

## CHAPTER 121

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**ELECTIONS**

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**HOUSE BILL 06-1051**

BY REPRESENTATIVE(S) Witwer, Berens, Gallegos, and Kerr J.;  
also SENATOR(S) Sandoval, and Evans.

**AN ACT****CONCERNING ELECTIONS TO RECALL ELECTED OFFICIALS.**

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

**SECTION 1.** 1-12-108 (8) (c) and (9) (a), Colorado Revised Statutes, are amended to read:

**1-12-108. Petition requirements.** (8) (c) After review, and no later than ~~ten~~ THIRTY 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 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. WITHIN TWENTY-FOUR HOURS AFTER A WRITTEN PROTEST IS FILED, 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

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

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~~ FIFTY-FIVE days after the petition is filed, and the result shall be forthwith certified to the committee.

**SECTION 2.** 1-12-109, Colorado Revised Statutes, is amended to read:

**1-12-109. Resignation.** (1) If an officer whose recall is sought offers a resignation it shall be accepted and the vacancy caused by the resignation shall be filled as provided by law. The person appointed to fill the vacancy caused by the resignation shall hold the office only until the person elected at the recall election is qualified.

(2) IF AN OFFICER WHOSE RECALL IS SOUGHT OFFERS A RESIGNATION PRIOR TO THE DATE ON WHICH THE SUFFICIENCY OF THE RECALL PETITION HAS BEEN SUSTAINED, THE RECALL ELECTION SHALL NOT BE CALLED AND THE VACANCY CAUSED BY THE RESIGNATION SHALL BE FILLED AS PROVIDED BY LAW.

**SECTION 3.** 1-12-111, Colorado Revised Statutes, is amended to read:

**1-12-111. Date of election.** If the recall petition is 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 ~~forty-five~~ THIRTY nor more than ~~seventy-five~~ SIXTY days ~~from the date of determination of sufficiency~~ AFTER THE TIME FOR FILING A PROTEST HAS PASSED AND ALL PROTESTS HAVE BEEN FINALLY DECIDED; however, if a general OR COORDINATED election is to be held ~~within~~ NOT LESS THAN FIFTY DAYS NOR MORE THAN ninety days after the ~~determination of sufficiency~~ TIME FOR FILING A PROTEST HAS PASSED AND ALL PROTESTS HAVE BEEN FINALLY DECIDED, the recall election shall be held as a part of the general OR COORDINATED election.

**SECTION 4.** 1-12-114, Colorado Revised Statutes, is amended to read:

**1-12-114. Absentee ballots.** Applications for absentee ballots shall be made available by the appropriate designated election officials no later than twenty-four hours after the date for the recall election is set. Absentee ballots shall be available no later than ~~thirty~~ TWENTY-FIVE days before the recall election. All other provisions of article 8 of this title shall apply to the absentee ballot process.

**SECTION 5.** 1-12-117, Colorado Revised Statutes, 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 FOR SUCH CANDIDATES MAY BE SUBMITTED FOR APPROVAL TO THE DESIGNATED ELECTION OFFICIAL AT ANY TIME AFTER THE RECALL PETITION FORM HAS BEEN APPROVED. UPON APPROVAL OF THE NOMINATION

PETITION BY THE DESIGNATED ELECTION OFFICIAL, THE CANDIDATE MAY BEGIN CIRCULATING THE PETITION. Nomination petitions and affidavits of intent to run as a write-in candidate shall be filed no later than fifteen days after the date 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 6.** 1-12-119 (2) and (3), Colorado Revised Statutes, are amended to read:

**1-12-119. Canvass of votes.** (2) The canvass board shall complete an abstract of votes cast no later than the SEVENTEENTH day following the recall election. For state elections, the canvass board shall contact the secretary of state on election night with the unofficial count. For county and all other elections, the canvass board shall provide the governing body with the unofficial count at the opening of business hours on the day following the recall election.

(3) The certified abstract of votes cast shall be sent by certified mail or hand delivered to the secretary of state for state elections and to the governing body for county and all other elections no later than the close of business on the ~~fifth~~ EIGHTEENTH day after the recall election.

**SECTION 7. Effective date.** (1) This act shall take effect on July 1, 2007, only if Senate Concurrent Resolution 05-005, enacted at the First Regular Session of the Sixty-fifth General Assembly, is approved by the people at the next biennial regular general election, and becomes law.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

Approved: April 13, 2006