

HOUSE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GILLHAM, McCarty

Introduced: 4/26/21

Referred: Community and Regional Affairs, State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to recall of state public officials; relating to recall of municipal**
2 **officials; relating to campaign finance in recall elections; and providing for an effective**
3 **date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 15.13.072 is amended by adding a new subsection to read:

6 (i) An individual, person, nongroup entity, or group may not solicit or accept a
7 contribution for the purpose of recall organization, petition, or campaign activities,
8 including activities relating to the recall of an official elected or appointed to
9 municipal office, more than

10 (1) three days before the individual, person, nongroup entity, or group
11 opens a campaign account with a qualified financial institution;

12 (2) 30 calendar days before filing a recall application with the director
13 or municipal clerk.

14 * **Sec. 2.** AS 15.45.490 is amended to read:

1 **Sec. 15.45.490. Time of filing application.** An application may not be filed
 2 **before the first day** [DURING THE FIRST 120 DAYS] of the term of office of any
 3 state public official subject to recall.

4 * **Sec. 3.** AS 15.45.500 is amended to read:

5 **Sec. 15.45.500. Form of application.** The application must include
 6 (1) the name and office of the person to be recalled;
 7 (2) the grounds for recall described in particular in not more than 200
 8 words;
 9 (3) the printed name, the signature, the address, and a numerical
 10 identifier of **100** qualified voters [EQUAL IN NUMBER TO 10 PERCENT OF
 11 THOSE] who voted in the preceding general election in the state or in the senate or
 12 house district of the official sought to be recalled, **serving** [100 OF WHOM WILL
 13 SERVE] as sponsors; each signature page must include a statement that the qualified
 14 voters signed the application with the name and office of the person to be recalled and
 15 the statement of grounds for recall attached; and
 16 (4) the designation of a recall committee consisting of three of the
 17 qualified voters who subscribed to the application and shall represent all sponsors and
 18 subscribers in matters relating to the recall; the designation must include the name,
 19 mailing address, and signature of each committee member.

20 * **Sec. 4.** AS 15.45.510 is repealed and reenacted to read:

21 **Sec. 15.45.510. Grounds for recall.** The grounds for recall are lack of fitness,
 22 incompetence, neglect of duties, or corruption. In this section,

23 (1) "corruption" means use of an elected office to procure a personal
 24 benefit or secure or grant an unwarranted benefit or treatment for another person with
 25 intent to provide an advantage inconsistent with official duty or the rights of others, or
 26 another act done with the intent to provide an advantage inconsistent with official duty
 27 or the rights of others;

28 (2) "incompetence" means for a public official subject to recall, the
 29 public official's mental or physical inability to perform the required duties or
 30 professional obligations of the official's elected office;

31 (3) "lack of fitness" means the intentional commission of an unlawful

act that violates AS 24.60, AS 39.52, or the Code of Ethics for Government Service (72 Stat. B12);

(4) "neglect of duties" means the failure to faithfully perform a duty imposed by law or the violation of an oath of office.

* **Sec. 5.** AS 15.45.540 is repealed and reenacted to read:

Sec. 15.45.540. Application response and review. (a) Upon receiving an application to recall the governor, the lieutenant governor, or a member of the state legislature, the director shall immediately provide a copy of the application to that public official.

(b) The public official may, not later than 14 calendar days after receiving the recall application, submit to the director a statement of not more than 200 words justifying the official's conduct in office.

(c) The director shall review the application and the response of the public official and, not later than 28 calendar days after receiving the application, either certify the application or notify the recall committee of the grounds for refusal of the application.

* **Sec. 6.** AS 15.45.550 is amended to read:

Sec. 15.45.550. Bases of denial of certification. The director shall deny certification upon determining that

(1) the application is not substantially in the required form;

(2) the application was filed before [DURING] the first day [120 DAYS] of the term of office of the official subject to recall [OR WITHIN LESS THAN 180 DAYS OF THE TERMINATION OF THE TERM OF OFFICE OF ANY OFFICIAL SUBJECT TO RECALL];

(3) the person named in the application is not subject to recall; [OR]

(4) there is an insufficient number of qualified subscribers; or

(5) based on a review of the application and the public official's justification, there is insufficient grounds for recall.

* **Sec. 7.** AS 15.45.610 is amended to read:

Sec. 15.45.610. Filing of petition. [A PETITION MAY NOT BE FILED WITHIN LESS THAN 180 DAYS OF THE TERMINATION OF THE TERM OF

OFFICE OF A STATE PUBLIC OFFICIAL SUBJECT TO RECALL.] The sponsor may file the petition only if signed by qualified voters equal in number to or greater than 25 percent of those who voted in the preceding general election in the state or in the senate or house district of the official sought to be recalled.

* **Sec. 8.** AS 15.45.640 is amended to read:

Sec. 15.45.640. Submission of supplementary petition. Upon receipt of notice that the filing of the petition was improper, the committee may amend and correct the petition by circulating and filing a supplementary petition within 20 days after [OF] the date that notice was given [, IF FILED WITHIN LESS THAN 180 DAYS OF THE TERMINATION OF THE TERM OF OFFICE OF THE PERSON SUBJECT TO RECALL].

* **Sec. 9.** AS 15.45 is amended by adding a new section to read:

Sec. 15.45.695. Recall by petition of no confidence. (a) In addition to a recall by special election, voters may recall the governor, the lieutenant governor, or a member of the state legislature by collecting, on sequentially numbered petitions of no confidence, signatures of qualified voters equal in number to a majority of active registered voters in the state or, in the case of a recall of a member of the state legislature, in the senate or house district the legislator represents. A petitioner shall submit the petition of no confidence to the director. A statement of grounds for recall and a pre-petition application are not required for a recall by petition of no confidence.

(b) Upon the request of a voter, the director shall provide the list of active registered voters in the state or in a senate or house district represented by a member of the legislature whose recall is sought.

(c) A petition under this section must

- (1) identify the name and office of the public official subject to recall;
- (2) include sufficient space for a printed name, number identifier, signature, date of signature, and address of each qualified voter signing the petition;
- (3) be subject to a documented distribution, control, and collection process.

(d) AS 15.45.570 - 15.45.600 and 15.45.620 - 15.45.640 apply to a recall by petition of no confidence.

(e) When submitting a petition to the director for review and certification, a petitioner shall provide to the director written documentation of the distribution, control, and collection process.

(f) If, after reviewing a petition of no confidence, the director determines that the petitioner followed a distribution, control, and collection process and that the number of qualified voters signing the petition is equal in number to or greater than a majority of active registered voters in the state or, in the case of a recall of a member of the state legislature, in the senate or house district the legislator represents, the director shall so certify and the office is vacant on the day after the date of certification.

(g) A recall by petition of no confidence that satisfies (f) of this section may not be held void because of the insufficiency of the grounds, application, or petition by which the submission was procured.

(h) In this section, "active registered voter" means a voter whose name appeared on the official registration list prepared by the director under AS 15.07.125 for the preceding general election.

* **Sec. 10.** AS 29.26.240 is amended to read:

Sec. 29.26.240. Recall. An official who is elected or appointed to an elective municipal office may be recalled by the voters after the official has begun [SERVED THE FIRST 120 DAYS OF] the term for which elected or appointed.

* **Sec. 11.** AS 29.26.250 is repealed and reenacted to read:

Sec. 29.26.250. Grounds for recall. The grounds for recall in AS 15.45.510 apply to recall of an official elected or appointed to elective municipal office.

* **Sec. 12.** AS 29.26.260 is repealed and reenacted to read:

Sec. 29.26.260. Application for recall petition. (a) An application for a recall petition shall be filed with the municipal clerk and must include

- (1) the name and office of the person to be recalled;
- (2) a deposit of \$100;
- (3) the grounds for recall, described in particular in not more than 200 words;
- (4) the printed name, the signature, the address, and a numerical

1 identifier of 10 qualified voters who voted in the preceding regular election in the
 2 municipality or in the district of the official sought to be recalled, serving as sponsors;
 3 each signature page must include a statement that the qualified voters signed the
 4 application with the name and office of the person to be recalled and the statement of
 5 grounds for recall attached; and

6 (5) the designation of a recall committee consisting of three of the
 7 qualified voters who subscribed to the application and shall represent all sponsors and
 8 subscribers in matters relating to the recall; the designation must include the name,
 9 mailing address, and signature of each committee member.

10 (b) The qualified voters who subscribe to the application in support of the
 11 recall are designated as sponsors. The recall committee may designate additional
 12 sponsors by giving notice to the municipal clerk of the names, addresses, and
 13 numerical identifiers of those so designated.

14 (c) The deposit required in (a)(2) of this section shall be retained if a petition
 15 is not properly filed. If a petition is properly filed, the deposit shall be refunded.

16 * **Sec. 13.** AS 29.26 is amended by adding new sections to read:

17 **Sec. 29.26.262. Manner of notice.** Notice on a matter pertaining to the
 18 application and petition may be served on a member of the recall committee in person
 19 or by mail addressed to a committee member as indicated on the application.

20 **Sec. 29.26.264. Notice of the number of voters.** The municipal clerk, upon
 21 request, shall notify the recall committee of the official number of votes cast in the
 22 municipality or district for that office in the last regular election held before the date
 23 written notice is given to the recall committee that the petition is available.

24 **Sec. 29.26.266. Application response and review.** (a) Upon receiving an
 25 application to recall an official who is elected or appointed to an elective municipal
 26 office, the municipal clerk shall immediately provide a copy of the application to that
 27 municipal official.

28 (b) The municipal official may, not later than 14 calendar days after receiving
 29 the recall application, submit to the municipal clerk a statement of not more than 200
 30 words justifying the official's conduct in office.

31 (c) The municipal clerk shall review the application and the response of the

1 municipal official and, not later than 28 calendar days after receiving the application,
 2 either certify the application or notify the recall committee of the grounds for refusal
 3 of the application.

4 **Sec. 29.26.268. Denial of certification.** The municipal clerk shall deny
 5 certification upon determining

- 6 (1) that the application is not substantially in the required form;
- 7 (2) that the application was filed before the first day of the term of
 8 office of the municipal official subject to recall;
- 9 (3) that the person named in the application is not subject to recall;
- 10 (4) that there is an insufficient number of qualified subscribers; or
- 11 (5) based on a review of the application and the municipal official's
 12 justification, that there is insufficient grounds for recall.

13 * **Sec. 14.** AS 29.26.270(a) is amended to read:

14 (a) If the municipal clerk determines that an application for a recall petition
 15 meets the requirements of AS 29.26.260, the clerk shall prepare a recall petition. All
 16 copies of the petition must contain

- 17 (1) the name of the official sought to be recalled;
- 18 (2) the statement of the grounds for recall as set out in the application
 19 for petition;
- 20 (3) the date the petition is issued by the clerk;
- 21 (4) notice that signatures must be secured within 60 days after the date
 22 the petition is issued;
- 23 (5) spaces for each signature, the printed name of each signer, the date
 24 of each signature, a numerical identifier for each signer, and the residence and
 25 mailing addresses of each signer;
- 26 (6) a statement, with space for the sponsor's sworn signature and date
 27 of signing, that the sponsor personally circulated the petition, that all signatures were
 28 affixed in the presence of the sponsor, and that the sponsor believes the signatures to
 29 be those of the persons whose names they purport to be; and
- 30 (7) space for indicating the number of signatures on the petition.

31 * **Sec. 15.** AS 29.26.270(b) is amended to read:

(b) The clerk shall notify the recall committee [CONTACT PERSON] in writing when the petition is available. The recall committee [THAT PERSON] is responsible for notifying the sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

* **Sec. 16.** AS 29.26.280(a) is amended to read:

(a) [THE SIGNATURES ON A RECALL PETITION SHALL BE SECURED WITHIN 60 DAYS AFTER THE DATE THE CLERK ISSUES THE PETITION.] The statement provided under AS 29.26.270(a)(6) shall be completed and signed by the circulator [SPONSOR]. Signatures shall be in ink or indelible pencil.

* **Sec. 17.** AS 29.26.280(b) is amended to read:

(b) The clerk shall determine the number of signatures required on a petition and inform the recall committee [CONTACT PERSON] in writing. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to or greater than 25 percent of the number of votes cast for that office at the last regular election held before the date written notice is given to the recall committee [CONTACT PERSON] that the petition is available. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters residing in the district equal to or greater than 25 percent of the number of votes cast in the district for that office at the last regular election held before the date the written notice is given to the recall committee [CONTACT PERSON] that the petition is available.

* **Sec. 18.** AS 29.26 is amended by adding new sections to read:

Sec. 29.26.282. Manner of signing and withdrawing name from petition. If a petition seeks to recall an official who represents the municipality at large, a voter who resides in the municipality may subscribe to the petition by printing the voter's name, a numerical identifier, and an address, by signing the voter's name, and by dating the signature. If a petition seeks to recall an official who represents a district, a voter registered to vote in the district may subscribe to the petition by printing the voter's name, a numerical identifier, and an address, by signing the voter's name, and by dating the signature. A person who has signed a petition may withdraw the person's

1 name only by giving written notice to the municipal clerk before the date the petition
2 is filed.

3 **Sec. 29.26.284. Qualifications of circulator.** To circulate a petition booklet, a
4 person must be

5 (1) a citizen of the United States;

6 (2) 18 years of age or older; and

7 (3) a resident of the state as determined under AS 15.05.020.

8 **Sec. 29.26.286. Circulation; prohibitions.** (a) The petitions may be circulated
9 only in person throughout the municipality. AS 15.45.580(b) - (e) apply to circulation
10 of petitions to recall a municipal official under AS 29.26.240 - 29.26.360.

11 **Sec. 29.26.288. Certification of circulator.** Before being filed, each petition
12 shall be certified by an affidavit by the person who personally circulated the petition.
13 In determining the sufficiency of the petition, the municipal clerk may not count
14 subscriptions on petitions not properly certified at the time of filing or corrected before
15 the subscriptions are counted. The affidavit must include the statements required in
16 AS 15.45.600.

17 * **Sec. 19.** AS 29.26.290(a) is amended to read:

18 (a) The copies of a recall petition shall be assembled and filed as a single
19 instrument. **The municipal clerk shall determine that the petition is improperly**
20 **filed if there is an insufficient number of qualified subscribers** [A PETITION
21 MAY NOT BE FILED WITHIN 180 DAYS BEFORE THE END OF THE TERM OF
22 OFFICE OF THE OFFICIAL SOUGHT TO BE RECALLED]. Within **30** [10] days
23 after the date a petition is filed, the municipal clerk shall

24 [(1)] certify on the petition whether it is sufficient [;] and **notify the**
25 **recall committee and the person subject to recall**

26 [(2) IF THE PETITION IS INSUFFICIENT, IDENTIFY THE
27 INSUFFICIENCY AND NOTIFY THE CONTACT PERSON] by certified mail.

28 * **Sec. 20.** AS 29.26.290(b) is amended to read:

29 (b) A petition that is insufficient may be supplemented with additional
30 signatures obtained and filed **within 20 days** [BEFORE THE 11TH DAY] after the
31 date on which **notice was given that** the petition **was** [IS] rejected [IF

(1) THE PETITION CONTAINS AN ADEQUATE NUMBER OF SIGNATURES, COUNTING BOTH VALID AND INVALID SIGNATURES; AND

(2) THE SUPPLEMENTARY PETITION IS FILED MORE THAN 180 DAYS BEFORE THE END OF THE TERM OF OFFICE OF THE OFFICIAL SOUGHT TO BE RECALLED].

* **Sec. 21.** AS 29.26.320(a) is amended to read:

(a) If a regular election occurs within 90 [75] days but not sooner than 60 [45] days after submission of the petition to the governing body, the governing body shall submit the recall at that election.

* **Sec. 22.** AS 29.26.320(b) is amended to read:

(b) If no regular election occurs within 90 [75] days, the governing body shall hold a special election on the recall question within 90 [75] days but not sooner than 60 [45] days after a petition is submitted to the governing body.

* **Sec. 23.** AS 29.26.320 is amended by adding a new subsection to read:

(d) Unless specifically provided otherwise, all provisions regarding the conduct of a regular or special election shall govern the conduct of an election for the recall of a municipal official.

* **Sec. 24.** AS 29.26. is amended by adding a new section to read:

Sec. 29.26.325. Statement of municipal official subject to recall; display of grounds for and against recall. The municipal clerk shall provide each polling location in the municipality or in the district of the municipal official subject to recall with at least five copies of the statement of the grounds for recall included in the application and at least five copies of the statement of not more than 200 words made by the municipal official subject to recall in justification of the official's conduct in office. The municipal official subject to recall may provide the clerk with the statement within 10 days after the date the clerk gave notification that the petition was properly filed. The clerk shall post at least one copy of the statements for and against recall in a conspicuous place in the polling place.

* **Sec. 25.** AS 29.26.330 is amended to read:

Sec. 29.26.330. Form of recall ballot. A recall ballot must contain

(1) the grounds for recall as stated in 200 words or less on the recall

petition;

(2) a statement by the official named on the recall petition of 200 words or less, if the statement is filed with the clerk for publication and public inspection **within 10 days after the date the clerk gave notification that the petition was properly filed** [AT LEAST 20 DAYS BEFORE THE ELECTION];

(3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [] No []".

* **Sec. 26.** AS 29.26.340(a) is amended to read:

(a) If a majority vote favors recall, the office becomes vacant **on the day after the date of** [UPON] certification of the recall election.

* **Sec. 27.** AS 29.26 is amended by adding a new section to read:

Sec. 29.26.345. Recall by petition of no confidence. (a) In addition to a recall election, voters may recall an official who is elected or appointed to an elective municipal office by collecting, on sequentially numbered petitions of no confidence, signatures of qualified voters equal in number to a majority of active registered voters in the municipality or, in the case of a recall of an official who represents a district, in the district the official represents. A petitioner shall submit the petition of no confidence to the municipal clerk. A statement of grounds for recall and a pre-petition application are not required for a recall by petition of no confidence.

(b) Upon the request of a voter, the municipal clerk shall provide the list of active registered voters in the municipality or in the district represented by an official whose recall is sought.

(c) A petition under this section must

(1) identify the name and office of the municipal official subject to recall;

(2) include sufficient space for a printed name, number identifier, signature, date of signature, and address of each qualified voter signing the petition;

(3) be subject to a documented distribution, control, and collection process.

(d) AS 29.26.282 - 29.26.290 apply to a recall by petition of no confidence.

(e) When submitting a petition to the municipal clerk for review and

1 certification, a petitioner shall provide to the municipal clerk written documentation of
 2 the distribution, control, and collection process.

3 (f) If, after reviewing a petition of no confidence, the municipal clerk
 4 determines that the petitioner followed a distribution, control, and collection process
 5 and that the number of qualified voters signing the petition is equal in number to or
 6 greater than a majority of active registered voters in the municipality or, in the case of
 7 a recall of an official who represents a district, in the district the official represents, the
 8 municipal clerk shall so certify and the office is vacant on the day after the date of
 9 certification.

10 (g) A recall by petition of no confidence that satisfies (f) of this section may
 11 not be held void because of the insufficiency of the grounds, application, or petition by
 12 which the submission was procured.

13 (h) In this section, "active registered voter" means a voter whose name
 14 appeared on the official registration list prepared by the director of the division of
 15 elections under AS 15.07.125 for the preceding general election.

16 * **Sec. 28.** AS 29.26 is amended by adding new sections to read:

17 **Sec. 29.26.352. Insufficiency of grounds, application, or petition.** A recall
 18 submitted to the voters may not be held void because of the insufficiency of the
 19 grounds, application, or petition by which the submission was procured.

20 **Sec. 29.26.354. Judicial review.** Any person aggrieved by a determination
 21 made by the municipal clerk under AS 29.26.240 - 29.26.360 may bring an action in
 22 the superior court to have the determination reviewed within 30 days after the date on
 23 which notice of determination was given.

24 * **Sec. 29.** AS 15.45.630(2); AS 29.26.270(a)(4), 29.26.280(c), 29.26.300, and 29.26.340(b)
 25 are repealed.

26 * **Sec. 30.** This Act takes effect immediately under AS 01.10.070(c).