

HB

177

1 IN THE HOUSE

BY THOMPSON BY REQUEST

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 177

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Offices Commis-
7 sion and to recall of certain local elected
8 officials."

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

10 * Section 1. AS 15.13.010 is amended to read:

11 Sec. 15.13.010. APPLICABILITY. (a) This chapter applies in
12 every election for governor, lieutenant governor, a member of the
13 state legislature, a delegate to a constitutional convention, or judge
14 seeking electoral confirmation. It also applies to members of a
15 regional school board of a regional educational attendance area, and
16 to every candidate for election to a municipal office in a city or
17 borough with a population of more than 1,000 inhabitants according to
18 the latest United States census figures or estimates of population
19 certified as correct for administrative purposes by the Department of
20 Community and Regional Affairs. A municipality may exempt its elected
21 municipal officers from the requirements of this chapter if a majority
22 of the voters voting on the question at any regular election, as
23 defined by AS 29.78.010 [AS 29.78.010(14)], or a special municipality-
24 wide election called for that purpose, vote to exempt its elected
25 municipal officers from the requirements of this chapter. The ques-
26 tion of exemption from the requirements of this chapter may be submit-
27 ted by the city council or borough assembly by ordinance or by initia-
28 tive ordinance. A municipality that is exempt from this chapter is
29 still subject to AS 29.28.130 - 29.28.250. Nothing in this chapter

1 prohibits a municipality from regulating by ordinance campaign contri-
2 butions and expenditures.

3 (b) Except as otherwise provided, this chapter applies to con-
4 tributions, expenditures and communications made by a candidate,
5 group, municipality or individual for the purpose of influencing the
6 outcome of a ballot proposition or question as well as those made to
7 influence the nomination or election of a candidate or the recall of
8 an elected official.

9 * Sec. 2. AS 15.13.110(e) is amended to read:

10 (e) A group formed to sponsor an initiative, a referendum or a
11 recall shall report 30 days after its first filing with the lieutenant
12 governor or if sponsoring a municipal recall petition, the group shall
13 report immediately after its first filing with the municipal clerk.
14 Thereafter each group shall report within 10 days after the end of
15 each calendar quarter on the contributions received and expenditures
16 made during the preceding calendar quarter until reports are due under
17 (a) of this section.

18 * Sec. 3. AS 29.28.130 is amended to read:

19 Sec. 29.28.130. RECALL. An [ELECTED] official who is elected
20 or appointed to an elective municipal office [OF A HOME RULE OR
21 GENERAL LAW MUNICIPALITY] may be recalled by the voters after the
22 official has served the first 120 days of the term for which elected
23 or appointed [SIX MONTHS IN OFFICE].

24 * Sec. 4. AS 29.28.140 is amended to read:

25 Sec. 29.28.140. GROUNDS. Grounds for recall are misconduct in
26 office, incompetence, or failure to perform prescribed duties during
27 the term of office the official is presently serving. An official may
28 not be recalled for performance of or failure to perform a discretion-
29 ary act.

1 * Sec. 5. AS 29.28 is amended by adding new sections to read:

2 Sec. 29.28.144. APPLICATION FOR RECALL PETITION. (a) An appli-
3 cation for a recall petition shall be filed with the municipal clerk
4 and must contain

5 (1) the signatures and residence addresses of at least 10
6 municipal voters who will sponsor the petition;

7 (2) the address to which all correspondence relating to the
8 petition may be sent;

9 (3) a statement in 200 words or less of the grounds for
10 recall stated with particularity.

11 (b) An additional sponsor may be added at any time before the
12 petition is filed by submitting the name of the sponsor to the clerk.

13 (c) Each sponsor shall certify that the sponsor believes the
14 grounds for recall stated in the application are true. Knowingly
15 making a false statement on an application is a class A misdemeanor.

16 Sec. 29.28.146. REBUTTAL STATEMENTS. Upon receipt of an appli-
17 cation for recall petition that meets the requirements of AS 29.28.-
18 144, the clerk shall send by certified mail a copy of the application
19 to the official sought to be recalled with a notice that the official
20 may submit to the clerk a rebuttal statement of 200 words or less
21 within 10 days after receipt of the application.

22 * Sec. 6. AS 29.28.150 is repealed and reenacted to read:

23 Sec. 29.28.150. RECALL PETITION. (a) After the period during
24 which a rebuttal statement may be submitted has elapsed, the clerk
25 shall prepare a recall petition. All copies of the petition must
26 contain

27 (1) the name of the official sought to be recalled;

28 (2) the statement of the grounds for recall as set out in
29 the application for the petition;

1 (3) a rebuttal statement if one has been submitted under
2 AS 29.28.146;

3 (4) the date the petition is issued by the clerk;

4 (5) notice that signatures must be secured within 60 days
5 after the date the petition is issued;

6 (6) spaces for each signature, the printed name of each
7 signer, the date of each signature, and the residence and mailing
8 addresses of each signer;

9 (7) a statement, with space for the sponsor's sworn signa-
10 ture and date of signing, that the sponsor personally circulated the
11 petition, that all signatures were affixed in the presence of the
12 sponsor, and that the sponsor believes the signatures to be those of
13 the persons whose names they purport to be; and

14 (8) space for indicating the number of signatures on the
15 petition.

16 (b) Copies of the petition shall be provided to each sponsor by
17 the clerk.

18 * Sec. 7. AS 29.28 is amended by adding a new section to read:

19 Sec. 29.28.152. JUDICIAL REVIEW. (a) After a recall petition is
20 prepared by the municipal clerk it shall be promptly filed with the
21 superior court of the district in which the elected official resides,
22 and the municipal clerk shall petition the court to determine the
23 sufficiency of the charges. A copy of the petition shall be presented
24 to the official whose recall is demanded.

25 (b) Within 15 days after receiving the petition, the superior
26 court shall conduct a hearing, without cost to either party, to deter-
27 mine whether the petition satisfies the grounds for which a recall
28 petition may be filed. The court may not consider the truth of the
29 charges, but only their sufficiency. The decisions or findings of the

1 superior court are final and may not be appealed.

2 * Sec. 8. AS 29.28 is amended by adding a new section to read:

3 Sec. 29.28.155. SIGNATURES. (a) If a petition is found to be
4 sufficient as determined by the superior court under AS 29.28.152, it
5 shall be returned to the municipal clerk and may be used for the
6 purpose of gathering supporting signatures as provided by this sec-
7 tion.

8 (b) The signatures on a recall petition shall be secured within
9 60 days after the date the clerk issues the petition. The statement
10 required under AS 29.28.150(a)(7) shall be completed and signed by the
11 sponsor. Signatures shall be in ink or indelible pencil.

12 (c) The clerk shall determine the number of signatures required
13 on a petition and inform each sponsor. If a petition seeks to recall
14 an official who represents the municipality at large, the petition
15 shall be signed by a number of voters equal to 25 percent of the
16 number of votes cast in the election at which the official being
17 recalled was elected. If a petition seeks to recall an official who
18 represents a district, the petition shall be signed by a number of the
19 voters residing in the district equal to 25 percent of the number of
20 votes cast in the district in the election at which the official being
21 recalled was elected.

22 (d) Illegible signatures shall be rejected by the clerk unless
23 accompanied by a legible printed name. Signatures not accompanied by
24 a legible residence address shall be rejected.

25 (e) A petition signer may withdraw the signer's signature upon
26 written application to the clerk before certification of the petition.

27 * Sec. 9. AS 29.28 is amended by adding a new section to read:

28 Sec. 29.28.165. COMPLETION OF PETITION. (a) The copies of a
29 recall petition shall be assembled and filed as a single instrument.

1 A petition may not be filed within 180 days before the end of the term
2 of office of the official sought to be recalled. Within 10 days after
3 the date a petition is filed, the municipal clerk shall

4 (1) certify on the petition whether it is complete; and

5 (2) if the petition is incomplete, identify the deficiency
6 and notify the sponsors at the address provided under AS 29.28.-
7 144(a)(2) by certified mail.

8 (b) A petition that is incomplete may be supplemented with addi-
9 tional signatures obtained and filed within 10 days after the date on
10 which the petition is rejected if the supplementary petition is filed
11 more than 180 days before the end of the term of office of the offi-
12 cial sought to be recalled.

13 (c) A petition that is incomplete shall be rejected and filed as
14 a public record unless it is supplemented under (b) of this section.
15 Within 10 days after the supplementary filing the clerk shall recer-
16 tify the petition. If it is still incomplete, the petition is reject-
17 ed and filed as a public record.

18 * Sec. 10. AS 29.28.180 is repealed and reenacted to read:

19 Sec. 29.28.180. NEW RECALL PETITION APPLICATION. A new applica-
20 tion for a petition to recall the same official may not be filed
21 sooner than 180 days after a petition is rejected as incomplete.

22 * Sec. 11. AS 29.28.190 is amended to read:

23 Sec. 29.28.190. SUBMISSION. If a recall petition is complete,
24 the clerk shall [IMMEDIATELY] submit it to the assembly or council at
25 the next regular meeting.

26 * Sec. 12. AS 29.28.200 is amended to read:

27 Sec. 29.28.200. ELECTION. (a) If a regular election occurs
28 within 75 but not sooner than 45 days after [OF THE] submission of the
29 petition to the assembly or council, the assembly or council shall

1 submit the recall at that election.

2 (b) If no regular election occurs [WILL OCCUR] within 75 days,
3 the assembly or council shall hold a special election on the recall
4 question within 75 days but not sooner than 45 days after a petition
5 is submitted to the assembly or council [OF SUBMISSION].

6 (c) If a vacancy occurs in the office after a completed recall
7 petition is filed with the clerk, the recall question may [PETITION
8 SHALL] not be submitted to the voters. An official who resigns after a
9 completed recall petition is filed naming that official may not be ap-
10 pointed to the same office.

11 * Sec. 13. AS 29.28.210 is amended to read:

12 Sec. 29.28.210. FORM OF RECALL BALLOTS. A recall ballot must
13 contain [CONTAINS:]

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

15 (2) a [THE OFFICER'S] statement by the official named on
16 the recall petition of 200 words or less, if the statement is filed
17 with the clerk in accordance with AS 29.28.146 [FOR PUBLICATION AND
18 PUBLIC INSPECTION WITHIN 20 DAYS BEFORE THE ELECTION];

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

21 * Sec. 14. AS 29.28.240 is repealed and reenacted to read:

22 Sec. 29.28.240. EFFECT. (a) If a majority vote favors recall,
23 the office becomes vacant upon certification of the recall election.

24 (b) If an official is not recalled at the election, an applica-
25 tion for a petition to recall the same official may not be filed
26 sooner than 180 days after the election.

27 * Sec. 15. AS 29.28.250 is repealed and reenacted to read:

28 Sec. 29.28.250. SUCCESSORS. (a) If an official is recalled
29 from the assembly or council, the office of that official is filled in

1 accordance with AS 29.23.080 or 29.23.280. If all members of the
2 assembly or council are recalled, the governor shall appoint qualified
3 voters to fill the vacancies until the next regular election.

4 (b) If a member of the school board is recalled, the office of
5 that member is filled in accordance with AS 14.12.070. If all members
6 are recalled from a school board, the assembly or council shall ap-
7 point qualified voters to fill the vacancies until the next regular
8 election.

9 (c) A person appointed under (a) or (b) of this section serves
10 until a successor is elected and takes office.

11 (d) If an official other than a member of the assembly or coun-
12 cil or school board is recalled, a successor shall be elected to fill
13 the unexpired portion of the term. The election shall be held not
14 more than 60 days after the date the recall election is certified,
15 except that if a regular election occurs within 75 days after certi-
16 fication the successor shall be chosen at that election.

17 (e) Nominations for a successor may be filed until seven days
18 before the last date on which a first notice of the election must be
19 given. Nominations may not be filed before the certification of the
20 recall election.

21 * Sec. 16. AS 29.28 is amended by adding a new section to read:

22 Sec. 29.28.260. APPLICATION. AS 29.28.130 - 29.28.250 apply to
23 home rule and general law municipalities.

24 * Sec. 17. AS 29.28.160, 29.28.170, 29.28.220 and 29.28.230 are re-
25 pealed.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE: (907) 586-6181

POSITION PAPER
HOUSE BILL NO.177
March 19, 1985

The Division of Elections has reviewed House Bill No. 177, "An Act relating to the Alaska Public Offices Commission and to recall of an elected official of a home rule or general law municipality", and finds that primarily, the bill pertains to incorporated municipalities over which the division has no jurisdiction. However, AS 14.08.071 and AS 14.08.081 specify AS 29.28 as the body of law governing the division's administration of Rural Education Attendance Area School Board elections. It is therefore relative only to the bill's impact on these elections that the division submits this position paper.

Notwithstanding the few reservations described in this position paper, the division raises no major objections to the bill's overall intent. The major issue addressed in the bill is the (separation of the application process) and (preliminary review of a recall petition), from the actual circulation and subsequent submission of a petition subscribed to by qualified voters. The division supports this distinction. First, the addition of a preliminary review process prior to circulation is consistent with the provisions of Title 15, governing recall of state officials. While less restrictive than the recall provisions of Title 15, the addition of the preliminary review to Title 29, would allow the individuals seeking recall some assurance that their petition was on its face sufficient to be favorably certified, prior to their expending the energy to secure the required number of signatures.

The division supports the concept of judicial review, but cannot, however, offer any substantive opinion as to its feasibility with regard to timely processing. The division has no adverse opinion regarding the presentation of a copy of the petition being reviewed by the court to the official whose recall is demanded.

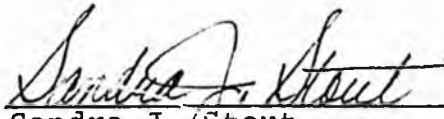
The division noted that the repeal and reenactment of AS 29.28.160, and the added section AS29.28.167, omitted any reference to a timeframe in which the court must return its findings to the municipal clerk, or that the municipal clerk must certify the petition's sufficiency for circulation. Such a timeframe should probably include reference to the

number of days in which the person sought to be recalled must submit his rebuttal statement, if the provisions of AS 29.28.167(b) were to be enacted.

While voter awareness, and fairness to the official sought to be recalled may be enhanced by the addition of AS 29.28.167(b), the division is concerned that the appearance of opposing points of view on the same petition may violate some basic assumptions inherent in any petition process. That is, that the specific point of view expressed in the petition language, and the subsequent action it commands is one that is concurred with uniformly by all the subscribers who affix their signatures. By providing conflicting positions on the same issue there may be some confusion as to which the signer subscribes.

With regard to the number of registered voter signatures required for certification of a recall petition, the division recognizes that the provision of 15% and 25% figures specified for communities of different size populations may have advantages in municipal recall elections. However, the division would find a uniform percentage requirement more convenient in qualifying REAA recall petitions.

Finally, the amendments relating to AS 15.13 suggested in this bill relate to the regulation of campaign contributions and expenditures, and reporting. As an administrative agency charged only with the conduct of elections, the division has no jurisdiction over these issues, and is not impacted by these provisions. The division, therefore, offers no opinion on these amendments.



Sandra J. Stout
Director

STATE OF ALASKA

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POSITION PAPER
HOUSE BILL NO. 270
March 19, 1985

The Division of Elections has reviewed House Bill No. 270, "An Act relating to municipal recalls, referendums, initiatives, and elections", and raises no major objections to its intent or content.

Most of the provisions of this bill relate specifically to incorporated communities over which the division has no jurisdiction, however, the division notes that the suggested amendments and additions concerning initiatives and referendum do make the provisions of Title 29 more consistent with Title 15 statutes governing statewide petitions and referendum procedures. The division supports the distinction outlined by the addition of AS 29.28.061 between the application for petition, and its actual circulation. The application process is helpful in assuring the sponsor, based on review by the clerk, and subject to judicial review, that the petition, is on its face, in proper form and sufficient to be favorably certified before energy is expended in securing the required number of signatures. Based on the division's experience in preparing and distributing petition booklets to sponsors supporting statewide petitions and referendum, we would suggest it advisable to require that for any type of petition, each sponsor's name be accompanied by that sponsor's signature to confirm their interest in circulating the petition. Periodically, sponsors' names have been submitted to the division who have not given their consent.

Pursuant to AS 14.08.071 and AS 14.08.081, the body of law governing the division's administration of Rural Education Attendance Area School Board elections is AS 29.28. Therefore, the amendments suggested by the bill regarding recall petitions are those that most greatly impact the division directly. Notwithstanding the reservations noted in this position paper, the division supports the provisions of this bill with regard to recall petitions.

The division favors the amendment to AS 29.28.130 clarifying the statutes by providing that elected as well as appointed officials are subject to recall. It is the division's

opinion that while this Section stipulates that an official may be recalled after the official has served the first 120 days of the term for which elected or appointed, it remains unclear as to the intended definition of "recalled" in this context. The statute is unclear as to whether the 120 day provision applies to the initiation of a petition, or to the actual election resulting from the successful certification of the circulated petition. Without clarification, there is some confusion as to whether or not a recall petition can be initiated before the official has served 120 days.

We support the changes suggested under AS 29.28.140 which specify that failure to perform prescribed duties as grounds for recall must relate to the term of office the official is presently serving. Confusion can occur when officials sought to be recalled have also served in previous terms.

As with the amendments included in this bill of initiatives and referendum, the division also supports the separation of the application process from actual circulation of recall petitions. These provisions again make the conditions involving local recalls more consistent with those in Title 15 impacting statewide recalls.

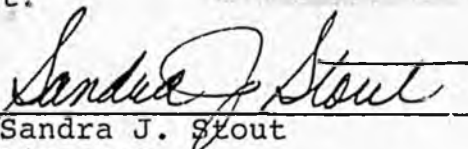
With regard to AS 29.28.150 (3), providing that a rebuttal statement shall be included in the prepared recall petition, we would express concern that the appearance of opposing points of view on the same petition may violate the basic assumptions inherent in the petition process. A petition is usually assumed to express a single point of view or command a subsequent action with which the sponsors and subscribers uniformly concur. By providing conflicting positions on the same issue, there may be some confusion as to which the signer subscribes. Under AS 29.28.210, provision is made that the rebuttal statement of the official will appear on the ballot which goes before the voters. The division suggests that this is a more appropriate placement of the rebuttal rather than on the sponsored petition. The division suggests that the deletion of the provision mandating that the ballot be made available 20 days before the election may be a detrimental deletion. While constricting timeframes frequently make it difficult to have the actual ballots published by that time, samples of the ballot language could be made available.

With regard to Sec. 29.28.242 providing for the appointment of successors to fill vacant seats resulting from the recall of an official, the division can offer no opinion as to the provision that the governor appoint municipal or other local officials in the event that entire councils or assemblies

are recalled. This amendment makes no reference to appointment authority under similar circumstances for school boards where there are no city councils or assemblies.

The division notes that the bill does not address the issue as to the recalled official's eligibility to run for re-election for the same office or for any other, and suggests that this clarification might be something the legislature may want to include in their review of this bill.

Finally, the division notes the amended definition of "voter" allowing municipalities by ordinance to require a voter to be registered in the precinct in which the persons seeks to vote in the municipal election. The division raises no objections to this amendment.



Sandra J. Stout
Director

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

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PHONE: (907) 563-1073

POSITION PAPER

RE: HB 177

SPONSOR: Representative Thompson, by Request

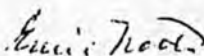
Program Effects of Bill

This bill would make municipal recalls subject to Alaska Public Offices Commission requirements. It would alter municipal recall petition procedures to require judicial scrutiny of the legal sufficiency of such petitions prior to circulation. It would not affect Departmental programs.

Comments

The Department does not oppose this bill. While municipal recalls are a part of the political process and arguably should be covered by APOC regulation, it is not clear why they should be treated differently from other municipal elections which may be exempted from such regulation at the option of the municipality.

The requirement of judicial review of the legal sufficiency of a recall petition prior to circulation makes sense from the point of view of municipal clerks who may not be qualified to make this determination. Clerks are also in the untenable position of making this decision about officials who may have hired them. Consequently, judicial review insulates the procedure to some extent from political pressures. The bill also provides for submission of a rebuttal statement from the official subjected to a recall petition to be included in the petition circulated for signatures. This provides an institutionalized manner of responding to charges prior to the recall election itself.



Emil Notti, Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 177
 Title: Alaska Public Offices Commission and recall of elected officials
 Sponsor: Rep. Thompson
 Requestor: House C&RA
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-		
CAPITAL		-0-	-0-	-0-		
REVENUE						

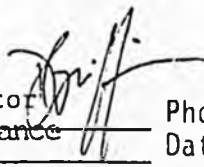
FUNDING: (Thousands of Dollars)

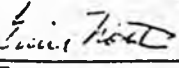
GENERAL FUND		-0-	-0-	-0-		
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-		

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Doug Griffin, Deputy Director  Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/19/85

Approved by Commissioner: Emil Notti  Date: 3/19/85
 Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

DISTRICT 27:
AKHIOK
CHIGNIK
CHIGNIK LAGOON
CHIGNIK LAKE
CHINIAK
IVANOF BAY
KARLUK
KODIAK
LARSEN BAY
OLD HARBOR
OUZINKIE
PERRYVILLE
PORT LIONS
WOMEN'S BAY

Alaska State Legislature



House of Representatives

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P.O. BOX 75
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(LIO)(907) 486-8116

DT: March 20, 1985

TO: House Community and Regional Affairs Committee
Chairman; Goll
Vice Chr; Wallis
Members; Koponen
Furnace
Gruenberg
Marrou
Phillips

FR: Thompson *DW*

RE: HB 177

The following information lists those major changes that Hb 177 would have on current AK Statute 29, dealing with recall of elected officials:

1. Requires immediate APOC filing by petitioners seeking recall. Sections 1 and 2 amend the existing APOC laws to prohibit municipalities from exempting themselves from APOC requirements, as regards recall; also requires immediate filing with APOC after a petition is filed with the clerk.
2. Clarifies the definition of the grounds for recall. The proposed change to existing statute would narrow the range of conduct that would constitute grounds for recall, but the terms, "misconduct, incompetence, and failure to perform", are unchanged. These are non-legal words for the traditional terms of malfeasance, misfeasance, and nonfeasance. These terms are clear and also quite broad.
3. Requires the superior court to rule on a petition before it is circulated. Section 5 requires that the municipal clerk seek judicial review of the recall petition immediately after it is filed with the clerk. The court has 15 days to conduct its hearing. The State of Washington has proved that this can be done successfully.

4. Allows a rebuttal by the person being recalled.
Section 6 contains a new statute, AS 29.28.167(b), which allows a person being recalled to submit a 200 word statement to be included as part of any recall petition.

5. Bases required signatures on the last municipal, not general elections.

Section 6, AS 29.28.167(c), Requires that the number of signatures gathered in support of a petition be determined by municipal, not general elections.

ASSOCIATION OF ALASKA SCHOOL BOARDS

326 Fourth St., Suite 510 • Juneau, Alaska 99801 • (907) 586-1083

January 2, 1985

Representative David W. Thompson
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Thompson:

Your research assistant, Helen Fisher, has shared with me your proposed draft of recall legislation. She indicated to me that you were aware of some proposed language put together by Richard Fossey of the law firm of Bankston and McCollum. I have attached all of his correspondence here.

I will also attempt to put together my views on the matter, based upon following the various legal actions of this past year. Here goes:

ISSUE NUMBER ONE

Current legislation requires that recall petitioners seek signatures in the amount of a percentage of the last general election.

PROBLEM

GENERAL ELECTION is language that refers to national elections and state wide elections. School boards get elected at MUNICIPAL elections, or at dates set by the division of elections (for REAA's). While the rationale for picking an election as the basis for determining the number of petitioners necessary to start a recall process is sound, in that it assumes that the same voters who elected the official should recall the official, it also has the weakness that there is really no direct relationship, in that a recall could conceivably be based upon a general election figure when the (probably lower) municipal election figure would be more accurate.

Aside from the purely flawed language, it would appear that a more systematic approach would be to base petition numbers on the number of REGISTERED VOTERS in the district as opposed to the actual voters. I am not, by this recommendation, suggesting a stiffer petition signing process. Please note that I did not recommend upping the requirement here. I will make that recommendation elsewhere here and attempt to justify it with documentation separate from this issue.

ISSUE NUMBER TWO

It appears that Alaska's process (chronology) of recall petitions is out of order. Presently, anyone may ask for a petition form from the local municipal clerk or from the state office of Elections. From the point of issuance, the petitioners have sixty days to gain the necessary signatures. At that point, when the petition is submitted with the signatures, it is scrutinized by the issuing office. The issuing office reviews for sufficient signatures and rules on sufficiency of compliance with reason for recall. It has happened, with increasing frequency, that the issuing office denies the recall petition at this point.

Representative David W. Thompson
January 2, 1985
Page two

In Washington State, recall petition are reviewed first by the municipal prosecutor AND THEN BY THE SUPERIOR COURT for sufficiency of meeting the definition of cause for recall, BEFORE THE PETITIONS CAN BE CIRCULATED FOR SIGNATURE.

I would suggest that Alaska examine the steps provided for in our statute. Washington has a good process, in that their chronology is correct in my view, and they automatically take the process to the Superior Court where Alaskan's do this at a time when the process is emotional and not reasoned.

Involving the Superior Court is also an expensive process to board members and possibly this item should be a responsibility of the state.

It should be noted that Washington's Supreme Court has just recently ruled that Superior Courts, in addition to reviewing recall petitions for sufficiency of meeting recall definitions, must review petitions for sufficiency of fact. In layman's terms, it was explained to me that the Superior Court must now rule on whether there is sufficient basis in fact for going forward with the recall, or is this an obvious trumped up charge. The court is not expected to rule on the "Truth" of the charges.

While I would hope that this would be a valuable precedent for Alaska, I recognize that there is considerable emotional reaction to limiting the cause for recall and politically wonder if attaining this step is possible.

ISSUE NUMBER THREE

More chronology. Under present conditions a petitioner may seek a petition on just about any grounds, circulate the petition for signatures, and then submit for election to the appropriate office. AT THAT TIME, the recallee gets to see the petition and IF THE RECALL GOES TO ELECTION gets to put a not to exceed 200 word recall rebuttal on the ballot.

I would recommend that there be a more formal filing process whereby the petition is reviewed for sufficiency, as per prior proposals, somewhat in the manner that Washington does it. I would further recommend that the process include a provision that any petition that is validated for circulation include the provision of the 200 word or less rebuttal by the recallee. I personally feel that a lot of damage can be done by the circulation process....culminating in failure or success of the petition process. The recallee should have rebuttal rights on a equal basis with the petitioner.

FURTHER: I would recommend that the petitioner be required to file with APOC immediately upon seeking the petition forms. Current statutes only require that the petitioner file with APOC when the petition goes to the recall election. My view is that the petitioner is effectively campaigning the minute the petitioner seeks the first signature.

ISSUE NUMBER FOUR

Definition for cause for recall. This item is an extremely complex one and the legal folks have written reams on it. The Alaska Supreme Court, in its review of the Bering Strait case, did an extensive treatise on the history of the development of the scope of reasoning for recall as it is currently designed. Essentially some items came out that I do not argue with and they are:

1. Recall provisions should be sufficiently simple that the average citizen can make them work without the extensive aid of legal assistance.
2. The courts should not rule on the "Truth" of the charges.
3. Charges, as defined in legislation, should be relatively broad.

Having said this, I feel that the definition of charges needs to be worked on as the charges, as currently constructed, are too vague. Possibly this cannot be done, in which case I would again look to Washington's Supreme Court direction and ask that Superior Courts rule on sufficiency of definition and sufficiency of fact.

ISSUE NUMBER FIVE

The number of signatures required to initiate a recall election has been attacked as not sufficient to reflect public opinion.

I will merely indicate here that numerous recall elections have failed recently. Examples include an attempt to recall the mayor and some assembly members in Juneau because they advocated a time change. The recallees won the election and stayed in office by a vote margin approximating the original vote that put them in office.

In Craig, the school board was subjected to recall because "They were not in touch with what was going on in the schools." While all board members voted on all issues in the same manner, when the vote results were in, four of five board members were re-elected. The defeated candidate appeared to have community problems not in any related to school board actions.

In Bering Strait, the entire board was subjected to recall. Because court action prevented the election for approximately two years, the normal election process placed about six of the original board members before the voters. In these two local elections, all incumbents were re-elected. Finally, (two years later) the remaining three were subjected to recall. These three were defeated and turned out of office. The question here is, why did not the other six get dumped out at regular elections....if they were also the target of the process of recall?

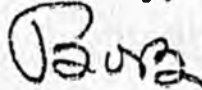
I can only assume here that public sentiment sometimes gets caught up in identifying with RECALL. Certainly there was nothing scientific about what happened, and lends credence to the notion that there is not a great deal of correlation between the numbers of signatures required for recall and the outcomes of the elections.

Representative David W. Thompson
January 2, 1985
Page four

Possibly the number should be increased.

Your comments on my views will be appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Greene".

Robert C. Greene
Executive Director

RCG/sam

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

BILL STEFFIELD, GOVERNOR

POUCH B
JUNEAU, ALASKA 99811
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ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

March 20, 1985

POSITION PAPER

RE: House Bill 270

SPONSOR: Representative Larson

Program Effects of Bill

This bill proposes changes in municipal initiative, referendum, and recall procedures. It would not affect Departmental programs.

Comments

The Department does not oppose this bill. It basically adopts language from the Governor's Municipal code revision bill (HB 72, SB 142) in regard to municipal initiative, referendum, and recall procedures. There are some substantive changes from HB 72 which would have the following effects:

- set out in greater detail the procedures and steps for municipal clerks to follow in the process, and
- establish more elaborate safeguards for officials subject to recall.



Emil Notti, Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 270
 Title: Municipal recalls, referendums initiatives, & elections.
 Sponsor: Rep. Larson
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-		
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-		

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Doug Griffin, Deputy Director *Griffin* Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/19/85
 Approved by Commissioner: Emil Notti *Notti* Date: 3/19/85
 Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

1 constitution.

2 (b) Voter registration by the municipality may not be required.
3 However, a municipality may by ordinance require that a person be
4 registered to vote in state elections in the precinct in which that
5 person seeks to vote in municipal elections.

6 (c) This section applies to home rule and general law municipal-
7 ities.

8 * Sec. 5. AS 29.28.040 is repealed and reenacted to read:

9 Sec. 29.28.040. RUNOFF ELECTIONS. (a) Unless otherwise pro-
10 vided by ordinance, a runoff election shall be held if no candidate
11 receives over 40 percent of the votes cast for the office of

12 (1) mayor; or

13 (2) member of the assembly, council, or school board if
14 candidates run for a designated seat.

15 (b) Unless otherwise provided by ordinance, if candidates for
16 the assembly, council, or school board run at large, a runoff election
17 for a seat shall be held if no candidate receives a number of votes
18 greater than 40 percent of the total votes cast for all candidates
19 divided by the number of seats to be filled.

20 (c) Unless otherwise provided by ordinance, a runoff election
21 shall be held within three weeks after the date of certification of
22 the election for which a runoff is required, and notice of the runoff
23 election shall be published at least five days before the election
24 date. The runoff election shall be between the two candidates receiv-
25 ing the greatest number of votes for the seat. The ballot may not
26 contain space for a voter to write in the name of another candidate.

27 * Sec. 6. AS 29.28 is amended by adding new sections to read:

28 Sec. 29.28.061. APPLICATION FOR PETITION. (a) An initiative or
29 referendum is proposed by filing an application with the municipal

1 (6) a statement, with space for the sponsor's sworn signa-
2 ture and date of signing, that the sponsor personally circulated the
3 petition, that all signatures were affixed in the presence of the
4 sponsor, and that the sponsor believes the signatures to be those of
5 the persons whose names they purport to be; and

6 (7) space for indicating the total number of signatures on
7 the petition.

8 (b) If a petition consists of more than one page, each page
9 shall contain the summary of the ordinance or resolution to be initi-
10 ated or the ordinance or resolution to be referred.

11 (c) Copies of the petition shall be provided to each sponsor by
12 the clerk.

13 * Sec. 7. AS 29.28.070 is amended to read:

14 Sec. 29.28.070. SIGNATURE REQUIREMENTS [REQUIRED SIGNATURES].

15 (a) The [NECESSARY] signatures on an initiative or referendum [A]
16 petition shall be secured within 60 [90] days after the clerk issues
17 [FROM THE DATE OF THE FIRST CIRCULATION OF] the petition. The state-
18 ment provided under AS 29.28.063(a)(6) shall be signed and dated by
19 the sponsor. The petition shall be signed in ink or indelible pencil.

20 (b) Every petition for either the initiative or referendum in
21 the government of a municipality shall be signed by a number of
22 [QUALIFIED] voters residing within the territorial limits of the
23 municipality, or, if the act sought to be initiated or referred per-
24 tains exclusively to the area outside cities or to a service area, by
25 a number of [QUALIFIED] voters residing within the area outside cities
26 or within the service area. The clerk shall determine the number of
27 signatures required on a petition and inform each sponsor. A petition
28 shall be signed by a number of voters based on the number of votes
29 cast at the last regular election held before the date the petition

C+RA WED 3/20/85

Larson: re muni elections
same as Title 29 (HB 172)
changes: IDEA is if
HB 172 doesn't pass hope
this will pass.
Motsu Clerk will be there
by request of Motsu Muni
Clerks

Introduced: 3/6/85
Referred: Community & Regional
Affairs and Judiciary

1 IN THE HOUSE

2

HOUSE BILL NO. 270

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to municipal recalls, referendums,
7 initiatives, and elections."

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

9 * Section 1. AS 29.13.100(8) is amended to read:

10 (8) AS 29.28.010, 29.28.022, 29.28.030 [29.28.020(b) -
11 29.28.030] (municipal election)

12 * Sec. 2. AS 29.28.020(b) is amended to read:

13 (b) The assembly or council may call a special election at any
14 time [UPON AT LEAST 30 DAYS NOTICE].

15 * Sec. 3. AS 29.28 is amended by adding a new section to read:

16 Sec. 29.28.022. NOTICE OF ELECTIONS. (a) Unless provided
17 otherwise by law, a municipality shall give at least 30 days notice of
18 an election.

19 (b) This section applies to home rule and general law municipal-
20 ities.

21 * Sec. 4. AS 29.28.030 is amended to read:

22 Sec. 29.28.030. VOTER QUALIFICATION. (a) A person may vote in
23 a municipal election only if the person

24 (1) is a United States citizen who is qualified to vote in
25 state elections; [AND]

26 (2) has been a resident of the municipality for 30 days
27 immediately preceding the election; [AND WHO]

28 (3) is registered to vote in state elections; and

29 (4) is not disqualified under art. V of the state

1 constitution.

2 (b) Voter registration by the municipality may not be required.
3 However, a municipality may by ordinance require that a person be
4 registered to vote in state elections in the precinct in which that
5 person seeks to vote in municipal elections.

6 (c) This section applies to home rule and general law municipal-
7 ties.

8 * Sec. 5. AS 29.28.04 is repealed and reenacted to read:

9 Sec. 29.28.040. RUNOFF ELECTIONS. (a) Unless otherwise pro-
10 vided by ordinance, a runoff election shall be held if no candidate
11 receives over 40 percent of the votes cast for the office of

12 (1) mayor; or

13 (2) member of the assembly, council, or school board if
14 candidates run for a designated seat.

15 (b) Unless otherwise provided by ordinance, if candidates for
16 the assembly, council, or school board run at large, a runoff election
17 for a seat shall be held if no candidate receives a number of votes
18 greater than 40 percent of the total votes cast for all candidates
19 divided by the number of seats to be filled.

20 (c) Unless otherwise provided by ordinance, a runoff election
21 shall be held within three weeks after the date of certification of
22 the election for which a runoff is required, and notice of the runoff
23 election shall be published at least five days before the election
24 date. The runoff election shall be between the two candidates receiv-
25 ing the greatest number of votes for the seat. The ballot may not
26 contain space for a voter to write in the name of another candidate.

27 * Sec. 6. AS 29.28 is amended by adding new sections to read:

28 Sec. 29.28.061. APPLICATION FOR PETITION. (a) An initiative or
29 referendum is proposed by filing an application with the municipal

1 clerk containing the ordinance or resolution to be initiated or the
2 ordinance or resolution to be referred and the address to which all
3 correspondence relating to the petition may be sent. An application
4 shall be signed by at least 10 voters who will sponsor the petition.
5 An additional sponsor may be added at any time before the petition is
6 filed by submitting the name of the sponsor to the clerk. Within two
7 weeks the clerk shall certify the application if the clerk finds that
8 it is in proper form and, for an initiative petition, that the matter

9 (1) is not restricted by AS 29.28.060;

10 (2) includes only a single subject;

11 (3) relates to a legislative rather than to an administra-
12 tive matter; and

13 (4) would be enforceable as a matter of law.

14 (b) A decision by the clerk on an application for petition is
15 subject to judicial review.

16 Sec. 29.28.063. CONTENTS OF PETITION. (a) Within two weeks
17 after certification of an application for an initiative or referendum
18 petition, a petition shall be prepared by the municipal clerk. Each
19 copy of the petition shall contain

20 (1) a summary of the ordinance or resolution to be initi-
21 ated or the ordinance or resolution to be referred;

22 (2) the complete ordinance or resolution sought to be ini-
23 tiated or referred as submitted by the sponsors;

24 (3) the date on which the petition is issued by the clerk;

25 (4) notice that signatures must be secured within 60 days
26 after the date the petition is issued;

27 (5) spaces for each signature, the printed name of each
28 signer, the date each signature is affixed, and the residence and
29 mailing addresses of each signer;

1 (6) a statement, with space for the sponsor's sworn signa-
2 ture and date of signing, that the sponsor personally circulated the
3 petition, that all signatures were affixed in the presence of the
4 sponsor, and that the sponsor believes the signatures to be those of
5 the persons whose names they purport to be; and

6 (7) space for indicating the total number of signatures on
7 the petition.

8 (b) If a petition consists of more than one page, each page
9 shall contain the summary of the ordinance or resolution to be initi-
10 ated or the ordinance or resolution to be referred.

11 (c) Copies of the petition shall be provided to each sponsor by
12 the clerk.

13 * Sec. 7. AS 29.28.070 is amended to read:

14 Sec. 29.28.070. SIGNATURE REQUIREMENTS [REQUIRED SIGNATURES].

15 (a) The [NECESSARY] signatures on an initiative or referendum [A]
16 petition shall be secured within 60 [90] days after the clerk issues
17 [FROM THE DATE OF THE FIRST CIRCULATION OF] the petition. The state-
18 ment provided under AS 29.28.063(a)(6) shall be signed and dated by
19 the sponsor. The petition shall be signed in ink or indelible pencil.

20 (b) Every petition for either the initiative or referendum in
21 the government of a municipality shall be signed by a number of
22 [QUALIFIED] voters residing within the territorial limits of the
23 municipality, or, if the act sought to be initiated or referred per-
24 tains exclusively to the area outside cities or to a service area, by
25 a number of [QUALIFIED] voters residing within the area outside cities
26 or within the service area. The clerk shall determine the number of
27 signatures required on a petition and inform each sponsor. A petition
28 shall be signed by a number of voters based on the number of votes
29 cast at the last regular election held before the date the petition

1 was issued equal to 25 percent of the votes cast in the area concerned
2 [, AS THE CASE MAY BE, EQUAL TO THE FOLLOWING PER CENT OF THE TOTAL
3 NUMBER OF VOTES CAST AT THE LAST GENERAL ELECTION IN THE CITY OR
4 BOROUGH OR BOROUGH AREA CONCERNED, OR SPECIAL ELECTION CALLED FOR THE
5 PURPOSE OF ELECTING CITY OR BOROUGH OFFICERS:

6 (1) 25 PER CENT, WHEN A CITY OR BOROUGH HAS FEWER THAN
7 7,500 PERSONS, OR

8 (2) 15 PER CENT, WHEN A CITY OR BOROUGH HAS 7,500 PERSONS
9 OR MORE].

10 (c) When signing a petition each voter shall write or print
11 after the signature the date of signing the petition and the voter's
12 resident address.

13 (d) Illegible signatures shall be rejected by the clerk unless
14 accompanied by a legible printed name. Signatures not accompanied by
15 a legible residence address shall be rejected [MAY BE REJECTED BY THE
16 MUNICIPAL CLERK].

17 (e) A petition signer may withdraw the signer's signature upon
18 written application to the clerk before certification of the petition
19 [WITHIN SEVEN DAYS AFTER THE PETITION HAS BEEN FILED WITH THE CLERK].

20 * Sec. 8. AS 29.28.073 is repealed and reenacted to read:

21 Sec. 29.28.073. SUFFICIENCY OF PETITION. (a) All copies of an
22 initiative or referendum petition shall be assembled and filed as a
23 single instrument. Within 10 days after the date the petition is
24 filed, the municipal clerk shall

25 (1) certify on the petition whether it is sufficient; and

26 (2) if the petition is insufficient, identify the insuffi-
27 ciency and notify the sponsors at the address provided under AS 29.-
28 28.061(a) by certified mail.

29 (b) A petition that is insufficient may be supplemented with

1 additional signatures obtained and filed within 10 days after the date
2 on which the petition is rejected.

3 (c) A petition that is insufficient shall be rejected and filed
4 as a public record unless it is supplemented under (b) of this sec-
5 tion. Within 10 days after a supplementary filing the clerk shall
6 recertify the petition. If it is still insufficient, the petition is
7 rejected and filed as a public record.

8 * Sec. 9. AS 29.28.075 is amended to read:

9 Sec. 29.28.075. PROTEST. If the municipal clerk certifies an
10 initiative or referendum application or [THE] petition is insuffi-
11 cient, a sponsor or signer of the application or petition may file a
12 written protest with the clerk [MUNICIPAL EXECUTIVE] within seven days
13 after the certification. The clerk [AND THE MUNICIPAL EXECUTIVE]
14 shall present the protest at the next regular meeting of [TO] the
15 assembly or council which shall hear and decide the protest.

16 * Sec. 10. AS 29.28.077 is amended to read:

17 Sec. 29.28.077. NEW PETITION. Failure to secure sufficient
18 signatures does not preclude the filing of a new application for an
19 initiative or referendum petition. However, a new application for a
20 petition on substantially the same matter may not be filed sooner than
21 180 days [SIX MONTHS] after the date a petition is rejected as
22 insufficient.

23 * Sec. 11. AS 29.28.080 is repealed and reenacted to read:

24 Sec. 29.28.080. INITIATIVE ELECTION. (a) Unless substantially
25 the same measure is adopted, when a petition seeks an initiative vote
26 the clerk shall submit the matter to the voters at the next regular
27 election occurring no sooner than 45 days after certification of the
28 petition. If no regular election occurs within 75 days after the
29 certification of a petition, the assembly or council shall hold a

1 special election within 75 days but not sooner than 45 days after
2 certification.

3 (b) If the assembly or council adopts substantially the same
4 measure, the petition is void and the matter initiated may not be
5 placed before the voters.

6 (c) The ordinance or resolution stated shall be published in
7 full in the notice of the election, but may be summarized on the
8 ballot to indicate clearly the proposal submitted.

9 (d) If a majority vote favors the ordinance or resolution, it
10 becomes effective upon certification of the election, unless a diff-
11 erent effective date is provided in the ordinance or resolution.

12 * Sec. 12. AS 29.28.090 is repealed and reenacted to read:

13 Sec. 29.28.090. REFERENDUM ELECTION. (a) Unless the ordinance
14 or resolution is repealed, when a petition seeks a referendum vote the
15 clerk shall submit the matter to the voters at the next election
16 occurring no sooner than 45 days after certification of the petition.
17 If no election occurs within 75 days of certification of a petition,
18 the assembly or council shall hold a special election within 75 days,
19 but not sooner than 45 days after certification.

20 (b) If a petition is certified before the effective date of the
21 matter referred, the ordinance or resolution against which the peti-
22 tion is filed shall be suspended pending the referendum vote. During
23 the period of suspension, the assembly or council may not enact an
24 ordinance or resolution substantially similar to the suspended
25 measure.

26 (c) If the assembly or council repeals the ordinance or resolu-
27 tion before the referendum election, the petition is void and the
28 matter referred shall not be placed before the voters.

29 (d) If a majority vote favors the repeal of the matter referred,

1 it is repealed. Otherwise, the matter referred remains in effect or,
2 if it has been suspended, becomes effective on certification of the
3 election.

4 * Sec. 13. AS 29.28.110 is repealed and reenacted to read:

5 Sec. 29.28.110. EFFECT. (a) An ordinance or resolution may not
6 be repealed or amended within one year after its effective date if
7 adopted in an initiative election or if adopted after a petition that
8 contains substantially the same measure has been filed.

9 (b) If an ordinance or resolution is repealed in a referendum
10 election or by the assembly or council after a petition that contains
11 substantially the same measure has been filed, substantially similar
12 legislation may not be enacted for a period of one year.

13 (c) If an initiative or referendum measure fails to receive
14 voter approval, a new petition application for substantially the same
15 measure may not be filed sooner than 180 days after the election
16 results are certified.

17 * Sec. 14. AS 29.28.130 is amended to read:

18 Sec. 29.28.130. RECALL. An [ELECTED] official who is elected
19 or appointed to an elective municipal office [OF A HOME RULE OR
20 GENERAL LAW MUNICIPALITY] may be recalled by the voters after the
21 official has served the first 120 days of the term for which elected
22 or appointed [SIX MONTHS IN OFFICE].

23 * Sec. 15. AS 29.28.140 is amended to read:

24 Sec. 29.28.140. GROUNDS. Grounds for recall are misconduct in
25 office, incompetence, or failure to perform prescribed duties during
26 the term of office the official is presently serving. An official may
27 not be recalled for performance of or failure to perform a
28 discretionary act.

29 * Sec. 16. AS 29.28.140 is amended by adding a new subsection to read:

1 (b) For purposes of this section

2 (1) "failure to perform prescribed duties" means the wilful
3 neglect or failure to perform faithfully a duty imposed by statute;

4 (2) "incompetence" means mental or physical incapacity to
5 perform the duties of office for a continuous period of at least 60
6 days; and

7 (3) "misconduct in office" means an unlawful act committed
8 wilfully.

9 * Sec. 17. AS 29.28 is amended by adding new sections to read:

10 Sec. 29.28.144. APPLICATION FOR RECALL PETITION. (a) An appli-
11 cation for a recall petition shall be filed with the municipal clerk
12 and shall contain

13 (1) the signatures and residence addresses of at least 10
14 municipal voters who will sponsor the petition;

15 (2) the address to which all correspondence relating to the
16 petition may be sent;

17 (3) a statement in 200 words or less of the grounds for
18 recall stated with particularity.

19 (b) An additional sponsor may be added at any time before the
20 petition is filed by submitting the name of the sponsor to the clerk.

21 (c) Each sponsor shall certify that the sponsor believes the
22 grounds for recall stated in the application are true. Knowingly
23 making a false statement on an application is a class A misdemeanor.

24 (d) The clerk shall review an application for a recall petition
25 and accept only those grounds that meet the requirements of AS 29.28.-
26 140. The clerk shall immediately notify the sponsors by certified
27 mail at the address provided under (a)(2) of this section of any
28 grounds for recall in the application that are rejected and the
29 reasons for the rejection.

1 Sec. 29.28.146. REBUTTAL STATEMENTS. Upon receipt of an appli-
2 cation for recall petition that meets the requirements of AS 29.28.-
3 144, the clerk shall send by certified mail a copy of the application
4 to the official sought to be recalled with a notice that the official
5 may submit to the clerk a rebuttal statement of 200 words or less
6 within 10 days after receipt of the application.

7 * Sec. 18. AS 29.28.150 is repealed and reenacted to read:

8 Sec. 29.28.150. RECALL PETITION. (a) After the period during
9 which a rebuttal statement may be submitted has elapsed, the clerk
10 shall prepare a recall petition. All copies of the petition shall
11 contain

12 (1) the name of the official sought to be recalled;

13 (2) the statement of the grounds for recall as set out in
14 the application for the petition;

15 (3) a rebuttal statement if one has been submitted under
16 AS 29.28.146;

17 (4) the date the petition is issued by the clerk;

18 (5) notice that signatures must be secured within 60 days
19 after the date the petition is issued;

20 (6) spaces for each signature, the printed name of each
21 signer, the date of each signature, and the residence and mailing
22 addresses of each signer;

23 (7) a statement, with space for the sponsor's sworn signa-
24 ture and date of signing, that the sponsor personally circulated the
25 petition, that all signatures were affixed in the presence of the
26 sponsor, and that the sponsor believes the signatures to be those of
27 the persons whose names they purport to be; and

28 (8) space for indicating the number of signatures on the
29 petition.

1 (b) Copies of the petition shall be provided to each sponsor by
2 the clerk.

3 * Sec. 19. AS 29.28 is amended by adding a new section to read:

4 Sec. 29.28.155. SIGNATURE REQUIREMENTS. (a) The signatures on
5 a recall petition shall be secured within 60 days after the date the
6 clerk issues the petition. The statement provided under AS 29.23.-
7 150(a)(7) shall be completed and signed by the sponsor. Signatures
8 shall be in ink or indelible pencil.

9 (b) The clerk shall determine the number of signatures required
10 on a petition and inform each sponsor. If a petition seeks to recall
11 an official who represents the municipality at large, the petition
12 shall be signed by a number of voters equal to 25 percent of the
13 number of votes cast at the last regular election held before the date
14 the petition was issued. If a petition seeks to recall an official
15 who represents a district, the petition shall be signed by a number of
16 the voters residing in the district equal to 25 percent of the number
17 of votes cast in the district at the last regular election held before
18 the date the petition was issued.

19 (c) Illegible signatures shall be rejected by the clerk unless
20 accompanied by a legible printed name. Signatures not accompanied by
21 a legible residence address shall be rejected.

22 (d) A petition signer may withdraw the signer's signature upon
23 written application to the clerk before certification of the petition.

24 * Sec. 20. AS 29.28.160 is repealed and reenacted to read:

25 Sec. 29.28.160. SUFFICIENCY OF PETITION. (a) The copies of a
26 recall petition shall be assembled and filed as a single instrument.
27 A petition may not be filed within 180 days before the end of the term
28 of office of the official sought to be recalled. Within 10 days after
29 the date a petition is filed, the municipal clerk shall

1 (1) certify on the petition whether it is sufficient; and
2 (2) if the petition is insufficient, identify the insuffi-
3 ciency and notify the sponsors at the address provided under AS 29.-
4 28.144(a)(2) by certified mail.

5 (b) A petition that is insufficient may be supplemented with
6 additional signatures obtained and filed within 10 days after the date
7 on which the petition is rejected if the supplementary petition is
8 filed more than 180 days before the end of the term of office of the
9 official sought to be recalled.

10 (c) A petition that is insufficient shall be rejected and filed
11 as a public record unless it is supplemented under (b) of this sec-
12 tion. Within 10 days after the supplementary filing the clerk shall
13 recertify the petition. If it is still insufficient, the petition is
14 rejected and filed as a public record.

15 * Sec. 21. AS 29.28.180 is repealed and reenacted to read:

16 Sec. 29.28.180. NEW RECALL PETITION APPLICATION. A new applica-
17 tion for a petition to recall the same official may not be filed
18 sooner than 180 days after a petition is rejected as insufficient.

19 * Sec. 22. AS 29.28.190 is amended to read:

20 Sec. 29.28.190. SUBMISSION. If a recall petition is sufficient,
21 the clerk shall [IMMEDIATELY] submit it to the assembly or council at
22 the next regular meeting.

23 * Sec. 23. AS 29.28.200 is amended to read:

24 Sec. 29.28.200. ELECTION. (a) If a regular election occurs
25 within 75 but not sooner than 45 days after [OF THE] submission of the
26 petition to the assembly or council. the assembly or council shall
27 submit the recall at that election.

28 (b) If no regular election occurs [WILL OCCUR] within 75 days,
29 the assembly or council shall hold a special election on the recall

1 question within 75 days but not sooner than 45 days after a petition
2 is submitted to the assembly or council [OF SUBMISSION].

3 (c) If a vacancy occurs in the office after a sufficient recall
4 petition is filed with the clerk, the recall question [PETITION] shall
5 not be submitted to the voters. An official who resigns after a suffi-
6 cient recall petition is filed naming that official may not be ap-
7 pointed to the same office.

8 * Sec. 24. AS 29.28.210 is amended to read:

9 Sec. 29.28.210. FORM OF RECALL BALLOTS. A recall ballot shall
10 contain [CONTAINS:]

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

12 (2) a [THE OFFICER'S] statement by the official named on
13 the recall petition of 200 words or less, if the statement is filed
14 with the clerk in accordance with AS 29.28.146 [FOR PUBLICATION AND
15 PUBLIC INSPECTION WITHIN 20 DAYS BEFORE THE ELECTION];

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

18 * Sec. 25. AS 29.28.240 is repealed and reenacted to read:

19 Sec. 29.28.240. EFFECT. (a) If a majority vote favors recall,
20 the office becomes vacant upon certification of the recall election.

21 (b) 1. an official is not recalled at the election, an applica-
22 tion for a petition to recall the same official may not be filed
23 sooner than 180 days after the election.

24 * Sec. 26. AS 29.28 is amended by adding new sections to read:

25 Sec. 29.28.242. SUCCESSORS. (a) If an official is recalled
26 from the assembly or council, the office of that official is filled in
27 accordance with AS 29.23.080 or 29.23.280. If all members of the
28 assembly or council are recalled, the governor shall appoint qualified
29 voters to fill the vacancies until the next regular election.

1 (b) If a member of the school board is recalled, the office of
2 that member is filled in accordance with AS 14.12.070. If all members
3 are recalled from a school board, the assembly or council shall ap-
4 point qualified voters to fill the vacancies until the next regular
5 election.

6 (c) A person appointed under (a) or (b) of this section serves
7 until a successor is elected and takes office.

8 (d) If an official other than a member of the assembly or coun-
9 cil or school board is recalled, a successor shall be elected to fill
10 the unexpired portion of the term. The election shall be held not
11 more than 60 days after the date the recall election is certified,
12 except that if a regular election occurs within 75 days after certi-
13 fication the successor shall be chosen at that election.

14 (e) Nominations for a successor may be filed until seven days
15 before the last date on which a first notice of the election must be
16 given. Nominations may not be filed before the certification of the
17 recall election.

18 Sec. 29.28.246. APPEAL. (a) A person aggrieved by the filing
19 of a recall petition or an application for a petition or by the fail-
20 ure of an elected official to perform duties involving a recall may
21 file an action in the superior court. The court may

22 (1) consider the statutory sufficiency or specificity of
23 the grounds for recall;

24 (2) issue an injunction to compel or prevent the perfor-
25 mance of an act relating to the recall;

26 (3) determine whether the stated grounds for recall are
27 true; the person challenging the truthfulness of the grounds is re-
28 quired to prove their falsity by a preponderance of the evidence.

29 (b) An action seeking relief under (a)(1) or (3) of this section

1 must be commenced within 15 days after the date the official sought to
2 be recalled received a copy of the application for a recall petition
3 from the clerk. An action seeking relief under (a)(3) of this section
4 must be commenced within 15 days after the act or failure to act
5 occurs.

6 * Sec. 27. AS 29.28.250 is repealed and reenacted to read:

7 Sec. 29.28.250. APPLICATION. AS 29.28.130 - 29.28.250 apply to
8 home rule and general law municipalities.

9 * Sec. 28. AS 29.78.010(19) is amended to read:

10 (19) "voter" means a United States citizen who is qualified
11 to vote in state election, [AND] has been a resident of the munici-
12 pality for 30 days immediately preceding the election, [AND WHO] is
13 registered to vote in state elections and, if required by ordinance,
14 is registered in the precinct in which the person seeks to vote in
15 municipal elections, and is not disqualified under art. V of the state
16 constitution.

17 * Sec. 29. AS 29.78.010 is amended by adding a new paragraph to read:

18 (20) "residence address" means a physical location such as a
19 street name and number, subdivision name, highway name and mile
20 marker, or public road name, but does not include a post office box
21 number or rural route number.

22 * Sec. 30. AS 29.28.062, 29.28.065, 29.28.220, and 29.28.230 are re-
23 pealed.

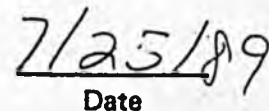


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