Financial & Professional Regulation, 2013 IL App (1st) 121509, 991 N.E.2d 779 (2013); Hayashi v. Dept. of Financial & Professional Regulation, 2014 IL 116023, 25 N.E.3d 570 (2014), cert. den. ___ U.S. ___, 135 S. Ct. 2868; Panzella v. River Trails Sch. Dist., 313 Ill. App. 3d 527, 729 N.E.2d 954 (2000) (adjudication by juvenile court that a teacher had sexually abused the teacher's child).
238. See Board of Education, Normal Sch. Dist. v. Blodgett, 155 Ill. 441, 40 N.E. 1025 (1895) and cases following it.
239. Sepmeyer v. Holman, 162 Ill. 2d 249, 642 N.E.2d 1242 (1994).
240. Campbell v. Holt, 115 U.S. 620, 6 S. Ct. 209 (1885); Chase Securities Corp. v. Donaldson, 325 U.S. 304, 65 S. Ct. 1137 (1945).
241. Sepmeyer v. Holman, 162 Ill. 2d at 257-264, 642 N.E.2d at 1245-1249 (Bilandic, C.J. and Miller, J., dissenting).
242. First Nat'l Bank of Chicago v. King, 165 Ill. 2d 533, 651 N.E.2d 127 (1995); People v. Woodard, 175 Ill. 2d 435, 677 N.E.2d 935 (1997); Doe A. v. Diocese of Dallas, 234 Ill. 2d 393, 917 N.E.2d 475 (2009); GreenPoint Mortgage Funding, Inc. v. Poniewozik, 2014 IL App. (1st) 132864, 23 N.E.3d 525 (2014).
243. See 5 ILCS 70/4, first sentence, last clause.
244. For an example of different ways that judges can construe a law, see First Nat'l Bank of Chicago v. King, 165 Ill. 2d 533, 651 N.E.2d 127 (1995) (majority and dissenting opinions).
245. Reyes-Hernandez v. Immigration and Naturalization Service, 89 F.3d 490 at 492 (7th Cir. 1996).
246. An example of such a case was GreenPoint Mortgage Funding, Inc. v. Poniewozik, 2014 IL App. (1st) 132864, 23 N.E.3d 525 (2014).
247. Kujawinski v. Kujawinski, 71 Ill. 2d 563, 376 N.E.2d 1382 (1978).
248. Meegan v. Village of Tinley Park, 52 Ill. 2d 354, 288 N.E.2d 423 (1972).
249. Chmelik v. Vana, 31 Ill. 2d 272, 201 N.E.2d 434 (1964); S & D Service, Inc. v. 915-925 W. Schubert Condo. Ass'n, 132 Ill. App. 3d 1019, 478 N.E.2d 478 (1985), review denied by Ill. Sup. Ct.; Mercury Indemnity Co. v. Kim, 358 Ill. App. 3d 1, 830 N.E.2d 603 (2005), review denied by Ill. Sup. Ct. 217 Ill. 2d 567, 844 N.E.2d 39.
250. Polich v. Chicago School Finance Auth., 79 Ill. 2d 188, 402 N.E.2d 247 (1980).
251. Fumarolo v. Chicago Board of Educ., 142 Ill. 2d 54, 566 N.E.2d 1283 (1990). The law involved was P.A. 85-1418 (1988).
252. George D. Hardin, Inc. v. Village of Mount Prospect, 99 Ill. 2d 96, 457 N.E.2d 429 (1983).
253. Boyd v. Madison Mutual Ins. Co., 116 Ill. 2d 305, 507 N.E.2d 855 (1987); Prudential Prop. & Cas. Ins. Co. v. Scott, 161 Ill. App. 3d 372, 514 N.E.2d 595 (1987); American Family Ins. Co. v. King, 375 Ill. App. 3d 791, 874 N.E.2d 603 (2007).

254. In re Pension Reform Litigation, 2015 IL 118585 at ¶¶ 59-76, 32 N.E.3d 1 at 20-25 (2015).
255. U.S. Const., Art. I, sec. 10, cl. 1.
256. See Ill. Const. 1870, Art. 11, sec. 1.
257. People ex rel. County Collector v. Northwestern Univ., 51 Ill. 2d 131, 281 N.E.2d 334 (1972), cert. den. 409 U.S. 852.
258. 35 ILCS 200/9-195.
259. Nabisco, Inc. v. Korzen, 68 Ill. 2d 451, 369 N.E.2d 829 (1977), app. dis. 435 U.S. 1005.
260. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, pp. 67-70 (explanation of Proposal No. 1 of Bill of Rights Committee).
261. Davis v. Attic Club, 56 Ill. App. 3d 58, 371 N.E.2d 903 (1977), review denied by Ill. Sup. Ct.
262. 775 ILCS 5/1-101 ff.
263. School Dist. No. 175, St. Clair County v. Illinois Fair Employment Practices Comm'n, 57 Ill. App. 3d 979, 373 N.E.2d 447 (1978); Walinski v. Morrison & Morrison, 60 Ill. App. 3d 616, 377 N.E.2d 242 (1978).
264. 775 ILCS 5/8-111(D).
265. Mein v. Masonite Corp., 109 Ill. 2d 1, 485 N.E.2d 312 (1985); Baker v. Miller, 159 Ill. 2d 249, 636 N.E.2d 551 (1994).
266. 775 ILCS 5/8-111(B)(2).
267. Baker v. Miller, 159 Ill. 2d 249, 636 N.E.2d 551 (1994).
268. 775 ILCS 5/7A-102(G)(2).
269. Greenholdt v. Illinois Bell Tel. Co., 107 Ill. App. 3d 748, 438 N.E.2d 245 (4th Dist. 1982), review denied by Ill. Sup. Ct.; Thakkar v. Wilson Enterprises, Inc., 120 Ill. App. 3d 878, 458 N.E.2d 985 (1st Dist. 1983), review denied by Ill. Sup. Ct.
270. Ritzheimer v. Insurance Counselors, Inc., 173 Ill. App. 3d 953, 527 N.E.2d 1281 (5th Dist. 1988) (although the Illinois Supreme Court criticized at least part of its reasoning in Baker v. Miller, 159 Ill. 2d 249 at 260, 636 N.E.2d 551 at 556 (1994)); Rockford Memorial Hospital v. Department of Human Rights, 272 Ill. App. 3d 751, 651 N.E.2d 649 (2nd Dist. 1995).
271. Baker v. Miller, 159 Ill. 2d 249 at 266, 636 N.E.2d 551 at 559 (1994).
272. People v. Ellis, 57 Ill. 2d 127, 311 N.E.2d 98 (1974).
273. People v. Ellis, 57 Ill. 2d 127, 311 N.E.2d 98 (1974).
274. Phelps v. Bing, 58 Ill. 2d 32, 316 N.E.2d 775 (1974).
275. Wheeler v. City of Rockford, 69 Ill. App. 3d 220, 387 N.E.2d 358 (1979).
276. People v. Boyer, 63 Ill. 2d 433, 349 N.E.2d 50 (1976), cert. den. 429 U.S. 1063.
277. P.A. 80-647 (1977). See now 720 ILCS 5/11-11.
278. Occhino v. Illinois Liquor Control Comm'n, 28 Ill. App. 3d 967, 329 N.E.2d 353 (1975).
279. P.A. 80-360, sec. 3 (1977).
280. Hope Clinic for Women v. Flores, 2013 IL 112673, 991 N.E.2d 745 (2013). The Act is in 750 ILCS 70/1 ff.
281. People v. Adams, 149 Ill. 2d 331, 597 N.E.2d 574 (1992). The requirement of testing is in 730 ILCS 5/5-5-3(g).
282. Estate of Hicks, 174 Ill. 2d 433, 675 N.E.2d 89 (1996). In the case before the Court, the deceased child's father had admitted paternity in court and been declared to be the father.

283. See Anagnostopoulos v. Anagnostopoulos, 22 Ill. App. 3d 479, 317 N.E.2d 681 (1974) (1st District); Strand v. Strand, 41 Ill. App. 3d 651, 355 N.E.2d 47 (1976) (2nd District); Drake v. Hohimer, 35 Ill. App. 3d 529, 341 N.E.2d 399 (1976) (4th District), review denied by Ill. Sup. Ct.; King v. Vancil, 34 Ill. App. 3d 831, 341 N.E.2d 65 (1975) (5th District). But the Third District took a contrary position; see Randolph v. Dean, 27 Ill. App. 3d 913, 327 N.E.2d 473 (1975) and cases following it.
284. Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712 (1986).
285. J.E.B. v. Alabama ex rel. T.B., 511 U.S. 127, 114 S. Ct. 1419 (1994).
286. People v. Hudson, 195 Ill. 2d 117, 745 N.E.2d 1246 (2001).
287. Baker v. Miller, 159 Ill. 2d 249, 636 N.E.2d 551 (1994).
288. See also Teverbaugh ex rel. Duncan v. Moore, 311 Ill. App. 3d 1, 724 N.E.2d 225 (2000) (holding that Human Rights Act provides sole remedy for claims under this section).
289. Pub. L. 101-336, 104 Stat. 327 (1990), codified principally in 42 U.S. Code secs. 12101 ff. (see the hundreds of cases decided under section 12102, defining "disability").
290. Lyons v. Heritage House Restaurants, Inc., 89 Ill. 2d 163, 432 N.E.2d 270 (1982); Kubik v. CNA Financial Corp., 96 Ill. App. 3d 715, 422 N.E.2d 1 (1981), review denied by Ill. Sup. Ct.
291. Advocates for the Handicapped v. Sears, Roebuck & Co., 67 Ill. App. 3d 512, 385 N.E.2d 39 (1978), review denied by Ill. Sup. Ct., cert. den. 444 U.S. 981.
292. Ill. Rev. Stat. through 1979, ch. 38, secs. 65-21 ff.; repealed and replaced by Illinois Human Rights Act, P.A. 81-1216 (1979); 775 ILCS 5/1-101 ff.
293. Melvin v. City of West Frankfort, 93 Ill. App. 3d 425, 417 N.E.2d 260 (1981).
294. Board of Trustees of Univ. of Ill. v. Human Rights Comm'n, 138 Ill. App. 3d 71, 485 N.E.2d 33 (1985).
295. City of Belleville Bd. of Fire & Police Comm'rs v. Himan Rights Comm'n, 167 Ill. App. 3d 834, 522 N.E.2d 268 (1988), review denied by Ill. Sup. Ct. 122 Ill. 2d 569, 530 N.E.2d 241.
296. Baker v. Miller, 159 Ill. 2d 249, 636 N.E.2d 551 (1994).
297. 745 ILCS 10/1-101 ff.
298. Rozsavolgyi v. City of Aurora, 2016 IL App (2d) 150493, 58 N.E.3d 65 (2016).
299. Ill. Rev. Stat. through 1961, ch. 38, sec. 471.
300. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, p. 83 (explanation of Proposal No. 1 of Bill of Rights Committee).
301. Irving v. J.L. Marsh, Inc., 46 Ill. App. 3d 162, 360 N.E.2d 983 (1977); AIDA v. Time Warner Entertainment Co., 332 Ill. App. 3d 154, 772 N.E.2d 953 (2002), review denied by Ill. Sup. Ct. 202 Ill. 2d 597, 787 N.E.2d 154.
302. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, p. 87 (explanation of Proposal No. 1 of Bills of Rights Committee) (footnotes omitted).
303. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. III, pp. 1687, 1689, 1693, and 1718 (remarks of Delegate Foster).
304. Sherman-Reynolds, Inc. v. Mahin, 47 Ill. 2d 323, 265 N.E.2d 640 (1970); Kalodimos v. Village of Morton Grove, 103 Ill. 2d 483, 470 N.E.2d 266 (1984); Opyt's Amoco, Inc. v. Village of South Holland, 149 Ill. 2d 265, 595 N.E.2d 1060 (1992).
305. Crocker v. Finley, 99 Ill. 2d 444, 459 N.E.2d 1346 (1984).

306. Opyt's Amoco, Inc. v. Village of South Holland, 149 Ill. 2d 265, 595 N.E.2d 1060 (1992).
307. United States v. Cruikshank, 92 U.S. 542, 23 L. Ed. 588 (1876); Miller v. Texas, 153 U.S. 535, 14 S. Ct. 874 (1894); Cases v. United States, 131 F.2d 916 (1st Cir. 1942), cert. den. 319 U.S. 770; Quilici v. Village of Morton Grove, 695 F.2d 261 (7th Cir. 1982), cert. den. 464 U.S. 863; Peoples Rights Organization, Inc. v. City of Columbus, 152 F.3d 522 (6th Cir. 1998); Bach v. Pataki, 408 F.3d 75 (2nd Cir. 2005), cert. den. 546 U.S. 1174.
308. District of Columbia v. Heller, 554 U.S. 570, 128 S. Ct. 2783 (2008).
309. McDonald v. City of Chicago, 561 U.S. 742, 130 S. Ct. 3020 (2010).
310. Quilici v. Village of Morton Grove, 532 F. Supp. 1169 (N.D. Ill. 1981), aff'd 695 F.2d 261 (7th Cir. 1982), cert. den. 464 U.S. 863.
311. Kalodimos v. Village of Morton Grove, 103 Ill. 2d 483, 470 N.E.2d 266 (1984).
312. Sklar v. Byrne, 727 F.2d 633 (7th Cir. 1984).
313. McDonald v. City of Chicago, 561 U.S. 742, 130 S. Ct. 3020 (2010). See also Moore v. Madigan, 702 F.3d 933 (7th Cir. 2012).
314. Wilson v. County of Cook, 2012 IL 112026, 968 N.E.2d 641 (2012).
315. Moore v. Madigan, 702 F.3d 933 (7th Cir. 2012).
316. People v. Aguilar, 2013 IL 112116, 2 N.E.3d 321 (2013).
317. The statutory provisions held invalid in those cases were 720 ILCS 5/24-1.6(a)(1) and (3)(A) until their amendment by P.A. 98-63, sec. 155 (2013)).
318. People v. Aguilar, 2013 IL 112116, 2 N.E.3d 321 (2013).
319. People v. Henderson, 2013 IL App (1st) 113294, 12 N.E.3d 519 (2013), review denied by Ill. Sup. Ct. 2016 IL 118021, 48 N.E.3d 674. The statutory provisions upheld are in 720 ILCS 5/24-1.6(a)(1) and (2), and (3)(C).
320. Rawlings v. Illinois Dept. of Law Enforcement, 73 Ill. App. 3d 267, 391 N.E.2d 758 (1979).
321. People v. Williams, 60 Ill. App. 3d 726, 377 N.E.2d 285 (1978).
322. Commissioners of Union Drainage Dist. v. Smith, 233 Ill. 417, 84 N.E. 376 (1908).

Article 2. The Powers of the State

1. See City of Waukegan v. Pollution Control Bd., 57 Ill. 2d 170, 311 N.E.2d 146 (1974) and cases cited there; People v. Bainter, 126 Ill. 2d 292, 533 N.E.2d 1066 (1989).
2. City of Waukegan v. Pollution Control Bd., 57 Ill. 2d 170, 311 N.E.2d 146 (1974).
3. Stofer v. Motor Vehicle Casualty Co., 68 Ill. 2d 361, 369 N.E.2d 875 (1977); People v. Gurell, 98 Ill. 2d 194, 456 N.E.2d 18 (1983); South 51 Development Corp. v. Vega, 335 Ill. App. 3d 542, 781 N.E.2d 528 (2002).
4. The act addressed was P.A. 80-438 (1977), adding Ill. Rev. Stat. 1977, ch. 161/2, sec. 49.3. After it was held unconstitutional, the General Assembly enacted extensive additions to that section to guide the setting of maximum rates; see now 205 ILCS 405/19.3.
5. Thygesen v. Callahan, 74 Ill. 2d 404, 385 N.E.2d 699 (1979).
6. County of Cook v. Ogilvie, 50 Ill. 2d 379, 280 N.E.2d 224 (1972).
7. Fields Jeep-Eagle, Inc. v. Chrysler Corp., 163 Ill. 2d 462, 645 N.E.2d 946 (1994). The provisions involved were in 815 ILCS 710/4(e)(8) and 710/12(b) before they were amended by

P.A. 89-145, sec. 15 (1995).
8. In re Application of Park District of LaGrange, 2013 IL App (1st) 110334, 998 N.E.2d 659 (2013). The Act is in 70 ILCS 1235/0.01 ff.
9. Warrior v. Thompson, 96 Ill. 2d 1, 449 N.E.2d 53 (1983).
10. P.A. 87-14, sec. 2-24 (1991).
11. Roth v. Yackley, 77 Ill. 2d 423, 396 N.E.2d 520 (1979); In re Marriage of Cohn, 93 Ill. 2d 190, 443 N.E.2d 541 (1982); Bates v. Board of Ed., Allendale Comm. Cons. Sch. Dist., 136 Ill. 2d 260 at 267, 555 N.E.2d 1 at 4 (1990).
12. Sanelli v. Glenview State Bank, 108 Ill. 2d 1 at 10, 483 N.E.2d 226 at 229-230 (1985); In re Petition of Kirchner, 164 Ill. 2d 468 at 495, 649 N.E.2d 324 at 336-37 (1995).
13. Reuter v. Korb, 248 Ill. App. 3d 142, 616 N.E.2d 1363 (1993), review denied by Ill. Sup. Ct. 153 Ill. 2d 569, 624 N.E.2d 816; Hobart v. Shin, 185 Ill. 2d 283 at 290-91, 705 N.E.2d 907 at 910-11 (1998) (statutory provision acknowledged without addressing its validity); Merca v. Rhodes, 2011 IL App (1st) 102234, 960 N.E.2d 85 (2011). That statutory provision is 735 ILCS 5/2-1116(c).
14. Ill. Att'y Gen. Opinion S-1374 (1978 Ops. Att'y Gen., p. 140). For a somewhat similar holding under the U.S. Constitution, see Immigration and Naturalization Service v. Chadha, 462 U.S. 919, 103 S. Ct. 2764 (1983).
15. People v. Sales, 195 Ill. App. 3d 160, 551 N.E.2d 1359 (1990).
16. In re General Order of Oct. 11, 1990, 256 Ill. App. 3d 693, 628 N.E.2d 786 (1993).
17. Board of Ed., Dolton Sch. Dist. v. Miller, 349 Ill. App. 3d 806, 812 N.E.2d 688 (2004).
18. 60 ILCS 1/70-37.
19. Moore v. Grafton Twp. Bd. of Trustees, 2011 IL App (2d) 110499, 955 N.E.2d 1222 (2011).
20. People ex rel. Devine v. Murphy, 181 Ill. 2d 522, 693 N.E.2d 349 (1998). The statutory provision challenged in that case is 35 ILCS 200/23-15.
21. People ex rel. Chicago Dryer Co. v. City of Chicago, 413 Ill. 315 at 320, 109 N.E.2d 201 at 204 (1952); People ex rel. Rudman v. Rini, 64 Ill. 2d 321, 356 N.E.2d 4 (1976); La Salle Nat'l Trust v. Village of Westmont, 264 Ill. App. 3d 43 at 63, 636 N.E.2d 1157 at 1169 (1994). But as to filling General Assembly vacancies, see Kluk v. Lang, 125 Ill. 2d 306, 531 N.E.2d 790 (1988).
22. People v. Dale, 406 Ill. 238, 92 N.E.2d 761 (1950); Droste v. Kerner, 34 Ill. 2d 495, 217 N.E.2d 73 (1966), app. dis. 385 U.S. 456.

Article 3. Suffrage & Elections

1. U.S. Const. Amend. 26.
2. The constitutional amendment was proposed by 85th General Assembly House Joint Resolution—Constitutional Amendment 1.
3. Dunn v. Blumstein, 405 U.S. 330, 92 S. Ct. 995 (1972); Burns v. Fortson, 410 U.S. 686, 93 S. Ct. 1209 (1973); Marston v. Lewis, 410 U.S. 679, 93 S. Ct. 1211 (1973).
4. 10 ILCS 5/3-1.
5. Tully v. Edgar, 171 Ill. 2d 297, 664 N.E.2d 43 (1996).

6. See 110 ILCS 310/1, first and fourth paragraphs.
7. East St. Louis Federation of Teachers v. East St. Louis School District Financial Oversight Panel, 178 Ill. 2d 399 at 414-15 and 419-21, 687 N.E.2d 1050 at 1059-60 and 1061-62 (1997).
8. Allen v. Illinois Community College Board, 315 Ill. App. 3d 837, 734 N.E.2d 926 (2000).
9. Welsh v. Shumway, 232 Ill. 54, 83 N.E. 549 (1907).
10. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VII, pp. 2342-43 (explanation of Suffrage and Constitution Amending Committee Proposal No. 2).
11. Orr v. Edgar, 298 Ill. App. 3d 432, 698 N.E.2d 560 (1998), review denied by Ill. Sup. Ct. 179 Ill. 2d 589, 705 N.E.2d 440.
12. Ill. Rev. Stat. through 1969, ch. 46, sec. 3-5.
13. 10 ILCS 5/3-5. The amendments were made by P.A. 77-433 (1971) and P.A. 80-699 (1977).
14. "Penal institution" is so defined for purposes of the Criminal Code of 2012 (720 ILCS 5/2-14), and the Attorney General reached the same conclusion in Ill. Att'y Gen. Opinion S-1056 (1976 Ops. Atty. Gen., p. 115).
15. 10 ILCS 5/3-5, second paragraph.
16. Baker v. Carr, 369 U.S. 186, 82 S. Ct. 691 (1962) and its progeny.
17. Thompson v. Conti, 39 Ill. 2d 160, 233 N.E.2d 351 (1968).
18. Village of Deerfield v. Rapka, 54 Ill. 2d 217, 296 N.E.2d 336 (1973); Coalition for Political Honesty v. State Board of Elections, 83 Ill. 2d 236, 415 N.E.2d 368 (1980); Clark v. Illinois State Board of Elections, 2014 IL App (1st) 141937, 17 N.E.3d 771 (2014).
19. Richardson v. Mulcahey, 265 Ill. App. 3d 123, 637 N.E.2d 1217 (1994).
20. Bridgewater v. Hotz, 51 Ill. 2d 103, 281 N.E.2d 317 (1972).
21. Taylor v. County of St. Clair, 57 Ill. 2d 367, 312 N.E.2d 231 (1974).
22. Fumarolo v. Chicago Bd. of Educ., 142 Ill. 2d 54, 566 N.E.2d 1283 (1990). The 1988 act was P.A. 85-1418, amending numerous sections of the School Code (now cited as 105 ILCS 5/1-1 ff.—principally 105 ILCS 5/34-1.01 ff.). After the act was re-enacted with changes (P.A. 86-1477 (1991)), it was upheld in federal court against various constitutional challenges in Pittman v. Chicago Board of Educ., 860 F. Supp. 495 (N.D. Ill. 1994), aff'd 64 F.3d 1098 (7th Cir. 1995), cert. den. 517 U.S. 1243.
23. 70 ILCS 3615/3.01(a) to (d).
24. P.A. 95-708, sec. 20 (2008).
25. Stroger v. Regional Transportation Authority, 201 Ill. 2d 508, 778 N.E.2d 683 (2002).
26. Orr v. Edgar, 283 Ill. App. 3d 1088, 670 N.E.2d 1243 (1996). (This case is not related to the 1998 case with the same name cited in a note above.)
27. Chicago Bar Association v. White, 386 Ill. App. 3d 955, 898 N.E.2d 1101 (2008).
28. P.A. 97-766 (2012), amending 10 ILCS 5/16-6 (paragraph headed "NOTICE").
29. In re Petition Under Section 3-12 of Chapter 105, 50 Ill. App. 3d 356, 365 N.E.2d 565 (1977).
30. Bridgewater v. Hotz, 51 Ill. 2d 103, 281 N.E.2d 317 (1972).
31. Totten v. State Bd. of Elections, 79 Ill. 2d 288, 403 N.E.2d 225 (1980).
32. Cook v. Orr, 2018 IL App (1st) 180246 at ¶¶ 30-31, __ N.E.3d ____ (2018). The principal Election Code provisions involved were 10 ILCS 5/7-5(d) and 5/17-16.1.

33. 10 ILCS 5/3-2.
34. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. II, pp. 1055-1063.
35. P.A. 78-918 (1973), adding Ill. Rev. Stat. 1973, ch. 46, secs. 1A-1 ff. (held unconstitutional; see next note).
36. Walker v. State Bd. of Elections, 65 Ill. 2d 543, 359 N.E.2d 113 (1976).
37. P.A. 80-1178 (1978); 10 ILCS 5/1A-1 ff.
38. Lunding v. Walker, 65 Ill. 2d 516, 359 N.E.2d 96 (1976).
39. Illinois Republican Party v. Illinois State Board of Elections, 188 Ill. 2d 70, 720 N.E.2d 231 (1999).
40. P.A. 93-574, sec. 5 (2003), amending 10 ILCS 5/9-21, first paragraph.
41. See George D. Braden & Rubin G. Cohn, The Illinois Constitution: An Annotated and Comparative Analysis (1969), pp. 364-65.
42. See Record of Proceedings, Sixth Illinois Constitutional Convention, vol. V, pp. 4543-44 (remarks of Delegate Parkhurst).
43. The constitutional amendment was proposed by 96th General Assembly House Joint Resolution—Constitutional Amendment 31 (2009).
44 . The constitutional amendment was proposed by 98th General Assembly House Joint Resolution—Constitutional Amendment 52 (2014).

Article 4. The Legislature

1. City of Waukegan v. Pollution Control Board, 57 Ill. 2d 170, 311 N.E.2d 146 (1974); Stofer v. Motor Vehicle Casualty Co., 68 Ill. 2d 361, 369 N.E.2d 875 (1977); Rockford Drop Forge Co. v. Pollution Control Bd., 79 Ill. 2d 271, 402 N.E.2d 602 (1980).
2. Thygesen v. Callahan, 74 Ill. 2d 404, 385 N.E.2d 699 (1979).
3. People v. Tibbitts, 56 Ill. 2d 56, 305 N.E.2d 152 (1973).
4. Rouse v.Thompson, 228 Ill. 522, 81 N.E. 1109 (1907); People ex rel. Chicago Dryer Co. v. City of Chicago, 413 Ill. 315, 109 N.E.2d 201 (1952); Rogers v. Desiderio, 274 Ill. App. 3d 446, 655 N.E.2d 930 (1995), review denied by Ill. Sup. Ct. 164 Ill. 2d 582, 660 N.E.2d 1280, cert. dismissed 517 U.S. 1164.
5. People ex rel. Chicago Dryer Co. v. City of Chicago, 413 Ill. 315 at 320, 109 N.E.2d 201 at 204 (1952); People ex rel. Rudman v. Rini, 64 Ill. 2d 321, 356 N.E.2d 4 (1976); People v. Pollution Control Bd., 83 Ill. App. 3d 802, 404 N.E.2d 352 (1980); La Salle Nat'l Trust v. Village of Westmont, 264 Ill. App. 3d 43 at 63, 636 N.E.2d 1157 at 1169 (1994). But see Kluk v. Lang, cited in the next note.
6. See Kluk v. Lang, 125 Ill. 2d 306, 531 N.E.2d 790 (1988), upholding the statutory system for choosing replacements for members of the General Assembly who leave office before their terms end.
7. See 68th General Assembly Senate Joint Resolution 32 (printed in Ill. Laws 1953, p. 1924), approved by the voters in November 1954, amending Illinois Constitution of 1870, Art. 4, secs. 6, 7, and 8.
8. 10 ILCS 5/29C-5 ff.
9. People ex rel. Breckton v. Board of Election Comm'rs, 221 Ill. 9, 77 N.E. 321 (1906). The

same principle has been stated as to public officers generally in People ex rel. Hoyne v. McCormick, 261 Ill. 413, 103 N.E. 1053 (1913) and its progeny, the most recent being Thies v. State Bd. of Elections, 124 Ill. 2d 317, 529 N.E.2d 565 (1988). A somewhat similar case (although based on the Constitution's statement about when a judge can file a declaration of candidacy for retention) is O'Brien v. White, 219 Ill. 2d 86, 846 N.E.2d 116 (2006).

10. Dillavou v. County Officers Electoral Bd., 260 Ill. App. 3d 127, 632 N.E.2d 1127 (1994), review denied by Ill. Sup.Ct. 157 Ill. 2d 498, 642 N.E.2d 1276; Walsh v. County Officers Electoral Bd., 267 Ill. App. 3d 972, 642 N.E.2d 843 (1994), review denied by Ill. Sup.Ct. 158 Ill. 2d 566, 645 N.E.2d 1369.
11. 10 ILCS 5/25-6 and 5/8-5.
12. Kluk v. Lang, 125 Ill. 2d 306, 531 N.E.2d 790 (1988). But as to filling vacancies in county offices, see People ex rel. Rudman v. Rini, 64 Ill. 2d 321, 356 N.E.2d 4 (1976), which had held the opposite.
13. Ill. Att'y Gen. Op. 14-002 (2014).
14. Ill. Supreme Court Rule 382.
15. People ex rel. Scott v. Grivetti, 50 Ill. 2d 156, 277 N.E.2d 881 (1971), cert. den. 407 U.S. 921.
16. P.A. 78-42 (1973).
17. People ex rel. Pierce v. Lavelle, 56 Ill. 2d 278, 307 N.E.2d 115 (1974).
18. Schrage v. State Board of Elections, 88 Ill. 2d 87, 430 N.E.2d 483 (1981).
19. Rybicki v. State Board of Elections, 574 F. Supp. 1082, 1147, and 1161 (N.D. Ill. 1982 & 1983).
20. People ex rel. Burris v. Ryan, 147 Ill. 2d 270, 588 N.E.2d 1023 (1991).
21. People ex rel. Burris v. Ryan, 147 Ill. 2d 270 at 295, 588 N.E.2d 1033 at 1035 (1992).
22. 147 Ill. 2d at 308-314, 588 N.E.2d at 1041-1044 (Bilandic, J., joined by Clark and Freeman, JJ., dissenting).
23. Cole-Randazzo v. Ryan, 198 Ill. 2d 233, 762 N.E.2d 485 (2001) and Beaubien v. Ryan, 198 Ill. 2d 294, 762 N.E.2d 501 (2001).
24. Winters v. State Board of Elections, 197 F. Supp. 2d 1110 (N.D. Ill. 2001) (three-judge court), aff'd without opinion 535 U.S. 967, 122 S. Ct. 1433 (2002).
25. P.A. 97-6 (2011); 10 ILCS 91/1 ff.
26. Knox County Democratic Cent. Comm. v. Knox County Board, 231 Ill. App. 3d 855, 597 N.E.2d 238 (1992), review denied by Ill. Sup. Ct. 146 Ill. 2d 629, 602 N.E.2d 455.
27. 25 ILCS 15/0.01 ff.
28. Ill. Att'y Gen. Opinion S-548 (1972 Ops. Atty. Gen., p. 294).
29. 5 ILCS 120/1 ff.
30. Rock v. Thompson, 85 Ill. 2d 410, 426 N.E.2d 891 (1981).
31. Journal of the Senate, Feb. 17, 1981, p. 48.
32. U.S. Const., Art. I, sec. 5.
33. Examples of judicial resolution of controversies over a person's qualifications to run for the General Assembly include Dillavou v. County Officers Electoral Bd., 260 Ill. App. 3d 127, 632 N.E.2d 1127 (1994), review denied by Ill. Sup. Ct. 157 Ill. 2d 498, 642 N.E.2d 1276, and Walsh v. County Officers Electoral Bd., 267 Ill. App. 3d 972, 642 N.E.2d 843 (1994),

review denied by Ill. Sup. Ct. 158 Ill. 2d 566, 645 N.E.2d 1369.
34. Ill. Att'y Gen. Opinion 93-001 (1993).
35. Ill. Att'y Gen. Opinions S-458 (1972 Ops. Att'y Gen., p. 122) and S-461 (1972 Ops. Att'y Gen., p. 126).
36. Murphy v. Collins, 20 Ill. App. 3d 181, 312 N.E.2d 772 (1974), review denied by Ill. Sup. Ct.
37. Burritt v. Comm'rs of State Contracts, 120 Ill. 322, 11 N.E. 180 (1887).
38. House Rules 40(b) and 102(11), and Senate Rules 5-4(b) and 1-9, 100th General Assembly.
39. The Act was enacted by P.A. 83-1177 (1984) and, to the extent still in effect, is now codified in 25 ILCS 120/1 ff.
40. Ill. Const., Art. 4, sec. 11; Art. 5, sec. 21; and Art. 6, sec. 14.
41. Quinn v. Donnewald, 107 Ill. 2d 179, 483 N.E.2d 216 (1985).
42. Jorgensen v. Blagojevich, 211 Ill. 2d 286, 811 N.E.2d 652 (2004).
43. See P.A. 96-800, sec. 40 (2009).
44. See 25 ILCS 120/5.5 ff. and 120/6.1 ff.
45. Polich v. Chicago School Finance Auth., 79 Ill. 2d 188, 402 N.E.2d 247 (1980).
46. Ill. Const. 1870, Art. 4, sec. 13, second and third sentences.
47. See Geja's Cafe v. Metropolitan Pier & Exposition Auth., 153 Ill. 2d 239 at 256-58, 606 N.E.2d 1212 at 1220 (1992); Fuehrmeyer v. City of Chicago, 57 Ill. 2d 193 at 201-202, 311 N.E.2d 116 at 121 (1974).
48. See Fletcher v. Peck, 10 U.S. (6 Cranch) 87 (1810); Mayor of Savannah v. State, 4 Ga. 26 (1848).
49. Advanced Systems, Inc. v. Johnson, 126 Ill. 2d 484, 535 N.E.2d 797 (1989); Cutinello v. Whitley, 161 Ill. 2d 409 at 423-424, 641 N.E.2d 360 at 366 (1994).
50. Schlenz v. Castle, 84 Ill. 2d 196, 417 N.E.2d 1336 (1981), app. dis. 454 U.S. 804.
51. People v. Dunigan, 165 Ill. 2d 235, 650 N.E.2d 1026 at 1035 (1995).
52. People ex rel. Ogilvie v. Lewis, 49 Ill. 2d 476 at 487, 274 N.E.2d 87 at 94 (1971), quoting People ex rel. Gutknecht v. City of Chicago, 414 Ill. 600, 111 N.E.2d 626 (1953).
53. Fuehrmeyer v. City of Chicago, 57 Ill. 2d 193, 311 N.E.2d 116 (1974). The act held unconstitutional was P.A. 77-1818 (1972).
54. Johnson v. Edgar, 176 Ill. 2d 499, 680 N.E.2d 1372 (1997). The act held unconstitutional was P.A. 89-428 (1995).
55. People v. Reedy, 186 Ill. 2d 1, 708 N.E.2d 1114 (1999). The act held unconstitutional was P.A. 89-404 (1995).
56. 186 Ill. 2d at 12, 708 N.E.2d at 1119.
57. People v. Wooters, 188 Ill. 2d 500, 722 N.E.2d 1102 (1999). The act held unconstitutional was P.A. 89-203 (1995).
58. People v. Cervantes, 189 Ill. 2d 80, 723 N.E.2d 265 (1999). The act held unconstitutional was P.A. 88-680 (1994).
59. People v. Sypien, 198 Ill. 2d 334, 763 N.E.2d 264 (2001). The act held unconstitutional was P.A. 90-456 (1997).
60. People v. Burdunice, 211 Ill. 2d 264, 811 N.E.2d 678 (2004). The act held unconstitutional was P.A. 89-688 (1996).

61. People v. Olender, 222 Ill. 2d 123, 854 N.E.2d 593 (2005). The act held unconstitutional was P.A. 88-669 (1994).
62. Arangold Corp. v. Zehnder, 187 Ill. 2d 341, 718 N.E.2d 191 (1999). The act upheld was P.A. 89-21 (1995).
63. 187 Ill. 2d at 354, 718 N.E.2d at 199.
64. Premier Property Management, Inc. v. Chavez, 191 Ill. 2d 101, 728 N.E.2d 476 (2000). The act upheld was P.A. 90-514 (1997).
65. People v. Boclair, 202 Ill. 2d 89, 789 N.E.2d 734 (2002).
66. Wirtz v. Quinn, 2011 IL 111903, 953 N.E.2d 899 (2011). The acts upheld were P.A.'s 96-34, 96-35, 96-37, and 96-38 (2009).
67. People ex rel. Kirk v. Lindberg, 59 Ill. 2d 38, 320 N.E.2d 17 (1974).
68. Benjamin v. Devon Bank, 68 Ill. 2d 142, 368 N.E.2d 878 (1977).
69. People ex rel. Kirk v. Lindberg, 59 Ill. 2d 38, 320 N.E.2d 17 (1974).
70. People ex rel. Ogilvie v. Lewis, 49 Ill. 2d 476 at 488-489, 274 N.E.2d 87 at 95 (1971).
71. Continental Illinois Nat'l Bank & Trust Co. v. Zagel, 78 Ill. 2d 387, 401 N.E.2d 491 (1979).
72. Wirtz v. Quinn, 2011 IL 111903 at ¶¶ 97-102 and 104-08, 953 N.E.2d 899 (2011).
73. Wirtz v. Quinn at ¶¶ 94-96, 953 N.E.2d at 920-21 (citing, among other cases, People ex rel. Kirk v. Lindberg, 59 Ill. 2d 38, 320 N.E.2d 17 (1974) and Benjamin v. Devon Bank, 68 Ill. 2d 142, 368 N.E.2d 878 (1977)).
74. People ex rel. Kucharski v. Hiering, 49 Ill. 2d 304, 274 N.E.2d 61 (1971); United Private Detective & Security Ass'n v. City of Chicago, 62 Ill. 2d 506, 343 N.E.2d 453 (1976); People ex rel. City of Canton v. Crouch, 79 Ill. 2d 356, 403 N.E.2d 242 (1980).
75. People ex rel. City of Canton v. Crouch, 79 Ill. 2d at 377, 403 N.E.2d at 252 (1980), quoting from Jordan v. Metropolitan Sanitary Dist., 15 Ill. 2d 369, 155 N.E.2d 297 (1958). See also People v. Ullrich, 135 Ill. 2d 477, 553 N.E.2d 356 (1990).
76. Fuehrmeyer v. City of Chicago, 57 Ill. 2d 193, 311 N.E.2d 116 (1974); People ex rel. Peoria Civic Center Auth. v. Vonachen, 62 Ill. 2d 179, 340 N.E.2d 1 (1975).
77. Prudential Ins. Co. of America v. City of Chicago, 66 Ill. 2d 437, 362 N.E.2d 1021 (1977).
78. Those cases include People v. Lloyd, 304 Ill. 23 at 101-103, 136 N.E. 505 at 535-36 (1922); People ex rel. Brenza v. Fleetwood, 413 Ill. 530 at 547-48, 109 N.E.2d 741 at 750-52 (1952); People ex rel. Dickey v. Southern Ry. Co., 17 Ill. 2d 550 at 555-57, 162 N.E.2d 417 at 420-21 (1959); Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 at 399-400, 169 N.E.2d 769 at 772-773 (1960); People v. Chatman, 38 Ill. 2d 265 at 268-69, 230 N.E.2d 879 at 881-82 (1967) (facts very similar to the two hypothetical laws described in the commentary); Shelton v. City of Chicago, 42 Ill. 2d 468, 248 N.E.2d 121 (1969); People v. Bullard, 61 Ill. 2d 277 at 280-83, 335 N.E.2d 465 at 467-68 (1975); Pflugmacher v. Cosentino, 165 Ill. App. 3d 1083, 519 N.E.2d 1123 (1988), review denied by Ill. Sup. Ct. 526 N.E.2d 839; People v. Reedy, 186 Ill. 2d 1 at 15, 708 N.E.2d 1114 at 1120-1121 (1999); O'Casek v. Children's Home and Aid Soc'y, 229 Ill. 2d 421, 892 N.E.2d 994 (2008); People v. Prouty, 385 Ill. App. 3d 149 at 150-55, 895 N.E.2d 48 at 49-52 (2008); People v. Maldonado, 386 Ill. App. 3d 964 at 968-80, 897 N.E.2d 854 at 859-869 (2008); and People v. Gonzalez, 388 Ill. App. 3d 1003, 906 N.E.2d 34 (2009). As section of the Statute on Statutes discussed later in the commentary (5 ILCS 70/6) deals with the topic of multiple

amendatory acts on the same subject in one General Assembly, but does not fully address the exact point described here.

79. 735 ILCS 5/2-622.
80. P.A. 89-7 (1995) (held unconstitutional as described later in the commentary). The amendments to sec. 2-622, and other sections of the Code of Civil Procedure, were made by section 15 of P.A. 89-7.
81. Best v. Taylor Machine Works, 179 Ill. 2d 367, 689 N.E.2d 1057 (1997).
82. Examples of application of that principle are Fiorito v. Jones, 39 Ill. 2d 531, 236 N.E.2d 698 (1968); People v. Gersch, 135 Ill. 2d 384, 553 N.E.2d 281 (1990); and Cookson v. Price, 239 Ill. 2d 339, 941 N.E.2d 162 (2010).
83. See 90th General Assembly H.B. 568 (engrossed version) and H.B. 1185 (engrossed version). Their chief sponsors were also the chief sponsors of S.B. 120 cited below, which enacted the 1998 act.
84. P.A. 90-579 (1998), enacted by S.B. 120.
85. Cargill v. Czelatdko, 353 Ill. App. 3d 654, 818 N.E.2d 898 (2004), overruled by O'Casek v. Children's Home and Aid Soc'y, 229 Ill. 2d 421, 892 N.E.2d 994 (2008). The Illinois Supreme Court also overruled three similar cases in its O'Casek decision. But in one of those cases (Giegoldt v. Condell Medical Center, 328 Ill. App. 3d 907, 767 N.E.2d 497 (2002)), the Appellate Court panel seems to have been unaware of the issue involving the 1998 act; in another (Beauchamp v. Zimmerman, 359 Ill. App. 3d 143, 833 N.E.2d 877 (2005)), the panel was aware of it but dismissed it in a footnote; and in the third (Crull v. Sriratana, 376 Ill. App. 3d 803, 878 N.E.2d 753 (2007)), the panel acknowledged the issue in the text of its opinion but followed the earlier Cargill decision.
86. See O'Casek v. Children's Home and Aid Soc'y, 229 Ill. 2d at 446-47, 892 N.E.2d at 1010 (quoting legislative debate transcripts of remarks by Senator Robert Madigan and Representative Daniel Burke).
87. People v. Prouty, 385 Ill. App. 3d 149 at 154, 895 N.E.2d 48 at 52 (2008), quoted People v. Maldonado, 386 Ill. App. 3d 964 at 976, 897 N.E.2d 854 at 865 (2008).
88. See House Rule 40(a) and Senate Rule 3-12(a), 100th General Assembly.
89. See House Rules 40(e) and 18(e), and Senate Rule 3-8(b), 100th General Assembly.
90. 5 ILCS 70/6.
91. 5 ILCS 70/6, second paragraph.
92. See Senate Rule 5-1(e)(1) and (2), and House Rule 37(e)(1) and (2), 100th General Assembly; 5 ILCS 70/5.
93. The Legislative Reference Bureau's responsibility to propose nonsubstantive revisions in laws is stated in 25 ILCS 135/5.04(h).
94. Fuehrmeyer v. City of Chicago, 57 Ill. 2d 193, 311 N.E.2d 116 (1974); Polich v. Chicago School Finance Auth., 79 Ill. 2d 188, 402 N.E.2d 247 (1980); People v. Dunigan, 165 Ill. 2d 235, 650 N.E.2d 1026 (1995).
95. Geja's Cafe v. Metropolitan Pier & Exposition Auth., 153 Ill. 2d 239 at 260, 606 N.E.2d 1212 at 1221 (1992); Friends of the Parks v. Chicago Park Dist., 203 Ill. 2d 312 at 329, 786 N.E.2d 161 at 171 (2003).

96. See People ex rel. Kirk v. Lindberg, 59 Ill. 2d 38, 320 N.E.2d 17 (1974), Benjamin v. Devon Bank, 68 Ill. 2d 142, 368 N.E.2d 878 (1977), and other cases cited earlier under those provisions.
97. People ex rel. Klinger v. Howlett, 50 Ill. 2d 242, 278 N.E.2d 84 (1972).
98. People ex rel. City of Canton v. Crouch, 79 Ill. 2d 356, 403 N.E.2d 242 (1980).
99. Continental Illinois Nat'l Bank & Trust Co. v. Zagel, 78 Ill. 2d 387, 401 N.E.2d 491 (1979).
100. The proposal was sent to the voters by 78th General Assembly House Joint Resolution—Constitutional Amendment 7 (1973).
101. People ex rel. City of Canton v. Crouch, 79 Ill. 2d 356, 403 N.E.2d 242 (1980).
102. County of Kane v. Carlson, 116 Ill. 2d 186, 507 N.E.2d 482 (1987).
103. 5 ILCS 75/1.
104. The constitutional amendment was proposed by 88th General Assembly House Joint Resolution—Constitutional Amendment 35.
105. P.A. 88-597, sec. 83 (1994), amending 5 ILCS 75/1 and 75/2, and adding 5 ILCS 75/2.1.
106. People ex rel. Klinger v. Howlett, 50 Ill. 2d 242, 278 N.E.2d 84 (1972); Mulligan v. Joliet Regional Port Dist., 123 Ill. 2d 303, 527 N.E.2d 1264 (1988); People v. Shumpert, 126 Ill. 2d 344, 533 N.E.2d 1106 (1989).
107. City of Springfield v. Allphin, 74 Ill. 2d 117, 384 N.E.2d 310 (1978).
108. People ex rel. AFSCME v. Walker, 61 Ill. 2d 112, 332 N.E.2d 401 (1975), involving such a situation, is not entirely clear on this point; but Attorney General's Opinions S-890 (1975 Ops. Atty. Gen., p. 77) and 2017-002 (2017) reached the conclusion stated in the commentary—which also seems to be supported by the argument given by the Court and summarized in the commentary.
109. See 5 ILCS 75/1 and 75/2; People ex rel. AFSCME v. Walker, 61 Ill. 2d 112, 332 N.E.2d 401 (1975).
110. People v. Kellick, 102 Ill. 2d 162, 464 N.E.2d 1037 (1984).
111. Attorney General's Opinion 2017-002 (2017).
112. Winokur v. Bakalis, 84 Ill. App. 3d 922, 405 N.E.2d 1329 (1980), review denied by Ill. Sup. Ct.
113. Ill. Att'y Gen. Opinion S-1366 (1978 Ops. Atty. Gen., p. 125).
114. 25 ILCS 120/1 ff. Most then-existing sections of the Act were repealed by P.A. 96-800, sec. 40 (2009).
115. Quinn v. Donnewald, 107 Ill. 2d 179, 483 N.E.2d 216 (1985).
116. P.A. 96-800, sec. 40 (2009).
117. In this connection, see Jorgensen v. Blagojevich, 211 Ill. 2d 286, 811 N.E.2d 652 (2004) (General Assembly by law could not block an inflation adjustment called for by the Compensation Review Board's 1990 report as to judges, because that would violate the prohibition in Article 6, sec. 14 on reducing judge's salaries during their terms).
118. Rock v. Burris, 139 Ill. 2d 494, 564 N.E.2d 1240 (1990).
119. People v. Flinn, 47 Ill. App. 3d 357, 362 N.E.2d 3 (1977).
120. See Meyer v. McKeown, 266 Ill. App. 3d 324, 641 N.E.2d 1212 (1994), review denied by Ill. Sup. Ct. 158 Ill. 2d 553, 645 N.E.2d 1360 (involving statements by village trustee, but likely applicable to legislators at higher levels); Hutchinson v. Proxmire, 443 U.S. 111, 99

S. Ct. 2675 (1979) (applying the federal "Speech or Debate" clause to statements by a member of Congress outside the legislative process).

121. County of Bureau v. Thompson, 139 Ill. 2d 323 at 345-346, 564 N.E.2d 1170 at 1181-82 (1990).
122. Examples are Board of Ed., Peoria Sch. Dist. 150 v. Peoria Fed'n of Support Staff, 2013 IL 114853, 998 N.E.2d 36 (2013), striking down a law (P.A. 96-1257 (2010)) that applied to a class consisting of one school district, which class could never include any other districts; and Moline Sch. Dist. v. Quinn, 2016 IL 119704, 54 N.E.2d 825 (2016), striking down a law (P.A. 97-1161 (2013)) that granted a property tax exemption to a private company providing services at a specific named airport, to encourage the company to expand its operations in Illinois rather than in a nearby state.
123. Illinois Housing Dev. Auth. v. Van Meter, 82 Ill. 2d 116, 412 N.E.2d 151 (1980); Harris v. Manor Healthcare Corp., 111 Ill. 2d 350, 489 N.E.2d 1374 (1986); Crusius v. Ill. Gaming Bd., 216 Ill. 2d 315, 837 N.E.2d 88 (2005); Moline Sch. Dist. v. Quinn, 2016 IL 119704, 54 N.E.2d 825 (2016).
124. Latham v. Board of Educ. of Chicago, 31 Ill. 2d 178, 201 N.E.2d 111 (1964); People v. Palkes, 52 Ill. 2d 472, 288 N.E.2d 469 (1972), app. dis. for lack of final judgment 411 U.S. 923; People ex rel. Kutner v. Cullerton, 58 Ill. 2d 266, 319 N.E.2d 55 (1974); Nevitt v. Langfelder, 157 Ill. 2d 116, 623 N.E.2d 281 (1993); Northern Illinois Home Builders Ass'n v. County of Du Page, 165 Ill. 2d 25, 649 N.E.2d 384 (1995); Town of Cicero v. Illinois Ass'n of Firefighters, Local 717, 338 Ill. App. 3d 364, 788 N.E.2d 286 (2003), review denied by Ill. Sup. Ct. 205 Ill. 2d 577, 803 N.E.2d 480.
125. People ex rel. City of Danville v. Fox, 247 Ill. 402, 93 N.E. 302 (1910); In re Petition for Removal of Struck, 41 Ill. 2d 574, 244 N.E.2d 176 (1969); In re Belmont Fire Prot. Dist., 111 Ill. 2d 373, 489 N.E.2d 1385 (1986); In re Petition of Village of Vernon Hills, 168 Ill. 2d 117, 658 N.E.2d 365 (1995); Lacny v. Police Board of Chicago, 291 Ill. App. 3d 397, 683 N.E.2d 1265 (1997).
126. An example is People ex rel. East Side Levee & San. Dist. v. Madison County Levee & San. Dist., 54 Ill. 2d 442, 298 N.E.2d 177 (1973), holding unconstitutional an act (P.A. 77-2819 (1972)) applying only to a sanitary district that (1) had territory in two counties and (2) had an assessed value of at least $100 million on the act's effective date.
127. Anderson v. Wagner, 79 Ill. 2d 295, 402 N.E.2d 560 (1979), app. dis. 449 U.S. 807.
128. People ex rel. Skinner v. Hellmuth, Obata & Kassabaum, Inc., 114 Ill. 2d 252, 500 N.E.2d 34 (1986).
129. McAlister v. Schick, 147 Ill. 2d 84, 588 N.E.2d 1151 (1992). See also DeLuna v. St. Elizabeth's Hosp., 147 Ill. 2d 57, 588 N.E.2d 1139 (1992). These requirements are codified in 735 ILCS 5/2-622.
130. Northern Illinois Home Builders Ass'n v. County of Du Page, 165 Ill. 2d 25, 649 N.E.2d 384 (1995).
131. Miller v. Rosenberg, 196 Ill. 2d 50, 749 N.E.2d 946 (2001).
132. Best v. Taylor Machine Works, 179 Ill. 2d 367, 689 N.E.2d 1057 (1997).
133. Allen v. Woodfield Chevrolet, Inc., 208 Ill. 2d 12, 802 N.E.2d 752 (2003).
134. Cusack v. Howlett, 44 Ill. 2d 233, 254 N.E.2d 506 (1969).

135. See Legislative Research Unit, "Impeachment in Illinois and Other Jurisdictions" (File 10-703, Aug. 22, 1995) and "Articles Voted in 1833 Impeachment Proceedings" (File 10-833, April 22, 1997).
136. 90th General Assembly H. Res. 89 (adopted April 14, 1997).
137. Final Report of the Special Investigative Committee of the House, 95th General Assembly, printed in House Journal, Jan. 8, 2009, p. 5910; 95th General Assembly H. Res. 1671, printed in House Journal, Jan. 8, 2009, p. 5963 and adopted House Journal, Jan. 9, 2009, p. 5974. See also United States v. Blagojevich, 594 F. Supp. 2d 993 (N.D. Ill. 2009).
138. 96th General Assembly H. Res. 5 (2009), printed in House Journal, Jan. 14, 2009, p. 13 and adopted p. 15.
139. The proceedings in the Senate Impeachment Tribunal are noted, but not printed, in Senate Journal, Jan. 14, 2009, pp. 57 ff.; Jan. 26, pp. 67 ff.; Jan. 27, pp. 69 ff.; Jan. 28, pp. 71 ff.; and Jan. 29, pp. 75 ff. The Senate Impeachment Tribunal on January 29, 2009 voted to convict the Governor and bar him from all public offices of the state. The Senate Journal does not so state, but cites an Internet address for transcripts of the Tribunal's proceedings: http://ilga.gov/senate/ImpeachTranscripts.asp
140. Rules of Special Investigative Committee of the 90th General Assembly Investigating Supreme Court Chief Justice James D. Heiple (filed April 29, 1997).
141. 96th General Assembly S. Res.6 (2009), printed in Senate Journal, Jan. 14, 2009, p. 44 and adopted p. 54 (also printed in House Journal, Jan. 14, 2009, p. 34).
142. People ex rel. Myers v. Lewis, 32 Ill. 2d 506, 207 N.E.2d 468 (1965).

Article 5. The Executive

1. American Legion Post 279 v. Barrett, 371 Ill. 78, 20 N.E.2d 45 (1939).
2. People ex rel. Gullett v. McCullough, 254 Ill. 9, 98 N.E. 156 (1912).
3. See People ex rel. Hoyne v. McCormick, 261 Ill. 413, 103 N.E. 1053 (1913) and its progeny, the most recent of which is Thies v. State Bd. of Elections, 124 Ill. 2d 317, 529 N.E.2d 565 (1988). The court has stated broadly that where the qualifications for any office are set by the Constitution, they may not be varied or added to by statute.
4. P.A. 96-1018 (2010, eff. Jan. 1, 2011), amending 10 ILCS 5/7-10 (last paragraph), 5/7-19 (fifth unnumbered paragraph), 5/7-46, 5/7-52 (paragraph (4)), and other sections.
5. In re Contest of the Election for Governor and Lieutenant Governor, 93 Ill. 2d 463, 444 N.E.2d 170 (1983). The section involved (Ill. Rev. Stat. through 1987, ch. 46, secs. 23-1.1 ff.) was later repealed by P.A. 86-873, sec. 9 (1989).
6. P.A. 86-873, sec. 8 (1989); 10 ILCS 5/23-1.1a.
7. 15 ILCS 5/1, added by P.A. 82-105 (1981).
8. The commentary to Art. 6, sec. 4 explains the term "original actions" in the Supreme Court.
9. Ill. Supreme Court Rule 382.
10. 5 ILCS 275/1 ff.
11. Buettell v. Walker, 59 Ill. 2d 146, 319 N.E.2d 502 (1974).
12. Executive Order 73-4, requiring financial disclosure by state employees paid more than $20,000 per year, was upheld in Illinois State Employees' Ass'n v. Walker, 57 Ill. 2d 512,

315 N.E.2d 9 (1974), cert. den. 419 U.S. 1058; but the order apparently did not apply to persons not under the Governor's jurisdiction, and an existing statutory provision already imposed such a requirement on state employees who were paid more than $20,000 per year (see P.A. 77-1806 (1972). That provision, as amended, is now in 5 ILCS 420/4A-101).

13. People ex rel. Dunham v. Morgan, 90 Ill. 558 at 565-66 (1878); People v. Chicago Transit Auth., 392 Ill. 77 at 97-98, 64 N.E.2d 4 at 14 (1945).
14. Walker v. State Bd. of Elections, 65 Ill. 2d 543, 359 N.E.2d 113 (1976).
15. King v. Lindberg, 63 Ill. 2d 159, 345 N.E.2d 474 (1976).
16. See 820 ILCS 305/13 (second paragraph designated as paragraph (b)).
17. Ford v. Blagojevich, 260 F. Supp. 2d 700 and 282 F. Supp. 2d 898 (C.D. Ill. 2003).
18. Ill. Att'y Gen. Opinion 01-03 (2001).
19. Ill. Att'y Gen. Opinion 11-01 (2011).
20. 5 ILCS 420/3A-5 to 420/3A-25, 420/3A-40, and 420/3A-45.
21. 5 ILCS 420/3A-40(a), first paragraph and second paragraph, last sentence.
22. 5 ILCS 420/3A-40(b).
23. 5 ILCS 420/3A-40(c), first paragraph.
24. 5 ILCS 420/3A-40(c), second and third paragraphs.
25. 5 ILCS 420/3A-40(d).
26. 5 ILCS 420/3A-5 ff.
27. 5 ILCS 420/3A-45.
28. Wilcox v. People ex rel. Lipe, 90 Ill. 186 (1878).
29. Adams v. Walker, 492 F.2d 1003 (7th Cir. 1974).
30. Lunding v. Walker, 65 Ill. 2d 516, 359 N.E.2d 96 (1976).
31. Humphrey's Executor v. United States, 295 U.S. 602, 55 S. Ct. 869 (1935); Wiener v. United States, 357 U.S. 349, 78 S. Ct. 1275 (1958).
32. Gregg v. Rauner, 2017 IL App (5th) 160474, 84 N.E.3d 572 (2017), leave to appeal allowed 2018 IL 122802, 94 N.E.3d 672 (2018).
33. Illinois State Employees' Ass'n v. Walker, 57 Ill. 2d 512, 315 N.E.2d 9 (1974), cert. den. 419 U.S. 1058.
34. 5 U.S. Code secs. 901 ff.
35. 15 ILCS 15/1 ff.
36. 15 ILCS 15/9 and 15/10.
37. See Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, p. 390 (explanation of Proposal No. 1 of Executive Committee).
38. 730 ILCS 5/3-3-13.
39. People v. Glisson, 69 Ill. 2d 502, 372 N.E.2d 669 (1978). The current version of the statutory provisions is in 20 ILCS 2630/5.2.
40. People ex rel. Madigan v. Snyder, 208 Ill. 2d 457, 804 N.E.2d 546 (2004); People v. Mata, 217 Ill. 2d 535, 842 N.E.2d 686 (2005), on remand 366 Ill. App. 1068, 853 N.E.2d 110 (2006).
41. People v. Watson, 347 Ill. App. 3d 181, 807 N.E.2d 628 (2004), 211 Ill. 2d 611, 823 N.E.2d 977 (overruled as to the specific issue involved by People v. Mata, 217 Ill. 2d 535, 842 N.E.2d 686 (2005)).
42. People ex rel. Madigan v. Snyder, 208 Ill. 2d 457, 804 N.E.2d 546 (2004).

43. 208 Ill. 2d at 480, 804 N.E.2d at 560.
44. People ex rel. Symonds v. Gualano, 124 Ill. App. 2d 248, 260 N.E.2d 284 (1970).
45. Bowens v. Quinn, 561 F.3d 671 (7th Cir. 2009), cert. den.558 U.S. 970.
46. U.S. Const., Art. II, sec. 3, cl. 1.
47. Such duties were listed in Legislative Research Unit, "Duties of the Lieutenant Governor" (File 10-638, Jan. 10, 1995).
48. Fergus v. Russel, 270 Ill. 304 at 333-42, 110 N.E. 130 at 142-45 (1915).
49. Such holdings include Dept. of Mental Health v. Coty, 38 Ill. 2d 602, 232 N.E.2d 686 (1967); Gust K. Newberg, Inc. v. Illinois State Toll Highway Authority, 98 Ill. 2d 58, 456 N.E.2d 50 (1983); People v. NL Industries, 152 Ill. 2d 82, 604 N.E.2d 349 (1992); and Lyons v. Ryan, 201 Ill. 2d 529, 780 N.E.2d 1098 (2002).
50. Stein v. Howlett, 52 Ill. 2d 570, 289 N.E.2d 409 (1972), app. dis. 412 U.S. 925. The provision involved (P.A. 77-1806, sec. 1, adding to the Act sec. 4A-106, second paragraph; Ill. Rev. Stat. 1971 Supp., ch. 127, sec. 604A-106) was removed from the Act by P.A. 78-255, sec. 64 (1973). The duty of the Attorney General to issue legal opinions to state officers is stated in 15 ILCS 205/4, item Sixth.
51. People ex rel. Scott v. Briceland, 65 Ill. 2d 485, 359 N.E.2d 149 (1976).
52. Fuchs v. Bidwill, 65 Ill. 2d 503, 359 N.E.2d 158 (1976).
53. Lyons v. Ryan, 201 Ill. 2d 529, 780 N.E.2d 1098 (2002).
54. Scachitti v. UBS Financial Services, 215 Ill. 2d 484, 831 N.E.2d 544 (2005). See also State ex rel. Saporta v. Mortgage Electronic Registration Systems, Inc., 2016 IL App (3d) 150336, 71 N.E.3d 342 (2016), review denied by Ill. Sup. Ct. 2017 IL 122000, 84 N.E.3d 368 (Attorney General could obtain dismissal of a suit that was brought by a private party on behalf of the state).
55. Lyons v. Ryan, 201 Ill. 2d 529, 780 N.E.2d 1098 (2002).
56. The statutory provision is 735 ILCS 5/20-104(b).
57. Environmental Protection Agency v. Pollution Control Bd., 69 Ill. 2d 394, 372 N.E.2d 50 (1977).
58. Fair Employment Practices Comm'n v. Rush-Presbyterian-St. Luke's Medical Center, 41 Ill. App. 3d 712, 354 N.E.2d 596 (1976).
59. Scott v. Cadagin, 65 Ill. 2d 477, 358 N.E.2d 1125 (1976).
60. Environmental Protection Agency v. Pollution Control Bd., 69 Ill. 2d 394, 372 N.E.2d 50 (1977); People ex rel. Sklodowski v. State of Illinois, 162 Ill. 2d 117 at 127-28, 642 N.E.2d 1180 at 1183-84 (1994); Morawicz v. Hynes, 401 Ill. App. 3d 142, 929 N.E.2d 544 (2010).
61. See People ex rel. Sklodowski v. State of Illinois, 162 Ill. 2d at 127, 642 N.E.2d at 1183 (1994); Suburban Cook County Regional Office of Education v. Cook County Board, 282 Ill. 3d 560, 667 N.E.2d 1064 (1996) (involving both Attorney General and state's attorney, with discussion applicable to both). See also 15 ILCS 205/6.
62. Tully v. Edgar, 286 Ill. App. 3d 838, 676 N.E.2d 1361 (1997), review denied by Ill. Sup. Ct. 173 Ill. 2d 548, 684 N.E.2d 1343 (decision on liability for legal fees in Tully v. Edgar, 171 Ill. 2d 297, 664 N.E.2d 43 (1996)).
63. People ex rel. Hartigan v. E & E Hauling, 153 Ill. 2d 473, 607 N.E.2d 165 (1992).
64. State ex rel. Beeler Schad & Diamond v. Ritz Camera Centers, Inc., 377 Ill. App. 3d 990, 878 N.E.2d 1152 (2007). The Illinois False Claims Act is in 740 ILCS 175/1 ff.

65. People v. Massarella, 72 Ill. 2d 531, 382 N.E.2d 262 (1978), cert. den. 442 U.S. 928; People v. Buffalo Confectionery Co., 78 Ill. 2d 447, 401 N.E.2d 546 (1980).
66. 15 ILCS 205/4, item Sixth.
67. Burris v. White, 232 Ill. 2d 1, 901 N.E.2d 895 (2009); Bocanegra v. City of Chicago Electoral Board, 2011 IL App (1st) 110424, 954 N.E.2d 859 (2011). See also Scott, "The Role of Attorney General's Opinions in Illinois," 67 Northwest. Univ. L. Rev. 643 (1972).
68. Legislative Research Unit, "Duties of the Illinois Secretary of State" (File 10-534, Feb. 8, 1994) provided a list of the Secretary of State's major duties and their statutory sources.
69. 15 ILCS 405/1 ff. See also Legislative Research Unit, "The Comptroller" (File 10-573, April 28, 1994).
70. Perkins v. Quinn, 2012 IL App. (1st) 113165, 975 N.E.2d 698 (2012).
71. Fairbank v. Stratton, 14 Ill. 2d 307, 152 N.E.2d 569 (1958).
72. See 30 ILCS 235/0.01 ff. and 15 ILCS 520/0.01 ff.
73. 15 ILCS 205/1.
74. 15 ILCS 405/3.
75. 5 ILCS 260/14.1 and 260/14.3.
76. Ill. Att'y Gen. Opinion S-1366 (1978 Ops. Atty. Gen., p. 125).
77. Quinn v. Donnewald, 107 Ill. 2d 179, 483 N.E.2d 216 (1985). The Act is in 25 ILCS 120/1 ff. However, its provisions creating a Compensation Review Board to recommend pay of state officials were repealed by P.A. 96-800, sec. 40 (2009).
78. P.A. 96-800, sec. 40 (2009).
79. Ingemunson v. Hedges, 133 Ill. 2d 364, 549 N.E.2d 1269 (1990). See also Russell v. Blagojevich, 367 Ill. App. 3d 530, 853 N.E.2d 920 (2006), review denied by Ill. Sup. Ct. 222 Ill. 2d 600, 861 N.E.2d 664.

Article 6. The Judiciary

1. Small claims court is provided for in Ill. Supreme Court Rules 281 ff.
2. See Seifert v. Standard Paving Co., 64 Ill. 2d 109, 355 N.E.2d 537 (1976); McDonald v. Adamson, 840 F.3d 343 (7th Cir. 2016). The Court of Claims Act is in 705 ILCS 505/1 ff.
3. P.A. 83-865, sec. 1, last paragraph (1983).
4. For a discussion of some of the Illinois Supreme Court's past attempts to draw boundaries between legislative and judicial powers, see the comments in People v. Joseph, 113 Ill. 2d 36 at 48-59, 495 N.E.2d 501 at 507-512 (1986) (Simon, J., dissenting).
5. People v. Jackson, 69 Ill. 2d 252, 371 N.E.2d 602 (1977).
6. In re Contest of Election for Offices of Governor and Lieutenant Governor, 93 Ill. 2d 463, 444 N.E.2d 170 (1983).
7. 725 ILCS 5/110-6.2(b). That provision was later amended by P.A. 96-1200, sec. 2 (2010) to make its provisions discretionary with the court.
8. People v. Williams, 143 Ill. 2d 477, 577 N.E.2d 762 (1991). The rule is Ill. Supreme Court Rule 609(b).

9. Administrative Office of the Illinois Courts v. State & Municipal Teamsters, 167 Ill. 2d 180, 657 N.E.2d 972 (1995); In re Collective Bargaining, 213 Ill. 2d 548, 822 N.E.2d 453 (2005).
10. People v. Warren, 173 Ill. 2d 348, 671 N.E.2d 700 (1996).
11. Murneigh v. Gainer, 177 Ill. 2d 287, 685 N.E.2d 1357 (1997).
12. Kunkel v. Walton, 179 Ill. 2d 519, 689 N.E.2d 1047 (1997). The provision held invalid was 735 ILCS 5/2-1003(a) as amended by P.A. 89-7 (1995).
13. Lebron v. Gottlieb Memorial Hospital, 237 Ill. 2d 217 at 238, 930 N.E2d 895 at 908 (2010), quoting from Best v. Taylor Machine Works, 179 Ill. 2d 367 at 414, 689 N.E.2d 1057 at 1080 (1997). The law held invalid was P.A. 94-677 (2005).
14. People v. Heim, 182 Ill. App. 3d 1075, 538 N.E.2d 1259 (1989), review denied by Ill. Sup. Ct. 127 Ill. 2d 627, 545 N.E.2d 120; People v. Riley, 209 Ill. App. 3d 212, 568 N.E.2d 74 (1991), review denied by Ill. Sup. Ct. 137 Ill. 2d 670, 571 N.E.2d 153. The provisions held invalid have not been repealed; they are now in 725 ILCS 5/110-2 (last sentence), 5/110-5(e), and 5/110-6(g).
15. McAlister v. Schick, 147 Ill. 2d 84, 588 N.E.2d 1151 (1992); DeLuna v. St. Elizabeth's Hosp., 147 Ill. 2d 57, 588 N.E.2d 1139 (1992). The law is in 730 ILCS 5/2-622.
16. McAlister v. Schick, 147 Ill. 2d at 95-98, 588 N.E.2d at 1156-57.
17. 147 Ill. 2d at 100-102, 588 N.E.2d at 1158 (Cunningham, J., concurring).
18. People v. Hill, 199 Ill. 2d 440, 771 N.E.2d 374 (2002).
19. Reuter v. Korb, 248 Ill. App. 3d 142, 616 N.E.2d 1363 (1993), review denied by Ill. Sup. Ct. 153 Ill. 2d 569, 624 N.E.2d 816; Hobart v. Shin, 185 Ill. 2d 283 at 291-92, 705 N.E.2d 907 at 910-11 (1998) (statutory provision acknowledged without addressing its validity); Merca v. Rhodes, 2011 IL App (1st) 102234, 960 N.E.2d 85 (2011). That statutory provision is 735 ILCS 5/2-1116(c).
20. People v. Walker, 119 Ill. 2d 465, 519 N.E.2d 890 (1988); People v. Peterson, 2017 IL 120331 (2018) (opinion was subject to revision at the time of publication of this book).
21. Laws 1963, p. 929; 705 ILCS 20/0.01 ff. See the discussion later in the commentary about legislative attempts in 1989 and 1997 to redraw judicial district lines, which the Illinois Supreme Court held invalid.
22. Reed v. Kusper, 154 Ill. 2d 77, 607 N.E.2d 1198 (1992), cert. den. 509 U.S. 906. See also Norman v. Reed, 502 U.S. 279, 112 S. Ct. 698 (1992).
23. 10 ILCS 5/10-2, fourth paragraph.
24. People ex rel. Chicago Bar Ass'n v. State Bd. of Elections, 136 Ill. 2d 513, 558 N.E.2d 89 (1990).
25. Cincinnati Insurance Co. v. Chapman, 181 Ill. 2d 65, 691 N.E.2d 374 (1998).
26. Wells v. Edwards, 347 F. Supp. 453 (M.D. La. 1972), aff'd 409 U.S. 1095, 93 S. Ct. 904 (1973); Carlson v. Wiggins, 760 F. Supp. 2d 811 (S.D. Iowa 2011), aff'd 675 F.3d 1134 (8th Cir. 2012), cert. den. 568 U.S. 885.
27. 42 U.S. Code sec. 1973.
28. Chisom v. Roemer, 501 U.S. 380, 111 S. Ct. 2354 (1991).
29. Smith v. Boyle, 959 F. Supp. 982 (C.D. Ill. 1997), aff'd on other ground 144 F.3d 1060 (7th Cir. 1998).

30. See Perlman v. First Nat'l Bank, 60 Ill. 2d 529, 331 N.E.2d 65 (1975); Getschow v. Commonwealth Edison Co., 99 Ill. 2d 528, 459 N.E.2d 1332 (1984); Commerce Bank v. Youth Services of Mid-Illinois, Inc., 211 Ill. 2d 188, 804 N.E.2d 1066 (2004). In Lehnhausen v. Downs, 60 Ill. 2d 528, 331 N.E.2d 65 (1975), in which a decision by a trial court in Cook County was appealed directly to the Illinois Supreme Court, but it could not muster a four-person majority, the Court transferred the case to the First District of the Illinois Appellate Court for a decision.
31. Ill. Supreme Court Rule 603.
32. Ill. Supreme Court Rule 302(a) (referring to Rule 21(d) on rulings to comply with administrative orders).
33. Ill. Supreme Court Rule 317, first sentence. (Although that rule is in the "Civil Appeals Rules" article of the Supreme Court's rules, it also applies to criminal appeals; see Supreme Court Rule 612, item (b).)
34. Ill. Supreme Court Rule 315(a), first paragraph lists those criteria, but says that the list is not exhaustive.
35. See Ill. Supreme Court Rules 315(a), first paragraph and 612, item (b).
36. People v. Vance, 76 Ill. 2d 171 at 182, 390 N.E.2d 867 at 872 (1979); People v. Ortiz, 196 Ill. 2d 236 at 257, 752 N.E.2d 410 at 424 (2001).
37. People ex rel. Chicago Bar Ass'n v. State Bd. of Elections, 136 Ill. 2d 513, 558 N.E.2d 89 (1990). The act, P.A. 86-786 (1989), was held unconstitutional to the extent it so provided. A part of it increasing the number of appellate judges in a different district was held valid.
38. Arlington City Cab Co. v. Regional Transp. Auth., 82 Ill. 2d 458, 413 N.E.2d 408 (1980).
39. Proctor v. Upjohn Co., 175 Ill. 2d 394, 677 N.E.2d 918 (1997); People v. Ortiz, 196 Ill. 2d 236, 752 N.E.2d 410 (2001).
40. People v. Ortiz, 196 Ill. 2d 236 at 255, 752 N.E.2d 410 at 423 (2001), overruling People ex rel. Director of Finance v. Young Women's Christian Ass'n, 74 Ill. 2d 561, 387 N.E.2d 305 (1979) on that point.
41. See Mattis & Yalowitz, "Stare Decisis Among (*Sic*) the Appellate Court of Illinois," 28 De Paul L. Rev. 571 (1979); Renshaw v. General Tel. Co. of Illinois, 112 Ill. App. 3d 58, 445 N.E.2d 70 (1983); People v. Granados, 172 Ill. 2d 358, 666 N.E.2d 1191 (1996); People v. Ortiz, 196 Ill. 2d 236 at 255-56, 752 N.E.2d 410 at 423 (2001).
42. Cases so stating include People v. Boykin, 94 Ill. 2d 138 at 146, 445 N.E.2d 1174 at 1178 (1983); People v. Harris, 123 Ill. 2d 113, 526 N.E.2d 335 (1988); State Farm Fire & Cas. Co. v. Yapejian, 152 Ill. 2d 533, 605 N.E.2d 539 (1992); Gillen v. State Farm Mut. Auto. Ins. Co., 215 Ill. 2d 381 at 392 n. 2, 830 N.E.2d 575 at 581 (2005); and Delgado v. Board of Election Comm'rs, 224 Ill. 2d 481, 865 N.E.2d 183 (2007).
43. U.S. Const. Amend. 5, cl. 2; Ill. Const., Art. 1, sec. 10.
44. People v. Van Cleve, 89 Ill. 2d 298, 432 N.E.2d 837 (1981); People v. Carter, 194 Ill. 2d 88, 741 N.E.2d 255 (2000).
45. In re Michael D., 2015 IL 119178, 69 N.E.3d 822 (2015).
46. Almgren v. Rush-Presbyterian-St. Luke's Medical Ctr, 162 Ill. 2d 205, 642 N.E.2d 1264 (1994); Department of Transportation ex rel. People v. 151 Interstate Road Corp., 209 Ill. 2d 471, 810 N.E.2d 1 (2004).
47. See Ill. Supreme Court Rules 304 to 308.

48. Jack Spring, Inc. v. Little, 50 Ill. 2d 351, 280 N.E.2d 208 (1972); Hamilton Corp. v. Alexander, 53 Ill. 2d 175, 290 N.E.2d 589 (1972).
49. Ill. Sup. Ct. Rule 305(a).
50. In re Marriage of Lentz, 79 Ill. 2d 400, 403 N.E.2d 1036 (1980); Almgren v. Rush-Presbyterian-St. Luke's Medical Ctr., 162 Ill. 2d 205, 642 N.E.2d 1264 (1994).
51. 735 ILCS 5/3-101 ff., designated by 735 ILCS 5/1-101(c) as the Administrative Review Law.
52. 735 ILCS 5/3-104. The stated exception is review of final orders of the Illinois Educational Labor Relations Board.
53. 10 ILCS 5/9-22.
54. 35 ILCS 200/16-195.
55. 35 ILCS 1010/1-75.
56. 5 ILCS 315/9(i) and 315/11(e), and 50 ILCS 705/6.1(p) (in state police officer disciplinary cases).
57. 115 ILCS 5/16(a) and 735 ILCS 5/3-104.
58. 105 ILCS 5/24-16.5(g) and 5/34-85(a), paragraph (8).
59. 220 ILCS 5/10-201.
60. 415 ILCS 5/22.2d, 5/38.5(j), and 5/41.
61. 420 ILCS 20/18.
62. 775 ILCS 5/8-111.
63. McGaughy v. Illinois Human Rights Comm'n, 165 Ill. 2d 1, 649 N.E.2d 404 (1995); ESG Watts, Inc. v. Pollution Control Bd., 191 Ill. 2d 26, 727 N.E.2d 1022 (2000); Ultsch v. Illinois Mun. Retirement Fd., 226 Ill. 2d 169, 874 N.E.2d 1 (2007); Grimm v. Calica, 2017 IL 120105, 88 N.E.3d 741 (2017).
64. Carver v. Nall, 186 Ill. 2d 554, 714 N.E.2d 486 (1999); Collinsville Comm. Unit Sch. Dist. 10 v. Regional Bd. of Sch. Trustees, 218 Ill. 2d 175, 843 N.E.2d 273 (2006).
65. McGaughy v. Illinois Human Rights Comm'n, ESG Watts, Inc. v. Pollution Control Bd., and Ultsch v. Illinois Mun. Retirement Fd. (cited above)
66. Thies v. State Bd. of Elections, 124 Ill. 2d 317, 529 N.E.2d 565 (1988).
67. Bridges v. State Bd. of Elections, 222 Ill. 2d 482, 856 N.E.2d 445 (2006).
68. McDunn v. Williams, 156 Ill. 2d 288, 620 N.E.2d 385 (1993).
69. Ill. Supreme Court Rule 21.
70. Ill. Supreme Court Rule 295.
71. See LVNV Funding, LLC v. Trice, 2015 IL 116129, 32 N.E.2d 553 (2015) for a discussion of this topic.
72. Grace v. Howlett, 51 Ill. 2d 478, 283 N.E.2d 474 (1972).
73. Wright v. Central Du Page Hosp. Ass'n, 63 Ill. 2d 313, 347 N.E.2d 736 (1976); Bernier v. Burris, 113 Ill. 2d 219, 497 N.E.2d 763 (1986).
74. Chicago Welfare Rights Organization v. Weaver, 56 Ill. 2d 33, 305 N.E.2d 140 (1973), app. dis., cert. den. 417 U.S. 962; Cypress Lounge v. Town of Cicero, 165 Ill. App. 3d 867, 520 N.E.2d 790 (1987).
75. LaSalle Nat'l Bank v. Hoffman, 1 Ill. App. 3d 470, 274 N.E.2d 640 (1971). See also Novak v. Smith, 197 Ill. App. 3d 390, 554 N.E.2d 652 (1990).
76. People v. NL Industries, Inc., 218 Ill. App. 3d 300, 578 N.E.2d 237 (1991) (actions for

injunction can be brought in court), rev'd 152 Ill. 2d 82, 604 N.E.2d 349 (1992) (holding that actions to recover damages may also be brought in circuit court).

77. Board of Education v. Compton, 123 Ill. 2d 216, 526 N.E.2d 149 (1988).
78. Board of Educ. v. Warren Township High School Fed'n of Teachers, 128 Ill. 2d 155, 538 N.E.2d 524 (1989).
79. See, for example, Employers Mut. Cos. v. Skilling, 163 Ill. 2d 284, 644 N.E.2d 1163 (1994).
80. See, for example, In re Marriage of Peshek, 89 Ill. App. 3d 959 at 967, 412 N.E.2d 698 at 704 (1980); In re Estate of Zoglauer, 229 Ill. App. 3d 394, 593 N.E.2d 93 (1992); In re Marriage of Devick, 315 Ill. App. 3d 908, 735 N.E.2d 153 (2000).
81. People ex rel. Hoyne v. McCormick, 261 Ill. 413, 103 N.E. 1053 (1913); Cusack v. Howlett, 44 Ill. 2d 233, 254 N.E.2d 506 (1969); Thies v. State Bd. of Elections, 124 Ill. 2d 317, 529 N.E.2d 565 (1988).
82. Those provisions were added by P.A. 85-866 and P.A. 85-903, sec. 1 (both 1987). They were deleted by P.A. 87-410, sec. 1002 (1991). See now 705 ILCS 35/2c.
83. Thies v. State Bd. of Elections, 124 Ill. 2d 317, 529 N.E.2d 565 (1988).
84. Goodman v. Ward, 241 Ill. 2d 398, 948 N.E.2d 580 (2011).
85. Torjesen v. Smith, 114 Ill. App. 3d 147, 448 N.E.2d 273 (1983), app. dis. 465 U.S. 1015.
86. Lefkovits v. State Board of Elections, 400 F. Supp. 1005 (N.D. Ill. 1975), aff'd without opinion 424 U.S. 901 (1976).
87. Phelan v. County Officers Electoral Bd., 240 Ill. App. 3d 368, 608 N.E.2d 215 (1992), rev'd 158 Ill. 2d 391, 634 N.E.2d 712 (1994).
88. Bonaguro v. County Officers Electoral Board, 158 Ill. 2d 391, 634 N.E.2d 712 (1994). A concurring opinion, expressing the views of three judges, argued that the Appellate Court decision was constitutionally wrong as well, because subsec. 12(a) allows judges to be nominated only at elections or by petition (158 Ill. 2d at 402-403, 634 N.E.2d at 717 (Heiple, J., joined by Bilandic and Nickels, JJ., concurring)).
89. 10 ILCS 5/7-61 (ninth unlettered paragraph) along with 10 ILCS 5/7-7 and 5/7-8.
90. Cook v. Illinois State Bd. of Elections, 2016 IL App (4th) 160160, 59 N.E.3d 148 (2016).
91. See 10 ILCS 5/22-7, first paragraph, first sentence.
92. O'Brien v. White, 219 Ill. 2d 86, 846 N.E.2d 116 (2006).
93. 10 ILCS 5/7A-1 before amendment by P.A. 96-886 (2010, eff. Jan. 1, 2011).
94. Ill. Supreme Court Rules 61 to 71.
95. Buckley v. Illinois Judicial Inquiry Board, 997 F.2d 224 (7th Cir. 1993).
96. Ill. Supreme Court Rule 67 (as amended eff. Aug. 6, 1993).
97. Quinn v. Donnewald, 107 Ill. 2d 179, 483 N.E.2d 216 (1985). The Act is in 25 ILCS 120/1 ff. (The Compensation Review Board was abolished by P.A. 96-800, sec. 40 (2009); but the annual inflation adjustments that its 1990 report began have been allowed to occur, except when barred by law in particular years. See 25 ILCS 120/6.1 ff.)
98. People ex rel. Cosentino v. Adams County, 82 Ill. 2d 565, 413 N.E.2d 870 (1980).
99. Jorgensen v. Blagojevich, 211 Ill. 2d 286, 811 N.E.2d 652 (2004).
100. See Factor v. Factor, 27 Ill. App. 3d 594, 327 N.E.2d 396 (1975).
101. Grace v. Howlett, 51 Ill. 2d 478, 283 N.E.2d 474 (1972).
102. Factor v. Factor, 27 Ill. App. 3d 594, 327 N.E.2d 396 (1975).

103. Anderson v. Anderson, 42 Ill. App. 3d 781, 356 N.E.2d 788 (1976), review denied by Ill. Sup. Ct. (Later proceedings in that case are reported at 62 Ill. App. 3d 468, 378 N.E.2d 1079 (1978).)
104. Reed v. Farmers Ins. Group, 188 Ill. 2d 168, 720 N.E.2d 1052 (1999).
105. Walker v. McGuire, 2015 IL 117138 at ¶ 27, 39 N.E.2d 982 at 989 (2015).
106. 2015 IL 117138 at ¶ 30, 39 N.E.2d at 989.
107. The constitutional amendment was proposed by 90th General Assembly Senate Joint Resolution 52 (1998).
108. Trafelet v. Thompson, 594 F.2d 623 (7th Cir. 1979), cert. den. 444 U.S. 906.
109. P.A. 82-504 (1981).
110. 705 ILCS 55/1.
111. Anagnost v. Layhe, 230 Ill. App. 3d 540, 595 N.E.2d 109 (1992), overruled by Maddux v. Blagojevich, 233 Ill. 2d 508, 911 N.E.2d 979 (2009).
112. Maddux v. Blagojevich, 233 Ill. 2d 508 at 530, 911 N.E.2d 979 at 992 (2009).
113. Napolitano v. Ward, 457 F.2d 279 (7th Cir. 1972), cert. den. 409 U.S. 1037.
114. People ex rel. Illinois Judicial Inquiry Bd. v. Hartel, 72 Ill. 2d 225, 380 N.E.2d 801 (1978) (opinion of Underwood, J., joined by Ryan and Kluczynski, JJ., and separate opinions of Clark, Ward, and Moran, JJ.), cert. den. 440 U.S. 915.
115. Owen v. Mann, 105 Ill. 2d 525, 475 N.E.2d 886 (1985).
116. Naleway v. Agnich, 386 Ill. App. 3d 635, 897 N.E.2d 902 (2008).
117. In re petition of Illinois Judicial Inquiry Bd., 128 Ill. App. 3d 798, 471 N.E.2d 601 (1984).
118. People ex rel. Harrod v. Illinois Courts Comm'n, 69 Ill. 2d 445, 372 N.E.2d 53 (1977).
119. People ex rel. Judicial Inquiry Bd. v. Courts Comm'n, 91 Ill. 2d 130, 435 N.E.2d 486 (1982).
120. Brokaw Hospital v. Circuit Court of McLean County, 52 Ill. 2d 182, 287 N.E.2d 472 (1972); People ex rel. Ward v. Moran, 54 Ill. 2d 552, 301 N.E.2d 300 (1973); People v. Breen, 62 Ill. 2d 323, 342 N.E.2d 31 (1976); Crane Paper Stock Co. v. Chicago & N.W. R.R., 63 Ill. 2d 61, 344 N.E.2d 461 (1976); People v. Woolsey, 139 Ill. 2d 157, 564 N.E.2d 764 (1990); McDunn v. Williams, 156 Ill. 2d 288, 620 N.E.2d 385 (1993); City of Urbana v. Andrew N.B., 211 Ill. 2d 456, 813 N.E.2d 132 (2004); People v. Salem, 2016 IL 118693, 47 N.E.3d 997 (2016).
121. People ex rel. Birkett v. Bakalis, 196 Ill. 2d 510, 752 N.E.2d 1107 (2001); In re J.T., 221 Ill. 2d 338, 851 N.E.2d 1 (2006); People v. Salem, 2016 IL 118693, 47 N.E.3d 997 (2016).
122. People v. Jackson, 69 Ill. 2d 252, 371 N.E.2d 602 (1977); In re Marriage of Lentz, 79 Ill. 2d 400, 403 N.E.2d 1036 (1980).
123. See Shutes v. Fowler, 223 Ill. App. 3d 342, 584 N.E.2d 920 (1991), review denied by Ill. Sup. Ct. 144 Ill. 2d 643, 591 N.E.2d 31. The rule involved is Ill. Supreme Court Rule 224.
124. Ill. Supreme Court Rule 41.
125. Ill. Supreme Court Rule 42.
126. 10 ILCS 5/2A-15.
127. Drury v. County of McLean, 89 Ill. 2d 417, 433 N.E.2d 666 (1982); Kane County v. Carlson, 116 Ill. 2d 186, 507 N.E.2d 482 (1987).
128. People ex rel. Bier v. Scholz, 77 Ill. 2d 12, 394 N.E.2d 1157 (1979).
129. Orenic v. State Labor Relations Bd., 127 Ill. 2d 453, 537 N.E.2d 784 (1989).

130. See 55 ILCS 5/3-9005; Ill. Att'y Gen. Opinion S-863 (1975 Ops. Atty. Gen., p. 12).
131. Nelson v. Kendall County, 2014 IL 116303, 10 N.E.3d 893 (2014).
132. Cawley v. Warren, 216 F.2d 74 (7th Cir. 1954); Stokes v. City of Chicago, 660 F. Supp. 1459 (N.D. Ill. 1987).
133. Ingemunson v. Hedges, 133 Ill. 2d 364, 549 N.E.2d 1269 (1990) indicated in passing that state's attorneys are state officers. County of Cook ex rel. Rifkin v. Bear Stearns & Co., 215 Ill. 2d 466, 831 N.E.2d 563 (2005) and People v. Ringland, 2017 IL 119484, 89 N.E.3d 735 (2017), repeated that state's attorneys are state officials, not county officials.
134. People ex rel. Kunstman v. Nagano, 389 Ill. 231, 59 N.E.2d 96 (1945); County of Cook ex rel. Rifkin v. Bear Stearns & Co., 215 Ill. 2d 466, 831 N.E.2d 563 (2005).
135. People ex rel. Alvarez v. Gaughan, 2016 IL 120110, 72 N.E.3d 276 (2016).
136. 55 ILCS 5/3-9010 ff.
137. Ingemunson v. Hedges, 133 Ill. 2d 364, 549 N.E.2d 1269 (1990).
138. Russell v. Blagojevich, 367 Ill. App. 3d 530, 853 N.E.2d 920 (2006), review denied by Ill. Sup. Ct. 222 Ill. 2d 600, 861 N.E.2d 664.

Article 7. Local Government

1. John F. Dillon, *Law of Municipal Corporations* (5th ed. 1911), vol. 1, sec. 237. This rule is stated in Illinois cases including Littell v. City of Peoria, 374 Ill. 344, 29 N.E.2d 533 (1940); Heidenreich v. Ronske, 26 Ill. 2d 360, 187 N.E.2d 261 (1962); T & S Signs v. Village of Wadsworth, 261 Ill. App. 3d 1080 at 1086, 634 N.E.2d 306 at 310 (1994); Steier v. Batavia Park Dist., 283 Ill. App. 3d 968, 670 N.E.2d 1215 (1996); and Hawthorne v. Village of Olympia Fields, 204 Ill. 2d 243, 790 N.E.2d 832 (2003). (The last three cases cited, which were decided under the 1970 Constitution, involved non-home-rule units.)
2. Chicago Transit Auth. v. Danaher, 40 Ill. App. 3d 913, 353 N.E.2d 97 (1976).
3. Du Page Aviation Corp. v. Du Page Airport Authority, 229 Ill. App. 3d 793, 594 N.E.2d 1334 (1992), review denied by Ill. Sup. Ct. 146 Ill. 2d 625, 602 N.E.2d 450.
4. Ill. Att'y Gen. Opinion S-601 (1973 Ops. Atty. Gen., p. 102) said a public health district with authority to levy an annual tax is a unit of local government; Opinion S-602 (1973 Ops. Atty. Gen., p. 108) said a county or multi-county health department is not. Opinion S-885 (1975 Ops. Atty. Gen., p. 59) said hospital districts are; Opinion 81-012 (1981 Ops. Atty. Gen., p. 27) said local library districts are; Opinion S-1361 (1978 Ops. Atty. Gen., p. 115) said boards of trustees of police pension funds are not.
5. League of Women Voters v. County of Peoria, 121 Ill. 2d 236, 520 N.E.2d 626 (1987).
6. 55 ILCS 5/2-3002 ff.
7. Ill. Att'y Gen. Opinion S-1062 (1976 Ops. Att'y Gen., p. 124).
8. 55 ILCS 5/2-3001 ff. (counties under 3 million population); 55 ILCS 5/2-6001 ff. (Cook County).
9. Ill. Const. 1870, Art. 10, sec. 6; Ill. Const. 1970, Transition Schedule, subsec. 5(a).
10. 55 ILCS 5/2-4001 ff.
11. 55 ILCS 5/2-3002(a).
12. Ill. Att'y Gen. Opinion 91-004 (1991).

13. Sutton v. Dunne, 365 F. Supp. 483 (N.D. Ill. 1973).
14. Sutton v. Dunne, 529 F. Supp. 312 (N.D. Ill. 1981), aff'd 681 F.2d 484 (7th Cir. 1982), cert. den. 460 U.S. 1081.
15. 55 ILCS 5/2-5001 ff.
16. 55 ILCS 5/2-5005. This law was upheld in Richardson v. Mulcahey, 265 Ill. App. 3d 123, 637 N.E.2d 1217 (1994).
17. Stroger v. Regional Transportation Authority, 201 Ill. 2d 508, 778 N.E.2d 683 (2002). .
18. People ex rel. Hanrahan v. Beck, 54 Ill. 2d 561, 301 N.E.2d 281 (1973).
19. Chicago Bar Ass'n v. County of Cook, 102 Ill. 2d 438, 467 N.E.2d 580 (1984).
20. Taylor v. County of St. Clair, 57 Ill. 2d 367, 312 N.E.2d 231 (1974).
21. People ex rel. Rudman v. Rini, 64 Ill. 2d 321, 356 N.E.2d 4 (1976).
22. Moy v. County of Cook, 159 Ill. 2d 519, 640 N.E.2d 926 (1994).
23. Carver v. Sheriff of La Salle County, 203 Ill. 2d 497, 787 N.E.2d 127 (2003). The statutory provision cited was 745 ILCS 10/9-102.
24. Ill. Att'y Gen. Opinion S-1126 (1976 Ops. Atty. Gen., p. 241).
25. People ex rel. Walsh v. Board of Comm'rs of Cook County, 397 Ill. 293, 74 N.E.2d 503 (1947).
26. Blanchard v. Berrios, 2016 IL 120315, 72 N.E.3d 309 (2016).
27. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VII, p. 1711 (discussion of Local Government Committee Majority Proposal).
28. 60 ILCS 1/90-10.
29. See 60 ILCS 1/90-5.
30. For a discussion of statutes on eliminating or consolidating townships and other kinds of local governments, see Legislative Research Unit, "Local Government Consolidation in Illinois" (File 11-124, Jan. 28, 2011).
31. 60 ILCS 1/10-25.
32. 60 ILCS 1/22-5 ff.
33. 60 ILCS 1/23-5 ff.
34. 60 ILCS 1/29-5 ff.
35. Springfield Lakeshore Improvement Ass'n v. City of Springfield, 62 Ill. 2d 173, 340 N.E.2d 289 (1975); Henke v. City of Zion, 63 Ill. 2d 46, 344 N.E.2d 466 (1976); Nameoki Township v. Cruse, 155 Ill. App. 3d 889, 508 N.E.2d 1080 (1987).
36. John F. Dillon, *Law of Municipal Corporations* (5th ed. 1911), vol. 1, p. 237. See also Art. 7, sec. 7, restating Dillon's Rule as to non-home-rule counties and municipalities but excluding six categories of powers that it guarantees to them. Cases under the 1970 Constitution that apply Dillon's Rule to non-home-rule units include T & S Signs v. Village of Wadsworth, 261 Ill. App. 3d 1080 at 1086, 634 N.E.2d 306 at 310 (1994); Steier v. Batavia Park Dist., 283 Ill. App. 3d 968, 670 N.E.2d 1215 (1996); and Hawthorne v. Village of Olympia Fields, 204 Ill. 2d 243, 790 N.E.2d 832 (2003).
37. Kanellos v. County of Cook, 53 Ill. 2d 161, 290 N.E.2d 240 (1972); People ex rel. Hanrahan v. Beck, 54 Ill. 2d 561, 301 N.E.2d 281 (1973); Winokur v. Rosewell, 83 Ill. 2d 92, 414 N.E.2d 724 (1980).

38. Rozner v. Korshak, 55 Ill. 2d 430, 303 N.E.2d 389 (1973); Mulligan v. Dunne, 61 Ill. 2d 544, 338 N.E.2d 6 (1975), cert. den. 425 U.S. 916; Stryker v. Village of Oak Park, 62 Ill. 2d 523, 343 N.E.2d 919 (1976); City of Evanston v. Create, Inc., 85 Ill. 2d 101, 421 N.E.2d 196 (1981). See also 5 ILCS 70/7.
39. City of Carbondale v. Van Natta, 61 Ill. 2d 483, 338 N.E.2d 19 (1975); City of Urbana v. Houser, 67 Ill. 2d 268, 367 N.E.2d 692 (1977).
40. Illinois Secretary of State, "Illinois Counties And Incorporated Municipalities" (booklet, July 2012), pp. 29-32, "Home Rule Units in Illinois" table.
41. Mulligan v. Dunne, 61 Ill. 2d 544, 338 N.E.2d 6 (1975), cert. den. 425 U.S. 916.
42. Town of Cicero v. Fox Valley Trotting Club, Inc., 65 Ill. 2d 10, 357 N.E.2d 1118 (1976); Kerasotes Rialto Theater Corp. v. City of Peoria, 77 Ill. 2d 491, 397 N.E.2d 790 (1979). See also DeWoskin v. Loew's Chicago Cinema, 306 Ill. App. 3d 504, 714 N.E.2d 1047 (1999), review denied by Ill. Sup Ct. 185 Ill. 2d 621, 720 N.E.2d 1091. Municipal taxation of some kinds of amusements is also statutorily authorized in 65 ILCS 5/11-42-5.
43. S. Bloom, Inc. v. Korshak, 52 Ill. 2d 56, 284 N.E.2d 257 (1972).
44. Paper Supply Co. v. City of Chicago, 57 Ill. 2d 553, 317 N.E.2d 3 (1974).
45. Illinois Gasoline Dealers Ass'n v. City of Chicago, 119 Ill. 2d 391, 519 N.E.2d 447 (1988).
46. Rozner v. Korshak, 55 Ill. 2d 430, 303 N.E.2d 389 (1973) and Gilligan v. Korzen, 56 Ill. 2d 387, 308 N.E.2d 613 (1974), cert. den. 419 U.S. 841.
47. Jacobs v. City of Chicago, 53 Ill. 2d 421, 292 N.E.2d 401 (1973).
48. Williams v. City of Chicago, 66 Ill. 2d 423, 362 N.E.2d 1030 (1977), cert. den. 434 U.S. 924.
49. See Sommer v. Village of Glenview, 79 Ill. 2d 383, 403 N.E.2d 258 (1980), in which even a local referendum authorized by statute was held not to limit the tax rate that a home-rule unit could levy.
50. Municipalities: 65 ILCS 5/8-11-6a (with "grandfather" provisions allowing such taxes that already existed by two dates); counties: 55 ILCS 5/5-1009.
51. Commercial Nat'l Bank v. City of Chicago, 89 Ill. 2d 45, 432 N.E.2d 227 (1982).
52. Waukegan Comm. Unit Sch. Dist. 60 v. City of Waukegan, 95 Ill. 2d 244, 447 N.E.2d 345 (1983).
53. Bridgman v. Korzen, 54 Ill. 2d 74, 295 N.E.2d 9 (1972).
54. Board of Ed., Sch. Dist. No. 150 v. City of Peoria, 76 Ill. 2d 469, 394 N.E.2d 399 (1979).
55. Chicago Park Dist. v. City of Chicago, 111 Ill. 2d 7, 488 N.E.2d 968 (1986).
56. County of Cook v. Village of Rosemont, 303 Ill. App. 3d 403, 708 N.E.2d 501 (1999), review denied by Ill. Sup. Ct. 185 Ill. 2d 620, 720 N.E.2d 1090.
57. City of Chicago v. Board of Trustees of Univ. of Ill., 293 Ill. App. 3d 897, 689 N.E.2d 125 (1997), review denied by Ill. Sup. Ct. 177 Ill. 2d 567, 698 N.E.2d 542.
58. Hertz Corp. v. City of Chicago, 2017 IL 119945, 77 N.E.3d 606 (2017).
59. People v. Valentine, 50 Ill. App. 3d 447, 365 N.E.2d 1082 (1977).
60. People ex rel. Ryan v. Village of Hanover Park, 311 Ill. App. 3d 515, 724 N.E.2d 132 (1999) review denied by Ill. Sup. Ct. 188 Ill. 2d 582, 729 N.E.2d 504.
61. Ill. Att'y Gen. Opinion 82-036 (1982 Ops. Atty. Gen., p. 108).
62. P.A. 81-212 (1979, eff. Jan. 1, 1980). See now 235 ILCS 5/6-18.
63. Illinois Liquor Control Comm'n v. City of Joliet, 26 Ill. App. 3d 27, 324 N.E.2d 453

(1975); Illinois Liquor Control Comm'n v. Calumet City, 28 Ill. App. 3d 279, 328 N.E.2d 153 (1975).

64. Aurora Pizza Hut, Inc. v. Hayter, 79 Ill. App. 3d 1102, 398 N.E.2d 1150 (1979), review denied by Ill. Sup. Ct. (ordinance requiring manager of liquor licensee to reside in city).
65. City of Chicago v. Roman, 184 Ill. 2d 504, 705 N.E.2d 81 (1998); City of Wheaton v. Loerop, 399 Ill. App. 3d 433, 926 N.E.2d 1004 (2010).
66. Quilici v. Village of Morton Grove, 532 F. Supp. 1169 (N.D. Ill. 1981), aff'd 695 F.2d 261 (7th Cir. 1982), cert. den. 464 U.S. 863; Kalodimos v. Village of Morton Grove, 103 Ill. 2d 483, 470 N.E.2d 266 (1984); Sklar v. Byrne, 727 F.2d 633 (7th Cir. 1984). However, see the U.S. Supreme Court's decision in McDonald v. City of Chicago, 561 U.S. 742, 130 S. Ct. 3020 (2010) on the ability of state and local governments to restrict ownership of firearms.
67. City of Quincy v. Daniels, 246 Ill. App. 3d 792, 615 N.E.2d 839 (1993).
68. Stryker v. Village of Oak Park, 62 Ill. 2d 523, 343 N.E.2d 919 (1976), cert. den. 429 U.S. 832.
69. Peters v. City of Springfield, 57 Ill. 2d 142, 311 N.E.2d 107 (1974).
70. AFSCME v. County of Cook, 145 Ill. 2d 475, 584 N.E.2d 116 (1991).
71. Mandarino v. Village of Lombard, 92 Ill. App. 3d 78, 414 N.E.2d 508 (1980), review denied by Ill. Sup. Ct.; Resman v. Personnel Bd. of City of Chicago, 96 Ill. App. 3d 919, 422 N.E.2d 120 (1981), review denied by Ill. Sup. Ct.
72. Kadzielawski v. Board of Fire & Police Comm'rs of Skokie, 194 Ill. App. 3d 676, 551 N.E.2d 331 (1990), review denied by Ill. Sup. Ct. 132 Ill. 2d 545, 555 N.E.2d 377.
73. Dalton v. City of Moline, 48 Ill. App. 3d 494, 359 N.E.2d 500 (1978).
74. Bremen Comm. High Sch. Dist. 228 v. Cook County Comm'n on Human Rights, 2012 IL App (1st) 112177, 981 N.E.2d 369 (2012), review denied by Ill. Sup. Ct. 2013 IL 115161, 982 N.E.2d 767.
75. People ex rel. Bernardi v. City of Highland Park, 121 Ill. 2d 1, 520 N.E.2d 316 (1988).
76. Landry v. Smith, 66 Ill. App. 3d 616, 384 N.E.2d 430 (1978); City of Evanston v. Create, Inc., 85 Ill. 2d 101, 421 N.E.2d 196 (1981); Oak Park Trust & Sav. Bank v. Village of Mount Prospect, 181 Ill. App. 3d 10, 536 N.E.2d 763 (1989), review denied by Ill. Sup. Ct. 127 Ill. 2d 621, 545 N.E.2d 115; Reed v. Burns, 238 Ill. App. 3d 148, 606 N.E.2d 152 (1992).
77. Wes Ward Enterprises, Ltd. v. Andrews, 42 Ill. App. 3d 458, 355 N.E.2d 131 (1976); Clevenger v. City of East Moline, 44 Ill. App. 3d 168, 357 N.E.2d 719 (1976).
78. Rothner v. City of Chicago, 66 Ill. App. 3d 428, 383 N.E.2d 1218 (1978), review denied by Ill. Sup. Ct.
79. City of Chicago v. Pioneer Towing, Inc., 73 Ill. App. 3d 867, 392 N.E.2d 132 (1979).
80. Scadron v. City of Des Plaines, 153 Ill. 2d 164, 606 N.E.2d 1154 (1992).
81. Kanellos v. County of Cook, 53 Ill. 2d 161, 290 N.E.2d 240 (1972).
82. Marshall Field & Co. v. Village of South Barrington, 92 Ill. App. 3d 360, 415 N.E.2d 1277 (1981).
83. Ampersand, Inc. v. Finley, 61 Ill. 2d 537, 338 N.E.2d 15 (1975).
84. Village of Glenview v. Zwick, 356 Ill. App. 3d 630, 826 N.E.2d 1171 (2005), review denied by Ill. Sup. Ct. 216 Ill. 2d 684, 839 N.E.2d 1023.

85. City of Chicago v. Village of Elk Grove Village, 354 Ill. App. 3d 423, 820 N.E.2d 1158 (2004); JLR Investments, Inc. v. Village of Barrington Hills, 355 Ill. App. 3d 661, 828 N.E.2d 1193 (2005).
86. Pedersen v. Village of Hoffman Estates, 2014 IL App. (1st) 123402, 8 N.E.3d 1083 (2014).
87. Sommer v. Village of Glenview, 79 Ill. 2d 383, 403 N.E.2d 258 (1980).
88. Beneficial Dev. Corp. v. City of Highland Park, 161 Ill. 2d 321, 641 N.E.2d 435 (1994).
89. DMS Pharmaceutical Group v. County of Cook, 345 Ill. App. 3d 430, 803 N.E.2d 151 (2003), review denied by Ill. Sup. Ct. 208 Ill. 2d 535, 809 N.E.2d 1285.
90. City of Tuscola v. D & B Refuse Service, Inc., 131 Ill. App. 3d 168, 475 N.E.2d 633 (1985).
91. See Public Acts 78-1208 through 78-1232 (1974); United Private Detective & Security Ass'n v. City of Chicago, 62 Ill. 2d 506, 343 N.E.2d 453 (1976); Andruss v. City of Evanston, 68 Ill. 2d 215, 369 N.E.2d 1258 (1977), cert. den. 435 U.S. 952.
92. See 235 ILCS 5/6-18.
93. See 5 ILCS 120/6.
94. See Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VII, p. 1578 (Local Government Committee Majority Proposal, sec. 3.2) and vol. IV, pp. 3110-3119, 3089-3105, and 3326-3360 (discussion and votes on amendments to sec. 3.2). The apparent confusion evidenced by the debate makes any firm conclusion about the intent of the constitutional convention on this issue impossible.
95. Nevitt v. Langfelder, 157 Ill. 2d 116 at 136-138, 623 N.E.2d 281 at 290-291 (1993) might seem to answer this question, since it said a statutory requirement that most home-rule units make payments to firefighters and others injured on the job "represents an exercise of power by the State" and thus did not need to be enacted under subsec. 6(g) (requiring a three-fifths majority). But the court in that opinion also pointed out that this statutory requirement explicitly applies to state employees, and thus "involves a power or function that is being exercised or performed by the State." Furthermore, the law imposing the requirement on home-rule units (P.A. 85-1393, sec. 5 (1988)) was passed by more than a three-fifths majority in each house anyway (Final *Legislative Synopsis and Digest*, 85th General Assembly, 1988 session, pp. 1589-1590). The statute involved is now 5 ILCS 345/1. Curiously, in Application of County Collector v. American Nat'l Bank & Trust Co., 132 Ill. 2d 64 at 77-79, 547 N.E.2d 107 at 113 (1989) the Illinois Supreme Court appeared to say that the General Assembly could not change a home-rule unit's procedures, without even mentioning the majorities by which the law involved was passed (which in fact was more than three-fifths in each house).
96. Hutchcraft Van Service, Inc. v. City of Urbana Human Relations Comm'n, 104 Ill. App. 3d 817, 433 N.E.2d 329 (1982), review denied by Ill. Sup. Ct.; Kirwin v. Peoples Gas Light and Coke Co., 173 Ill. App. 3d 699, 528 N.E.2d 201 (1988), review denied by Ill. Sup. Ct. 123 Ill. 2d 559, 535 N.E.2d 402.
97. City of Peoria v. Peoria Water Co., 49 Ill. App. 3d 1066, 364 N.E.2d 1003 (1977), review denied by Ill. Sup. Ct.; Village of Dolton ex rel. Winter v. CSX Transportation, Inc., 196 Ill. App. 3d 564, 554 N.E.2d 440 (1990).
98. 5 ILCS 70/7.
99. Kirwin v. Peoples Gas Light and Coke Co., 173 Ill. App. 3d 699, 528 N.E.2d 201 (1988),

review denied by Ill. Sup. Ct. 123 Ill. 2d 559, 535 N.E.2d 402.

100. 5 ILCS 70/7.
101. Stryker v. Village of Oak Park, 62 Ill. 2d 523 at 528, 343 N.E.2d 919 at 923 (1976), cert. den. 429 U.S. 832; City of Evanston v. Create, Inc., 85 Ill. 2d 101, 421 N.E.2d 196 (1981); Scadron v. City of Des Plaines, 153 Ill. 2d 164 at 186-188, 606 N.E.2d 1154 at 1163-1165 (1992). See also the following note.
102. Village of Bolingbrook v. Citizens Utility Co., 158 Ill. 2d 133, 632 N.E.2d 1000 (1994); City of Chicago v. Roman, 184 Ill. 2d 504 at 515-520, 705 N.E.2d 81 at 88-90 (1998).
103. People ex rel. Bernardi v. City of Highland Park, 121 Ill. 2d 1, 520 N.E.2d 316 (1988). The Act is now in 820 ILCS 130/0.01 ff.
104. City of Chicago v. StubHub, Inc., 2011 IL 111127, 979 N.E.2d 844 (2011, mod. 2012), and Palm v. 2800 Lake Shore Drive Condominium Ass'n, 2013 IL 110505, 988 N.E.2d 75 (2013).
105. Baum, "A Tentative Survey of Illinois Home Rule (Part I)," 1972 U. of Ill. Law Forum 137, and "A Tentative Survey of Illinois Home Rule (Part II)," 1972 U. of Ill. Law Forum 559.
106. "A Tentative Survey of Illinois Home Rule (Part I)" at pp. 156-57.
107. City of Chicago v. StubHub, Inc., 2011 IL 111127 at ¶ 25, 979 N.E.2d 844 at 852 (majority opinion).
108. 2011 IL 111127 at ¶ 36, 979 N.E.2d at 856 (majority opinion).
109. 2011 IL 111127 at ¶¶ 46 ff., 979 N.E.2d at 857 ff. (Thomas, J., joined by Kilbride, C.J. and Karmeier, J., dissenting).
110. Palm v. 2800 Lake Shore Drive Condominium Ass'n, 2013 IL 110505 at ¶¶ 29-44, 988 N.E.2d 75 at 80-85 (2013).
111. Blanchard v. Berrios, 2016 IL 120315, 72 N.E.3d 309 (2016).
112. 2016 IL 120315 at ¶ 34, 72 N.E.3d at 319-20.
113. Lily Lake Road Defenders v. County of McHenry, 156 Ill. 2d 1, 619 N.E.2d 137 (1993); City of Burbank v. Czaja, 331 Ill. App. 3d 369, 769 N.E.2d 1045 (2002).
114. McLorn v. City of East St. Louis, 105 Ill. App. 3d 148, 434 N.E.2d 44 (1982), review denied by Ill. Sup. Ct.
115. 55 ILCS 5/2-5001 ff.
116. Mulligan v. Dunne, 61 Ill. 2d 544, 338 N.E.2d 6 (1975), cert. den. 425 U.S. 916 (comments in case actually involving Cook County); Wes Ward Enterprises, Ltd. v. Andrews, 42 Ill. App. 3d 458, 355 N.E.2d 131 (1976).
117. 65 ILCS 5/1-1-9.
118. City of Evanston v. County of Cook, 53 Ill. 2d 312, 291 N.E.2d 823 (1972).
119. City of Highland Park v. Cook County, 37 Ill. App. 3d 15, 344 N.E.2d 665 (1975).
120. City of Carbondale v. Van Natta, 61 Ill. 2d 483 at 485, 338 N.E.2d 19 at 22-23 (1975); Commercial Nat'l Bank v. City of Chicago, 89 Ill. 2d 45 at 77-79, 432 N.E.2d 227 at 242-243 (1982). See also Village of Sauget v. Cohn, 241 Ill. App. 3d 640 at 645-646, 610 N.E.2d 104 at 108 (1993), review denied by Ill. Sup. Ct. 151 Ill. 2d 577, 616 N.E.2d 347; Harris Bank v. Village of Mettawa, 243 Ill. App. 3d 103, 611 N.E.2d 550 (1993).
121. See 65 ILCS 5/11-13-1, second unnumbered paragraph.

122. Waukegan Comm. Unit Sch. Dist. 60 v. City of Waukegan, 95 Ill. 2d 244, 447 N.E.2d 345 (1983).
123. 65 ILCS 5/8-11-2. The court in the *Waukegan* case specifically so held.
124. Commercial Nat'l Bank v. City of Chicago, 89 Ill. 2d 45, 432 N.E.2d 227 (1982).
125. Chicago Health Clubs, Inc., v. Picur, 124 Ill. 2d 1, 528 N.E.2d 978 (1988).
126. Estate of Carey v. Village of Stickney, 81 Ill. 2d 3406, 411 N.E.2d 209 (1980).
127. National Waste & Recycling Ass'n v. County of Cook, 2016 IL App (1st) 143694, 55 N.E.2d 163 (2016).
128. Clarke v. Village of Arlington Heights, 57 Ill. 2d 50, 309 N.E.2d 576 (1974).
129. Boytor v. City of Aurora, 81 Ill. 2d 308, 410 N.E.2d 1 (1980).
130. Pechous v. Slawko, 64 Ill. 2d 576, 357 N.E.2d 1144 (1976).
131. The term "commission city" in Illinois refers to a city (or village) that operates under the commission form of government authorized by article 4 of the Illinois Municipal Code (65 ILCS 5/4-1-1 ff.).
132. Marshall v. City of Chicago Heights, 59 Ill. App. 3d 986, 376 N.E.2d 657 (1978).
133. Henyard v. Village of Dolton, 2016 IL App (1st) 153374, 48 N.E.3d 220 (2016).
134. Bocanegra v. City of Chicago Electoral Bd., 2011 IL App (1st) 110424, 954 N.E.2d 859 (2011).
135. Chicago Bar Ass'n v. County of Cook, 102 Ill. 2d 438, 467 N.E.2d 580 (1984).
136. Allen v. County of Cook, 65 Ill. 2d 281, 357 N.E.2d 458 (1976).
137. Dunne v. County of Cook, 108 Ill. 2d 161, 483 N.E.2d 13 (1985).
138. Dunne v. County of Cook, 164 Ill. App. 3d 929, 518 N.E.2d 380 (1987), review denied by Ill. Sup. Ct. under the name Dunne v. Bowen, 119 Ill. 2d 556, 522 N.E.2d 1243.
139. Peters v. City of Springfield, 57 Ill. 2d 142, 311 N.E.2d 107 (1974).
140. Kotte v. Normal Board of Fire & Police Comm'rs, 269 Ill. App. 3d 517, 646 N.E.2d 292 (1995), review denied by Ill. Sup. Ct. 162 Ill. 2d 569, 652 N.E.2d 342.
141. Paglini v. Police Bd. of Chicago, 61 Ill. 2d 233, 335 N.E.2d 480 (1975).
142. Stryker v. Village of Oak Park, 62 Ill. 2d 523, 343 N.E.2d 919 (1976), cert. den. 429 U.S. 832.
143. Leck v. Michaelson, 111 Ill. 2d 523, 491 N.E.2d 414 (1986).
144. Aurora Pizza Hut, Inc. v. Hayter, 79 Ill. App. 3d 1102, 398 N.E.2d 1150 (1979), review denied by Ill. Sup. Ct. The statutory provision referred to is now in 235 ILCS 5/4-1, first paragraph, final clause.
145. Illinois Liquor Control Comm'n v. City of Joliet, 26 Ill. App. 3d 27, 324 N.E.2d 453 (1975); Illinois Liquor Control Comm'n v. Calumet City, 28 Ill. App. 3d 279, 328 N.E.2d 153 (1975).
146. See 235 ILCS 5/6-18.
147. Malito v. Marcin, 14 Ill. App. 3d 658, 303 N.E.2d 262 (1973), app. dis. 417 U.S. 963; Hall v. Marcin, 49 Ill. App. 3d 528, 364 N.E.2d 549 (1977), review denied by Ill. Sup. Ct.; Duncan v. Marcin, 82 Ill. App. 3d 963, 403 N.E.2d 653 (1980), review denied by Ill. Sup. Ct.; Seals v. City of Chicago, 93 Ill. App. 3d 678, 417 N.E.2d 843 (1981).
148. Sommer v. Village of Glenview, 79 Ill. 2d 383, 403 N.E.2d 258 (1980).

149. See City of Chicago v. Pollution Control Bd., 59 Ill. 2d 484, 322 N.E.2d 11 (1974) and County of Cook v. John Sexton Contrs. Co., 75 Ill. 2d 494, 389 N.E.2d 553 (1979) (home-rule units); County of Kendall v. Avery Gravel Co., 101 Ill. 2d 428, 463 N.E.2d 723 (1984) (non-home-rule unit). On the perennial issue of siting new "pollution control facilities," see also 415 ILCS 5/39.2(g).
150. Metropolitan Sanitary Dist. v. City of Des Plaines, 63 Ill. 2d 256, 347 N.E.2d 716 (1976), discussed in County of Cook v. John Sexton Contrs. Co., 75 Ill. 2d 494, 389 N.E.2d 553 (1979).
151. City of Des Plaines v. Chicago & N.W. Ry., 65 Ill. 2d 1, 357 N.E.2d 433 (1976), discussed in County of Cook v. John Sexton Contrs. Co., 75 Ill. 2d 494, 389 N.E.2d 553 (1979).
152. Village of Bolingbrook v. Citizens Utilities Co., 158 Ill. 2d 133, 632 N.E.2d 1000 (1994).
153. County of Cook v. John Sexton Contrs. Co., 75 Ill. 2d 494, 389 N.E.2d 553 (1979).
154. O'Connor v. City of Rockford, 52 Ill. 2d 360, 288 N.E.2d 432 (1972); Carlson v. Village of Worth, 62 Ill. 2d 406, 343 N.E.2d 493 (1975), reaffirmed as to non-home-rule units in County of Cook v. John Sexton Contrs. Co., 75 Ill. 2d 494, 389 N.E.2d 553 (1979).
155. 415 ILCS 5/39.2.
156. 415 ILCS 5/39(c).
157. Village of Carpentersville v. Pollution Control Board, 135 Ill. 2d 463, 553 N.E.2d 362 (1990).
158. See County of Cook v. John Sexton Contrs. Co., 75 Ill. 2d 494, 389 N.E.2d 553 (1979); Scandroli v. City of Rockford, 86 Ill. App. 3d 999 at 1002, 408 N.E.2d 436 at 439 (1980); Thompson v. Cook County Zoning Bd. of Appeals, 96 Ill. App. 3d 561 at 569, 421 N.E.2d 285 at 292 (1981), review denied by Ill. Sup. Ct.
159. Wilmette Park Dist. v. Village of Wilmette, 112 Ill. 2d 6, 490 N.E.2d 1282 (1986).
160. Gurba v. Community High Sch. Dist. 155, 2015 IL 118332, 40 N.E.3d 1 (2015).
161. Village of Swansea v. County of St. Clair, 45 Ill. App. 3d 184, 359 N.E.2d 866 (1977).
162. Lake County Public Building Comm'n v. City of Waukegan, 273 Ill. App. 3d 15, 652 N.E.2d 370 (1995).
163. City of Highland Park v. County of Cook, 37 Ill. App. 3d 15, 344 N.E.2d 665 (1975); Village of Oak Brook v. County of Du Page, 173 Ill. App. 3d 490, 527 N.E.2d 1066 (1988).
164. City of Evanston v. Regional Transportation Authority, 202 Ill. App. 3d 265, 559 N.E.2d 899 (1990), review denied by Ill. Sup. Ct. 135 Ill. 2d 555, 564 N.E.2d 836.
165. Kanellos v. County of Cook, 53 Ill. 2d 161, 290 N.E.2d 240 (1972).
166. Oak Park Fed. Sav. & Loan Ass'n v. Village of Oak Park, 54 Ill. 2d 200, 296 N.E.2d 344 (1973).
167. Coryn v. City of Moline, 71 Ill. 2d 194, 374 N.E.2d 211 (1978). Those statutory provisions are now in 35 ILCS 200/27-5 ff.
168. Grais v. City of Chicago, 151 Ill. 2d 197, 601 N.E.2d 745 (1992).
169. On the other hand, see the long discussion in Andrews v. County of Madison, 54 Ill. App. 3d 343 at 348-352, 369 N.E.2d 532 at 537-540 (1977), review denied by Ill. Sup. Ct., of why these powers should be co-extensive with corresponding powers of home-rule units.
170. League of Women Voters v. County of Peoria, 121 Ill. 2d 236, 520 N.E.2d 626 (1987), citing Clarke v. Village of Arlington Heights, 57 Ill. 2d 50, 309 N.E.2d 576 (1974).

171. Williamson v. Doyle, 103 Ill. App. 3d 770, 431 N.E.2d 1198 (1981).
172. Koerner v. Municipal Officers Electoral Board of Coal City, 205 Ill. App. 3d 54, 562 N.E.2d 1107 (1990), review denied by Ill. Sup. Ct. 136 Ill. 2d 545, 567 N.E.2d 332; Fischer v. Brombolich, 207 Ill. App. 3d 1053, 566 N.E.2d 785 (1991).
173. Wilmette Park Dist. v. Village of Wilmette, 112 Ill. 2d 6, 490 N.E.2d 1272 (1986).
174. Saltiel v. Olsen, 77 Ill. 2d 23, 394 N.E.2d 1197 (1979); on remand, Schlessinger v. Olsen, 107 Ill. App. 3d 302, 437 N.E.2d 768 (1982).
175. Flynn v. Kucharski, 45 Ill. 2d 211, 258 N.E.2d 329 (1970), 49 Ill. 2d 7, 273 N.E.2d 3 (1971), and 53 Ill. 2d 88, 290 N.E.2d 1 (1972); City of Joliet v. Bosworth, 64 Ill. 2d 516, 356 N.E.2d 543 (1976); Goldstein v. Rosewell, 65 Ill. 2d 325, 357 N.E.2d 1157 (1976).
176. DeBruyn v. Elrod, 84 Ill. 2d 128, 418 N.E.2d 413 (1981); Cardunal Savings & Loan Ass'n v. Kramer, 99 Ill. 2d 334, 459 N.E.2d 929 (1984).
177. Little v. East Lake Fork Special Drainage Dist., 166 Ill. App. 3d 209, 519 N.E.2d 1113 (1988), review denied by Ill. Sup. Ct. 121 Ill. 2d 571, 526 N.E.2d 831. However, the statutory provision (last cited as 70 ILCS 605/4-36) providing for a county treasurer to act as treasurer of a drainage district was repealed by P.A. 88-30, sec. 10 (1993). The only statutory provision upheld in that case that remains in the statutes in 70 ILCS 605/4-37.
178. Marks v. Vanderventer, 2015 IL 116226, 39 N.E.3d 915 (2015). The statutory provisions involved are in 55 ILCS 5/3-5018.
179. Gadeikis v. Yourell, 169 Ill. App. 3d 1033, 523 N.E.2d 1176 (1988), review denied by Ill. Sup. Ct. 122 Ill. 2d 574, 530 N.E.2d 244. See also Art. 6, sec. 14, last sentence, prohibiting "fee officers" in the judicial system.
180. Ill. Att'y Gen. Opinion S-963 (1975 Ops. Atty. Gen., p. 221).
181. Walker v. Cockrell, 110 Ill. App. 3d 562, 442 N.E.2d 660 (1982).
182. Board of Comm'rs of Wood Dale Public Library Dist. v. County of Du Page, 96 Ill. 2d 378, 450 N.E.2d 332 (1983).
183. Village of Pawnee v. Johnson, 103 Ill. 2d 411, 469 N.E.2d 1365 (1984).
184. Harlan v. Sweet, 139 Ill. 2d 390, 564 N.E.2d 1192 (1990). See also Ill. Att'y Gen. Opinion 99-009 (1999).
185. Illinois County Treasurers' Ass'n v. Hamer, 2014 IL App (4th) 130286, 9 N.E.3d 1141 (2014), review denied by Ill. Ct. 2014 IL 117925, 20 N.E.3d 1254.
186. Dalton v. City of Moline, 48 Ill. App. 3d 494, 359 N.E.2d 500 (1977); on remand, Dalton v. Wendt, 56 Ill. App. 3d 859, 372 N.E.2d 720 (1978).
187. Winokur v. Rosewell, 83 Ill. 2d 92, 414 N.E.2d 724 (1980).
188. Winokur v. Bakalis, 84 Ill. App. 3d 922, 405 N.E.2d 1329 (1980), review denied by Ill. Sup. Ct.
189. Ill. Att'y Gen. Opinions S-777 (1974 Ops. Atty. Gen., p. 184), S-1006 (1975 Ops. Atty. Gen., p. 318), and S-1366 (1978 Ops. Atty. Gen., p. 125).
190. See especially Ill. Att'y Gen. Opinion S-639 (1973 Ops. Atty. Gen., p. 171) (circuit court clerk is not local officer under this section) and Ill. Att'y Gen. Opinion S-1441 (1979 Ops. Atty. Gen., p. 78) (prohibition on change of salary during term applies even if officer resigns and a replacement completes the term).
191. Ingemunson v. Hedges, 133 Ill. 2d 364, 549 N.E.2d 1269 (1990). A specially concurring opinion, reflecting the views of Miller and Calvo, JJ., based the same conclusion on the

fact that Art. 6, sec. 19 says of each state's attorney "His salary shall be provided by law" without mentioning any restriction on changes during a term (133 Ill. 2d at 371-73, 549 N.E.2d at 1272-1273).

192. Russell v. Blagojevich, 367 Ill. App. 3d 530, 853 N.E.2d 920 (2006), review denied by Ill. Sup. Ct. 222 Ill. 2d 600, 861 N.E.2d 664.
193. 5 ILCS 220/1 ff.
194. Village of Lisle v. Village of Woodridge, 192 Ill. App. 3d 568, 548 N.E.2d 1337 (1989); People ex rel. Devine v. Suburban Cook County Tuberculosis Sanitarium Dist., 349 Ill. App. 3d 790, 812 N.E.2d 679 (2004).
195. Those opinions include Ill. Att'y Gen. Opinion S-1029 (1976 Ops. Att'y Gen., p. 51); Ill. Att'y Gen. Opinion 85-010 (printed in 1991 Ops. Att'y Gen., p. 158); and Ill. Att'y Gen. Opinion 00-015 (2000).
196. Village of Long Grove v. Village of Kildeer, 146 Ill. App. 3d 979, 497 N.E.2d 319 (1986), review denied by Ill. Sup. Ct. 505 N.E.2d 363; Village of Lisle v. Village of Woodridge, 192 Ill. App. 568, 548 N.E.2d 1337 (1989).
197. 65 ILCS 5/11-12-9. The change was made by P.A. 85-784, sec. 1 (1987).
198. County of Wabash v. Partee, 241 Ill. App. 3d 59, 608 N.E.2d 674 (1993).
199. Elk Grove Twp. Rural Fire Prot. Dist. v. Village of Mount Prospect, 228 Ill. App. 3d 228, 592 N.E.2d 549 (1992).
200. Ill. Att'y Gen. Opinion S-684 (1974 Ops. Atty. Gen., p. 60).
201. Ill. Att'y Gen. Opinion S-1485 (1980 Ops. Atty. Gen., p. 60).
202. Ill. Att'y Gen. Opinion S-1161 (1976 Ops. Atty. Gen., p. 303).
203. Ill. Att'y Gen. Opinion S-1217 (1977 Ops. Atty. Gen., p. 31). See also Ill. Att'y Gen. Opinion 99-007 (1999) (state's attorney can enforce local ordinance implementing state gift ban law as it then existed, if the locality, county, and state's attorney all agree).
204. Ill. Att'y Gen. Opinion S-1210 (1977 Ops. Atty. Gen., p. 22).
205. Ill. Att'y Gen. Opinion S-1128 (1976 Ops. Atty. Gen., p. 245).
206. Ill. Att'y Gen. Opinion S-1183 (1976 Ops. Atty. Gen., p. 339).
207. Ross v. United States, 910 F.2d 1422 at 1428-29 (7th Cir. 1990). The United States was a named defendant because the victim fell off an Army Corps of Engineers breakwater.
208. People v. Claar, 293 Ill. App. 3d 211, 687 N.E.2d 557 (1997), review denied by Ill. Sup. Ct. 177 Ill. 2d 574, 698 N.E.2d 545.
209. Hoogasian v. Regional Transp. Auth., 58 Ill. 2d 117, 317 N.E.2d 534 (1974), app. dis. 419 U.S. 988.
210. 10 ILCS 5/28-7.
211. Ill. Att'y Gen. Opinion 81-035 (1981 Ops. Att'y Gen., p. 86).
212. 55 ILCS 5/1-4001 ff., which replaced Ill. Rev. Stat. through 1987, ch. 34, secs. 151 ff. (counties); 65 ILCS 5/7-2-1 ff. (municipalities); 70 ILCS 1205/3-11 (park districts); 75 ILCS 16/20-5 ff., which replaced 75 ILCS 15/2-13 (library districts); and 605 ILCS 5/6-108 (township road districts).
213. 60 ILCS 1/22-5 ff.
214. Ill. Att'y Gen. Opinion 81-035 (1981 Ops. Att'y Gen., p. 86).

Article 8. Finance

1. People ex rel. City of Urbana v. Paley, 68 Ill. 2d 62, 368 N.E.2d 915 (1977).
2. People ex rel. City of Salem v. McMackin, 53 Ill. 2d 347, 291 N.E.2d 807 (1972).
3. People ex rel. Ogilvie v. Lewis, 49 Ill. 2d 476, 274 N.E.2d 87 (1971).
4. Friends of the Parks v. Chicago Park Dist., 203 Ill. 2d 312, 786 N.E.2d 161 (2003).
5. In re Marriage of Lappe, 176 Ill. 2d 414, 680 N.E.2d 380 (1997).
6. Board of Education, Sch. Dist. No. 142 v. Bakalis, 54 Ill. 2d 448, 299 N.E.2d 737 (1973).
7. People ex rel. City of Urbana v. Paley, 68 Ill. 2d 62, 368 N.E.2d 915 (1977); Friends of the Parks v. Chicago Park Dist., 203 Ill. 2d 312, 786 N.E.2d 161 (2003).
8. Wright v. City of Danville, 174 Ill. 2d 391, 675 N.E.2d 110 (1996). A similar Illinois Appellate Court decision, which the Illinois Supreme Court cited with approval in the Wright case, was City of Elmhurst ex rel. Mastrino v. City of Elmhurst, 272 Ill. App. 3d 168, 649 N.E.2d 1334 (1994).
9. People v. Howard, 228 Ill. 2d 428, 888 N.E.2d 85 (2008). The statutory provision is 720 ILCS 5/33-3(a)(2).
10. O'Fallon Dev. Co. v. City of O'Fallon, 71 Ill. App. 3d 220, 389 N.E.2d 677 (1979).
11. Ill. Att'y Gen. Opinions S-691 (1974 Ops. Atty. Gen., p. 64) and S-1288 (1977 Ops. Atty. Gen., p. 151).
12. Ill. Att'y Gen. Opinions S-1046 (1976 Ops. Atty. Gen., p. 86) and S-1058 (1976 Ops. Atty. Gen., p. 117).
13. Ill. Att'y Gen. Opinion S-941 (1975 Ops. Atty. Gen., p. 189).
14. Ill. Att'y Gen. Opinion S-960 (1975 Ops. Atty. Gen., p. 212).
15. A.B.A.T.E. of Illinois v. Quinn, 2011 IL 110611, 957 N.E.2d 876 (2011).
16. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VII, p. 2011 (Proposal No. 1 of Revenue and Finance Committee).
17. 30 ILCS 105/30.
18. People ex rel. Ogilvie v. Lewis, 49 Ill. 2d 476, 274 N.E.2d 87 (1971).
19. City of Springfield v. Allphin, 74 Ill. 2d 117, 384 N.E.2d 310 (1978).
20. See 745 ILCS 5/1. The Court of Claims Act is in 705 ILCS 505/1 ff.
21. West Side Organization Health Services Corp. v. Thompson, 73 Ill. App. 3d 129, 391 N.E.2d 392 (1979), rev'd as moot 79 Ill. 2d 503, 404 N.E.2d 208 (1980).
22. West Side Organization Health Services Corp. v. Thompson, 79 Ill. 2d 503, 404 N.E.2d 208 (1980).
23. American Federation of State, County and Municipal Employees v. Netsch, 216 Ill. App. 3d 566, 575 N.E.2d 945 (1991). This decision was not appealed—likely because appropriations for many state agencies were passed in the General Assembly 6 days after the decision.
24. State of Illinois v. American Federation of State, County and Municipal Employees, 2016 IL 118422, 51 N.E.3d 738 (2016), reversing 2014 IL App (1st) 130262, 19 N.E.2d 1127 (2014).
25. 5 ILCS 315/21.
26. Illinois Collaboration on Youth v. Dimas, 2017 IL App (1st) 162471, 81 N.E.3d 63 (2017).
27. American Federation of State, County and Municipal Employees v. State of Illinois, 2015

IL App (5th) 150277-U, 2015 WL 4512079 (2015) (unpublished).
28. Ill. Sup. Ct. Rule 23(e).
29. State of Illinois v. American Federation of State, County and Municipal Employees, 2014 IL App (1st) 130262, 19 N.E.2d 1127 (2014), rev'd 2016 IL 118422, 51 N.E.3d 738 (2016).
30. Illinois Collaboration on Youth v. Dimas, 2017 IL App (1st) 162471 at ¶ 75, 81 N.E.3d at 85-86.
31. McDunn v. Williams, 156 Ill. 2d 288, 620 N.E.2d 385 (1993).
32. Perkins v. Quinn, 2012 IL App. (1st) 113165, 975 N.E.2d 698 (2012).
33. 5 ILCS 140/1 ff.
34. 15 ILCS 20/50-5.
35. 15 ILCS 20/50-10.
36. Duties of the Governor's Office of Management and Budget are set forth in 20 ILCS 3005/0.01 ff.
37. People ex rel. Ogilvie v. Lewis, 49 Ill. 2d 476, 274 N.E.2d 87 (1971).
38. Ill. Att'y Gen. Opinion S-1134 (1976 Ops. Atty. Gen., p. 253).
39. See the discussion and cases cited in People ex rel. Kirk v. Lindberg, 59 Ill. 2d 38 at 40, 320 N.E.2d 17 at 18 (1974). See also 15 ILCS 20/50-22(c), making a continuing appropriation to support the General Assembly, its service agencies, and judges (a result of a past dispute between a Governor and the General Assembly, in which the Governor tried to prevent legislators from getting paid).
40. Graham v. Illinois State Toll Highway Authority, 182 Ill. 2d 287, 695 N.E.2d 360 (1998).
41. Examples are 20 ILCS 625/2 (federal community services block grants and other grants directed at community agencies) and 415 ILCS 5/4(k) (environmental protection grants). See also 15 ILCS 515/0.01 ff. (State Treasurer is to receive and hold as ex officio custodian funds allocated to the state under a number of federal laws, and distribute them to their intended recipients as provided by the federal authorities that allocate them). However, such funds held outside the state treasury may not be "public funds" for purposes of this section of the Constitution.
42. County of Cook v. Ogilvie, 50 Ill. 2d 379, 280 N.E.2d 224 (1972).
43. Kaden v. Pucinski, 287 Ill. App. 3d 546, 678 N.E.2d 792 (1979), review den. by Ill. Sup. Ct.
44. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VII, p. 2037 (Proposal No. 1 of Revenue and Finance Committee).
45. 30 ILCS 5/1-1 ff.
46. 30 ILCS 5/3-1 ff.
47. 30 ILCS 5/3-3A. See also 31 U.S. Code sec. 7502.
48. See Chicago Bar Ass'n v. Cronson, 183 Ill. App. 3d 710, 539 N.E.2d 327 (1989), review denied by Ill. Sup. Ct. 127 Ill. 2d 613, 545 N.E.2d 106, cert. den. 493 U.S. 1057.
49. Ill. Att'y Gen. Opinion 82-022 (1982 Ops. Atty. Gen., p. 57).
50. Madden v. Cronson, 114 Ill. 2d 504, 501 N.E.2d 1267 (1986), cert. den. 484 U.S. 818.
51. Chicago Bar Ass'n v. Cronson, 183 Ill. App. 3d 710, 539 N.E.2d 327 (1989), review denied by Ill. Sup. Ct. 127 Ill. 2d 613, 545 N.E.2d 106, cert. den. 493 U.S. 1057.
52. City of Chicago v. Holland, 206 Ill. 2d 480, 795 N.E.2d 240 (2003).

53. 25 ILCS 150/2 and 150/3.
54. 15 ILCS 425/1.
55. 65 ILCS 5/8-8-1 ff.
56. 55 ILCS 5/6-31001 ff.
57. 50 ILCS 310/0.01 ff.

Article 9. Revenue

1. Thorpe v. Mahin, 43 Ill. 2d 36, 250 N.E.2d 633 (1969).
2. See Berry v. Costello, 62 Ill. 2d 342, 341 N.E.2d 709 (1976); Hoffman v. Clark, 69 Ill. 2d 402, 372 N.E.2d 74 (1977).
3. Day v. Regional Transp. Auth., 66 Ill. 2d 533, 363 N.E.2d 829 (1977).
4. Polich v. Chicago School Finance Auth., 79 Ill. 2d 188, 402 N.E.2d 247 (1980).
5. Recent cases so stating include Arangold Corp. v. Zehnder, 204 Ill. 2d 142, 787 N.E.2d 786 (2003); Empress Casino Joliet Corp. v. Giannoulias, 406 Ill. App. 3d 1040, 942 N.E.2d 783 (2011), review denied by Ill. Sup. Ct. 2011 IL 112003, 949 N.E.2d 1097; Marks v. Vanderventer, 2015 IL 116226, 39 N.E.3d 915 (2015).
6. Rozner v. Korshak, 55 Ill. 2d 430, 303 N.E.2d 389 (1973) and Head v. Korshak, 62 Ill. 2d 226, 341 N.E.2d 706 (1976), cert. den. 425 U.S. 993.
7. Paper Supply Co. v. City of Chicago, 57 Ill. 2d 553, 317 N.E.2d 3 (1974).
8. S. Bloom, Inc. v. Mahin, 61 Ill. 2d 70, 329 N.E.2d 213 (1975).
9. Williams v. City of Chicago, 66 Ill. 2d 423, 362 N.E.2d 1030 (1977), cert. den. 434 U.S. 924.
10. Adler v. Illinois Bell Tel. Co., 72 Ill. 2d 295, 381 N.E.2d 294 (1978).
11. Walter Peckat Co. v. Regional Transp. Auth., 81 Ill. 2d 221, 407 N.E.2d 28 (1980).
12. Geja's Cafe v. Metropolitan Pier & Exposition Auth., 153 Ill. 2d 239, 606 N.E.2d 1212 (1992).
13. Allegro Services, Ltd. v. Metropolitan Pier & Exposition Auth., 172 Ill. 2d 243, 665 N.E.2d 1246 (1996).
14. Empress Casino Joliet Corp. v. Giannoulias, 231 Ill. 2d 62, 896 N.E.2d 277 (2008).
15. Arangold Corp. v. Zehnder, 204 Ill. 2d 142, 787 N.E.2d 786 (2003).
16. Warren Realty Co. v. Illinois Dept. of Revenue, 62 Ill. App. 3d 450, 379 N.E.2d 100 (1978), review denied by Ill. Sup. Ct.
17. Fiorito v. Jones, 39 Ill. 2d 531, 236 N.E.2d 698 (1968).
18. Commercial Nat'l Bank v. City of Chicago, 89 Ill. 2d 45, 432 N.E.2d 227 (1982).
19. Federated Distributors, Inc. v. Johnson, 125 Ill. 2d 1, 530 N.E.2d 501 (1988).
20. Primeco Personal Communications, L.P. v. Illinois Commerce Comm'n, 196 Ill. 2d 70, 750 N.E.2d 202 (2001).
21. P.A. 92-526, sec. 90-15 (2002), adding 35 ILCS 635/5(d).
22. P.A. 92-526, sec. 90-15, adding 35 ILCS 635/5(e) and 635/20(f), and secs. 5-1 ff., adding provisions codified as 35 ILCS 636/5-1 ff.
23. Warren Realty Co. v. Illinois Dept. of Revenue, 62 Ill. App. 2d 450, 379 N.E.2d 100 (1978), review denied by Ill. Sup. Ct.

24. The 1970 Constitution's official text has an extraneous "to" at this point.
25. People ex rel. Kutner v. Cullerton, 58 Ill. 2d 266, 319 N.E.2d 55 (1974).
26. 35 ILCS 200/9-150.
27. The Illinois Supreme Court specifically so held in Oak Park Fed. Sav. & Loan Ass'n v. Village of Oak Park, 54 Ill. 2d 200, 296 N.E.2d 344 (1973) and Grais v. City of Chicago, 151 Ill. 2d 197, 601 N.E.2d 745 (1992).
28. Hoffmann v. Clark, 69 Ill. 2d 402, 372 N.E.2d 74 (1977). The statute was Ill. Rev. Stat. through 1981, ch. 120, secs. 501a-1 through 501a-3, but was repealed by P.A. 83-347 (1983). See now 35 ILCS 200/10-110 ff.
29. O'Connor v. A & P Enterprises, 81 Ill. 2d 260, 408 N.E.2d 204 (1980). The statute was Ill. Rev. Stat., ch. 120, subsec. 482(25) (now cited as 35 ILCS 200/1-60).
30. People ex rel. Bosworth v. Lowen, 102 Ill. 2d 242, 464 N.E.2d 1053 (1984). The statute was Ill. Rev. Stat., ch. 120, sec. 502a-3 (now cited as 35 ILCS 200/11-15).
31. See M.F.M. Corp. v. Cullerton, 16 Ill. App. 3d 681, 306 N.E.2d 505 (1973); Stephens v. State Property Tax Appeal Bd., 42 Ill. App. 3d 550, 356 N.E.2d 355 (1976). See also People ex rel. Skidmore v. Anderson, 56 Ill. 2d 334, 307 N.E.2d 391 (1974) , discussed under section 7, involving disparity between taxing districts. Challenges to assessment levels can be made to a county board of review or to the Property Tax Appeal Board (35 ILCS 200/16-5 ff. and 200/16-160 ff.).
32. Northern Illinois Home Builders Ass'n v. County of Du Page, 165 Ill. 2d 25, 649 N.E.2d 384 (1995).
33. Client Follow-Up Co. v. Hynes, 75 Ill. 2d 208, 390 N.E.2d 847 (1979).
34. The act was designated as P.A. 81-1st Special Session-1 (1979).
35. Continental Illinois Nat'l Bank & Trust Co. v. Zagel, 78 Ill. 2d 387, 401 N.E.2d 491 (1979).
36. See 30 ILCS 115/12.
37. 35 ILCS 515/1 ff.
38. Berry v. Costello, 62 Ill. 2d 342, 341 N.E.2d 709 (1976).
39. Hoffman v. Lehnhausen, 48 Ill. 2d 323, 269 N.E.2d 465 (1971); Christian Action Ministry v. Department of Local Gov't Affairs, 74 Ill. 2d 51, 383 N.E.2d 958 (1978).
40. City of Chicago v. Illinois Department of Revenue, 147 Ill. 2d 484, 590 N.E.2d 478 (1992).
41. Small v. Pangle, 60 Ill. 2d 510, 328 N.E.2d 285 (1975), app. dis., cert. den. 423 U.S. 918; Friendship Manor of Branch of King's Daughters and Sons, Inc. v. Department of Rev., 91 Ill. App. 3d 91, 414 N.E.2d 525 (1980).
42. In re Guilford Hope Grange, 52 Ill. App. 3d 718, 367 N.E.2d 1021 (1977).
43. Central States Threshermen's Reunion, Inc. v. Department of Revenue, 219 Ill. App. 3d 26, 578 N.E.2d 1347 (1991).
44. Examples are Chicago Bar Ass'n v. Dept. of Revenue, 163 Ill. 2d 290, 644 N.E.2d 1166 (1994);
45. Eden Retirement Center, Inc. v. Dept. of Revenue, 213 Ill. 2d 273, 821 N.E.2d 240 (2004); Grace Community Church v. Illinois Dept. of Revenue, 409 Ill.App. 3d 480, 950 N.E.2d 1151 (2011).
46. Doran v. Cullerton, 51 Ill. 2d 553, 283 N.E.2d 865 (1972). The exemption law is 35 ILCS 200/15-170.

47. Proviso Twp. High Sch. Dist. No. 209 v. Hynes, 84 Ill. 2d 229, 417 N.E.2d 1290 (1980). The exemption described in the commentary is in 35 ILCS 200/15-175.
48. McKenzie v. Johnson, 98 Ill. 2d 87, 456 N.E.2d 73 (1983). The exemptions described in the commentary are in 35 ILCS 200/15-180 (which was later expanded, by P.A. 89-690 (1996), to include residential property improvements following a catastrophic event) and 200/15-40.
49. Knox College v. Department of Revenue, 169 Ill. App. 3d 832, 523 N.E.2d 1312 (1988), review denied by Ill. Sup. Ct. 122 Ill. 2d 576, 530 N.E.2d 247.
50. Provena Covenant Medical Center v. Dept. of Revenue, 236 Ill. 2d 368, 925 N.E.2d 1131 (2010). Two members of the Illinois Supreme Court did not participate in that decision.
51. P.A 97-688 (2012), adding 35 ILCS 200/15-86.
52. Carle Foundation v. Cunningham Twp., 2016 IL App (4th) 140795, 45 N.E.2d 1173 (2016), vac'd and remanded 2017 IL 120427, 89 N.E.3d 341 (2017).
53. Carle Foundation v. Cunningham Twp., 2017 IL 120427, 89 N.E.3d 341 (2017).
54. Oswald v. Hamer, 2018 IL 122203, __ N.E.3d ____ (2018).
55. Oswald v. Hamer at ¶ 43, __ N.E.3d at ____.
56. People ex rel. County Collector v. Northwestern Univ., 51 Ill. 2d 131, 281 N.E.2d 334 (1972), cert. den. 409 U.S. 852.
57. 35 ILCS 200/9-195.
58. Nabisco, Inc. v. Korzen, 68 Ill. 2d 451, 369 N.E.2d 829 (1977), app. dis. 435 U.S. 1005.
59. 35 ILCS 200/18-155 and 200/18-160.
60. People ex rel. Skidmore v. Anderson, 56 Ill. 2d 334, 307 N.E.2d 391 (1974).
61. The constitutional amendment was proposed by 81st General Assembly Senate Joint Resolution 56.
62. The constitutional amendment was proposed by 86th General Assembly House Joint Resolution—Constitutional Amendment 4.
63. Ill. Const. 1870, Art. 4, sec. 18.
64. Hoogasian v. Regional Transp. Auth., 58 Ill. 2d 117, 317 N.E.2d 534 (1974), app. dis. 419 U.S. 988; Day v. Regional Transp. Auth., 66 Ill. 2d 533, 363 N.E.2d 829 (1977). The Act is in 70 ILCS 3615/1.01 ff.
65. Geja's Cafe v. Metropolitan Pier & Exposition Auth., 153 Ill. 2d 239, 606 N.E.2d 1212 (1992).
66. 30 ILCS 340/1.
67. 30 ILCS 340/1.1.
68. The amendment was proposed by 99th General Assembly House Joint Resolution—Constitutional Amendment 36.

Article 10. Education

1. Pierce v. Board of Ed. of Chicago, 69 Ill. 2d 89, 370 N.E.2d 535 (1977).
2. Lewis E. v. Spagnolo, 186 Ill. 2d 198, 710 N.E.2d 798 (1999).
3. Elliot v. Board of Ed. of Chicago, 64 Ill. App. 3d 229, 380 N.E.2d 1137 (1978), review denied by Ill. Sup. Ct.

4. Beck v. Board of Ed., Harlem Cons. Sch. Dist. No. 122, 63 Ill. 2d 10, 344 N.E.2d 440 (1976). The section allowing school districts to provide free textbooks "or electronic textbooks" if approved by referendum is 105 ILCS 5/28-14. Another section authorizes the State Board of Education, if funds are appropriated annually for this purpose, to make grants to school districts to buy textbooks and similar items: 105 ILCS 5/2-3.155.
5. Sherman v. Township High School Dist. 214, 404 Ill. App. 3d 1101, 937 N.E.2d 286 (2010), review denied by Ill. Sup. Ct. 239 Ill. 2d 590, 943 N.E.2d 1109.
6. Blase v. State, 55 Ill. 2d 94, 302 N.E.2d 46 (1973).
7. Committee for Educational Rights v. Edgar, 174 Ill. 2d 1, 672 N.E.2d 1178 (1996); Lewis E. v. Spagnolo, 186 Ill. 2d 198, 710 N.E.2d 798 (1999). An Illinois Appellate Court decision rejected a somewhat different challenge to the state's system of school funding: Jenkins v. Leininger, 277 Ill. App. 3d 313, 659 N.E.2d 1366 (1995).
8. Cronin v. Lindberg, 66 Ill. 2d 47, 360 N.E.2d 360 (1976).
9. Espinoza v. Board of Trustees, Community Coll. Dist. 508, 265 Ill. App. 3d 504, 632 N.E.2d 279 (1994); Allen v. Illinois Community College Board, 315 Ill. App. 3d 837, 734 N.E.2d 926 (2000), review denied by Ill. Sup. Ct. 192 Ill. 2d 685, 742 N.E.2d 326.
10. 105 ILCS 5/1A-1.
11. People ex rel. Klinger v. Howlett, 56 Ill. 2d 1, 305 N.E.2d 129 (1973); People v. Falbe, 189 Ill. 2d 635, 727 N.E.2d 200 (2000).
12. People ex. rel. Ring v. Board of Ed., Dist. 24, 245 Ill. 334, 92 N.E. 251 (1910).
13. School Dist. of Abington Twp. v. Schempp, 374 U.S. 203, 83 S. Ct. 1560 (1963).
14. People ex rel. Klinger v. Howlett, 56 Ill. 2d 1, 305 N.E.2d 129 (1973).
15. Board of Ed., Sch. Dist. No. 142 v. Bakalis, 54 Ill. 2d 448, 299 N.E.2d 737 (1973).
16. Toney v. Bower, 318 Ill. App. 3d 1194, 744 N.E.2d 351 (2001), review denied by Ill. Sup. Ct. 195 Ill. 2d 573, 754 N.E.2d 1293, and Griffith v. Bower, 319 Ill. App. 3d 993, 747 N.E.2d 423 (2001), review denied by Ill. Sup. Ct. 195 Ill. 2d 577, 755 N.E.2d 477. This "education expense credit" is authorized by 35 ILCS 5/201(m).
17. Cecrle v. Illinois Educational Facilities Auth., 52 Ill. 2d 312, 288 N.E.2d 399 (1972).

Article 11. Environment

1. 415 ILCS 5/1 ff.
2. 415 ILCS 10/1 ff., 15/1 ff., and 20/1 ff.
3. 415 ILCS 25/1 ff.
4. 415 ILCS 55/1 ff.
5. 225 ILCS 715/1 ff. and 720/1.01 ff.
6. 415 ILCS 50/1 ff.
7. 415 ILCS 60/1 ff. and 65/1 ff.
8. Illinois Pure Water Committee, Inc. v. Director of Public Health, 104 Ill. 2d 243, 470 N.E.2d 988 (1984).
9. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, p. 707 (Proposal No. 16 of General Government Committee).
10. Record of Proceedings, vol. VI, p. 703.

11. Record of Proceedings, vol. VI, p. 703.
12. Scattering Fork Drainage Dist. v. Ogilvie, 19 Ill. App. 3d 386 at 395, 311 N.E.2d 203 at 210 (1974).
13. City of Elgin v. County of Cook, 169 Ill. 2d 53, 660 N.E.2d 875 (1995).
14. Glisson v. City of Marion, 188 Ill. 2d 211, 720 N.E.2d 1034 (1999).
15. People v. Pollution Control Board, 129 Ill. App. 3d 958, 473 N.E.2d 452 (1984), review denied by Ill. Sup. Ct.
16. NBD Bank v. Krueger Ringier, Inc., 292 Ill. App. 3d 691, 686 N.E.2d 704 (1997).
17. Such complaints can be filed under 415 ILCS 5/31(d). See Leahy, "Individual Legal Remedies Against Pollution in Illinois," Loyola Univ. L. J., vol. 3, p. 1 (1972).

Article 12. Militia

1. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, p. 463 (Proposal No. 2 of General Government Committee).
2. Act of June 3, 1916, 39 Stat. 197. Now, see generally 32 U.S. Code secs. 101 ff.
3. See 20 ILCS 1805/1 ff., especially 1805/2.
4. Ill. Const. 1870, Art. 12, sec. 1.
5. See 32 U.S. Code secs. 101 ff.
6. U.S. Const., Art. II, sec. 2, cl. 1.
7. 20 ILCS 1805/1 ff.

Article 13. General Provisions

1. People ex rel. Keenan v. McGuane, 13 Ill. 2d 520 at 536, 150 N.E.2d 168 at 177 (1958), cert. den. 358 U.S. 828. See also People ex rel. City of Kankakee v. Morris, 126 Ill. App. 3d 722, 467 N.E.2d 589 (1984) to the same effect.
2. People ex rel. Keenan v. McGuane, 13 Ill. 2d 520 at 356, 150 N.E.2d 168 at 177 (1958), cert. den. 358 U.S. 828; People ex rel. Taborski v. Illinois Appellate Court, First Dist., 50 Ill. 2d 336, 278 N.E.2d 796 (1972).
3. Section 124-1 of the Code of Criminal Procedure of 1963, repealed by P.A. 84-1047 (1985). Despite the repeal, Illinois Appellate Court cases have applied section 124-1 in interpreting section 29-15 of the Election Code, which adopts the now-repealed definition: Alvarez v. Williams, 2014 IL App (1st) 133443 at ¶ 10, 23 N.E.3d 544 (2014); People ex rel. Foxx v. Agpawa, 2018 IL App (1st) 171976 at n. 1, __ N.E.3d ____ (2018) (preliminary opinion, subject to revision).
4. 10 ILCS 5/29-15. See also 10 ILCS 5/25-2, item (5) and fourth through sixth unnumbered paragraphs (public office to become vacant upon conviction of its holder). The latter provision does not apply to municipal offices in municipalities of under 500,000 population; but those offices are subject to similar provisions in the Illinois Municipal Code (65 ILCS

5/3.1-10-50(c)(2) and 5/6-3-8)).
5. 730 ILCS 5/5-5-5(b).
6. 730 ILCS 5/3-3-8(d). However, part of section 5-5-5 specifically speaks of restoring "license rights and privileges granted under" state authority (730 ILCS 5/5-5-5(d)). Thus the quoted statement in subsection 3-3-8(d) could be read as referring only to restoration of those kinds of rights.
7. Coles v. Ryan, 91 Ill. App. 3d 382, 414 N.E.2d 932 (1980).
8. People v. Hofer, 363 Ill. App. 3d 719 at 724, 843 N.E.2d 460 at 464-65 (2006). The statutory provision that barred the person from running for office in that case was subsection 3.1-10-5(b) of the Illinois Municipal Code (65 ILCS 5/3.1-10-5(b)), which applies to a broader class of crimes than the Election Code provision cited earlier (10 ILCS 5/29-15).
9. 65 ILCS 5/3.1-10-5(b).
10. Bryant v. Board of Election Comm'rs of Chicago, 224 Ill. 2d 473, 865 N.E.2d 189 (2007) and Delgado v. Board of Election Comm'rs of Chicago, 224 Ill. 2d 481, 865 N.E.2d 183 (2007). Each of those two decisions was by the smallest possible majority of the Court (four), because three members (for unstated reasons) did not participate in them.
11. Alvarez v. Williams, 2014 IL App (1st) 133443, 23 N.E.3d 544 (2014).
12. People ex rel. Foxx v. Agpawa, 2018 IL App (1st) 171976, __ N.E.3d ____ (2018) (preliminary opinion, subject to revision), citing 65 ILCS 5/3.1-10-5(b).
13. Parker v. Lyons, 757 F.3d 701 (7th Cir. 2014).
14. People ex rel. Symonds v. Gualano, 124 Ill. App. 2d 248, 260 N.E.2d 284 (1970).
15. 5 ILCS 420/1-101 ff.
16. 5 ILCS 420/4A-101.
17. Stein v. Howlett, 52 Ill. 2d 570, 289 N.E.2d 409 (1972), app. dis. 412 U.S. 925.
18. Welch v. Johnson, 147 Ill. 2d 40, 588 N.E.2d 1119 (1992).
19. Illinois State Employees' Ass'n v. Walker, 57 Ill. 2d 512, 315 N.E.2d 9 (1974), cert. den. 419 U.S. 1058. The executive order, No. 73-4, was revoked and replaced by Executive Order No. 77-3, which requires disclosure statements from a partially different class of employees under the Governor. Those orders are reprinted in Laws of Illinois, 81st General Assembly, 1979, vol. III, pp. 5149 and 5195.
20. Buettell v. Walker, 59 Ill. 2d 146, 319 N.E.2d 502 (1974).
21. Ill. Supreme Court Rules 61 to 71.
22. 5 ILCS 430/1-1 ff.
23. See Ill. Att'y Gen. Opinion S-1063 (1976 Ops. Atty. Gen., p. 129).
24. Molitor v. Kaneland Comm. Unit Dist. No. 302, 18 Ill. 2d 11, 163 N.E.2d 89 (1959), cert. den. 362 U.S. 968; Peters v. Bellinger, 22 Ill. App. 2d 105, 159 N.E.2d 528 (1959), reversed on another ground 19 Ill. 2d 367, 166 N.E.2d 581 (1960); Kitto v. Wattleworth, 24 Ill. App. 2d 484, 164 N.E.2d 817 (1960), review denied by Ill. Sup. Ct.
25. Ill. Const. 1870, Art. 4, sec. 26.
26. See Record of Proceedings, Sixth Illinois Constitutional Convention, vol. VI, pp. 650-660 (Proposal No. 15 of General Government Committee).
27. P.A. 83-865, sec. 1, last paragraph (1983), quoted in People v. Philip Morris, Inc., 198 Ill. 2d 87, 759 N.E.2d 906 (2001).
28. Record of Proceedings, vol. VI, pp. 677-79.

29. P.A. 77-1776 (1971, eff. Jan. 1, 1972); 745 ILCS 5/1 ff. The Act has been applied by the courts, in cases such as Seifert v. Standard Paving Co., 64 Ill. 2d 109, 355 N.E.2d 537 (1976) and S.J. Groves & Sons Co. v. State of Illinois, 93 Ill. 2d 397, 444 N.E.2d 131 (1983).
30. The 1970 Constitution's Transition Schedule, subsec. 1(e) stated that Art. 13, secs. 2 and 4 would take effect January 1, 1972.
31. 745 ILCS 5/1.
32. 745 ILCS 5/1.5.
33. 705 ILCS 505/8(d).
34. People ex rel. Manning v. Nickerson, 184 Ill. 2d 245, 702 N.E.2d 1278 (1998).
35. Hudgens v. Dean, 75 Ill. 2d 353, 388 N.E.2d 1242 (1979).
36. County of Cook v. Ogilvie, 50 Ill. 2d 379 at 383, 280 N.E.2d 224 at 226 (1972).
37. See Ellis v. Board of Gov'rs of State Colleges and Universities, 102 Ill. 2d 387, 466 N.E.2d 202 (1984); Healy v. Vaupel, 133 Ill. 2d 295, 549 N.E.2d 1240 (1990); and City of Chicago v. Board of Trustees of Univ. of Illinois, 293 Ill. App. 3d 897, 689 N.E.2d 125 (1997), review denied by Ill. Sup. Ct. 177 Ill. 2d 568, 698 N.E.2d 542 among other cases.
38. Currie v. Lao, 148 Ill. 2d 151, 592 N.E.2d 977 (1992).
39. Williamson Towing Co. v. State of Illinois, 534 F.2d 758 (7th Cir. 1976); Frances J. v. Wright, 19 F.3d 337 at 342-43 (7th Cir. 1994), cert. den. 513 U.S. 876.
40. Fitzpatrick v. Bitzer, 427 U.S. 445, 96 S. Ct. 2666 (1976).
41. Board of Trustees of Univ. of Alabama v. Garrett, 531 U.S. 356, 121 S. Ct. 955 (2001).
42. See Harinek v. 161 North Clark Street Ltd. Partnership, 181 Ill. 2d 335, 692 N.E.2d 1177 (1998); DeSmet v. County of Rock Island, 219 Ill. 2d 497, 848 N.E.2d 1030 (2006).
43. 745 ILCS 10/1-101 ff.
44. 740 ILCS 170/9.
45. First Finance Co. v. Pellum, 62 Ill. 2d 86, 338 N.E.2d 876 (1975).
46. Aurora Nat'l Bank v. Simpson, 118 Ill. App. 3d 392, 454 N.E.2d 1132 (1983).
47. McLorn v. City of East St. Louis, 105 Ill. App. 3d 148, 434 N.E.2d 44 (1982), review denied by Ill. Sup. Ct.
48. Estate of DeBow v. City of East St. Louis, 228 Ill. App. 3d 437, 592 N.E.2d 1137 (1992).
49. See Record of Proceedings, Sixth Illinois Constitutional Convention, vol. IV, p. 2925 (proposal by Delegate Green to add a section 16 to the Legislative Article) and p. 2932 (adoption of proposed section).
50. See Record of Proceedings, vol. VI, p. 1561 (Style, Drafting and Submission Committee Proposal 10, explanation of disposition of section 16 of proposed Legislative Article).
51. Record of Proceedings, vol. IV, pp. 2925-32.
52. N.Y. Const., Art. 5, sec. 7.
53. See Record of Proceedings, vol. IV, pp. 2925 and 2931 (remarks of Delegate Green) and 2931 (remarks of Delegate Kinney).
54. See Record of Proceedings, vol. IV, pp. 2925 (remarks of Delegate Green).
55. See Record of Proceedings, vol. IV, p. 2926 (remarks of Delegate Kinney).
56. See Record of Proceedings, vol. IV, pp. 2926 (remarks of Delegate Parkhurst) and 2927-28 (remarks of Delegate Elward).

57. See Record of Proceedings, vol. IV, pp. 2929 and 2931-32 (remarks of Delegate Kinney) and 2931 (remarks of Delegate Green).
58. Record of Proceedings, vol. IV, p. 2931 (remarks of Delegate Kinney).
59. Record of Proceedings, vol. IV, pp. 2931-32 (remarks of Delegate Kinney).
60. Record of Proceedings, vol. IV, p. 2931 (remarks of Delegate Green).
61. Record of Proceedings, vol. IV, pp. 2926 and 2929 (remarks of Delegate Kinney).
62. Record of Proceedings, vol. IV, p. 2929 (remarks of Delegate Kinney, third paragraph).
63. Record of Proceedings, vol. IV, pp. 2928 (remarks of Delegate Thomas G. Lyons) and 2929 (discussion between Delegates Lyons and Kinney).
64. Record of Proceedings, vol. IV, p. 2928 (remarks of Delegate John C. Parkhurst). Delegate Parkhurst had stated his opposition to the proposed section earlier in the debate (pp. 2926-27), and he voted against its adoption (p. 2933).
65. Peters v. City of Springfield, 57 Ill. 2d 142, 311 N.E.2d 107 (1974). See also Pisani v. City of Springfield, 2017 IL App (4th) 160417, 73 N.E.3d 129 (2017), review denied by Ill. Sup. Ct. 2017 IL 122111, 89 N.E.3d 763.
66. Kerner v. State Employees' Retirement System, 72 Ill. 2d 507, 382 N.E.2d 243 (1978), cert. den. 441 U.S. 923. That provision for the State Employees' Retirement System is in 40 ILCS 5/14-149. Other Pension Code articles have parallel provisions.
67. People ex rel. Illinois Federation of Teachers v. Lindberg, 60 Ill. 2d 266, 326 N.E.2d 749 (1975), cert. den. 423 U.S. 839; McNamee v. State of Illinois, 173 Ill. 2d 433, 672 N.E.2d 1159 (1996); People ex rel. Sklodowski v. State of Illinois, 182 Ill. 2d 220, 695 N.E.2d 374 (1998). But see Board of Trustees, City of Harvey Firefighters' Pension Fund v. City of Harvey, 2017 IL App (1st) 153074, 2017 WL 3388848 (2017) (involving a fund whose solvency was threatened).
68. Felt v. Board of Trustees of Judges' Retirement System, 107 Ill. 2d 158, 481 N.E.2d 698 (1985).
69. Buddell v. Board of Trustees, State University Retirement System, 118 Ill. 2d 99, 514 N.E.2d 184 (1987).
70. Kanerva v. Weems, 2014 IL 115811, 13 N.E.3d 1228 (2014).
71. P.A. 97-695 (2012).
72. Kanerva v. Weems at ¶¶ 62-94, 13 N.E.3d at 1244-52 (Burke, J., dissenting).
73. P.A. 98-599 (2013, eff. June 1, 2014).
74. In re Pension Reform Litigation, 2015 IL 118585, 32 N.E.3d 1 (2015). (Later court opinions often call this the "Heaton" case, referring to its first listed plaintiff.)
75. 2015 IL 118585 at ¶ 46 n. 12, 32 N.E.3d at 17.
76. Ziebell v. Board of Trustees, Police Pension Fund of Forest Park, 73 Ill. App. 3d 894, 392 N.E.2d 101 (1979); Kuhlmann v. Board of Trustees, Police Pension Fund of Maywood, 106 Ill. App. 3d 603 at 607-08, 435 N.E.2d 1307 at 1311 (1982) (discussing rationale in some detail); Taft v. Board of Trustees, Police Pension Fund of Winthrop Harbor, 133 Ill. App. 3d 566, 479 N.E.2d 31 (1985), review denied by Ill. Sup. Ct.; Gualano v. City of Des Plaines, 139 Ill. App. 3d 456, 487 N.E.2d 1050 (1985); Carr v. Board of Trustees, Police Pension Fund of Peoria, 158 Ill. App. 3d 7, 511 N.E.2d 142 (1987); Miller v. Retirement Board, Policemen's Annuity & Benefit Fund of Chicago, 329 Ill. App. 3d 589 at 604, 771 N.E.2d 431 at 444 (2002), review denied by Ill. Sup. Ct. 201 Ill. 2d 573, 786 N.E.2d 186;

Stevens v. Village of Oak Brook, 2013 IL App (2d) 120456, 990 N.E.2d 802 (2013).

77. Peifer v. Board of Trustees of Police Pension Fund of Winnetka, 35 Ill. App. 3d 383, 342 N.E.2d 131 (1976), review denied by Ill. Sup. Ct.; Kraus v. Board of Trustees of Police Pension Fund of Niles, 72 Ill. App. 3d 833, 390 N.E.2d 1281 (1979), review denied by Ill. Sup. Ct.
78. P.A. 98-641 (2013).
79. P.A. 98-599 (2013).
80. Jones v. Municipal Employees' Annuity and Benefit Fund of Chicago, 2016 IL 119618, 50 N.E.3d 596 (2016). See also Underwood v. City of Chicago, 2017 IL App (1st) 162356, 84 N.E.3d 420 (2017).
81. Matthews v. Chicago Transit Authority, 2016 IL 117638, 51 N.E.3d 753 (2016).
82. Ill. Rev. Stat. through 1973, ch. 48, subsec. 138.1(b), subd. 1, first paragraph, concluding sentence.
83. P.A. 78-1141, sec. 1 (1974).
84. P.A. 80-903 (1977), adding such provisions to articles 2, 3, 4, 7, and 18 of the Pension Code. (Those provisions were later repealed by P.A. 83-1440 (1984), but it replaced them with similar provisions in those articles.)
85. Taft v. Board of Trustees, Police Pension Fund of Winthrop Harbor, 133 Ill. App. 3d 566, 479 N.E.2d 31 (1985), review denied by Ill. Sup. Ct.; Gualano v. City of Des Plaines, 139 Ill. App. 3d 456, 487 N.E.2d 1050 (1985); Greves v. Firemen's Pension Fund of Blue Island, 147 Ill. App. 3d 956, 498 N.E.2d 618 (1986); Carr v. Board of Trustees, Peoria Police Pension Fund, 158 Ill. App. 3d 7, 511 N.E.2d 142 (1987); Fenton v. Board of Trustees, City of Murphysboro, 203 Ill. App. 3d 714, 561 N.E.2d 105 (1990); Schroeder v. Morton Grove Police Pension Bd., 219 Ill. App. 3d 697, 579 N.E.2d 997 (1991), review denied by Ill. Sup. Ct. 142 Ill. 2d 665, 584 N.E.2d 140.
86. Sellards v. Board of Trustees, Rolling Meadows Firemen's Pension Fund, 133 Ill. App. 3d 415, 478 N.E.2d 1123 (1985).
87. Ill. Const. 1870, Art. 11, sec. 1.
88. U.S. Const., Art. I, sec. 10, cl. 1.
89. Ill. Const. 1870, Art. 11, sec. 3.
90. Roanoke Agency, Inc. v. Edgar, 101 Ill. 2d 315, 461 N.E.2d 1365 (1984).
91. 30 ILCS 415/1 ff.
92. 70 ILCS 3615/1.01 ff.
93. People ex rel. Ogilvie v. Lewis, 49 Ill. 2d 476, 274 N.E.2d 87 (1971) (Transportation Bond Act); Hoogasian v. Regional Transp. Auth., 58 Ill. 2d 117, 317 N.E.2d 534 (1974), app. dis. 419 U.S. 988 and Day v. Regional Transp. Auth., 66 Ill. 2d 533, 363 N.E.2d 829 (1977) (Regional Transportation Authority Act).
94. Ill. Const. 1870, Art. 11, sec. 5.
95. People ex rel. Lignoul v. City of Chicago, 67 Ill. 2d 480, 368 N.E.2d 100 (1977).
96. 205 ILCS 5/5(15). The act allowing unlimited branch banking in Illinois (P.A. 88-4 (1993), enacted by S.B. 598) passed 46-2 in the Senate and 98-15 in the House.

Article 14. Constitutional Revision

1. The 1988 proposition was sent to the voters under this provision and as called for in 85th General Assembly Senate Joint Resolution 127 (1988). A 1988 statute (P.A. 85-1022 as amended by P.A. 86-795, codified as 5 ILCS 25/1) prescribes procedures for preparing to send the question to the voters.
2. State Board of Elections, Official Vote Cast at the General Election [on] November 8, 1988, p. 162.
3. State Board of Elections, Official Vote Cast at the General Election [on] November 4, 2008, pp. 1-4.
4. Chicago Bar Ass'n v. White, 386 Ill. App. 3d 955, 898 N.E.2d 1101 (2008).
5. For a discussion of the 1950 "Gateway Amendment," see George D. Braden & Rubin G. Cohn, *The Illinois Constitution: An Annotated and Comparative Analysis* (1969), pp. 565-67.
6. Ill. Const. 1870, Art. 14, sec. 2 (original version).
7. City of Chicago v. Reeves, 220 Ill. 274, 77 N.E. 237 (1906). See also People ex rel. Engle v. Kerner, 32 Ill. 2d 212, 205 N.E.2d 33 (1965), supplemented 33 Ill. 2d 11, 210 N.E.2d 165 (1965), app. dis. 384 U.S. 30.
8. 10 ILCS 5/28-1, sixth and seventh paragraphs. The Election Code defines "political or governmental subdivision" as only units of local government, school districts, and school trustees (10 ILCS 5/1-3, paragraph 6.).
9. 10 ILCS 5/28-1, ninth paragraph.
10. 5 ILCS 20/0.01 ff.
11. 81st General Assembly Senate Joint Resolution 56 (1979-80).
12. 82nd General Assembly SJR 36 (1981-82).
13. 84th General Assembly SJR 22 (1985-86).
14. 85th General Assembly House Joint Resolution—Constitutional Amendment 1 (1987-1988).
15. 86th General Assembly HJR—CA 4 (1989-1990).
16. 87th General Assembly HJR—CA 28 (1992).
17. 88th General Assembly SJR 123 (1994).
18. 88th General Assembly HJR—CA 35 (1994).
19. 90th General Assembly SJR 52 (1998).
20. 96th General Assembly HJR—CA 31 (2009).
21. 98th General Assembly HJR—CA 1 (2014).
22. 98th General Assembly HJR—CA 52 (2014).
23. 99th General Assembly HJR—CA 36 (2016).
24. 78th General Assembly HJR—CA 7 (1973).
25. 80th General Assembly HJR—CA 21 (1977-78).
26. 80th General Assembly HJR—CA 29 (1977-78).
27. 83rd General Assembly HJR—CA 2 (1983-84).
28. 84th General Assembly SJR 11 (1985-86).
29. 85th General Assembly HJR—CA 13 (1987-88).
30. 87th General Assembly SJR 130 (1992).

31. 97th General Assembly HJR—CA 49 (2012).
32. Record of Proceedings, Sixth Illinois Constitutional Convention, vol. II, p. 587 (roll call on Suffrage and Constitution Amending Committee Minority Proposal No. 1A, printed in vol. VII, pp. 2309-10).
33. 5 ILCS 20/0.01 ff.
34. Coalition for Political Honesty v. State Board of Elections, 65 Ill. 2d 453, 359 N.E.2d 138 (1976).
35. Coalition for Political Honesty v. State Board of Elections, 83 Ill. 2d 236, 415 N.E.2d 368 (1980).
36. Lousin v. State Board of Elections, 108 Ill. App. 3d 496, 438 N.E.2d 1241 (1982). The Illinois Supreme Court was not petitioned for leave to appeal, so the Appellate Court's decision stood.
37. Chicago Bar Ass'n v. State Board of Elections, 137 Ill. 2d 394, 561 N.E.2d 50 (1990).
38. Chicago Bar Ass'n v. Illinois State Board of Elections, 161 Ill. 2d 502, 641 N.E.2d 525 (1994).
39. Clark v. Illinois State Board of Elections, 2014 IL App (1st) 141937, 17 N.E.3d 771 (2014).
40. Hooker v. Illinois State Board of Elections, 2016 IL 121077, 63 N.3d 824 (2016).
41. Ill. Att'y Gen. Opinions S-455 (1972 Ops. Atty. Gen., p. 104) and S-456 (1972 Ops. Atty. Gen., p. 112), which are essentially identical. See also Ill. Att'y Gen. Opinion S-571 (1973 Ops. Atty. Gen., p. 36).
42. Dyer v. Blair, 390 F. Supp. 1291 (N.D. Ill. 1975) (3-judge court).
43. Senate Rule 6-3 and House Rule 47, 100th General Assembly.
44. Ill. Att'y Gen. Opinions S-455 (1972 Ops. Atty. Gen., p. 104) and S-456 (1972 Ops. Atty. Gen., p. 112).

Transition Schedule

1. Roanoke Agency, Inc. v. Edgar, 101 Ill. 2d 315, 461 N.E.2d 1365 (1984).
2. Chavin v. General Employment Enterprises, Inc., 222 Ill. App. 3d 398, 584 N.E.2d 147 (1992), review denied by Ill. Sup. Ct. 145 Ill. 2d 632, 596 N.E.2d 626.
3. 820 ILCS 305/19(f)(1), introductory clause.
4. Yonikus v. Industrial Commission, 228 Ill. App. 3d 333, 591 N.E.2d 890 (1992), review denied by Ill. Sup. Ct. 146 Ill. 2d 654, 602 N.E.2d 479.

INDEX TO CONSTITUTIONAL TEXT

(Boldfaced numbers cite the page containing the *beginning* of each constitutional provision cited.)