

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Flanagan, Feeney, and Fasano offered the
12 following:

14 **Amendment (with title amendment)**

15 On page 1, between lines 15 and 16 of the bill

17 insert:

18 Section 1. Subsections (1) and (7) of section 100.361,
19 Florida Statutes, are 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

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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). If more than one member
11 of the governing body is sought to be recalled, whether such
12 member is elected by the electors of a district or by the
13 electors of the municipality at-large, a separate recall
14 petition shall be prepared for each member sought to be
15 recalled.

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

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

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

31 4. In a municipality or district of 5,000 or more but

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1 fewer than 10,000 registered electors, the petition shall be
2 signed by at least 500 electors or by 10 percent of the total
3 number of registered electors of the municipality or district
4 as of the preceding municipal election, whichever is greater.

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

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

16
17 Electors of the municipality or district making charges
18 contained in the statement of grounds for recall and those
19 signing the recall petition shall be designated as the
20 "committee." A specific person shall be designated in the
21 petition as chair of the committee to act for the committee.
22 Electors of the municipality or district are eligible to sign
23 the petition. Signatures and oaths of witnesses ~~circulators~~
24 shall be executed as provided in paragraph (c). All
25 signatures shall be obtained within a period of 30 days, and
26 the petition shall be filed within 30 days after the date the
27 first signature is obtained on the petition.

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

- 31 1. Malfeasance;

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- 1 2. Misfeasance;
- 2 3. Neglect of duty;
- 3 4. Drunkenness;
- 4 5. Incompetence;
- 5 6. Permanent inability to perform official duties; and
- 6 7. Conviction of a felony involving moral turpitude.

7 (c) Each elector of the municipality signing a
8 petition shall sign his or her name in ink or indelible pencil
9 as registered in the office of the supervisor of elections and
10 shall state on the petition his or her place of residence and
11 voting precinct. Each petition shall contain appropriate
12 lines for the signatures, printed name and addresses of the
13 electors and an oath, to be executed by a witness the
14 circulator thereof, verifying the fact that the witness the
15 circulator saw each person sign the counterpart of the
16 petition, that each signature appearing thereon is the genuine
17 signature of the person it purports to be, and that the
18 petition was signed in the presence of the witness the
19 circulator on the date indicated.

20 (d) The petition shall be filed with the auditor or
21 clerk of the municipality or charter county, or his or her
22 equivalent, hereinafter referred to as clerk, by the person
23 designated as chair of the committee, and, when the a facially
24 valid petition ~~meeting the requirements of paragraph (b) is~~
25 filed, the clerk shall submit such petition to the county
26 supervisor of elections who shall, within a period of not more
27 than 30 days after the petition is filed with the supervisor,
28 determine whether the petition contains the required valid
29 signatures. ~~If it is determined by the clerk that the~~
30 ~~petition does not meet the requirements of paragraph (b) and~~
31 ~~therefore is not facially valid, the clerk shall so notify the~~

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1 ~~governing body of the municipality or charter county and take~~
2 ~~no further action.~~ The petition cannot be amended after it is
3 filed with the clerk. The supervisor shall be paid by the
4 persons or committee seeking verification the sum of 10 cents
5 for each name checked.

6 (e) If it is determined that the petition does not
7 contain the required signatures, the clerk shall so certify to
8 the governing body of the municipality or charter county and
9 file the petition without taking further action, and the
10 matter shall be at an end. No additional names may be added
11 to the petition, and the petition shall not be used in any
12 other proceeding.

13 (f) If it is determined that the petition has the
14 required signatures, then the clerk shall at once serve upon
15 the person sought to be recalled a certified copy of the
16 petition. Within 5 days after service, the person sought to
17 be recalled may file with the clerk a defensive statement of
18 not more than 200 words. The clerk shall, within 5 days,
19 prepare a sufficient number of typewritten, printed, or
20 mimeographed copies of the recall petition and defensive
21 statement, as well as the names, addresses, and oaths on the
22 original petition, and deliver them to the person who has been
23 designated as chair of the committee and take his or her
24 receipt therefor. Such prepared copies shall be entitled
25 "Recall Petition and Defense" and shall contain lines and
26 spaces for signatures and printed names of registered
27 electors, place of residence, election precinct number, and
28 date of signing, together with oaths to be executed by the
29 witnesses ~~circulators~~ which conform to the provisions of
30 paragraph (c). The clerk shall deliver forms sufficient to
31 carry the signatures of 30 percent of the registered electors.

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1 (g) Upon receipt of the "Recall Petition and Defense,"
2 the committee may circulate them to obtain the signatures of
3 15 percent of the electors. Any elector who signs a recall
4 petition shall have the right to demand in writing that his or
5 her name be stricken from the petition. A written demand
6 signed by the elector shall be filed with the clerk and upon
7 receipt of the demand the clerk shall strike the name of the
8 elector from the petition and place his or her initials to the
9 side of the signature stricken. However, no signature may be
10 stricken after the clerk has delivered the "Recall Petition
11 and Defense" to the supervisor of elections for verification.

12 (h) Within 60 days after delivery of the "Recall
13 Petition and Defense" to the chair, the chair shall file with
14 the clerk the "Recall Petition and Defense" which bears the
15 signatures of electors. The clerk shall assemble all signed
16 petitions, check to see that each petition is properly
17 verified by the oath of a witness ~~the circulator~~, and submit
18 such petitions to the county supervisor of elections, who
19 shall determine the number of valid signatures, purge the
20 names withdrawn, certify within 30 days whether 15 percent of
21 the qualified electors of the municipality have signed the
22 petitions, and report his or her findings to the governing
23 body. The supervisor shall be paid by the persons or
24 committee seeking verification the sum of 10 cents for each
25 name checked.

26 (i) If the petitions do not contain the required
27 signatures, the clerk shall report such fact to the governing
28 body and file the petitions, the proceedings shall be
29 terminated, and the petitions shall not again be used. If the
30 signatures do amount to at least 15 percent of the qualified
31 electors, the clerk shall serve notice of that fact upon the

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1 person sought to be recalled and deliver to the governing body
2 a certificate as to the percentage of qualified voters who
3 signed.

4 (7) OFFENSES RELATING TO PETITIONS.--No person shall
5 impersonate another, purposely write his or her name or
6 residence falsely in the signing of any petition for recall or
7 forge any name thereto, or sign any paper with knowledge that
8 he or she is not a qualified elector of the municipality. No
9 expenditures for campaigning for or against an officer being
10 recalled shall be made until the date on which the recall
11 election is to be held is publicly announced. The committee
12 and the officer being recalled shall be subject to chapter
13 106. No person shall employ or pay another to accept
14 employment or payment for circulating or witnessing a recall
15 petition. Any person violating any of the provisions of this
16 section shall be deemed guilty of a misdemeanor of the second
17 degree and shall, upon conviction, be punished as provided by
18 law.

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21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 On page 1, line 2 after the semicolon

24

25 insert:

26 amending s. 100.361, F.S.; providing for
27 municipal recall petitions to be attested to by
28 a witness; removing determination of facial
29 validity by the clerk;

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