



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0939
Prime Sponsors: Rep. Gray

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Bill Status: House SVMA
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Bill Topic: RECALL PETITION ELECTION SPECIAL DISTRICT DIRECTOR

- Summary of Fiscal Impact:
- State Revenue (minimal)
- State Expenditure (minimal)
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill establishes procedures to govern the recall of a director of special district. Beginning in the current FY 2017-18, this bill may increase workload for the state and local governments.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

This bill establishes procedures to govern the recall of a special district director, as outlined below.

Recall petition. Under this bill, petitions to recall the director of a special district must be filed with the county clerk and recorder of the appropriate county. Once a proposed recall petition form is filed, the county clerk must appoint a designated election official (DEO), who must then approve or disapprove of the recall petition form within three business days of appointment.

If approved, each petition form in circulation must show the three to five eligible electors designated to represent the signers of the petition (committee); include the name of the director subject to the recall; contain a short statement on why the recall is sought; and contain a warning that all signers must be an eligible elector within the district. All signed recall petitions must be filed with the DEO within 60 days of the form's approval. After the petition is filed, the DEO has five business days to review the petition and make a determination on its sufficiency. A petition is considered sufficient if has been filed on time, contains required language, and is signed by the required number of eligible electors in the special district.

It is a misdemeanor offense to destroy, delay, or conceal a recall petition, punishable by a fine of up to \$1,000, up to one year in county jail, or both.

**Petition protest.** If a petition is filed, any eligible elector may protest a recall petition within 15 days of the filing date. If a protest is filed, the DEO will serve as the hearing officer. If the grounds for protest include the failure of the petition to meet the signature requirements, the county clerks and recorders and county assessors in the relevant counties must provide a list of all eligible voters and property owners in the district to review the validity of signatures. The special district pays the cost of producing these voter and property owner lists.

Following a protest hearing, the DEO must issue a written determination on the sufficiency of the recall petition within five business days of the hearing. If it is determined that a petition is not sufficient, it may be withdrawn and amended. This determination is subject to the review of the court.

**Election.** If a recall petition is determined to be sufficient, the special district's board of directors must hold a meeting within 30 days to set a date for the recall election. The recall election must be held within 75 to 90 days of this meeting.

If there is a regular special district election within 180 days of this meeting, the recall election must be held as a part of the regular election. If the director facing recall is seeking reelection, only the question of reelection will appear on the ballot. This election may be held as a part of a coordinated election if certain conditions are met and the county clerk and recorder agrees to conduct the election.

If the director is not recalled after the election, he or she is eligible for the reimbursement of certain reasonable expenses. This includes expenses for challenging the sufficiency of a recall petition and campaign literature.

**Ballot language.** The official ballot must include the recall question, followed by any candidates that are nominated to replace the director. Candidates may get on the ballot through a self nomination or write in process. The candidate who receives the highest number of votes will replace the director if a majority of eligible voters votes to recall the incumbent director.

**Resignation.** If the director facing recall submits a letter of resignation before the recall election, all recall proceedings must be terminated.

## Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill specifies that it is a misdemeanor offense to destroy, delay, or conceal a recall petition, punishable by a fine of up to \$1,000, up to one year in county jail, or both. There have been no convictions for this crime within the last three years. As this penalty is identical to the penalty under current law, it is assumed that there will be no new convictions for this offense.

## State Revenue

Beginning in the current FY 2017-18, state cash fund revenue may increase from civil filing fees to district courts to hear any cases related to recall ballot petitions. This revenue impact is expected to be minimal.

**TABOR Refund**

This bill minimally increases state cash fund revenue from district court filing fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. A TABOR refund obligation is not expected for the current FY 2017-18.

Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

**State Expenditures**

Beginning in the current FY 2017-18, workload will increase for district courts to hear any cases related to recall ballot petitions. This impact is assumed to be minimal and no increase in appropriations for the Judicial Department is required.

**Local Government**

Beginning in the current FY 2017-18, this bill may increase workload and expenditures related to holding special district recall elections, as described below .

**Special districts.** Any special district that holds a recall election will see an increase in expenditures to conduct the election and provide any approved reimbursement to directors. As the processes outlined in this bill largely conforms with current practice, any increase in expenditures over current practice is expected to be minimal. Recall elections are assumed to be infrequent.

**Counties.** Workload will increase if a county clerk assumes the role of designated election official in a special district recall election. It is assumed that any increase in expenditures will be paid by the special district. Workload may also increase for county clerk offices that conduct elections as a part of a coordinated election. County clerks have discretion when deciding to conduct a recall election as a part of a coordinated election.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. It applies to recall petitions and elections initiated after this date.

**State and Local Government Contacts**

Counties  
Local Affairs  
Special Districts

County Clerks  
Municipalities

Judicial  
Secretary of State