

Original sponsor: Moss by request

Offered: 4/9/79
Referred: Judiciary

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 245

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to recall of public officials; and
7 providing for an effective date."

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

9 * Section 1. AS 15.45.480 is amended to read:

10 Sec. 15.45.480. FILING APPLICATION. The recall of the governor or
11 a member of the state legislature is proposed by filing an application
12 with the lieutenant governor. The recall of the lieutenant governor is
13 proposed by filing an application with the attorney general, who shall
14 perform the duties imposed on the lieutenant governor in the recall of
15 other elected state officials. A deposit of \$100 must accompany the
16 application. This deposit shall [WILL] be retained if a petition is not
17 accepted [PROPERLY FILED]. If a petition is accepted, [PROPERLY FILED]
18 the deposit shall be refunded.

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

20 Sec. 15.45.490. TIME OF FILING APPLICATION. No application may be
21 filed during the first 120 days of the term of office of a [ANY] state
22 public official subject to recall or within less than 180 days of the
23 termination of the term of office of a state public official subject to
24 recall.

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

26 Sec. 15.45.500. FORM OF APPLICATION. The application shall in-
27 clude (1) the name and office of the official [PERSON] to be recalled,
28 (2) the grounds for recall described in particular in not more than 200
29 words, (3) a statement that the sponsors are qualified voters who signed

1 the application with the statement of grounds for recall included
2 [ATTACHED], (4) the designation of a recall committee of three sponsors
3 who shall represent all sponsors and subscribers in matters relating to
4 the recall, (5) the designation [APPOINTMENT] of at least 100 qualified
5 voters who subscribe to the application as sponsors for purposes of
6 circulation of the petition, and (6) the signatures, resident addresses,
7 and mailing addresses of qualified voters equal in number to 10 per cent
8 of those who voted in the preceding general election in the state or in
9 the senate or electoral district of the official sought to be recalled.

10 * Sec. 4. AS 15.45.510 is repealed and re-enacted to read:

11 Sec. 15.45.510. GROUNDS FOR RECALL. Grounds for recall are mis-
12 conduct in office, incompetence, or failure to perform prescribed duties

13 * Sec. 5. AS 15.45.520 is amended to read:

14 Sec. 15.45.520. MANNER OF NOTICE. Notice on all matters pertain-
15 ing to the application and petition may be served on any member of the
16 recall committee in person or by certified mail, return receipt re-
17 quested, addressed to him [A COMMITTEE MEMBER] as indicated on the
18 application.

19 * Sec. 6. AS 15.45 is amended by adding a new section to read:

20 Sec. 15.45.525. DESIGNATION OF ADDITIONAL SPONSORS. The recall
21 committee may designate additional sponsors for purposes of circulation
22 of the petition by giving written notice to the lieutenant governor of
23 the names, resident addresses, and mailing addresses of those so desig-
24 nated.

25 * Sec. 7. AS 15.45.560 is repealed and re-enacted to read:

26 Sec. 15.45.560. PREPARATION OF PETITION. (a) If the lieutenant
27 governor certifies the application, he shall prescribe the form of, and
28 prepare, a petition containing

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

1 (2) the statement of the grounds for recall included in the
2 application;

3 (3) a space in which the official subject to recall may make
4 a statement of 200 words or less;

5 (4) the warning required in AS 15.45.570;

6 (5) sufficient space for signatures and resident addresses;
7 and

8 (6) other specifications prescribed by the lieutenant gover-
9 nor to assure proper handling and control.

10 (b) The lieutenant governor shall have a copy of the petition
11 served on the official subject to recall in the same manner as civil
12 process. The official shall have 30 days after service of the petition
13 to file a statement of 200 words or less with the lieutenant governor.
14 If a statement of the official is received on time, the lieutenant
15 governor shall have it set out on the petition. If a statement of the
16 official is not received on time, the lieutenant governor shall note
17 that on the petition.

18 (c) The lieutenant governor shall prepare a number of petitions
19 reasonably calculated to allow full circulation throughout the state or
20 throughout the senate or election district of the official subject to
21 recall. The lieutenant governor shall number each petition and shall
22 keep a record of the petitions delivered to each sponsor.

23 * Sec. 8. AS 15.45.570 is amended to read:

24 Sec. 15.45.570. STATEMENT OF WARNING. Each petition [AND DUPLI-
25 CATE COPY] shall include a statement of warning that a person who signs
26 a name other than his own to the petition, or who knowingly signs his
27 name more than once for the same proposition or question at one elec-
28 tion, or who signs the petition knowing he is not a qualified voter,
29 upon conviction is punishable by a fine of not more than \$5,000 [\$1,000]

1 or by imprisonment for not more than one year, or by both.

2 * Sec. 9. AS 15.45.600 is amended to read:

3 Sec. 15.45.600. CERTIFICATION OF SPONSOR. Before being filed,
4 each petition shall be certified by an affidavit by the sponsor who
5 personally circulated the petition. The affidavit shall state in sub-
6 stance that (1) the person signing the affidavit is a sponsor, (2) the
7 person is the only circulator of that petition [OR COPY], and (3) the
8 signatures were made in his actual presence [, AND (4) TO THE BEST OF
9 HIS KNOWLEDGE, THE SIGNATURES ARE THOSE OF THE PERSONS WHOSE NAMES THEY
10 PURPORT TO BE]. In determining the sufficiency of the petition, the
11 lieutenant governor may [SHALL] not count subscriptions on petitions not
12 properly certified.

13 * Sec. 10. AS 15.45.610 is amended to read:

14 Sec. 15.45.610. FILING OF PETITION. No petition may be filed
15 within less than 180 days of the termination of the term of office of a
16 state public official subject to recall. A petition may be filed only
17 by a member of the recall committee. A member of the recall committee
18 [THE SPONSOR] may file the petition only if it contains the signatures
19 and resident addresses of [SIGNED BY] qualified voters equal in number
20 to 25 per cent of those who voted in the preceding general election in
21 the state or in the senate or election district of the official subject
22 [SOUGHT] to recall [BE RECALLED].

23 * Sec. 11. AS 15.45.620 is repealed and re-enacted to read:

24 Sec. 15.45.620. REVIEW OF PETITION. Within 30 days after the
25 petition is filed, the lieutenant governor shall (1) review the peti-
26 tion, (2) certify whether the petition is accepted or rejected, and (3)
27 notify the recall committee and the official subject to recall whether
28 the petition is accepted or rejected and, if rejected, of the grounds
29 for rejection.

1 * Sec. 12. AS 15.45.630 is amended to read:

2 Sec. 15.45.630. BASES FOR REJECTING [DETERMINING THE] PETITION
3 [WAS IMPROPERLY FILED]. The lieutenant governor shall reject [NOTIFY
4 THE COMMITTEE THAT] the petition [WAS IMPROPERLY FILED] if he determines
5 that (1) there is an insufficient number of qualified subscribers, or
6 (2) the petition was filed within less than 180 days of the termination
7 of the term of office of the official subject to recall.

8 * Sec. 13. AS 15.45.640 is repealed and re-enacted to read:

9 Sec. 15.45.640. SUPPLEMENTARY PETITION. (a) If the petition is
10 rejected because of insufficient signatures, it may be supplemented by
11 additional signatures within 20 days after the recall committee is
12 notified of rejection, so long as the supplementary petition is filed
13 more than 180 days before the termination of the term of office of the
14 official subject to recall.

15 (b) Within 10 days after a supplementary petition is filed, the
16 lieutenant governor shall (1) review the supplementary petition, (2)
17 certify whether the recall petition as supplemented is accepted or
18 rejected, and (3) notify the recall committee and the official subject
19 to recall whether the recall petition as supplemented is accepted or
20 rejected and, if rejected, of the grounds for rejection.

21 * Sec. 14. AS 15.45.650 is amended to read:

22 Sec. 15.45.650. CALLING SPECIAL ELECTION. If the lieutenant
23 governor accepts [DETERMINES] the petition [IS PROPERLY FILED] and if
24 the office is not vacant, he shall prepare the ballot and shall call a
25 special election to be held on a date not less than 60, nor more than
26 90, days after the date that notification is given that the petition was
27 accepted [PROPERLY FILED]. If a primary or general election is to be
28 held not less than 60, nor more than 90, days after the date that noti-
29 fication is given that the petition was accepted [PROPERLY FILED], the

1 special election shall be held on the date of the primary or general
2 election.

3 * Sec. 15. AS 15.45.660 is repealed and re-enacted to read:

4 Sec. 15.45.660. FORM OF RECALL BALLOTS. A recall ballot contains:

5 (1) the grounds as stated in the recall petition;

6 (2) the official's statement contained on the recall petition
7 or, if none, the official's statement of 200 words or less, if that
8 statement is filed with the lieutenant governor for publication and
9 public inspection within 10 days after notification to the official that
10 the recall petition was accepted;

11 (3) the following question: "Shall (name of person) be re-
12 called from the office of (office)? Yes [] No []".

13 * Sec. 16. AS 15.45 is amended by adding a new section to read:

14 Sec. 15.45.730. FILING AS PUBLIC RECORD. When an application,
15 petition, or supplementary petition is filed under AS 15.45.470 - 15.45.
16 730, the lieutenant governor shall file it as a public record, regard-
17 less of whether it is accepted or rejected.

18 * Sec. 17. AS 29.28.130 is amended to read:

19 Sec. 29.28.130. RECALL. An elected official of a home rule or
20 general law municipality may be recalled by the voters after he has
21 served 120 days [SIX MONTHS] in office.

22 * Sec. 18. AS 29.28 is amended by adding new sections to read:

23 Sec. 29.28.142. FILING APPLICATION. The recall of a municipal
24 official is proposed by filing an application with the municipal clerk.
25 A deposit of \$50 must accompany the application. This deposit shall be
26 retained if a petition is not accepted. If a petition is accepted, the
27 deposit shall be refunded.

28 Sec. 29.28.144. TIME OF FILING APPLICATION. An application may
29 not be filed during the first 120 days of the term of office of a muni-

1 cival official or within less than 180 days of the termination of the
2 term of office of a municipal official.

3 Sec. 29.28.146. FORM OF APPLICATION. The application shall in-
4 clude

5 (1) the name and office of the official to be recalled;

6 (2) the grounds for recall described in particular in not
7 more than 200 words;

8 (3) a statement that the sponsors are qualified voters of the
9 municipality who signed the application with statement of grounds for
10 recall included;

11 (4) the designation of a recall committee of three sponsors
12 who shall represent all sponsors and subscribers in relation to the
13 recall; and

14 (5) the signatures, resident addresses, and mailing addresses
15 of not less than 10 qualified voters of the municipality.

16 Sec. 29.28.148. MANNER OF NOTICE. Notice on all matters pertain-
17 ing to the application and petition may be served on any member of the
18 recall committee in person or by certified mail, return receipt re-
19 quested, addressed to him as indicated on the application.

20 Sec. 29.28.152. DESIGNATION OF SPONSORS. The qualified voters of
21 the municipality who subscribe to the application are designated as
22 sponsors. The recall committee may designate additional sponsors by
23 giving written notice to the municipal clerk of the names and resident
24 addresses of those so designated.

25 Sec. 29.28.154. REVIEW OF APPLICATION. The municipal clerk shall
26 review the application and shall either certify it or notify the recall
27 committee of the grounds of refusal.

28 Sec. 29.28.156. BASES OF DENIAL OF CERTIFICATION. The municipal
29 clerk shall deny certification if he determines that (1) the application

1 is not substantially in the required form, (2) the application was filed
2 during the first 120 days of the term of office of the official subject
3 to recall or within less than 180 days of the termination of the term of
4 office of the official subject to recall, (3) the person named in the
5 application is not subject to recall, or (4) there is an insufficient
6 number of qualified subscribers.

7 Sec. 29.28.158. PREPARATION OF PETITION. (a) If the municipal
8 clerk certifies the application, he shall prescribe the form of, and
9 prepare, a petition containing

- 10 (1) the name and office of the official subject to recall;
11 (2) the statement of the grounds for recall included in the
12 application;
13 (3) a space in which the official subject to recall may make
14 a statement of 200 words or less;
15 (4) the warning required in AS 29.28.162;
16 (5) sufficient space for signatures and resident addresses;
17 and
18 (6) other specifications prescribed by the municipal clerk to
19 assure proper handling and control.

20 (b) The municipal clerk shall have a copy of the petition served
21 on the official subject to recall in the same manner as civil process.
22 The official shall have 30 days after service of the petition to file a
23 statement of 200 words or less with the municipal clerk. If a statement
24 of the official is received on time, the municipal clerk shall have it
25 set out on the petition. If a statement of the official is not received
26 on time, the municipal clerk shall note that on the petition.

27 (c) The municipal clerk shall prepare a number of petitions reason-
28 ably calculated to allow full circulation throughout the municipality.
29 The municipal clerk shall number each petition and shall keep a record

1 of the petitions delivered to each sponsor.

2 Sec. 29.28.162. STATEMENT OF WARNING. Each petition shall include
3 a statement of warning that a person who signs a name other than his own
4 to the petition, who knowingly signs his name more than once for the
5 same question at one recall election, or who signs the petition knowing
6 he is not a qualified voter of the municipality represented by the
7 official subject to recall is, upon conviction, punishable by a fine of
8 not more than \$5,000 or by imprisonment for not more than one year, or
9 by both.

10 Sec. 29.28.164. CIRCULATION BY SPONSOR. A petition may be cir-
11 culated only by a sponsor and only in person throughout the municipality
12 represented by the official subject to recall.

13 Sec. 29.28.166. MANNER OF SIGNING AND WITHDRAWING NAME FROM PETI-
14 TION. A qualified voter of the municipality may subscribe to the peti-
15 tion by signing his name and resident address. A person who has signed
16 the petition may withdraw his name only by giving written notice to the
17 municipal clerk before the date the petition is filed.

18 Sec. 29.28.168. CERTIFICATION OF SPONSOR. Before being filed,
19 each petition shall be certified by an affidavit by the sponsor who
20 personally circulated the petition. The affidavit shall state in sub-
21 stance that (1) the person signing the affidavit is a sponsor, (2) the
22 person is the only circulator of that petition, and (3) the signatures
23 were made in his actual presence. In determining the sufficiency of the
24 petition, the municipal clerk may not count subscriptions on petitions
25 not properly certified.

26 Sec. 29.28.172. FILING OF PETITION. A petition may not be filed
27 within less than 180 days of the termination of the term of office of a
28 municipal official subject to recall. A petition may be filed only by a
29 member of the recall committee. A member of the recall committee may

1 file the petition only if it contains the signatures and resident
2 addresses of qualified voters of the municipality equal in number to 25
3 per cent of those who voted in the municipality in the preceding general
4 election.

5 Sec. 29.28.174. REVIEW OF PETITION. Within 30 days after the
6 petition is filed, the municipal clerk shall (1) review the petition,
7 (2) certify whether the petition is accepted or rejected, and (3) notify
8 the recall committee and the official subject to recall whether the
9 petition is accepted or rejected and, if rejected, of the grounds for
10 rejection.

11 Sec. 29.28.176. BASES FOR REJECTING PETITION. The municipal clerk
12 shall reject the petition if he determines that (1) there is an insuffi-
13 cient number of qualified subscribers, or (2) the petition was filed
14 within less than 180 days of the termination of the term of office of
15 the official subject to recall.

16 Sec. 29.28.178. SUPPLEMENTARY PETITION. (a) If the petition is
17 rejected because of insufficient signatures, it may be supplemented by
18 additional signatures within 20 days after the recall committee is
19 notified of rejection, so long as the supplementary petition is filed
20 more than 180 days before the termination of the term of office of the
21 official subject to recall.

22 (b) Within 10 days after a supplementary petition is filed, the
23 municipal clerk shall (1) review the supplementary petition, (2) certify
24 whether the recall petition as supplemented is accepted or rejected, and
25 (3) notify the recall committee and the official subject to recall
26 whether the recall petition as supplemented is accepted or rejected and,
27 if rejected, of the grounds for rejection.

28 * Sec. 19. AS 29.28.190 is amended to read:

29 Sec. 29.28.190. SUBMISSION. If a recall petition is accepted

1 [SUFFICIENT], the municipal clerk shall immediately submit it to the
2 assembly or council.

3 * Sec. 20. AS 29.28.210(2) is amended to read:

4 (2) the official's statement contained on the recall peti-
5 tion or, if none, the official's [OFFICER'S] statement of 200 words or
6 less, if that [THE] statement is filed with the municipal clerk for
7 publication and public inspection within 10 [20] days after notification
8 to the official that the recall petition was accepted [BEFORE THE ELEC-
9 TION];

10 * Sec. 21. AS 29.28 is amended by adding new sections to read:

11 Sec. 29.28.260. INSUFFICIENCY OF GROUNDS, APPLICATION, OR PETI-
12 TION. A recall submitted to the voters may not be held void because of
13 the insufficiency of the grounds, application, or petition by which the
14 submission was procured.

15 Sec. 29.28.270. JUDICIAL REVIEW. A person aggrieved by a deter-
16 mination made by the municipal clerk may, within 30 days after the date
17 on which notice of determination was given, bring an action to have the
18 determination reviewed by any appropriate remedy in the superior court.

19 Sec. 29.28.280. IMPROPER SUBSCRIPTION TO PETITION. A person who
20 signs a name other than his own to a recall petition, who knowingly
21 signs his name more than once for the same question at one recall elec-
22 tion, or who signs a recall petition knowing he is not a qualified voter
23 of the municipality represented by the official subject to recall is
24 guilty of a misdemeanor.

25 Sec. 29.28.290. FILING AS PUBLIC RECORD. When an application,
26 petition, or supplementary petition is filed under AS 29.28.130 - 29.28.-
27 290, the municipal clerk shall file it as a public record, regardless of
28 whether it is accepted or rejected.

29 * Sec. 22. The following laws are repealed: AS 15.45.680; AS 29.28.150 -

1 29.28.180; and 29.28.240.

2 * Sec. 23. This Act takes effect January 1, 1980.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29