

By Senator McKay

26-704-98

1 A bill to be entitled
 2 An act relating to municipal recall; amending
 3 s. 100.361, F.S.; requiring recall petitions to
 4 contain the full text of the grounds for recall
 5 alleged in the petition; requiring each
 6 signature on a petition to be dated; providing
 7 for voluntary registration of a petition before
 8 signatures are gathered; clarifying duties of
 9 the clerk with respect to determining whether
 10 petition states grounds for recall; requiring
 11 recall petition and defense to contain full
 12 text of grounds for recall alleged in the
 13 petition and the official's defensive
 14 statement; providing an effective date.

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 16 Be It Enacted by the Legislature of the State of Florida:

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 18 Section 1. Subsection (1) of section 100.361, Florida
 19 Statutes, is amended to read:

20 100.361 Municipal recall.--

21 (1) RECALL PETITION.--Any member of the governing body
 22 of a municipality or charter county, hereinafter referred to
 23 in this section as "municipality," may be removed from office
 24 by the electors of the municipality. When the official
 25 represents a district and is elected only by electors residing
 26 in that district, only electors from that district are
 27 eligible to sign the petition to recall that official and are
 28 entitled to vote in the recall election. When the official
 29 represents a district and is elected at-large by the electors
 30 of the municipality, all electors of the municipality are
 31 eligible to sign the petition to recall that official and are

1 entitled to vote in the recall election. Where used in this
2 section, the term "district" shall be construed to mean the
3 area or region of a municipality from which a member of the
4 governing body is elected by the electors from such area or
5 region. Members may be removed from office by the following
6 procedure:

7 (a) A petition shall be prepared naming the person
8 sought to be recalled and containing a statement of grounds
9 for recall in not more than 200 words limited solely to the
10 grounds specified in paragraph (b). Each page of a petition
11 containing space on which signatures may be placed must
12 contain the full text of the statement of grounds for recall.
13 If more than one member of the governing body is sought to be
14 recalled, whether such member is elected by the electors of a
15 district or by the electors of the municipality at-large, a
16 separate recall petition shall be prepared for each member
17 sought to be recalled.

18 1. In a municipality or district of fewer than 500
19 electors, the petition shall be signed by at least 50 electors
20 or by 10 percent of the total number of registered electors of
21 the municipality or district as of the preceding municipal
22 election, whichever is greater.

23 2. In a municipality or district of 500 or more but
24 fewer than 2,000 registered electors, the petition shall be
25 signed by at least 100 electors or by 10 percent of the total
26 number of registered electors of the municipality or district
27 as of the preceding municipal election, whichever is greater.

28 3. In a municipality or district of 2,000 or more but
29 fewer than 5,000 registered electors, the petition shall be
30 signed by at least 250 electors or by 10 percent of the total
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1 number of registered electors of the municipality or district
2 as of the preceding municipal election, whichever is greater.

3 4. In a municipality or district of 5,000 or more but
4 fewer than 10,000 registered electors, the petition shall be
5 signed by at least 500 electors or by 10 percent of the total
6 number of registered electors of the municipality or district
7 as of the preceding municipal election, whichever is greater.

8 5. In a municipality or district of 10,000 or more but
9 fewer than 25,000 registered electors, the petition shall be
10 signed by at least 1,000 electors or by 10 percent of the
11 total number of registered electors of the municipality or
12 district as of the preceding municipal election, whichever is
13 greater.

14 6. In a municipality or district of 25,000 or more
15 registered electors, the petition shall be signed by at least
16 1,000 electors or by 5 percent of the total number of
17 registered electors of the municipality or district as of the
18 preceding municipal election, whichever is greater.

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20 Electors of the municipality or district making charges
21 contained in the statement of grounds for recall and those
22 signing the recall petition shall be designated as the
23 "committee." A specific person shall be designated in the
24 petition as chair of the committee to act for the committee.
25 Electors of the municipality or district are eligible to sign
26 the petition. Signatures and oaths of circulators shall be
27 executed as provided in paragraph (c). All signatures must
28 ~~shall~~ be obtained within a period of 30 days, each signature
29 must be followed by the date on which the signature was placed
30 on the petition, and the petition must ~~shall~~ be filed within
31 30 days after the date the first signature is obtained on the

1 petition. The committee may register its petition with the
2 clerk before it begins to obtain signatures. The clerk shall
3 examine the petition to determine whether the statement of
4 grounds for recall states one or more grounds for removal
5 listed in paragraph (b). If the clerk determines that the
6 petition states one or more of such grounds, the clerk shall
7 so inform the chair of the committee, but the clerk is under
8 no obligation to determine the accuracy of any allegation
9 contained in the grounds.

10 (b) The grounds for removal of elected municipal
11 officials shall, for the purposes of this act, be limited to
12 the following and must be contained in the petition:

- 13 1. Malfeasance;
- 14 2. Misfeasance;
- 15 3. Neglect of duty;
- 16 4. Drunkenness;
- 17 5. Incompetence;
- 18 6. Permanent inability to perform official duties; and
- 19 7. Conviction of a felony involving moral turpitude.

20 (c) Each elector of the municipality signing a
21 petition shall sign his or her name in ink or indelible pencil
22 as registered in the office of the supervisor of elections and
23 shall state on the petition his or her place of residence and
24 voting precinct. Each petition shall contain appropriate
25 lines for signatures and addresses of electors and an oath, to
26 be executed by the circulator thereof, verifying the fact that
27 the circulator saw each person sign the counterpart of the
28 petition, that each signature appearing thereon is the genuine
29 signature of the person it purports to be, and that the
30 petition was signed in the presence of the circulator on the
31 date indicated.

1 (d) The petition shall be filed with the auditor or
2 clerk of the municipality or charter county, or his or her
3 equivalent, hereinafter referred to as clerk, by the person
4 designated as chair of the committee, and, when a facially
5 valid petition that states one or more of the grounds for
6 removal listed in ~~meeting the requirements of~~ paragraph (b) is
7 filed, the clerk shall submit such petition to the county
8 supervisor of elections who shall, within a period of not more
9 than 30 days after the petition is filed with the supervisor,
10 determine whether the petition contains the required valid
11 signatures. If it is determined by the clerk that the petition
12 does not state one or more of the grounds for removal listed
13 in ~~meet the requirements of~~ paragraph (b) ~~and therefore is not~~
14 ~~facially valid~~, the clerk shall so notify the governing body
15 of the municipality or charter county and take no further
16 action. The petition cannot be amended after it is filed with
17 the clerk. The supervisor shall be paid by the persons or
18 committee seeking verification the sum of 10 cents for each
19 name checked.

20 (e) If it is determined that the petition does not
21 contain the required signatures, the clerk shall so certify to
22 the governing body of the municipality or charter county and
23 file the petition without taking further action, and the
24 matter shall be at an end. No additional names may be added
25 to the petition, and the petition shall not be used in any
26 other proceeding.

27 (f) If it is determined that the petition has the
28 required signatures, then the clerk shall at once serve upon
29 the person sought to be recalled a certified copy of the
30 petition. Within 5 days after service, the person sought to
31 be recalled may file with the clerk a defensive statement of

1 not more than 200 words. The clerk shall, within 5 days,
2 prepare a sufficient number of typewritten, printed, or
3 mimeographed copies of the recall petition and defensive
4 statement, as well as the names, addresses, and oaths on the
5 original petition, and deliver them to the person who has been
6 designated as chair of the committee and take his or her
7 receipt therefor. Such prepared copies shall be entitled
8 "Recall Petition and Defense" and shall contain lines and
9 spaces for signatures of registered electors, place of
10 residence, election precinct number, and date of signing,
11 together with oaths to be executed by the circulators which
12 conform to the provisions of paragraph (c). Each page of a
13 petition containing space on which signatures may be placed
14 must contain the full text of the statement of grounds for
15 recall and the defensive statement.The clerk shall deliver
16 forms sufficient to carry the signatures of 30 percent of the
17 registered electors.

18 (g) Upon receipt of the "Recall Petition and Defense,"
19 the committee may circulate them to obtain the signatures of
20 15 percent of the electors. Any elector who signs a recall
21 petition shall have the right to demand in writing that his or
22 her name be stricken from the petition. A written demand
23 signed by the elector shall be filed with the clerk and upon
24 receipt of the demand the clerk shall strike the name of the
25 elector from the petition and place his or her initials to the
26 side of the signature stricken. However, no signature may be
27 stricken after the clerk has delivered the "Recall Petition
28 and Defense" to the supervisor of elections for verification.

29 (h) Within 60 days after delivery of the "Recall
30 Petition and Defense" to the chair, the chair shall file with
31 the clerk the "Recall Petition and Defense" which bears the

1 signatures of electors. The clerk shall assemble all signed
2 petitions, check to see that each petition is properly
3 verified by the oath of the circulator, and submit such
4 petitions to the county supervisor of elections, who shall
5 determine the number of valid signatures, purge the names
6 withdrawn, certify within 30 days whether 15 percent of the
7 qualified electors of the municipality have signed the
8 petitions, and report his or her findings to the governing
9 body. The supervisor shall be paid by the persons or
10 committee seeking verification the sum of 10 cents for each
11 name checked.

12 (i) If the petitions do not contain the required
13 signatures, the clerk shall report such fact to the governing
14 body and file the petitions, the proceedings shall be
15 terminated, and the petitions shall not again be used. If the
16 signatures do amount to at least 15 percent of the qualified
17 electors, the clerk shall serve notice of that fact upon the
18 person sought to be recalled and deliver to the governing body
19 a certificate as to the percentage of qualified voters who
20 signed.

21 Section 2. This act shall take effect July 1, 1998.

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24 SENATE SUMMARY

25 Requires each copy of the petition in a municipal recall
26 election on which signatures may be placed to contain the
27 full text of statement of grounds for recall. Requires
28 each signature to be dated. Requires the clerk to verify
29 whether a petition states one or more statutory grounds
30 for recall, but the clerk need not determine the accuracy
31 of any allegation in those grounds. Allows a committee
seeking to recall an official to register its petition
with the clerk before obtaining signatures and obtain
from the clerk a determination of whether the petition
states one or more grounds.

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