

1 IN THE SENATE

BY COMMITTEE ON STATE AFFAIRS

2 COMMITTEE SUBSTITUTE FOR 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 procedure and
7 grounds for the recall of elected public
8 officials of the incorporated municipalities
9 within the state; repealing Ch. 90, SLA 1949
10 as amended by Ch. 60, SLA 1951, and Ch. 126,
11 SLA 1955; and providing for an effective
12 date."

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

14 Section 1. RECALL OF MUNICIPAL OFFICERS. Any elected public
15 official of an incorporated municipality within the state, except
16 a judicial officer, may be recalled at any time by the voters of
17 such municipality by following the recall procedure set forth in
18 this Act.

19 Sec. 2. SAME: GROUNDS. Grounds for the recall of municipal
20 officers subject thereto shall include malfeasance, misfeasance
21 or nonfeasance in office, failure to uphold one's oath of office,
22 dishonest practices, and incompetency.

23 Sec. 3. PETITION: FILING: SIGNATURES REQUIRED: STATEMENT
24 OF GROUNDS. A petition demanding the election of a successor to
25 the person sought to be recalled shall be filed with the municipal
26 clerk. The petition shall be signed by qualified voters equal in
27 number to at least twenty-five per cent of the entire vote cast
28 in the municipality at the last gubernatorial election. The peti-
29 tion shall contain a statement of the grounds on which the recall

1 is sought, which statement is intended solely for the information
2 of the electors.

3 Sec. 4. SAME: DEFECTS IN FORM AND SUBSTANCE. Any insuffi-
4 ciency of form or substance in the statement of grounds for the
5 recall shall in no wise affect the validity of the proceedings and
6 the election.

7 Sec. 5. SAME: SEPARATE PAPERS: HEADINGS: STATEMENT OF
8 REASONS: SIGNATURES WITH RESIDENCES AND DATES: AFFIDAVIT. The
9 signatures to the petition need not all be appended to one paper,
10 but may be in sections. The statement of grounds for the recall
11 shall appear at the head of each separate section of the peti-
12 tion, and shall be followed by the signature, legal residence, and
13 date of signing of each petitioner written by the petitioner in
14 ink or indelible pencil and by the affidavit of the person in
15 charge of the section that the signatures have all been made in
16 his presence by the persons whose names they purport to be, and
17 are legal signatures to the best of his belief.

18 Sec. 6. SAME: TIME FOR FILING. The petition shall be filed
19 within sixty days after the date of the earliest signature thereon.

20 Sec. 7. SAME: EXAMINATION FOR SUFFICIENCY OF SIGNATURES:
21 CERTIFICATION. Within ten days from the date of filing a recall
22 petition, the municipal clerk shall examine it and ascertain
23 whether or not the petition is signed by the requisite number of
24 qualified voters. He shall attach to the petition his certificate
25 showing the result of his examination. He shall give notice to
26 the person who filed the petition of the sufficiency or insuffi-
27 ciency of the signatures.

28 Sec. 8. SAME: SUPPLEMENTAL PETITION IF INSUFFICIENT: TIME:
29 FORMS. If by the clerk's certificate a recall petition is shown

1 to be insufficient, it may be supplemented within ten days from
2 the date of the certificate by the filing of additional papers,
3 duplicates of the original petition except as to the names signed.

4 Sec. 9. SAME: EXAMINATION OF SUPPLEMENTAL PETITION: INSUFFI-
5 CIENCY: PRESERVATION AS RECORDS. The clerk shall, within ten days
6 after supplementary papers are filed, make an examination of the
7 supplementary petition similar to his examination of the original
8 recall petition. If his certificate shows that all the names to
9 the recall petition, including the supplementary papers, are still
10 insufficient, action shall not be taken on it, but the petition
11 shall remain on file as a public record.

12 Sec. 10. SAME: NEW PETITIONS. The failure to secure suffi-
13 cient names shall not prejudice the filing later of an entirely
14 new recall petition to the same effect.

15 Sec. 11. SAME: ASSISTANTS IN EXAMINING. The council shall
16 allow the clerk, if he so requests, extra help to examine recall
17 petitions and supplements.

18 Sec. 12. SAME: SUBSTITUTE FOR CLERK IF RECALLED. If the
19 clerk is the officer sought to be recalled, the duties provided
20 by this Act to be performed by him shall be performed by some
21 other person designated by the council for that purpose.

22 Sec. 13. SAME: SUBMISSION TO COUNCIL. If a recall petition,
23 together with supplementary petitions, if any, is sufficient, the
24 clerk shall submit it to the council without delay.

25 Sec. 14. SAME: SPECIAL ELECTION: TIME. When the clerk sub-
26 mits a sufficient recall petition to the council it shall forth-
27 with cause a special election to be held within not less than
28 thirty-five nor more than forty days after submission of the peti-
29 tion by the clerk.

1 Sec. 15. SAME: SUBMISSION AT REGULAR ELECTION. If a regular
2 municipal election is to occur within sixty days from the date of
3 the submission to the council of a recall petition, the council
4 may submit the recall at that regular municipal election.

5 Sec. 16. VACANCY PENDING RECALL. If a vacancy occurs in
6 the office after a recall petition is filed, the election shall
7 nevertheless proceed as in this Act provided.

8 Sec. 17. SEVERAL OFFICERS IN ONE PETITION AND ELECTION. One
9 petition is sufficient to propose a removal and election of one
10 or more elective officials. One election is competent for the
11 removal and election of one or more elective officials.

12 Sec. 18. NOMINATIONS FOR SUCCESSORS: PETITIONS: APPLICABLE
13 LAWS: NONPARTISAN. Nominations for any office under a recall
14 election shall be made in the manner prescribed by the charter of
15 the city, if any, for the nomination of candidates for all elec-
16 tive officers before elections. In the absence of charter pro-
17 visions the nominations shall be made by filing a declaration of
18 candidacy in the manner prescribed for election to offices of
19 municipalities.

20 Sec. 19. RECALL BALLOTS: STATEMENT OF REASONS AND ANSWER
21 THERETO. Upon the ballot there shall be printed in not more than
22 two hundred words, the grounds set forth in the recall petition
23 for demanding the recall of the officer, and upon the same ballot
24 in not more than two hundred words, the officer may justify his
25 course in office.

26 Sec. 20. SAME: STATEMENT OF PROPOSAL: VOTING SPACES. There
27 shall be printed on the recall ballot, as to every officer whose
28 recall is to be voted on, the following question: "Shall (name
29 of person against whom the recall petition is filed) be recalled

1 from the office of (title of the office)?" following which ques-
2 tion shall be the words "Yes" and "No" on separate lines with a
3 blank space at the right of each, in which the voter shall indi-
4 cate his vote for or against the recall.

5 Sec. 21. SAME: NAMES OF CANDIDATES FOR SUCCESSION: VOTES
6 TO BE COUNTED. On recall ballots, under each question, there
7 shall also be printed the names of those persons who have been
8 nominated as candidates to succeed the person recalled, in case
9 he is removed from office by the recall election. A vote shall
10 not be counted for any candidate for any office unless the voter
11 also voted on the question of the recall of the person sought to
12 be recalled from that office.

13 Sec. 22. SAME: NAME OF RECALL PERSON EXCLUDED. The name of
14 the person against whom a recall petition is filed shall not appear
15 on the ballot as a candidate for the office.

16 Sec. 23. MAJORITY REQUIRED. If a majority or exactly half
17 of those voting on the question of the recall of any incumbent
18 from office vote "No" the incumbent shall continue in office. If
19 a majority vote "Yes" the incumbent is removed from the office,
20 upon the qualification of his successor.

21 Sec. 24. CANVASS AND DECLARATION OF RESULT. The canvassers
22 shall canvass all votes for candidates for the office and declare
23 the result in like manner as in a regular election.

24 Sec. 25. SUCCESSOR ELECTED: DECLARATION. If the vote at any
25 recall election recalls the officer, then the candidate who has
26 received the highest number of votes for the office shall be de-
27 clared elected for the remainder of the term.

28 Sec. 26. SAME: VACANCY BY FAILURE TO QUALIFY: TIME. If the
29 person who received the highest number of votes at a recall

1 election fails to qualify within ten days after receiving the
2 certificate of election, the office is vacant and shall be filled
3 according to law.

4 Sec. 27. DISQUALIFICATION OF RECALLED PERSON FOR OFFICE.

5 A person who has been recalled, or who has resigned from office
6 while recall proceedings were pending against him, shall not be
7 appointed to any office within one year after his resignation or
8 recall.

9 Sec. 28. TERM OF SUCCESSOR. The successor of any officer
10 recalled shall hold office during the unexpired term of his pre-
11 decessor subject to removal under the provisions of this Act.

12 Sec. 29. REPEAL. Ch. 90, SLA 1949, as amended by Ch. 60,
13 SLA 1951, and Ch. 126, SLA 1955, is hereby repealed.

14 Sec. 30. EFFECTIVE DATE. This Act shall take effect im-
15 mediately upon its passage and approval or upon its becoming law
16 without such approval.

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