

CHAPTER 200

ELECTIONS

HOUSE BILL 18-1268

BY REPRESENTATIVE(S) Gray, Kraft-Tharp, Rosenthal;
also SENATOR(S) Gardner, Tate.

AN ACT**CONCERNING THE PROCEDURES TO RECALL A DIRECTOR OF A SPECIAL DISTRICT.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 32-1-906, **amend** (1) as follows:

32-1-906. Directors subject to recall - applicability of laws. (1) ~~(a)~~ Any director elected OR APPOINTED to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district; EXCEPT THAT A PETITION SHALL NOT BE FILED TO RECALL A DIRECTOR WHOSE TERM OF OFFICE EXPIRES IN LESS THAN SIX MONTHS FROM THE DATE THE PETITION IS PRESENTED FOR FILING. EXCEPT AS PROVIDED IN SECTION 32-1-913, a petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition ~~shall~~ **MUST** be filed ~~in the court~~ IN ACCORDANCE WITH SECTION 32-1-910 TO INITIATE A RECALL ELECTION.

~~(b) In case of specific conflict between this part 9 and part 5 of article 4 of title 31, C.R.S., with respect to a recall, this part 9 controls.~~

~~(b.5) The recall of a special district director is governed by the procedures set forth in part 5 of article 4 of title 31, C.R.S.; except that:~~

~~(f) The term "registered elector" must be replaced by "eligible elector"; "municipality" must be replaced by "local government"; and "municipal clerk" or "clerk" must be replaced by "designated election official, or if none is designated, then the secretary of the local government";~~

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~(H) The second paragraph of the warning contained in section 31-4-502 (1)(a)(H), C.R.S., shall not be used for a local government recall election;~~

~~(III) The number of signatures required by section 31-4-502 (1)(d), C.R.S., applies to a local government recall election only if a different number is not specified by this article or by title 1, C.R.S.; and~~

~~(IV) The words "who resides within the municipality" in 31-4-503 (3)(b), C.R.S., do not apply.~~

SECTION 2. In Colorado Revised Statutes, 32-1-907, **amend** (1) as follows:

32-1-907. Recall election - resignation. (1) If a director subject to a recall petition offers a resignation, it shall be accepted, and the vacancy caused by the resignation, or from any other cause, shall be filled as provided by section 32-1-905 (2). ~~If the director does not resign within five days after the sufficiency of the recall petition has been sustained, the board shall order that a recall election be held pursuant to part 5 of article 4 of title 31, C.R.S.~~

SECTION 3. In Colorado Revised Statutes, **add** 32-1-908, 32-1-909, 32-1-910, 32-1-911, 32-1-912, 32-1-913, 32-1-914, and 32-1-915 as follows:

32-1-908. Recall procedures. PROCEDURES TO RECALL A DIRECTOR OF A SPECIAL DISTRICT ARE GOVERNED BY THIS PART 9.

32-1-909. Recall petition - designated election official - approval as to form - definition. (1) A RECALL PETITION SHALL NOT BE CIRCULATED UNTIL IT HAS BEEN APPROVED AS MEETING THE REQUIREMENTS OF THIS SECTION AS TO FORM.

(2) THE PROPOSED FORM OF A RECALL PETITION SHALL BE FILED WITH THE COURT AS DEFINED IN SECTION 32-1-103 (2) FOR THE SPECIAL DISTRICT. WITHIN FIVE BUSINESS DAYS OF RECEIPT OF A PROPOSED FORM OF RECALL PETITION FOR A SPECIAL DISTRICT DIRECTOR, THE COURT SHALL ISSUE AN ORDER APPOINTING A DESIGNATED ELECTION OFFICIAL WHO SHALL PERFORM THE DUTIES SET FORTH FOR THE RECALL. THE DESIGNATED ELECTION OFFICIAL SHALL NOT BE THE DIRECTOR SOUGHT TO BE RECALLED BY THE PETITION OR THE SPOUSE OR CIVIL UNION PARTNER OF THE DIRECTOR SOUGHT TO BE RECALLED BY THE PETITION.

(3) THE DESIGNATED ELECTION OFFICIAL SHALL APPROVE OR DISAPPROVE A PETITION AS TO FORM BY THE CLOSE OF THE THIRD BUSINESS DAY FOLLOWING HIS OR HER APPOINTMENT AS THE DESIGNATED ELECTION OFFICIAL. ON THE DAY THAT THE PETITION IS APPROVED OR DISAPPROVED AS TO FORM, THE DESIGNATED ELECTION OFFICIAL SHALL MAIL OR TRANSMIT ELECTRONICALLY WRITTEN NOTICE OF THE APPROVAL OR DISAPPROVAL TO THE COMMITTEE AS DEFINED IN SUBSECTION (4)(a) OF THIS SECTION, THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT, AND THE DIRECTOR SOUGHT TO BE RECALLED. IF THE DESIGNATED ELECTION OFFICIAL DISAPPROVES THE PETITION AS TO FORM, THE DESIGNATED ELECTION OFFICIAL SHALL IDENTIFY IN THE WRITTEN NOTICE THE PORTION OR PORTIONS OF THE PETITION THAT ARE NOT SUFFICIENT AND THE REASONS THEY ARE NOT SUFFICIENT.

(4) EACH PETITION MUST:

(a) DESIGNATE BY NAME AND ADDRESS AT LEAST THREE, BUT NOT MORE THAN FIVE, ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT, REFERRED TO IN THIS PART 9 AS THE "COMMITTEE", WHO REPRESENT THE SIGNERS THEREOF IN ALL MATTERS AFFECTING THE PETITION;

(b) INCLUDE THE NAME OF ONLY ONE DIRECTOR TO BE RECALLED; AND

(c) CONTAIN A GENERAL STATEMENT, IN NOT MORE THAN TWO HUNDRED WORDS, OF THE GROUNDS ON WHICH THE RECALL IS SOUGHT, WHICH STATEMENT IS INTENDED FOR THE INFORMATION OF THE ELECTORS OF THE SPECIAL DISTRICT. THE STATEMENT MUST NOT INCLUDE ANY PROFANE OR FALSE STATEMENT. THE ELECTORS OF THE SPECIAL DISTRICT ARE THE SOLE AND EXCLUSIVE JUDGES OF THE LEGALITY, REASONABLENESS, AND SUFFICIENCY OF THE GROUNDS ON WHICH THE RECALL IS SOUGHT, AND SAID GROUNDS ARE NOT SUBJECT TO A PROTEST OR TO JUDICIAL REVIEW.

(5) THE SIGNATURES TO A RECALL PETITION NEED NOT ALL BE ON ONE SHEET OF PAPER. AT THE TOP OF EACH SIGNATURE PAGE OF THE PETITION MUST BE PRINTED, IN BOLD-FACED TYPE, THE FOLLOWING:

WARNING:

IT IS AGAINST THE LAW:

FOR ANYONE TO SIGN THIS PETITION WITH ANY NAME OTHER THAN ONE'S OWN OR TO KNOWINGLY SIGN ONE'S OWN NAME MORE THAN ONCE FOR THE SAME MEASURE OR TO SIGN SUCH PETITION WHEN NOT AN ELIGIBLE ELECTOR.

DO NOT SIGN THIS PETITION UNLESS YOU ARE AN ELIGIBLE ELECTOR. TO BE AN ELIGIBLE ELECTOR, YOU MUST BE REGISTERED TO VOTE IN COLORADO AND BE EITHER A RESIDENT OF THE (NAME OF SPECIAL DISTRICT), OR BE THE OWNER OR SPOUSE OR CIVIL UNION PARTNER OF AN OWNER OF TAXABLE REAL OR PERSONAL PROPERTY IN THE (NAME OF SPECIAL DISTRICT) AS DESCRIBED IN SECTION 32-1-103 (5) OF THE COLORADO REVISED STATUTES.

DO NOT SIGN THIS PETITION UNLESS YOU HAVE READ OR HAVE HAD READ TO YOU THE PROPOSED MEASURE IN ITS ENTIRETY AND UNDERSTAND ITS MEANING.

(6) DIRECTLY FOLLOWING THE WARNING REQUIRED BY SUBSECTION (5) OF THIS SECTION MUST BE PRINTED IN BOLD-FACED TYPE THE FOLLOWING:

PETITION TO RECALL (NAME OF DIRECTOR SOUGHT TO BE RECALLED) FROM THE OFFICE OF DIRECTOR OF THE (NAME OF SPECIAL DISTRICT).

32-1-910. Petition in sections - signing - affidavit - review - tampering with petition. (1) A RECALL PETITION MAY BE CIRCULATED AND SIGNED IN SECTIONS, BUT EACH SECTION MUST CONTAIN A FULL AND ACCURATE COPY OF THE TITLE AND TEXT OF THE PETITION AS DESCRIBED IN SECTION 32-1-909(4), AND EACH SIGNATURE

PAGE OF EACH SECTION MUST INCLUDE THE LANGUAGE SET FORTH IN SECTION 32-1-909 (5) AND (6).

(2) (a) ALL SIGNED RECALL PETITIONS MUST BE FILED WITH THE DESIGNATED ELECTION OFFICIAL WITHIN SIXTY DAYS FROM THE DATE ON WHICH THE DESIGNATED ELECTION OFFICIAL APPROVES THE PETITION AS TO FORM PURSUANT TO SECTION 32-1-909 (3).

(b) A RECALL PETITION SHALL BE SIGNED ONLY BY ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT USING THEIR OWN SIGNATURES, AFTER WHICH EACH SUCH ELECTOR SHALL PRINT OR, IF SUCH ELECTOR IS UNABLE TO DO SO, SHALL CAUSE TO BE PRINTED, SUCH ELECTOR'S LEGAL NAME, THE RESIDENCE ADDRESS OF SUCH ELECTOR, INCLUDING THE STREET AND NUMBER, IF ANY, AND THE DATE OF SIGNING OF THE PETITION.

(c) TO EACH PETITION OR PETITION SECTION MUST BE ATTACHED A SIGNED, NOTARIZED, AND DATED AFFIDAVIT OF THE PERSON WHO CIRCULATED THE PETITION STATING THE AFFIANT'S ADDRESS, THAT THE AFFIANT IS EIGHTEEN YEARS OF AGE OR OLDER, THAT THE AFFIANT CIRCULATED THE PETITION, THAT THE AFFIANT MADE NO MISREPRESENTATION OF THE PURPOSE OF SUCH PETITION TO ANY SIGNER OF THE PETITION, THAT EACH SIGNATURE ON THE PETITION WAS AFFIXED IN THE AFFIANT'S PRESENCE, THAT EACH SIGNATURE ON THE PETITION IS THE SIGNATURE OF THE PERSON WHOSE NAME IT PURPORTS TO BE, THAT TO THE BEST OF THE KNOWLEDGE AND BELIEF OF THE AFFIANT EACH PERSON SIGNING SAID PETITION WAS AT THE TIME OF SIGNING AN ELIGIBLE ELECTOR OF THE SPECIAL DISTRICT, AND THAT THE AFFIANT NEITHER HAS PAID NOR SHALL PAY AND THAT THE AFFIANT BELIEVES THAT NO OTHER PERSON HAS SO PAID OR SHALL PAY, DIRECTLY OR INDIRECTLY, ANY MONEY OR OTHER THING OF VALUE TO ANY SIGNER FOR THE PURPOSE OF INDUCING OR CAUSING SUCH SIGNER TO SIGN SUCH PETITION.

(d) ANY DISASSEMBLY OF A PETITION OR PETITION SECTION THAT SEPARATES THE AFFIDAVIT FROM THE SIGNATURES RENDERS THE SIGNATURES ON SUCH PETITION OR PETITION SECTION INVALID AND OF NO FORCE AND EFFECT.

(3) (a) PROMPTLY AFTER THE PETITION HAS BEEN FILED, THE DESIGNATED ELECTION OFFICIAL SHALL REVIEW ALL PETITION INFORMATION AND VERIFY THE INFORMATION AGAINST THE COUNTY CLERK AND RECORDER'S REGISTRATION RECORDS AND THE COUNTY ASSESSOR'S RECORDS TO DETERMINE WHETHER IT MEETS THE REQUIREMENTS OF SECTION 32-1-906 (1) AND SUBSECTIONS (2)(a), (2)(b), AND (2)(c) OF THIS SECTION.

(b) THE DESIGNATED ELECTION OFFICIAL SHALL ISSUE A WRITTEN DETERMINATION THAT A RECALL PETITION IS SUFFICIENT OR NOT SUFFICIENT BY THE CLOSE OF THE FIFTH BUSINESS DAY AFTER SUCH PETITION IS FILED, UNLESS A PROTEST HAS BEEN FILED PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION PRIOR TO THAT DATE. ON THE DAY THE DESIGNATED OFFICIAL ISSUES SUCH WRITTEN DETERMINATION, HE OR SHE SHALL MAIL OR TRANSMIT ELECTRONICALLY A COPY OF THE DETERMINATION TO THE DIRECTOR SOUGHT TO BE RECALLED, THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT, AND THE COMMITTEE AS DEFINED IN SECTION 32-1-909 (4)(a). THE DESIGNATED ELECTION OFFICIAL SHALL MAKE A COPY OF THE PETITION AVAILABLE TO THE DIRECTOR SOUGHT TO BE RECALLED.

(c) THE DESIGNATED ELECTION OFFICIAL SHALL DEEM THE PETITION SUFFICIENT IF HE OR SHE DETERMINES THAT IT WAS TIMELY FILED, HAS THE REQUIRED ATTACHED CIRCULATOR AFFIDAVITS, AND WAS SIGNED BY THE REQUISITE NUMBER OF ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT WITHIN SIXTY DAYS FOLLOWING THE DATE UPON WHICH THE DESIGNATED ELECTION OFFICIAL APPROVED THE FORM OF THE PETITION. THE DESIGNATED ELECTION OFFICIAL SHALL NOT REMOVE THE SIGNATURE OF AN ELIGIBLE ELECTOR FROM THE PETITION AFTER SUCH PETITION IS FILED. IF THE DESIGNATED ELECTION OFFICIAL DETERMINES THAT A PETITION OR PETITION SECTION IS NOT SUFFICIENT, THE DESIGNATED ELECTION OFFICIAL SHALL IDENTIFY THOSE PORTIONS OF THE PETITION THAT ARE NOT SUFFICIENT AND THE REASONS FOR SUCH DETERMINATION IN THE WRITTEN DETERMINATION REQUIRED IN SUBSECTION (3)(b) OF THIS SECTION.

(d) (I) AN ELIGIBLE ELECTOR OF THE DISTRICT MAY FILE A PROTEST OF A RECALL PETITION WITHIN FIFTEEN DAYS AFTER SUCH PETITION IS FILED. THE PROTEST MUST BE IN WRITING AND SIGNED UNDER OATH. THE PROTEST MUST BE FILED IN THE OFFICE OF THE DESIGNATED ELECTION OFFICIAL AND MUST SET FORTH SPECIFICALLY THE GROUNDS OF THE PROTEST. THE GROUNDS FOR A PROTEST OF A RECALL PETITION INCLUDE, BUT ARE NOT LIMITED TO, THE FAILURE OF ANY PORTION OF A PETITION, PETITION SECTION, CIRCULATOR AFFIDAVIT, OR CIRCULATOR TO MEET THE REQUIREMENTS OF THIS SECTION OR SECTION 32-1-909.

(II) UPON RECEIVING A PROTEST OF A RECALL PETITION, THE DESIGNATED ELECTION OFFICIAL SHALL PROMPTLY MAIL A COPY OF THE PROTEST, TOGETHER WITH A NOTICE FIXING A TIME FOR HEARING THE PROTEST ON A DATE NOT LESS THAN FIVE NOR MORE THAN TEN BUSINESS DAYS AFTER SUCH NOTICE IS MAILED, TO THE DIRECTOR SOUGHT TO BE RECALLED, THE COMMITTEE AS DEFINED IN SECTION 32-1-909 (4)(a), AND THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT.

(III) IF THE GROUNDS OF A PROTEST INCLUDE THE FAILURE OF THE PETITION TO MEET THE SIGNATURE REQUIREMENTS OF SECTION 32-1-906 (1) OR SUBSECTION (2)(b) OF THIS SECTION, THE DESIGNATED ELECTION OFFICIAL SHALL PROVIDE THE NOTICE OF THE HEARING TO THE COUNTY CLERK AND RECORDER AND THE COUNTY ASSESSOR OF EACH COUNTY, ANY PORTION OF THE LAND AREA OF WHICH IS LOCATED WITHIN THE TERRITORIAL BOUNDARIES OF THE SPECIAL DISTRICT. AT LEAST ONE BUSINESS DAY BEFORE THE HEARING, THE COUNTY CLERK AND RECORDER OF EACH SUCH COUNTY SHALL PROVIDE TO THE DESIGNATED ELECTION OFFICIAL A REGISTRATION LIST, AS DEFINED IN SECTION 1-13.5-103 (10), FOR THE SPECIAL DISTRICT. AT LEAST ONE BUSINESS DAY BEFORE THE HEARING, THE COUNTY ASSESSOR OF EACH SUCH COUNTY SHALL PROVIDE TO THE DESIGNATED ELECTION OFFICIAL A PROPERTY OWNERS LIST, AS DEFINED IN SECTION 1-13.5-103 (9), FOR THE SPECIAL DISTRICT. THE SPECIAL DISTRICT SHALL PAY THE COSTS OF PRODUCING THE REGISTRATION LISTS AND PROPERTY OWNERS LISTS. THE DESIGNATED ELECTION OFFICIAL SHALL USE THE LISTS PREPARED IN ACCORDANCE WITH THIS SUBSECTION (3)(d)(III) IN DETERMINING WHETHER THE PETITION IS SUFFICIENT.

(IV) THE DESIGNATED ELECTION OFFICIAL SHALL SERVE AS THE HEARING OFFICER. ALL TESTIMONY IN THE HEARING MUST BE GIVEN UNDER OATH. THE HEARING OFFICER HAS THE POWER TO ISSUE SUBPOENAS AND COMPEL THE ATTENDANCE OF WITNESSES. THE HEARING MUST BE SUMMARY AND NOT SUBJECT TO DELAY AND MUST BE CONCLUDED WITHIN FORTY DAYS AFTER THE PETITION IS FILED. NO LATER

THAN FIVE BUSINESS DAYS AFTER THE CONCLUSION OF THE HEARING, THE HEARING OFFICER SHALL ISSUE A WRITTEN DETERMINATION OF WHETHER THE PETITION IS SUFFICIENT OR NOT SUFFICIENT. IF THE HEARING OFFICER DETERMINES THAT A PETITION IS NOT SUFFICIENT, THE HEARING OFFICER SHALL IDENTIFY THOSE PORTIONS OF THE PETITION THAT ARE NOT SUFFICIENT AND THE REASONS FOR THE INSUFFICIENCY. THE DESIGNATED ELECTION OFFICIAL SHALL CERTIFY THE RESULT OF THE HEARING TO THE COMMITTEE AS DEFINED IN SECTION 32-1-909 (4)(a), THE DIRECTOR SOUGHT TO BE RECALLED, AND THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT.

(e) IF THE DESIGNATED ELECTION OFFICIAL DETERMINES THAT A PETITION IS NOT SUFFICIENT, A MAJORITY OF THE COMMITTEE AS DEFINED IN SECTION 32-1-909 (4)(a) MAY WITHDRAW THE PETITION AND AMEND IT AND REFILE IT, EXCEPT THAT A PETITION WITHDRAWN AND REFILED IN ACCORDANCE WITH THIS SUBSECTION (3)(e) SHALL NOT BE WITHDRAWN AND REFILED AGAIN. THE COMMITTEE MAY AMEND THE PETITION BY ADDING ANY REQUIRED INFORMATION RELATING TO THE SIGNERS OR BY ATTACHING PROPER CIRCULATOR AFFIDAVITS. TO BE CONSIDERED, THE AMENDED PETITION MUST BE REFILED WITH THE DESIGNATED ELECTION OFFICIAL IN THE SAME MANNER AS THE ORIGINAL PETITION WITHIN FIFTEEN DAYS AFTER THE DESIGNATED ELECTION OFFICIAL ISSUES THE DETERMINATION THAT THE PETITION IS INSUFFICIENT. THE DESIGNATED ELECTION OFFICIAL SHALL ISSUE A WRITTEN DETERMINATION THAT AN AMENDED AND REFILED PETITION IS SUFFICIENT OR NOT SUFFICIENT WITHIN FIVE BUSINESS DAYS AFTER THE PETITION IS REFILED. AN ELIGIBLE ELECTOR MAY FILE A PROTEST OF AN AMENDED AND REFILED PETITION. A PROTEST OF AN AMENDED AND REFILED PETITION IS SUBJECT TO THE PROVISIONS OF SUBSECTION (3)(d) OF THIS SECTION, EXCEPT THAT THE PROTEST MUST BE FILED WITHIN FIVE BUSINESS DAYS OF THE DATE ON WHICH THE AMENDED PETITION WAS REFILED.

(f) A DETERMINATION THAT A RECALL PETITION IS SUFFICIENT OR NOT SUFFICIENT IS SUBJECT TO REVIEW BY THE COURT AS DEFINED IN SECTION 32-1-103 (2) UPON THE WRITTEN REQUEST OF THE DIRECTOR SOUGHT TO BE RECALLED, THE DIRECTOR'S REPRESENTATIVE, OR A MAJORITY OF THE COMMITTEE AS DEFINED IN SECTION 32-1-909 (4)(a), EXCEPT THAT THE STATEMENT OF THE GROUNDS ON WHICH THE RECALL IS SOUGHT PROVIDED PURSUANT TO SECTION 32-1-909(4)(c) IS NOT SUBJECT TO SUCH REVIEW. A REQUEST FOR JUDICIAL REVIEW MUST BE FILED WITHIN FIVE BUSINESS DAYS AFTER THE DESIGNATED ELECTION OFFICIAL ISSUES THE DETERMINATION.

(4)(a)(I) WHEN A RECALL PETITION IS DETERMINED SUFFICIENT, THE DESIGNATED ELECTION OFFICIAL SHALL SUBMIT THE PETITION, TOGETHER WITH A CERTIFICATE OF ITS SUFFICIENCY, TO THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT AT A REGULAR OR SPECIAL MEETING OF SUCH BOARD.

(II) IF NO REQUEST FOR JUDICIAL REVIEW IS FILED, THE BOARD SHALL HOLD THE REGULAR OR SPECIAL MEETING WITHIN THIRTY DAYS FOLLOWING THE EXPIRATION OF THE PERIOD WITHIN WHICH A PROTEST MAY BE FILED, OR WITHIN THIRTY DAYS OF THE DATE THE WRITTEN DETERMINATION OF SUFFICIENCY IS ISSUED, WHICHEVER IS LATER. IF A REQUEST FOR JUDICIAL REVIEW IS FILED, THE BOARD SHALL HOLD THE REGULAR OR SPECIAL MEETING WITHIN THIRTY DAYS FOLLOWING THE ISSUANCE OF A FINAL ORDER FINDING THE PETITION SUFFICIENT.

(III) AT THE MEETING, THE BOARD SHALL ORDER AND FIX A DATE FOR THE RECALL ELECTION TO BE HELD NOT LESS THAN SEVENTY-FIVE DAYS NOR MORE THAN NINETY DAYS FROM THE DATE OF THE MEETING. THE BOARD SHALL DETERMINE WHETHER VOTING IN THE RECALL ELECTION IS TO TAKE PLACE AT THE POLLING PLACE OR BY MAIL BALLOT.

(b) NOTWITHSTANDING SUBSECTION (4)(a)(III) OF THIS SECTION, IF A REGULAR SPECIAL DISTRICT ELECTION IS TO BE HELD WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE DATE THE BOARD ORDERS THE RECALL ELECTION, THE RECALL ELECTION MUST BE HELD AS PART OF SUCH REGULAR SPECIAL DISTRICT ELECTION; EXCEPT THAT:

(I) IF THE DIRECTOR SOUGHT TO BE RECALLED IS SEEKING REELECTION AT THE REGULAR SPECIAL DISTRICT ELECTION, ONLY THE QUESTION OF SUCH DIRECTOR'S REELECTION APPEARS ON THE BALLOT.

(II) IF A SUCCESSOR TO THE DIRECTOR SOUGHT TO BE RECALLED IS TO BE SELECTED AT THE REGULAR SPECIAL DISTRICT ELECTION AND THE DIRECTOR SOUGHT TO BE RECALLED IS NOT SEEKING REELECTION, ONLY THE QUESTION OF THE SELECTION OF THE SUCCESSOR TO THE DIRECTOR APPEARS ON THE BALLOT.

(5) A RECALL ELECTION SHALL BE CONDUCTED AND THE RESULT OF SUCH ELECTION DECLARED IN ACCORDANCE WITH ARTICLE 13.5 OF TITLE 1, UNLESS SUCH RECALL ELECTION IS CONDUCTED AS PART OF A COORDINATED ELECTION AS PROVIDED IN SUBSECTION (6) OF THIS SECTION.

(6) A RECALL ELECTION MAY BE CONDUCTED AS PART OF A COORDINATED ELECTION ONLY IF:

(a) THE CONTENT OF THE RECALL ELECTION BALLOT IS FINALLY DETERMINED BY THE DATE FOR CERTIFICATION OF THE BALLOT CONTENT FOR THE COORDINATED ELECTION UNDER SECTION 1-5-203 (3); AND

(b) THE COUNTY CLERK AND RECORDER AGREES TO CONDUCT THE RECALL ELECTION AS PART OF THE COORDINATED ELECTION.

(7) A PERSON COMMITS A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED AS PROVIDED IN SECTION 1-13-111, IF SUCH PERSON WILLFULLY:

(a) DESTROYS, DEFACES, MUTILATES, OR SUPPRESSES A RECALL PETITION OR PETITION SECTION;

(b) FAILS TO FILE OR DELAYS THE DELIVERY OF A RECALL PETITION OR PETITION SECTION;

(c) CONCEALS OR REMOVES A RECALL PETITION OR PETITION SECTION FROM THE POSSESSION OF A PERSON AUTHORIZED BY LAW TO HAVE THE CUSTODY THEREOF; OR

(d) AIDES, COUNSELS, PROCURES, OR ASSISTS ANOTHER PERSON IN DOING ANY OF SAID ACTS.

32-1-911. Resignation - vacancy filled - election - ballot - nomination. (1) IF THE DIRECTOR SOUGHT TO BE RECALLED RESIGNS BY SUBMITTING A WRITTEN LETTER OF RESIGNATION TO THE DESIGNATED ELECTION OFFICIAL AT ANY TIME PRIOR TO THE RECALL ELECTION, ALL RECALL PROCEEDINGS MUST BE TERMINATED, AND THE VACANCY CAUSED BY SUCH RESIGNATION MUST BE FILLED AS PROVIDED BY SECTION 32-1-905 (2)(a). IF THE DIRECTOR RESIGNS AFTER THE BALLOTS HAVE BEEN PREPARED OR AT A TIME WHEN IT WOULD OTHERWISE BE IMPRACTICABLE TO REMOVE THE RECALL QUESTION FROM THE BALLOT, VOTES CAST ON THE RECALL QUESTION SHALL NOT BE COUNTED. IF THERE ARE NO OTHER ISSUES TO BE VOTED ON AT SUCH ELECTION, THE RECALL ELECTION MUST BE CANCELED AND NOTICE PROVIDED AS SET FORTH IN SECTION 1-13.5-513 (6).

(2) UNLESS THE DESIGNATED ELECTION OFFICIAL RECEIVES A RESIGNATION FROM THE DIRECTOR SOUGHT TO BE RECALLED IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, THE DESIGNATED ELECTION OFFICIAL SHALL GIVE NOTICE OF THE ELECTION AND THE RECALL QUESTION SUBSTANTIALLY IN COMPLIANCE WITH SECTION 1-13.5-502 AT LEAST TWENTY DAYS BEFORE THE ELECTION.

(3) (a) THE OFFICIAL BALLOT FOR A RECALL ELECTION MUST INCLUDE THE STATEMENT OF THE GROUNDS ON WHICH THE RECALL IS SOUGHT, AS INCLUDED IN THE RECALL PETITION IN ACCORDANCE WITH SECTION 32-1-909 (4)(c). THE DIRECTOR SOUGHT TO BE RECALLED MAY SUBMIT TO THE DESIGNATED ELECTION OFFICIAL ON OR BEFORE THE DATE ON WHICH THE BALLOT CONTENT MUST BE CERTIFIED UNDER SECTION 1-13.5-511 OR 1-5-203 (3), AS APPLICABLE, A STATEMENT OF NOT MORE THAN THREE HUNDRED WORDS IN SUPPORT OF THE DIRECTOR'S RETENTION. THE DIRECTOR SHALL NOT INCLUDE ANY PROFANE OR FALSE STATEMENT IN THE STATEMENT IN SUPPORT OF HIS OR HER RETENTION. THE OFFICIAL BALLOT MUST INCLUDE THE DIRECTOR'S STATEMENT IF THE STATEMENT IS SUBMITTED ON OR BEFORE THE DATE OF THE CERTIFICATION OF THE BALLOT.

(b) THE OFFICIAL BALLOT MUST INCLUDE, FOR EVERY DIRECTOR WHOSE RECALL IS TO BE VOTED ON, THE WORDS: "SHALL (NAME OF DIRECTOR SOUGHT TO BE RECALLED) BE RECALLED FROM THE OFFICE OF DIRECTOR OF (NAME OF SPECIAL DISTRICT)?" FOLLOWING OR TO THE RIGHT OF THE QUESTION MUST BE THE WORDS "YES" AND "NO" WITH A BLANK SPACE OR BOX TO THE RIGHT OF EACH IN WHICH THE ELIGIBLE ELECTOR MAY INDICATE HIS OR HER VOTE FOR OR AGAINST SUCH RECALL.

(c) FOLLOWING EACH RECALL QUESTION AS DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION, THE OFFICIAL BALLOT MUST INCLUDE THE NAMES OF THOSE PERSONS WHO HAVE BEEN NOMINATED AS CANDIDATES IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION TO SUCCEED THE DIRECTOR SOUGHT TO BE RECALLED. THE NAME OF THE DIRECTOR SOUGHT TO BE RECALLED MUST NOT APPEAR ON THE BALLOT AS A CANDIDATE FOR THE OFFICE. THE POSITION OF CANDIDATE NAMES ON THE BALLOT SHALL BE DETERMINED BY LOT IN ACCORDANCE WITH SECTION 1-13.5-902 (2).

(4) CANDIDATES TO SUCCEED THE DIRECTOR SOUGHT TO BE RECALLED AT A RECALL ELECTION MUST BE NOMINATED IN ACCORDANCE WITH SECTION 1-13.5-303 OR SECTION 1-13.5-305. SELF NOMINATIONS MUST BE FILED NO LATER THAN SIXTY-FOUR DAYS PRIOR TO THE RECALL ELECTION. AFFIDAVITS OF INTENT TO BE A WRITE-IN CANDIDATE MUST BE FILED NO LATER THAN SIXTY-ONE DAYS PRIOR TO THE

RECALL ELECTION. THE DESIGNATED ELECTION OFFICIAL MAY PROVIDE A CALL FOR NOMINATIONS IN ACCORDANCE WITH SECTION 1-1.5-501 (1).

(5) THE DESIGNATED ELECTION OFFICIAL SHALL MAKE ABSENTEE BALLOTS AVAILABLE NO LATER THAN THREE BUSINESS DAYS AFTER THE BOARD FIXES THE DATE FOR THE RECALL ELECTION. AN APPLICATION FOR AN ABSENTEE BALLOT MUST BE FILED WITH THE DESIGNATED ELECTION OFFICIAL NO LATER THAN THE TUESDAY IMMEDIATELY PRECEDING THE RECALL ELECTION.

(6) IF A MAJORITY OF THOSE VOTING ON THE QUESTION OF THE RECALL OF A DIRECTOR VOTE "No", THE DIRECTOR SHALL CONTINUE IN OFFICE. IF A MAJORITY VOTE "Yes", THE DIRECTOR SHALL BE REMOVED FROM OFFICE UPON COMPLIANCE WITH SECTION 32-1-901 BY HIS OR HER SUCCESSOR.

(7) IF THE VOTE IN A RECALL ELECTION RECALLS THE INCUMBENT DIRECTOR, THE CANDIDATE WHO HAS RECEIVED THE HIGHEST NUMBER OF VOTES FOR THE VACATED OFFICE SHALL BE DECLARED ELECTED TO SERVE THE REMAINDER OF THE TERM OF OFFICE. THE CANVASSING BOARD OR THE DESIGNATED ELECTION OFFICIAL SHALL PROMPTLY ISSUE A CERTIFICATE OF ELECTION TO THE DIRECTOR-ELECT. IF THE PERSON WHO RECEIVED THE HIGHEST NUMBER OF VOTES FAILS TO COMPLY WITH SECTION 32-1-901 WITHIN THIRTY DAYS AFTER THE ISSUANCE OF A CERTIFICATE OF ELECTION, OR IN THE EVENT NO PERSON SOUGHT ELECTION, THE OFFICE IS DEEMED VACANT AND MUST BE FILLED IN ACCORDANCE WITH SECTION 32-1-905 (2)(a).

(8) MANDATORY OR OPTIONAL RECOUNTS OF BALLOTS IN A RECALL ELECTION MUST BE CONDUCTED IN ACCORDANCE WITH SECTION 1-13.5-1306.

32-1-912. Incumbent not recalled - reimbursement - definition. (1) IF AT ANY RECALL ELECTION THE DIRECTOR WHOSE RECALL IS SOUGHT IS NOT RECALLED, OR IF THE HEARING OFFICER DETERMINES THAT A RECALL PETITION IS NOT SUFFICIENT AFTER A PROTEST, THE SPECIAL DISTRICT MAY REIMBURSE THE DIRECTOR SOUGHT TO BE RECALLED FOR HIS OR HER ACTUAL REASONABLE EXPENSES.

(2) A DIRECTOR SOUGHT TO BE RECALLED WHO REQUESTS REIMBURSEMENT SHALL FILE A WRITTEN REQUEST FOR REIMBURSEMENT WITH THE BOARD OF THE SPECIAL DISTRICT. THE REQUEST MUST INCLUDE THE DATE, AMOUNT, PROOF OF PAYMENT, AND PURPOSE FOR EACH EXPENSE FOR WHICH THE DIRECTOR IS REQUESTING REIMBURSEMENT. THE BOARD SHALL REVIEW THE REQUEST AND DETERMINE WHETHER THE EXPENSES ARE REASONABLE EXPENSES UNDER SUBSECTION (3) OF THIS SECTION AND WHETHER TO REIMBURSE SUCH EXPENSES. IF THE SPECIAL DISTRICT DETERMINES TO REIMBURSE THE SUBMITTED EXPENSES, THE SPECIAL DISTRICT SHALL ISSUE PAYMENT WITHIN FORTY-FIVE DAYS OF THE RECEIPT OF THE REQUEST.

(3) (a) FOR PURPOSES OF THIS SECTION, "REASONABLE EXPENSES" INCLUDE, BUT ARE NOT LIMITED TO, MONEY SPENT CHALLENGING THE SUFFICIENCY OF THE RECALL PETITION AND IN PRESENTING TO THE ELIGIBLE ELECTORS THE OFFICIAL POSITION OF THE DIRECTOR SOUGHT TO BE RECALLED, INCLUDING CAMPAIGN LITERATURE.

(b) "REASONABLE EXPENSES" DO NOT INCLUDE:

(I) MONEY SPENT ON CHALLENGES AND COURT ACTIONS THAT ARE FRIVOLOUS OR ARE NOT RELATED TO THE SUFFICIENCY OF THE RECALL PETITION;

(II) PERSONAL EXPENSES FOR MEALS, LODGING, AND TRAVEL COSTS FOR THE DIRECTOR SOUGHT TO BE RECALLED;

(III) THE COSTS OF MAINTAINING A CAMPAIGN STAFF;

(IV) REIMBURSEMENT FOR EXPENSES INCURRED BY A CAMPAIGN COMMITTEE THAT HAS SOLICITED CONTRIBUTIONS;

(V) REIMBURSEMENT OF ANY KIND FOR EMPLOYEES IN THE DIRECTOR'S OFFICE; AND

(VI) ALL EXPENSES INCURRED PRIOR TO THE FILING OF THE RECALL PETITION.

32-1-913. Second recall petition. AFTER ONE RECALL PETITION AND ELECTION, NO FURTHER PETITION SHALL BE FILED AGAINST THE SAME DIRECTOR DURING THE TERM FOR WHICH THE DIRECTOR WAS ELECTED UNLESS SUCH A PETITION IS SIGNED BY MORE THAN FIFTY PERCENT OF THE ELIGIBLE ELECTORS OF THE DISTRICT.

32-1-914. Powers of designated election official and county clerk and recorder. (1) THE DESIGNATED ELECTION OFFICIAL SHALL RENDER ALL INTERPRETATIONS AND SHALL MAKE ALL INITIAL DECISIONS AS TO CONTROVERSIES OR OTHER MATTERS ARISING OUT OF THE OPERATION OF A RECALL ELECTION.

(2) ALL POWERS AND AUTHORITY GRANTED TO THE DESIGNATED ELECTION OFFICIAL BY THIS ARTICLE 1 MAY BE EXERCISED BY THE COUNTY CLERK AND RECORDER IN THE ABSENCE OF THE DESIGNATED ELECTION OFFICIAL OR IN THE EVENT THE DESIGNATED ELECTION OFFICIAL FOR ANY REASON IS UNABLE TO PERFORM THE DUTIES OF THE DESIGNATED ELECTION OFFICIAL.

32-1-915. Costs of recall. THE SPECIAL DISTRICT SHALL PROMPTLY PAY THE COSTS OF THE RECALL ELECTION, INCLUDING THE REASONABLE COSTS OF THE COUNTY CLERK AND RECORDER AND DESIGNATED ELECTION OFFICIAL, INCLUDING BUT NOT LIMITED TO THE COSTS OF STAFF TIME, CONSULTANTS, PRINTING, AND PUBLICATION.

SECTION 4. In Colorado Revised Statutes, 1-13.5-106, **amend** (2) as follows:

1-13.5-106. Applicability of the "Uniform Election Code of 1992". (2) All provisions of the "Uniform Election Code of 1992" not in conflict with this ~~article~~ ARTICLE 13.5 apply to local government elections; except that:

(a) Elections offenses and penalties described by parts 2 and 3 of article 13 of this ~~title~~ TITLE 1 do not apply to elections authorized under this ~~article~~, and ARTICLE 13.5;

(b) EXCEPT AS PROVIDED IN SUBSECTION (2)(c) OF THIS SECTION, recall elections of local government officers must be conducted pursuant to part 5 of article 4 of title 31; ~~C.R.S.~~ AND

(c) RECALL ELECTIONS OF DIRECTORS OF SPECIAL DISTRICTS CREATED PURSUANT TO TITLE 32 AND DIRECTORS OF BUSINESS IMPROVEMENT DISTRICTS WHO WERE ELECTED PURSUANT TO SECTION 31-25-1209(1)(d) MUST BE CONDUCTED PURSUANT TO PART 9 OF ARTICLE 1 OF TITLE 32.

SECTION 5. Applicability. This act applies to petitions and elections to recall a director of a special district initiated and conducted on or after the effective date of this act.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 4, 2018