

CHAPTER 205

ELECTIONS

SENATE BILL 97-031

BY SENATORS Reeves, Bishop, Hernandez, Pascoe, and Weddig;
also REPRESENTATIVES Tucker and Mace.

AN ACT

CONCERNING RECALL ELECTIONS.

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

SECTION 1. 1-12-102, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1-12-102. Limitations. (4) NO RECALL PETITION SHALL BE CIRCULATED OR FILED AGAINST ANY ELECTED OFFICER WHOSE TERM OF OFFICE WILL EXPIRE WITHIN SIX MONTHS.

SECTION 2. 1-12-104 (1), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

1-12-104. Signatures required for state and county officers. (1) A petition to recall a state or county officer shall be signed by eligible electors equal in number to twenty-five percent of the entire vote cast at the last preceding general election for all candidates for the office which the incumbent sought to be recalled occupies. ~~and shall be filed in the office of the county clerk and recorder unless otherwise required.~~

SECTION 3. 1-12-105, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

1-12-105. Signatures required for school district officers. A petition to recall a school district officer shall be signed by eligible electors of the school district equal in number to at least forty percent of those electors who voted ~~for school directors~~ in SUCH DISTRICT IN THE LAST PRECEDING election at which the director to be recalled was elected AS INDICATED BY THE POLLBOOK OR ABSTRACT FOR SUCH ELECTION. IF NO SUCH ELECTION WAS HELD, SUCH PETITION SHALL BE SIGNED BY ELIGIBLE

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

ELECTORS OF THE SCHOOL DISTRICT EQUAL IN NUMBER TO AT LEAST TEN PERCENT OF THOSE ELECTORS RESIDING WITHIN THE SCHOOL DISTRICT ON THE DATE THAT THE FORM OF THE PETITION IS APPROVED UNDER SECTION 1-12-108 (4). In no case shall the number required for recall be less than ten percent of eligible electors qualified to vote in the most recent biennial school election; except that no more than fifteen thousand signatures shall be required.

SECTION 4. 1-12-106, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

1-12-106. Signatures required for nonpartisan officers. A petition to recall any other nonpartisan officer shall be signed by three hundred eligible electors of the political subdivision who are entitled to vote for a successor to the incumbent sought to be recalled or forty percent of the ELIGIBLE electors OF THE POLITICAL SUBDIVISION AT THE TIME THE FORM OF THE PETITION IS APPROVED UNDER SECTION 1-12-108 (4), whichever number is less.

SECTION 5. 1-12-108 (4), (7), (8) (c), (9) (a), and (9) (c), Colorado Revised Statutes, 1980 Repl. Vol., as amended, are amended, and the said 1-12-108 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1-12-108. Petition requirements. (4) No petition shall be circulated until it has been approved as meeting the requirements of this subsection (4) as to form. The ~~secretary of state and the~~ official with whom the petitions are to be filed PURSUANT TO SECTION 1-12-107 shall approve or disapprove a petition as to form by the close of the second business day following submission of the proposed petition. The official shall mail written notice of the action taken to the person who submitted the petition and to the officer whom the petition seeks to recall on the day the action is taken.

~~(7) The petition, when executed and acknowledged as prescribed in this section, shall be filed as follows: With the secretary of state if it is for an office voted on by the electors of the entire state or of a congressional district or for the offices of members of the general assembly or district attorney or a district office of state concern; with the county clerk and recorder if it is for a county office; and with the designated election official if it is for a nonpartisan local election.~~

(7.5) THE PETITION MAY BE FILED AT ANY TIME DURING THE SIXTY-DAY PERIOD AFTER THE DESIGNATED ELECTION OFFICIAL'S APPROVAL OF THE PETITION FORM AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

(8) (c) After review, AND NO LATER THAN TEN WORKING DAYS AFTER THE INITIAL FILING OF THE PETITION, the designated election official shall notify the committee and the incumbent of the number of valid signatures and whether the petition appears to be sufficient or insufficient. Upon determining that the petition is sufficient and after the time for protest has passed, the designated election official shall certify the recall question to the ballot and, if the election is a coordinated election, notify the coordinated election official.

(9) (a) A recall petition that has been verified by the designated election official shall be held to be sufficient unless a protest in writing under oath is filed in the office

of the designated election official by an eligible elector within fifteen days after the petition is filed or an amendment is filed pursuant to paragraph (c) of this subsection (9) DESIGNATED ELECTION OFFICIAL HAS DETERMINED THE SUFFICIENCY OR INSUFFICIENCY OF THE PETITION UNDER PARAGRAPH (c) OF SUBSECTION (8) OF THIS SECTION. The petition shall set forth specific grounds for the protest. Grounds include but are not limited to failure of any portion of a petition or circulator affidavit to meet the requirements of this article or any conduct on the part of petition circulators that substantially misleads persons signing the petition. The designated election official shall forthwith mail a copy of the protest to the committee named in the petition as representing the signers, together with a notice fixing a time for hearing the protest not less than five nor more than ten days after the notice is mailed. Every hearing shall be before the designated election official with whom the protest is filed or before a district judge sitting in that county if the designated election official is the subject of the recall. The testimony in every hearing shall be under oath. The hearing shall be summary and not subject to delay and shall be concluded within thirty days after the petition is filed, and the result shall be forthwith certified to the committee.

(c) ~~In case A petition for recall is not sufficient, it may be withdrawn by a majority of the committee and~~ may be amended ONCE at any time within sixty days from the date the petition FORM was approved by the designated election official UNDER SUBSECTION (4) OF THIS SECTION. Any signer may request that his or her name be stricken from the petition within the sixty-day period.

SECTION 6. 1-12-111, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

1-12-111. Date of election. If the recall petition is ~~found~~ HELD to be sufficient UNDER SECTION 1-12-108 (8) (c) AND AFTER THE TIME FOR PROTEST HAS PASSED, the officer with whom the recall petition was filed, without delay, shall submit the petition, together with a certificate of its sufficiency, to the appropriate governing body. The governing body shall set a date for the recall election not less than ~~thirty~~ FORTY-FIVE nor more than ~~sixty~~ SEVENTY-FIVE days from the date of determination of sufficiency; however, if a general election is to be held within ninety days after the determination of sufficiency, the recall election shall be held as a part of the general election.

SECTION 7. 1-12-112 (1), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

1-12-112. Ballots. (1) In addition to all other requirements of law, the official ballot shall contain a statement consisting of two hundred words or less stating the reasons set forth in the petition for demanding the officer's recall. ~~If desired by The officer sought to be recalled the official ballot shall also contain~~ MAY SUBMIT a statement of justification of the officer's course in conduct in three hundred words or less TO THE DESIGNATED ELECTION OFFICIAL. THE OFFICER SHALL SUBMIT ANY SUCH STATEMENT NO LATER THAN TEN WORKING DAYS AFTER THE DATE OF ISSUANCE OF THE CERTIFICATE OF SUFFICIENCY BY THE DESIGNATED ELECTION OFFICIAL. THE OFFICIAL BALLOT SHALL CONTAIN SUCH STATEMENT OF JUSTIFICATION IF SUBMITTED PURSUANT TO THIS SUBSECTION (1).

SECTION 8. 1-12-117, Colorado Revised Statutes, 1980 Repl. Vol., as amended,

is amended to read:

1-12-117. Nomination of successor. A candidate to succeed the officer sought to be recalled shall meet the qualifications of a party candidate or an unaffiliated candidate as provided in part 8 of article 4 of this title and shall be nominated by a political party petition or an unaffiliated petition as provided in part 9 of article 4 of this title. Nomination petitions and affidavits of intent to run as a write-in candidate shall be filed no later than fifteen days after the date ~~that the recall petition is found to be sufficient~~ ON WHICH THE APPROPRIATE GOVERNING BODY CONVENES AND SETS THE ELECTION DATE. Every petition shall be signed by the number of eligible electors required for the office in part 8 of article 4 of this title or as otherwise provided by law. The name of the officer who was sought to be recalled shall not be eligible as a candidate in the election to fill any vacancy resulting from the recall election.

SECTION 9. 1-12-120 (2), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

1-12-120. Cost of recall election. (2) If at any recall election for a county or local government office the incumbent whose recall is sought is not recalled, the governing body shall authorize a resolution for repayment from the general fund of the political subdivision any money authorized to be repaid to the incumbent by this article which the incumbent actually expended as an expense of the election. In no event shall the sum repaid exceed forty cents per ~~voter~~ ELIGIBLE ELECTOR AS DEFINED IN SECTION 1-1-104 (16), subject to a maximum repayment of ten thousand dollars.

SECTION 10. Part 1 of article 12 of title 1, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

1-12-123. Constitutional requirements for recall of state officers. TO THE EXTENT THAT THE PROVISIONS OF THIS PART 1 CONCERNING THE RECALL OF STATE OFFICERS CONFLICT WITH THE PROVISIONS OF ARTICLE XXI OF THE STATE CONSTITUTION, THE PROVISIONS OF ARTICLE XXI OF THE STATE CONSTITUTION SHALL CONTROL.

SECTION 11. 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 27, 1997