

**House File 177 - Introduced**

HOUSE FILE 177

BY WAGNER

**A BILL FOR**

1 An Act providing for the recall of elected officials of  
2 political subdivisions and providing a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 66A.1 Officers subject to recall.

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

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

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

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

21 Sec. 2. NEW SECTION. 66A.2 Petition for recall — persons  
22 qualified to petition — penalty.

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

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

35 Sec. 3. NEW SECTION. 66A.3 Petition for recall — contents,

1 **requirements, limitations.**

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

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

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

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

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

18 **WARNING**

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

24 **RECALL PETITION**

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

1 best of my knowledge and belief.

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

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

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

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

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

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

21 **Sec. 4. NEW SECTION. 66A.4 Filing of petition for recall.**

22 1. *a.* The petition for recall shall be filed with the  
23 county commissioner.

24 *b.* When filing a petition for recall, an affidavit in  
25 substantially the following form shall be attached to the  
26 petition:

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

34 \_\_\_\_\_  
35 (Signed)

1 Subscribed and sworn to before me by \_\_\_\_\_, on the \_\_\_\_ day  
2 of \_\_\_\_\_, 20\_\_

3 \_\_\_\_\_  
4 (Name)

5 \_\_\_\_\_  
6 (Official title)

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

14 Sec. 5. NEW SECTION. **66A.5 Verification of petition.**

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

22 Sec. 6. NEW SECTION. **66A.6 Notification to officer —**  
23 **statement of justification.**

24 Upon the filing of the petition for recall meeting the  
25 requirements of this chapter, the county commissioner shall  
26 immediately send written notice to the officer named in the  
27 petition. The notice shall state that a petition for recall  
28 of the officer has been filed, shall include a copy of the  
29 statement of the reason for recall as printed on the petition,  
30 and shall inform the officer that the officer may have printed  
31 on the special election ballot a statement of justification in  
32 not more than two hundred words stating why the officer should  
33 not be recalled. To be printed on the ballot, the statement  
34 of justification must be submitted to the county commissioner  
35 within ten days of the date the notice is sent to the officer

1 named in the petition for recall.

2     Sec. 7. NEW SECTION. **66A.7 Objection to the petition —**  
3 **notice and hearing.**

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

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

15     Sec. 8. NEW SECTION. **66A.8 Presumption of validity.**

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

22     Sec. 9. NEW SECTION. **66A.9 Recall election.**

23     If the officer named in the petition for recall submits  
24 a resignation in writing, it shall be accepted and become  
25 effective the day it is offered. The vacancy created by the  
26 resignation shall be filled as provided by law, except that the  
27 officer named in the petition for recall shall not be appointed  
28 to fill the vacancy. If the officer named in the petition does  
29 not resign within five days after the petition for recall is  
30 filed, a special election on the recall of the officer shall  
31 be called. Notwithstanding section 39.2, subsection 4, the  
32 recall election shall be held the first Tuesday following  
33 sixty days after the date the petition is filed. However,  
34 the special election shall not be held on the same day as a  
35 regularly scheduled election. If the first Tuesday following

1 sixty days after the date the petition is filed is the same day  
2 as a regularly scheduled election, the special election shall  
3 be held the first Tuesday following the regularly scheduled  
4 election.

5 Sec. 10. NEW SECTION. **66A.10 Conduct of recall election.**

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

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

17 \_\_\_\_\_. FOR recalling \_\_\_\_\_ who holds the office of \_\_\_\_\_.

18 \_\_\_\_\_. AGAINST recalling \_\_\_\_\_ who holds the office of

19 \_\_\_\_\_.

20 3. Expenses of a recall election shall be paid in the same  
21 manner as the expenses of a regularly scheduled election to  
22 fill that office.

23 Sec. 11. NEW SECTION. **66A.11 Election results — filling**  
24 **of vacancy.**

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

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

33 Sec. 12. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
34 3, shall not apply to this Act.

35

EXPLANATION

1 This bill allows for the recall from office of an elected  
2 official of a political subdivision by the electors of that  
3 political subdivision, or election district, if applicable.  
4 The bill provides that a petition for recall of an officer may  
5 be filed by the eligible electors of a political subdivision  
6 or election district equal in number to at least 20 percent  
7 of the total votes cast for the office in question in the  
8 last preceding election, but in no case shall the number of  
9 signatures be less than 50.

10 If the petition is filed in a timely manner, is of legal  
11 sufficiency, is not objected to in writing, and if the officer  
12 named in the petition does not resign from office, a recall  
13 election shall be held on the question of whether the officer  
14 shall be recalled from office. If the officer resigns, or if a  
15 majority of the total votes cast at the recall election is in  
16 favor of the recall of the officer, the vacancy in the office  
17 shall be filled in a manner provided for that office in Code  
18 chapter 69.

19 The bill may include a state mandate as defined in Code  
20 section 25B.3. The bill makes inapplicable Code section 25B.2,  
21 subsection 3, which would relieve a political subdivision from  
22 complying with a state mandate if funding for the cost of  
23 the state mandate is not provided or specified. Therefore,  
24 political subdivisions are required to comply with any state  
25 mandate included in the bill.