

House File 2193 - Introduced

HOUSE FILE _____
BY VAN FOSSEN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the recall of elected officials of political
2 subdivisions and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6287YH 82
5 sc/rj/24

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1 1 Section 1. NEW SECTION. 66A.1 OFFICERS SUBJECT TO

1 2 RECALL.

1 3 1. Any elective public officer of a political subdivision
1 4 in this state is subject to recall from office by the electors
1 5 of the political subdivision from which the officer was
1 6 elected. The eligible electors of a political subdivision may
1 7 petition for the recall of the elective officer by filing a
1 8 petition with the county commissioner of elections demanding
1 9 the recall of the officer.

1 10 2. A public officer who is appointed to an elective office
1 11 is subject to recall in the same manner as provided for an
1 12 officer who is elected to that office.

1 13 3. An officer shall not be recalled for performing a duty
1 14 or obligation of the office to which the officer was elected,
1 15 which duty or obligation is imposed by law, nor for failure to
1 16 perform any act that if performed would subject the officer to
1 17 prosecution.

1 18 4. For purposes of this chapter, "political subdivision"
1 19 means a county, township, school corporation, city, or any
1 20 local board or commission whose officers are elected by the
1 21 people.

1 22 Sec. 2. NEW SECTION. 66A.2 PETITION FOR RECALL ==
1 23 PERSONS QUALIFIED TO PETITION == PENALTY.

1 24 Any eligible elector of a political subdivision of this
1 25 state may sign a petition for recall of an officer elected
1 26 from that political subdivision. However, if the political
1 27 subdivision from which the officer is elected is divided into
1 28 election districts, the eligible elector signing the petition
1 29 must be an eligible elector of that election district from
1 30 which the officer was elected.

1 31 A person signing a name other than that person's own to a
1 32 petition for recall or who knowingly signs the same petition
1 33 for recall more than once or who is not an eligible elector at
1 34 the time of signing a petition for recall is guilty of a
1 35 serious misdemeanor.

2 1 Sec. 3. NEW SECTION. 66A.3 PETITION FOR RECALL ==
2 2 CONTENTS, REQUIREMENTS, LIMITATIONS.

2 3 1. A petition for recall must contain the following:

2 4 a. The signatures of eligible electors of the political
2 5 subdivision or election district affected by the recall equal
2 6 to at least twenty percent of the total votes cast in the last
2 7 preceding election for the office affected by the recall, but
2 8 in no case shall a petition for recall contain fewer than
2 9 fifty signatures. The county commissioner shall determine and
2 10 certify to any interested person the number of signatures
2 11 required on a petition for recall for that office.

2 12 b. The residence address of each person signing the
2 13 petition, and the date the petition was signed by that person.

2 14 c. A statement, in two hundred words or less, detailing
2 15 the reason for recall of the officer.

2 16 2. a. A petition for recall shall be eight and one-half
2 17 by fourteen inches in size and shall be in substantially the
2 18 following form:

2 19 WARNING

2 20 A person signing a name other than the person's own name to

2 21 a petition or who knowingly signs the person's name to this
2 22 petition more than once or who is not an eligible elector at
2 23 the time the signature is affixed to this petition is guilty
2 24 of a serious misdemeanor.

2 25 RECALL PETITION

2 26 We, the undersigned eligible electors of (name of
2 27 applicable political subdivision or election district)
2 28 respectfully petition that an election be held as provided by
2 29 law on the question of whether (officer's name), holding the
2 30 office of _____, should be recalled for the following
2 31 reasons: (Setting out the statement of the reason for recall
2 32 in not more than two hundred words). By affixing the
2 33 signature, each signer certifies the following: I have
2 34 personally signed this petition; I am an eligible elector of
2 35 the state of Iowa and (appropriate political subdivision or
3 1 election district); and my residence address is correctly
3 2 written after my name to the best of my knowledge and belief.

3 3 b. Numbered lines shall follow the heading. Each numbered
3 4 line shall contain spaces for the signature, signer's
3 5 residence address, and the date of the signature.

3 6 c. Each separate page of a petition for recall shall
3 7 contain the warning in paragraph "a".

3 8 d. When a petition contains more than one page, the pages
3 9 shall be neatly arranged and securely fastened together before
3 10 filing.

3 11 3. a. A petition for recall shall not name more than one
3 12 officer to be recalled.

3 13 b. A person shall not be recalled within the first one
3 14 hundred eighty days after the person takes the oath of office
3 15 or within one hundred eighty days from the date of the
3 16 general, regular city, or school district election, whichever
3 17 is applicable, at which the office is to be filled by the
3 18 registered voters.

3 19 c. A petition for recall shall not be filed against an
3 20 officer for whom a recall election has been held within a
3 21 period of two years during a term of office.

3 22 Sec. 4. NEW SECTION. 66A.4 FILING OF PETITION FOR
3 23 RECALL.

3 24 1. a. The petition for recall shall be filed with the
3 25 county commissioner.

3 26 b. When filing a petition for recall, an affidavit in
3 27 substantially the following form shall be attached to the
3 28 petition:

3 29 I, (name of person filing petition), being duly sworn, say
3 30 that I circulated or assisted in circulating the petition to
3 31 which this affidavit is attached, and I believe the signatures
3 32 affixed to the petition are genuine, and are the signatures of
3 33 the persons whose names they purport to be, and that the
3 34 signers were aware of the contents of the petition before
3 35 signing the petition.

4 1 _____

4 2 (Signed)

4 3 Subscribed and sworn to before me by _____, on the ____day
4 4 of _____, 20__

4 5 _____

4 6 (Name)

4 7 _____

4 8 (Official title)

4 9 2. After a petition for recall has been filed, it shall
4 10 not be returned to the person who filed the petition, nor
4 11 shall any signature or other information be added to the
4 12 petition for recall. If a signature on a petition sheet is
4 13 crossed out by the petitioner before the sheet is offered for
4 14 filing, the elimination of the signature does not affect the
4 15 validity of other signatures on the petition sheet.

4 16 Sec. 5. NEW SECTION. 66A.5 VERIFICATION OF PETITION.

4 17 Upon the filing of a petition for recall, the county
4 18 commissioner shall verify whether the petition has been signed
4 19 by the required number of eligible electors as specified in
4 20 section 66A.3. If the petition for recall does not contain
4 21 the required number of signatures, the county commissioner
4 22 shall notify the person filing the petition that the petition
4 23 is not valid.

4 24 Sec. 6. NEW SECTION. 66A.6 NOTIFICATION TO OFFICER ==
4 25 STATEMENT OF JUSTIFICATION.

4 26 Upon the filing of the petition for recall meeting the
4 27 requirements of this chapter, the county commissioner shall
4 28 immediately send written notice to the officer named in the
4 29 petition. The notice shall state that a petition for recall
4 30 of the officer has been filed, shall include a copy of the
4 31 statement of the reason for recall as printed on the petition,

4 32 and shall inform the officer that the officer may have printed
4 33 on the special election ballot a statement of justification in
4 34 not more than two hundred words stating why the officer should
4 35 not be recalled. To be printed on the ballot, the statement
5 1 of justification must be submitted to the county commissioner
5 2 within ten days of the date the notice is sent to the officer
5 3 named in the petition for recall.

5 4 Sec. 7. NEW SECTION. 66A.7 OBJECTION TO THE PETITION ==
5 5 NOTICE AND HEARING.

5 6 1. Objections to the legal sufficiency of a petition for
5 7 recall may be filed in writing by any person who would have
5 8 the right to vote for a candidate for the office in question.
5 9 The objections must be filed with the county commissioner not
5 10 later than fourteen days after the petition for recall is
5 11 filed.

5 12 2. If objections are filed, notice shall be mailed within
5 13 seventy-two hours by certified mail to the person who filed
5 14 the petition. A hearing on the objections shall be held in
5 15 the manner provided for objections to nomination petitions or
5 16 certificates of nomination filed pursuant to chapter 43, 44,
5 17 45, or 277, whichever is applicable.

5 18 Sec. 8. NEW SECTION. 66A.8 PRESUMPTION OF VALIDITY.

5 19 A petition for recall filed under this chapter, and being
5 20 apparently in conformity with law, shall be regarded as valid,
5 21 unless objection is made in writing, and the petition shall be
5 22 open to public inspection and preserved by the county
5 23 commissioner for not less than six months after the special
5 24 recall election is held.

5 25 Sec. 9. NEW SECTION. 66A.9 RECALL ELECTION.

5 26 If the officer named in the petition for recall submits a
5 27 resignation in writing, it shall be accepted and become
5 28 effective the day it is offered. The vacancy created by the
5 29 resignation shall be filled as provided by law, except that
5 30 the officer named in the petition for recall shall not be
5 31 appointed to fill the vacancy. If the officer named in the
5 32 petition does not resign within five days after the petition
5 33 for recall is filed, a special election on the recall of the
5 34 officer shall be called. The recall election shall be held
5 35 the first Tuesday following sixty days after the date the
6 1 petition is filed. However, the special election shall not be
6 2 held on the same day as a regularly scheduled election. If
6 3 the first Tuesday following sixty days after the date the
6 4 petition is filed is the same day as a regularly scheduled
6 5 election, the special election shall be held the first Tuesday
6 6 following the regularly scheduled election.

6 7 Sec. 10. NEW SECTION. 66A.10 CONDUCT OF RECALL ELECTION.

6 8 A special election for recall of an officer shall be
6 9 conducted, and the results canvassed and certified, in the
6 10 same manner that a regularly scheduled election to fill that
6 11 office is conducted.

6 12 The ballot submitted at a recall election shall set forth
6 13 the statement contained in the petition for recall stating the
6 14 reason for demanding the recall of the officer and the
6 15 statement of justification submitted by the officer, if
6 16 submitted in a timely manner. The question of whether the
6 17 officer should be recalled shall be placed on the ballot in
6 18 substantially the following form:

6 19 _____. FOR recalling _____ who holds the office of _____.

6 20 _____. AGAINST recalling _____ who holds the office of _____.

6 21 _____.
6 22 Expenses of a recall election shall be paid in the same
6 23 manner as the expenses of a regularly scheduled election to
6 24 fill that office.

6 25 Sec. 11. NEW SECTION. 66A.11 ELECTION RESULTS == FILLING
6 26 OF VACANCY.

6 27 1. The officer named in the petition for recall shall
6 28 continue in office until the officer resigns or the results of
6 29 the recall election are officially declared.

6 30 2. If a majority of those voting on the question vote to
6 31 recall the officer, the office becomes vacant and the vacancy
6 32 shall be filled as provided by chapter 69. However, in no
6 33 event shall the officer recalled be appointed to fill the
6 34 vacancy.

6 35 Sec. 12. IMPLEMENTATION OF ACT. Section 25B.2, subsection
7 1 3, shall not apply to this Act.

7 2 EXPLANATION

7 3 This bill allows for the recall from office of an elected
7 4 official of a political subdivision by the electors of that
7 5 political subdivision, or election district, if applicable.
7 6 The bill provides that a petition for recall of an officer may
7 7 be filed by the eligible electors of a political subdivision

7 8 or election district equal in number to at least 20 percent of
7 9 the total votes cast for the office in question in the last
7 10 preceding election, but in no case shall the number of
7 11 signatures be less than 50.
7 12 If the petition is filed in a timely manner, is of legal
7 13 sufficiency, is not objected to in writing, and if the officer
7 14 named in the petition does not resign from office, a recall
7 15 election shall be held on the question of whether the officer
7 16 shall be recalled from office. If the officer resigns, or if
7 17 a majority of the total votes cast at the recall election is
7 18 in favor of the recall of the officer, the vacancy in the
7 19 office shall be filled in a manner provided for that office in
7 20 chapter 69 of the Code.
7 21 The bill may include a state mandate as defined in Code
7 22 section 25B.3. The bill makes inapplicable Code section
7 23 25B.2, subsection 3, which would relieve a political
7 24 subdivision from complying with a state mandate if funding for
7 25 the cost of the state mandate is not provided or specified.
7 26 Therefore, political subdivisions are required to comply with
7 27 any state mandate included in the bill.
7 28 LSB 6287YH 82
7 29 sc/rj/24