

CHAPTER 87

ELECTIONS

HOUSE BILL 23-1185

BY REPRESENTATIVE(S) Daugherty and Woodrow, Amabile, Bacon, Boesenecker, Dickson, Duran, Jodeh, Kipp, Lindsay, Lindstedt, McCormick, Parenti, Ricks, Sharbini, Story, Titone, Vigil, Willford, Wilson; also SENATOR(S) Rodriguez, Coleman, Cutter, Fields, Hinrichsen, Priola, Sullivan.

AN ACT**CONCERNING PROCEDURES RELATING TO THE REPLACEMENT OF ELECTED OFFICIALS.**

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

SECTION 1. In Colorado Revised Statutes, 31-4-103, **amend** (1) as follows:

31-4-103. Mayor - vacancy - appointment - mayor pro tem. (1) ~~In case~~ **31-4-103. Mayor - vacancy - appointment - mayor pro tem.** (1) ~~In case~~ WITHIN THIRTY DAYS of the mayor's death, disability, resignation, or other vacation of ~~his~~ **31-4-103. Mayor - vacancy - appointment - mayor pro tem.** (1) ~~In case~~ THE MAYOR'S office, the city council ~~may~~ **31-4-103. Mayor - vacancy - appointment - mayor pro tem.** (1) ~~In case~~ SHALL APPOINT A PERSON POSSESSED OF ALL STATUTORY QUALIFICATIONS OR ~~order a special election as soon as practicable to fill the vacancy until the term of office of a successor elected at the next regular election has commenced, as provided in section 31-4-105, and the city council may appoint some~~ **31-4-103. Mayor - vacancy - appointment - mayor pro tem.** (1) ~~In case~~ A registered elector to act as mayor until ~~such~~ **31-4-103. Mayor - vacancy - appointment - mayor pro tem.** (1) ~~In case~~ THE special election. ~~Such~~ **31-4-103. Mayor - vacancy - appointment - mayor pro tem.** (1) ~~In case~~ THE special election shall be conducted in accordance with the provisions of the "Colorado Municipal Election Code of 1965". ~~If the city council does not call a special election, it shall fill the vacancy by appointment until the term of office of a successor elected at the next regular election has commenced, as provided in section 31-4-105~~ **31-4-103. Mayor - vacancy - appointment - mayor pro tem.** (1) ~~In case~~ IF THE COUNCIL LACKS A SUFFICIENT NUMBER OF MEMBERS IN OFFICE TO ESTABLISH A QUORUM TO CHOOSE A SUCCESSOR OR ORDER AN ELECTION, THE VACANCY SHALL BE FILLED IN THE MANNER PROVIDED BY SECTION 31-4-108 (3).

SECTION 2. In Colorado Revised Statutes, 31-4-108, **amend** (2)(b); and **add** (3) as follows:

31-4-108. Expulsion from city council - vacancies in other offices. (2) (b) ~~In case any office of an~~ **31-4-108. Expulsion from city council - vacancies in other offices.** (2) (b) ~~In case any office of an~~ WITHIN SIXTY DAYS AFTER A VACANCY OCCURS IN ANY elective ~~officer becomes vacant~~ **31-4-108. Expulsion from city council - vacancies in other offices.** (2) (b) ~~In case any office of an~~ OFFICE before the regular expiration of the term

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

thereof, the vacancy may be filled by the city council by appointment or by election until the term of office of a successor elected at the next regular election has commenced as provided in section 31-4-105. If the city council does not fill the vacancy by appointment or order an election within sixty days after the vacancy occurs, it shall order an election, subject to the municipal election code, as soon as practicable to fill the vacancy until the term of office of a successor elected at the next regular election has commenced as provided in section 31-4-105. CITY COUNCIL SHALL:

(I) APPOINT A PERSON POSSESSED OF ALL STATUTORY QUALIFICATIONS TO FILL THE VACANCY UNTIL THE TERM OF OFFICE OF A SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS COMMENCED AS PROVIDED IN SECTION 31-4-105; OR

(II) ORDER A SPECIAL ELECTION TO BE HELD AS SOON AS PRACTICABLE TO FILL THE VACANCY UNTIL THE TERM OF OFFICE OF A SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS COMMENCED AS PROVIDED IN SECTION 31-4-105.

(3) IF THE CITY COUNCIL, AT THE TIME THE VACANCY OCCURS OR WITHIN SIXTY DAYS THEREAFTER, LACKS A SUFFICIENT NUMBER OF MEMBERS TO ESTABLISH A QUORUM TO FILL THE VACANCY AS PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION, THE CITY CLERK, WITHOUT FURTHER ACTION BY THE CITY COUNCIL, SHALL CALL A SPECIAL ELECTION TO BE HELD AS SOON AS PRACTICABLE TO FILL ANY VACANCY IN ANY ELECTIVE OFFICE UNTIL THE TERM OF OFFICE OF A SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION AS PROVIDED IN SECTION 31-4-105. THE CITY COUNCIL MAY CANCEL THE SPECIAL ELECTION IF IT IS ABLE TO FILL THE VACANCY BEFORE THE DATE OF THE SPECIAL ELECTION.

SECTION 3. In Colorado Revised Statutes, 31-4-205, **amend** (2)(b); and **add** (4) as follows:

31-4-205. Council members - vacancies. (2) Within sixty days after a vacancy occurs in the city council, the council shall:

(b) Order ~~an~~ A SPECIAL election ~~subject to the municipal election code~~, to be held as soon as practicable to fill the vacancy until the term of office of a successor elected at the next regular election has commenced as provided in section 31-4-105.

(4) IF THE CITY COUNCIL, AT THE TIME A VACANCY OCCURS OR WITHIN SIXTY DAYS THEREAFTER, LACKS A SUFFICIENT NUMBER OF MEMBERS TO ESTABLISH A QUORUM TO FILL THE VACANCY AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE CITY CLERK, WITHOUT FURTHER ACTION BY THE CITY COUNCIL, SHALL CALL A SPECIAL ELECTION TO BE HELD AS SOON AS PRACTICABLE TO FILL THE VACANCY UNTIL THE TERM OF OFFICE OF A SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS COMMENCED AS PROVIDED IN SECTION 31-4-105. THE COUNCIL MAY CANCEL THE SPECIAL ELECTION IF IT IS ABLE TO FILL THE VACANCY BEFORE THE DATE OF THE SPECIAL ELECTION.

SECTION 4. In Colorado Revised Statutes, 31-4-207, **amend** (2) as follows:

31-4-207. Mayor - selection. (2) If the mayor is to be elected from the city at large, ~~he or she shall~~ THE MAYOR MUST be elected by the registered electors of the

city at the regular election in the city. The mayor ~~shall~~ MUST be a registered elector who has resided within the limits of the city for a period of at least twelve consecutive months immediately preceding the date of the election; except that, in the case of annexation, any person who has resided within the annexed territory for the time prescribed in this subsection (2) shall be deemed to have met the residence requirements for the city to which the territory was annexed. The mayor shall assume ~~his or her~~ office at the next regularly scheduled meeting of the city council following ~~his or her~~ THE MAYOR'S election or upon such earlier date as the council may specify. Except as otherwise provided in subsection (3) of this section, the mayor ~~shall hold his or her~~ HOLDS office for a term of two years. At the same meeting of the city council, the city council shall choose, by a majority vote, one of its members to act as mayor pro tem in the temporary absence of the mayor. The city council may appoint one of its members acting mayor ~~in the event~~ IF both the mayor and the mayor pro tem are temporarily absent from the city or unable to perform the duties of the mayor. In case of a vacancy in the office of the mayor, the city council shall choose ~~his~~ THE MAYOR'S successor for the unexpired term IN THE MANNER PROVIDED IN SECTION 31-4-205 FOR FILLING A VACANCY IN THE OFFICE OF COUNCIL MEMBER.

SECTION 5. In Colorado Revised Statutes, **amend** 31-4-303 as follows:

31-4-303. Trustees to fill vacancy - mayor pro tem - clerk pro tem. (1) The board of trustees has the power, by appointment, to fill all vacancies in the board or any other office, and the person so appointed shall hold ~~his~~ office until the next regular election and until ~~his~~ A successor is elected and has complied with section 31-4-401. The board also has the power to fill a vacancy in the board or in any other elective office of the town by ordering an election to fill the vacancy until the next regular election and until a successor has been elected and has complied with section 31-4-401. ~~If a vacancy in the board or in such other elective office is not filled by appointment or an election is not ordered within sixty days after the vacancy occurs, the board shall order an election, subject to the municipal election code, to be held as soon as practicable to fill the vacancy until the next regular election and until a successor has been elected and has complied with section 31-4-401. At its first meeting, the board shall choose one of the trustees as mayor pro tem who, in the absence of the mayor from any meeting of said board or during the mayor's absence from the town or his inability to act, shall perform the mayor's duties. The board also has the power to elect a clerk pro tem to perform the duties of the clerk during his absence or inability to act.~~

(2) IF THE BOARD, AT THE TIME A VACANCY OCCURS OR WITHIN SIXTY DAYS THEREAFTER, LACKS A SUFFICIENT NUMBER OF MEMBERS TO ESTABLISH A QUORUM TO FILL THE VACANCY AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, THE TOWN CLERK SHALL, WITHOUT FURTHER ACTION BY THE TOWN BOARD, CALL A SPECIAL ELECTION TO BE HELD AS SOON AS PRACTICABLE TO FILL THE VACANCY UNTIL THE TERM OF OFFICE OF A SUCCESSOR ELECTED AT THE NEXT REGULAR ELECTION HAS COMMENCED AS PROVIDED IN SECTION 31-4-301. THE BOARD MAY CANCEL SUCH ELECTION IF THE BOARD IS ABLE TO FILL THE VACANCY PRIOR TO THE DATE OF THE SPECIAL ELECTION.

(3) AT THE FIRST MEETING, THE BOARD SHALL CHOOSE ONE OF THE TRUSTEES AS MAYOR PRO TEM WHO, IN THE ABSENCE OF THE MAYOR FROM ANY MEETING OF THE

BOARD OR DURING THE MAYOR'S ABSENCE FROM THE TOWN OR THE MAYOR'S INABILITY TO ACT, SHALL PERFORM THE MAYOR'S DUTIES. THE BOARD MAY ELECT A CLERK PRO TEM TO PERFORM THE DUTIES OF THE CLERK DURING THE CLERK'S ABSENCE OR INABILITY TO ACT.

SECTION 6. In Colorado Revised Statutes, 31-4-502, **amend** (1)(a)(I), (1)(c), and (1)(d) as follows:

31-4-502. Procedure - petition - signatures. (1) The procedure to effect the recall of an elective officer of a municipality shall be as follows:

(a) (I) A petition containing the requisite number of signatures under ~~paragraph (d) of this subsection (1) shall~~ SUBSECTION (1)(d) OF THIS SECTION MUST be filed in the office of the municipal clerk, demanding an election of a successor to the officer named in the petition. Each petition ~~shall~~ MUST designate by name and address not less than three nor more than five persons, referred to in this section as the "committee", who shall represent the signers thereof in all matters affecting the ~~same~~ PETITION. THE PERSON DESIGNATED AS A MEMBER OF THE COMMITTEE MUST BE A REGISTERED ELECTOR OF THE MUNICIPALITY. The petition shall clearly indicate the name of the municipality and the name of the officer sought to be recalled. The petition ~~shall~~ MUST include the name of only one person to be recalled. The petition ~~shall~~ MUST contain a general statement, ~~in~~ OF not more than two hundred words, of the grounds on which the recall is sought, which statement ~~shall be~~ IS intended for the information of the electors of the municipality. ~~Such~~ THE electors ~~shall be~~ ARE the sole and exclusive judges of the legality, reasonableness, and sufficiency of the grounds assigned for recall, and ~~said~~ THE grounds ~~shall~~ ARE not be open to review.

(c) ~~No~~ A recall petition shall NOT be circulated until it has been approved as meeting the requirements of this section as to form. The clerk shall approve or disapprove a petition as to form ~~by~~ NO LATER THAN the close of the second business day following submission of the proposed petition. The clerk shall mail OR TRANSMIT ELECTRONICALLY written notice of ~~such~~ THE clerk's action to the officer sought to be recalled on the day that any such petition is approved.

(d) ~~The~~ A RECALL petition ~~shall~~ MUST be signed by registered electors entitled to vote for a successor of the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast for all ~~the~~ candidates for that particular office at the last preceding regular election held in the municipality. If THE PERSON SOUGHT TO BE RECALLED HOLDS AN OFFICE THAT more than one person is required by law ~~to be elected to fill, the office of which the person sought to be recalled is an incumbent;~~ then the recall petition shall be signed by registered electors entitled to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast at the last preceding regular election held in the municipality for all candidates for the office, ~~to which the incumbent sought to be recalled was elected as one of the officers thereof, such entire vote being divided by the number of all officers elected to such office at the last preceding regular election held in the municipality EVEN IF THE PERSON SOUGHT TO BE RECALLED WAS ELECTED AT A DIFFERENT ELECTION.~~

SECTION 7. In Colorado Revised Statutes, 31-4-503, **amend** (1), (2)(a), (2)(b), (2)(d), (3), and (4) as follows:

31-4-503. Petition in sections - signing - affidavit - review - tampering with petition. (1) ~~Any~~ A recall petition may be circulated and signed in sections, but each section ~~shall~~ MUST contain a full and accurate copy of the title and text of the petition.

(2) (a) ~~The~~ Signatures FOR A RECALL PETITION need not all be on one sheet of paper. All ~~such~~ recall petitions ~~shall~~ MUST be filed in the office of the municipal clerk within sixty days from the date on which the municipal clerk approves the petition as to form.

(b) ~~Any~~ A recall petition ~~shall~~ MUST be signed only by registered electors using their own signatures, after which each such elector shall print or, if ~~such~~ THE elector is unable to do so, shall cause to be printed ~~such~~ THE elector's legal name; the residence address of such person, including the street and number, if any, THE MUNICIPALITY, AND THE COUNTY; and the date of signing the ~~same~~ PETITION.

(d) Any disassembly of ~~the~~ AN ENTIRE petition ~~which has the effect of separating the affidavits from the signatures shall render~~ RENDERS the petition invalid and of no force and effect. ANY DISASSEMBLY OF A PETITION SECTION RENDERS THAT PETITION SECTION INVALID AND OF NO FORCE AND EFFECT.

(3) (a) The municipal clerk shall issue a written INITIAL determination that a recall petition is sufficient or not sufficient by the close of business on the fifth business day after ~~such~~ THE petition is filed or, if ~~such~~ THAT day is not a regular business day, on the first regular business day thereafter, unless a protest has been filed prior to that ~~date~~ DAY. The clerk shall forthwith mail a copy of ~~such~~ THE written INITIAL determination to the officer sought to be recalled and to the committee. ~~Any such petition shall be deemed~~ THE CLERK SHALL INITIALLY DEEM A PETITION sufficient if the ~~municipal~~ clerk determines that ~~it~~ THE PETITION was timely filed, has attached ~~thereto~~ TO IT the required affidavits, and was signed by the requisite number of registered electors of the municipality within sixty days following the date upon which the clerk approved the form of the petition. The clerk shall not remove the signature of an elector from ~~the~~ A petition after ~~such~~ THE petition is filed. If a petition is INITIALLY determined by the clerk to be not sufficient, the clerk shall identify those portions of the petition that are not sufficient and the reasons ~~therefor~~ FOR THE INSUFFICIENCY. THE CLERK'S WRITTEN INITIAL DETERMINATION IS FINAL IF NO PROTEST IS FILED AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION.

(b) A protest in writing under oath may be filed in the office of the municipal clerk by ~~some~~ A registered elector ~~who resides in~~ OF the municipality within fifteen days after ~~such~~ THE petition is filed setting forth specifically the grounds of ~~such~~ THE protest. Grounds for protest may include, but ~~shall not be~~ ARE NOT limited to, the failure of any portion of a petition, ~~or~~ circulator affidavit, or petition circulator to meet the requirements of this section. The municipal clerk shall mail a copy of ~~such~~ A protest to the officer named in the petition, to the committee named in the petition as representing the signers of the petition, and to the county clerk and recorder, together with a notice fixing a time for hearing ~~such~~ THE protest THAT IS not less than five nor more than ten days after ~~such~~ THE notice is mailed. ~~The county clerk and recorder shall, upon receipt of such notice, prepare a registration list pursuant to section 31-10-205 to be utilized in determining whether such petition is sufficient.~~ Every hearing ~~shall~~ MUST be before the municipal clerk with whom

~~such~~ A protest is filed, who shall serve as hearing officer unless some other person is designated by the governing body as the hearing officer, and the testimony in every ~~such~~ hearing ~~shall~~ MUST be under oath. The hearing officer ~~shall have~~ HAS the power to issue subpoenas and compel the attendance of witnesses. ~~Such~~ A hearing ~~shall be~~ IS summary and not subject to delay and shall be concluded within thirty days after ~~such~~ A petition is filed. No later than five days after the conclusion of ~~the~~ A 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 IN THE WRITTEN DETERMINATION those portions of the petition that are not sufficient and the reasons for the insufficiency. The result of ~~such~~ a hearing ~~shall~~ MUST be forthwith certified to the committee and the officer sought to be recalled.

(c) ~~In case the~~ IF A recall petition is DETERMINED not sufficient ~~it~~ IN THE CLERK'S WRITTEN INITIAL DETERMINATION OR THE HEARING OFFICER'S WRITTEN DETERMINATION, THE PETITION may be withdrawn by a majority of the committee and, within fifteen days after ~~the municipal clerk or hearing officer issues a written~~ A determination that the petition is not sufficient, may be amended by the addition of any required information relating to the signers ~~thereof~~ OF THE PETITION or the attachment of proper circulator affidavits and refiled as an original petition; except that any petition amended and refiled as provided in this ~~paragraph (c)~~ SUBSECTION (3)(c) may not again be withdrawn and refiled. The municipal clerk shall issue a written INITIAL determination that ~~such~~ A refiled petition is sufficient or not sufficient within four business days after ~~said~~ THE petition is filed. THE CLERK'S WRITTEN INITIAL DETERMINATION AS TO A REFILED PETITION WILL BECOME FINAL IF NO PROTEST IS FILED AS PROVIDED IN THIS SUBSECTION (3)(c). Any protest concerning ~~the~~ A refiled petition shall be filed within five business days of the date on which ~~such~~ THE petition was refiled, and any hearing shall be conducted as provided in ~~paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION.

(d) ~~The~~ A MUNICIPAL HEARING OFFICER'S finding as to the sufficiency of any petition may be reviewed by the district court for the county in which ~~such~~ THE municipality or portion ~~thereof~~ OF THE MUNICIPALITY is located upon application of either the officer sought to be recalled or the officer's representative or a majority of the committee, ~~but such~~ AND THE review shall be had and determined forthwith. THE CLERK'S WRITTEN DETERMINATION IS NOT SUBJECT TO REVIEW UNLESS A PROTEST IS FILED AND DETERMINED BY A HEARING OFFICER IN ACCORDANCE WITH THIS SECTION. The sufficiency or the determination of the sufficiency of the petition referred to in this section shall not be held or construed to refer to the grounds assigned in such petition for the recall of the incumbent sought to be recalled from the office ~~thereby~~ BY THE PETITION.

(4) When ~~such~~ A recall petition is determined sufficient AND ANY REVIEW PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION IS CONCLUDED, the municipal clerk shall submit ~~said~~ THE petition, together with a certificate of its sufficiency, to the governing body of ~~such~~ THE municipality at the first meeting of ~~such~~ THE GOVERNING body following expiration of the period within which a protest may be filed, ~~or~~ at the first meeting of ~~such~~ THE GOVERNING body following the determination of a hearing officer that a petition is sufficient, OR AT THE FIRST MEETING OF THE GOVERNING BODY FOLLOWING THE CONCLUSION OF ANY REVIEW PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION, whichever is later. The

governing body shall thereupon order and fix a date for the recall election to be held not less than thirty days nor more than ninety days from the date of submission of the petition to the governing body by the municipal clerk and determine whether voting in the recall election is to take place at the polling place or by mail ballot; but, if a regular election is to be held within one hundred eighty days after the date of submission of said petition, the recall election shall be held as a part of ~~said~~ THE regular election.

SECTION 8. In Colorado Revised Statutes, 31-4-504, **amend** (3)(b), (3)(c), (4), (6), and (7); and **repeal** (5)(b) and (5)(c) as follows:

31-4-504. Resignation - vacancy filled - election - ballot - nomination.
~~(3) (b) There shall be printed on the~~ THE official ballot MUST INCLUDE, as to every officer whose recall is to be voted on, the words, "Shall (name of person against whom recall petition is filed) be recalled from the office of (title of office)?"
~~Following such question shall be~~ The words "yes" and "no" MUST FOLLOW EACH QUESTION on separate lines with a blank space at the right of each in which the voter shall indicate ~~by marking a cross mark (X), his~~ THE VOTER'S vote for or against ~~such~~ THE recall.

(c) (I) ~~On such ballots under each question;~~ FOLLOWING ALL QUESTIONS OF RECALL FOR A PARTICULAR OFFICE, there must ~~also~~ be printed the names of those persons who have been nominated as candidates ~~to succeed the~~ FOR THE OFFICE FROM WHICH A person is sought to be recalled. THE NAMES MUST BE PRINTED IN THE SAME MANNER AS CANDIDATES FOR THE OFFICE WOULD BE PRINTED ON THE BALLOT AT A REGULAR ELECTION. The name of the person against whom ~~the~~ A petition is filed shall not appear on the ballot as a candidate for the office. ~~All candidates on the ballot must be listed in alphabetical order.~~

(II) THE BALLOTS MUST BE PRINTED TO GIVE EACH VOTER A CLEAR OPPORTUNITY TO INDICATE THE VOTER'S CHOICE OF CANDIDATES FOR THE OFFICE. THE BALLOT MAY INCLUDE ANY OTHER WORDS THAT WILL AID THE VOTER.

(4) (a) ~~Except as otherwise provided in paragraph (b) of this subsection (4),~~ candidates CANDIDATES for the office at a recall election may be nominated by petition as provided in section 31-10-302; except that nominating petitions may be circulated beginning on the first business day after the governing body sets the date for the recall election and shall be filed no later than twenty days ~~prior to such~~ AFTER THE DATE THE recall election IS SET.

(b) ~~Where the governing body of the municipality chooses to conduct the recall election by mail ballot in accordance with the requirements of section 31-4-503 (4),~~ candidates shall have not less than ten calendar days beginning on the first calendar day after the governing body sets the date for the recall election within which to circulate nominating petitions, and such petitions shall be filed no later than forty-five days prior to such recall election.

(5) (b) Absentee ballots shall be available no later than ten days before the recall election.

(c) ~~The absentee polling place in the office of the municipal clerk shall be open~~

during regular business hours between the tenth and fifth day preceding the recall election.

(6) If a majority of those voting on ~~said~~ A question of the recall of any incumbent from office vote "no", ~~said~~ THE incumbent ~~shall continue~~ CONTINUES in ~~said~~ THE office. IF THE INCUMBENT CONTINUES IN OFFICE, THE VOTES FOR THE INCUMBENT'S SUCCESSOR SHALL NOT BE RECORDED AND ANY COUNTS OR UNOFFICIAL RESULTS OF THE VOTES SHALL NOT BE PUBLICLY DISCLOSED. If a majority vote "yes", ~~such~~ THE incumbent shall be removed from such office upon compliance with section 31-4-401 by ~~his~~ THE INCUMBENT'S SUCCESSOR OR UPON THE OFFICE BEING DEEMED VACANT PURSUANT TO SUBSECTION (7)(c) OF THIS SECTION.

(7) (a) If the vote in ~~such~~ A recall election recalls the officer, the candidate who has received the highest number of votes for the office thereby vacated ~~shall be declared~~ IS elected for the remainder of the term, and a certificate of election shall be forthwith issued to ~~him~~ THE CANDIDATE by the canvassing board. ~~In case the person who received the highest number of votes fails to comply with section 31-4-401 within fifteen days after the issuance of a certificate of election, or in the event no person sought election, the office shall be deemed vacant and shall be filled according to law.~~

(b) IF A RECALL ELECTION RECALLS MORE THAN ONE OFFICER FROM AN OFFICE TO WHICH MORE THAN ONE PERSON MAY BE ELECTED, CANDIDATES EQUAL IN NUMBER TO THE NUMBER OF PERSONS RECALLED FROM OFFICE WHO RECEIVED THE HIGHEST NUMBER OF VOTES FOR THE OFFICE ARE ELECTED FOR THE REMAINDER OF THE TERM OF EACH OF THE OFFICES VACATED. THE CANDIDATE RECEIVING THE HIGHEST NUMBER OF VOTES IS ELECTED FOR THE LONGEST REMAINING TERM.

(c) IF A PERSON ELECTED TO AN OFFICE VACATED PURSUANT TO THIS SECTION FAILS TO COMPLY WITH SECTION 31-4-401 WITHIN FIFTEEN DAYS AFTER THE ISSUANCE OF A CERTIFICATE OF ELECTION, OR IF AN OFFICE VACATED PURSUANT TO THIS SECTION AND NO PERSON SOUGHT ELECTION, THE OFFICE IS DEEMED VACANT AND SHALL BE FILLED ACCORDING TO LAW.

SECTION 9. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section I (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 17, 2023