

1 IN THE SENATE BY COMMITTEE ON LOCAL GOVERNMENT

2 SENATE BILL NO. 28

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to prescribe the procedures and
7 grounds for the recall of all elected public
8 officials in the state; providing penalties;
9 and repealing Ch. 90, SLA 1949, as amended
10 by Ch. 60, SLA 1951, as amended by Ch. 126,
11 SLA 1955."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 Section 1. INITIATING RECALL PROCEEDINGS: STATEMENT: CON-
14 TENTS: VERIFICATION: GROUNDS. Any legal voter or committee or
15 organization of legal voters desiring to initiate a recall peti-
16 tion as authorized by Article XI, Section 8 of the Constitution of
17 the State of Alaska shall file a typewritten charge with the
18 officer with whom is filed the declaration of candidacy to the
19 office which is the subject of the recall charge. The charge
20 shall be signed by the person or persons making it, give his or
21 their respective post office addresses, and be verified under oath
22 that he or they believe the charge or charges to be true; it must
23 name the officer whose recall is desired, give the title of his
24 office and state the acts complained of in concise language with-
25 out unnecessary repetition.

26 The acts complained of must fall within the grounds for
27 recall which are malfeasance in office, misfeasance in office, or
28 failure to uphold one's oath of office.

29 Sec. 2. BALLOT SYNOPSIS. The office with whom is filed the

1 opposite our respective names, respectfully direct that a special
 2 election be called to determine whether or not (here insert the
 3 name of the person charged and the office which he holds) be re-
 4 called and discharged from his office for and on account of (his
 5 having committed the act or acts of malfeasance or misfeasance
 6 while in office, or having violated his oath of office, as the
 7 case may be), in the following particulars: (here insert the
 8 synopsis of the charge); and each of us for himself says: I have
 9 personally signed this petition; I am a legal voter of the State
 10 of Alaska in the precinct and city (or town) written after my
 11 name, and my residence is correctly stated.

18	Petitioner's	Residence address, street and number, if any	Precinct name or number	City or town	Borough
19					
20					
21					

17 (Here follow 20 numbered lines divided into columns as below.)

18	1. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
19	2. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
20	3. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
21	etc.				

22 Sec. 4. PETITIONS: SIZE. Each recall petition at the time
 23 of circulating, signing and filing with the officer with whom it
 24 is to be filed, shall consist of not more than five sheets with
 25 numbered lines for not more than twenty signatures on each sheet,
 26 with the prescribed warning, title and form of petition on each
 27 sheet, and a full, true and correct copy of the original statement
 28 of the charges against the officer referred to therein, printed on
 29 sheets of paper of like size and quality as the petition, firmly

1 fastened together.

2 Sec. 5. COMPARISON AND CERTIFICATION OF SIGNATURES ON
3 PETITIONS. Every recall petition before it is filed with the
4 officer with whom it is required by this Act to be filed shall be
5 filed with the secretary of state, or other election registration
6 officer whose duty it shall be to forthwith compare the signatures,
7 addresses and precinct numbers on the petition with his records.
8 The secretary of state or other officer shall by the use of his
9 initials in ink designate opposite their signatures those persons
10 who by his registration records are registered voters. The
11 secretary of state or other officer shall certify upon the last
12 signature sheet that the signatures so designated are the signa-
13 tures of the registered voters of the state of Alaska qualified to
14 vote in the public entity affected by the recall petition and upon
15 demand return it to the person who filed it with him. The omission
16 to fill any blanks shall not prevent the certification of any name,
17 if sufficient information is given to enable one by a comparison
18 of signatures to identify the voter.

19 Sec. 6. NUMBER OF SIGNATURES REQUIRED. When the person,
20 committee, or organization demanding the recall of a public of-
21 ficer has secured sufficient signatures upon the recall petition
22 he or it may submit the same to the officer with whom the charge
23 was filed for filing in his office. The number of signatures
24 required shall be as follows:

25 (1) In the case of a state officer, an officer of a
26 city of the first class, a member of a school board in a city of
27 the first class, or a borough officer of a borough of the first
28 class, signatures of legal voters equal to twenty-five percent of
29 the total number of votes cast for all candidates for the office

1 to which the officer whose recall is demanded was elected at the
2 preceding election.

3 (2) In the case of an officer of any political sub-
4 division, city, town, township, precinct, or school district
5 other than those mentioned in subdivision (1), and in the case of
6 a state senator or representative, the governor or secretary of
7 state, signatures of legal voters equal to thirty-five percent of
8 the total number of votes cast for all candidates for the office
9 to which the officer whose recall is demanded was elected at the
10 preceding election.

11 Sec. 7. EXPENSE: CONTRIBUTORS: SWORN STATEMENT. At the
12 time of submitting a recall petition the person, or organization
13 submitting it shall file with the officer to whom such petition
14 is submitted a full, true and detailed statement, giving the names
15 and post office addresses of all persons, corporations and organi-
16 zations who have contributed or aided in the preparation of the
17 charge and in the preparation, circulation and filing of the
18 petition, with the amount contributed by each, and a full, true
19 and detailed statement of all expenditures, giving the amounts
20 expended, the purpose for which expended and the names and post
21 office addresses of the persons and corporations to whom paid,
22 which statement shall be verified by the affidavit of the person
23 or some member of the organization making the charge and until
24 such statement is filed the officer shall refuse to receive the
25 petition.

26 Sec. 8. CANVASSING PETITION FOR SUFFICIENCY OF SIGNATURES:
27 TIME OF: NOTICE. Upon the filing of a recall petition in his
28 office, the officer with whom the charge was filed shall stamp
29 on each petition the date of filing, and shall notify the persons

1 filing them and the officer whose recall is demanded of the date
2 when the petitions will be canvassed, which date shall be not less
3 than five or more than ten days from the date of its filing.

4 Sec. 9. CANVASSING PETITION FOR SUFFICIENCY OF SIGNATURES:
5 PROCEDURE. At the time set for the canvass in the presence of at
6 least one person representing the petitioners and in the presence
7 of the person charged, or some one representing him, if either
8 should desire to be present, the canvassing officer shall detach
9 the sheets containing the signatures from the copies of the charge
10 and cause them to be firmly attached to one or more copies of the
11 charge in such volumes as will be most convenient for canvassing
12 and filing; and shall proceed to canvass and count the names of
13 certified registered voters on such petitions. If he finds that
14 the same person has signed more than one petition, he shall reject
15 all signatures of such person from the count.

16 Sec. 10. CERTIFICATION OF PROPOSITION FOR RECALL FOR CALLING
17 OF ELECTION. If at the conclusion of the canvass and count, it is
18 found that a petition for recall bears the requisite number of
19 signatures of certified registered voters, the officer with whom
20 the petition is filed shall certify the proposition to the proper
21 authority which shall fix a date, not less than ten nor more than
22 fifteen days after the conclusion of the canvass, for calling a
23 special election to determine whether or not the officer charged
24 shall be recalled and discharged from his office. On the date
25 fixed the election shall be called. The special election shall
26 be held not less than thirty nor more than forty days from the
27 date of the call, and notice thereof shall be given in the manner
28 required by law for calling special elections in the state or in
29 the political subdivision, as the case may be.

1 Sec. 11. DESTRUCTION OF INSUFFICIENT RECALL PETITION. If
2 it is found that the recall petition does not contain the requi-
3 site number of signatures of certified registered voters, the
4 officer shall so notify the persons filing the petition, and at
5 the expiration of thirty days from the conclusion of the count he
6 shall destroy the petitions unless prevented therefrom by the
7 injunction or mandate of a court.

8 Sec. 12. FRAUDULENT NAMES: RECORD OF. The officers making
9 the canvass of a recall petition shall keep a record of all
10 names appearing thereon which are not certified to be registered
11 voters of the state or of the political subdivision, as the case
12 may be, and of all names appearing more than once thereon, and
13 he shall report the same to the prosecuting attorneys of the
14 respective districts where such names appear to have been signed,
15 to the end that prosecutions may be had for such violation of
16 this chapter.

17 Sec. 13. CONDUCT OF ELECTION: FORM OF BALLOT. The special
18 election to be called for the recall of officers shall be con-
19 ducted in the same manner as general, state, borough, municipal
20 or other political subdivision elections, as the case may be, are
21 conducted. The proper election officer shall provide for the hold-
22 ing of recall elections and the necessary places and officers,
23 ballot boxes, ballots, poll books, voting machines, supplies and
24 returns as are required by law for holding general elections.
25 The ballots at any recall election shall contain a full, true and
26 correct copy of the ballot synopsis of the charge, and shall be
27 so arranged that any voter can, by making one cross (X) express
28 his desire to have the officer charged recalled from his office,
29 or retained therein. Substantially the following form shall be

1 a compliance with the provisions of this section:

2 RECALL BALLOT

3 (Here insert the ballot synopsis of the charge.)

4 FOR the recall of (here insert the name of the officer).....

5 AGAINST the recall of (here insert the name of the officer)...

6 Sec. 14. ASCERTAINING THE RESULT. The voters on a recall
7 election shall be counted, canvassed and the results certified in
8 the manner provided by law for counting, canvassing and certifying
9 the results of an election for the office from which the officer
10 is being recalled: Provided, That if the officer whose recall is
11 demanded is the officer to whom, under the law, returns of elec-
12 tions are made, such returns shall be made to the officer with
13 whom the charge is filed, and who called the special election;
14 and in case of an election for the recall of a state officer, the
15 borough or district canvassing boards of the various boroughs or
16 districts shall canvass and return the result of such election to
17 the officer calling such special election.

18 Sec. 15. WHEN RECALL BECOMES EFFECTIVE. Upon the comple-
19 tion of the canvass of the returns of any recall election, the
20 result shall be published in the manner required by law for the
21 publication of the results of general elections. If a majority
22 of all votes cast at the recall election is for the recall of the
23 officer charged, he shall thereupon be recalled and discharged
24 from his office, and the office shall thereupon become and be
25 vacant.

26 Sec. 16. ENFORCEMENT PROVISIONS: MANDAMUS: APPEALS. The
27 Court of the district constituting or containing any public entity
28 in which the recall is invoked shall have original jurisdiction
29 to compel the performance of any act required of any public

1 officer or to prevent the performance by any such officer of any
2 act in relation to the recall not in compliance with the law:
3 Provided, That any proceeding to compel or prevent the performance
4 of any such act shall be begun within ten days from the time the
5 cause of complaint arises, and shall be considered an emergency
6 matter of public concern and take precedence over other cases,
7 and be speedily heard and determined. Any proceeding to review
8 a decision of any Court shall be begun and perfected within fif-
9 teen days after its decision in a recall election case and shall
10 be considered an emergency matter of public concern, and speedily
11 heard and determined by the proper appellate Court. For purposes
12 of this Act the term "Court", unless the contract demands other-
13 wise, shall mean the United States District Court for the State
14 of Alaska or its successor Court.

15 Sec. 17. VIOLATIONS: SIGNING IN OTHER THAN TRUE NAME.

16 Every person who signs a recall petition with any other than his
17 true name shall be guilty of a felony.

18 Sec. 18. SAME: SIGNING MORE THAN ONE PETITION FOR SAME
19 RECALL. Every person who knowingly signs more than one petition
20 for the same recall shall be guilty of a misdemeanor.

21 Sec. 19. SAME: SIGNING BY ONE NOT A LEGAL VOTER. Every
22 person who signs a recall petition knowing that he is not a legal
23 voter shall be guilty of a misdemeanor.

24 Sec. 20. SAME: SIGNER MAKING FALSE STATEMENT AS TO RESI-
25 DENCE. Every person who makes a false statement as to his
26 residence on any recall petition shall be guilty of a misdemeanor.

27 Sec. 21. VIOLATION BY OFFICERS. Every officer who will-
28 fully violates any of the provisions of this Act, for the viola-
29 tion of which no penalty is herein prescribed or who willfully

1 fails to comply with the provisions of this Act shall be guilty
2 of a misdemeanor.

3 Sec. 22. VIOLATIONS: CORRUPT PRACTICES. Every person shall
4 be guilty of a misdemeanor, who:

5 (1) For any consideration, or gratuity, or promise
6 thereof, signs or declines to sign any recall petition; or

7 (2) Advertises in any manner that for or without con-
8 sideration, he will solicit or procure signatures upon or
9 influence or attempt to influence persons to sign or not sign,
10 to vote or not to vote upon a recall petition or to vote for or
11 against any recall; or

12 (3) For any consideration, or gratuity, or promise
13 thereof, solicits or procures signatures upon a recall petition;
14 or

15 (4) Gives or offers any consideration or gratuity to
16 any person to induce him to sign or not to sign, or to solicit or
17 procure signatures upon a recall petition or to vote for or
18 against any recall; or

19 (5) Interferes with or attempts to interfere with the
20 right of any voter to sign or not to sign a recall petition or
21 with the right to vote for or against a recall, by threats, in-
22 timidation or any other corrupt means or practices; or

23 (6) Receives, handles, distributes, pays out or gives
24 away directly or indirectly, money or any other thing of value
25 contributed by or received from any person, firm, association, or
26 corporation whose residence or principal office is, or the major-
27 ity of whose members or stockholders have their residence outside
28 the State of Alaska, for any service rendered for the purpose of
29 aiding in procuring signatures upon any recall petition or for

1 the purpose of aiding in the adoption or rejection of any recall.

2 Sec. 23. REPEAL. Ch. 90, SLA 1949, as amended by Ch. 60,
3 SLA 1951, as amended by Ch. 126, SLA 1955, is hereby repealed.

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