



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

FACT SHEET FOR H.B. 2308

recall petitions and elections; revisions

Purpose

Modifies procedures for recall petitions, circulators and elections.

Background

Every public officer holding an elective office, either by election, appointment or retention, is subject to recall by the qualified electors of the electoral district from which the candidates is elected. The number of persons it takes to call for an officer's recall is based on 25 percent of the number of votes cast at the last preceding general election for all candidates for the office held by the officer, even if the officer was not elected at that election, divided by the number of offices that were being filled at that election ([A.R.S. § 19-201](#)). A recall petition cannot be circulated against any officer until the officer has held office for six months; however, a petition to recall a member of the Legislature may be filed beginning 5 days from the beginning of the first session after the member's election ([A.R.S. § 19-202](#)).

A recall petition is required to contain a general statement of up to 200 words stating the grounds of the demand for a recall. A recall petition cannot be accepted more than 120 days after the date of submission of the application for recall ([A.R.S. § 19-203](#)). In many instances, statute requires recall procedures and requirements to follow those established for initiative and referendum (A.R.S. §§ [19-204](#); [19-205](#); [19-208.01](#); and [19-208.02](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Recall Petitions and Circulator Affidavits

1. Requires a person filing an application for recall to submit a separate electronic copy of the general statement for recall when submitting the application and petition to the filing officer.
2. Voids and prohibits from being counted in determining the legal sufficiency of a recall petition any signature obtained on a petition that lacks an appropriately checked box indicating whether the circulator is paid or a volunteer.
3. Prescribes a specific recall petition and circulator affidavit format for recall rather than requiring the petition to be in the same format as a petition for initiative and referendum.
4. Requires recall petitions to contain 10 numbered lines for signatures, rather than 15 numbered lines for signatures.

5. Prohibits the form of a recall circulator affidavit from being modified and invalidates any recall petition that contains a partially completed affidavit or an affidavit that has been modified.
6. Requires the Secretary of State (SOS) to make available a sample recall petition that strictly complies with statutory requirements.
7. Presumes that any person or organization that uses a sample recall petition from the SOS has strictly complied with statutory requirements for petition forms.
8. Requires a recall petition circulator to verify that the name and address of a petition signer were printed on the date indicated by that signer.
9. Removes the requirement that, in the absence of a legible petition signature, the name as printed will be used to determine the validity of the signature.

Recall Circulator Registration

10. Requires all out-of-state petition circulators and all paid circulators to register with the SOS before circulating recall petitions.
11. Requires filing officers to disqualify all signatures collected by a circulator who fails to register properly with the SOS.
12. Requires the person or organization that is circulating a recall petition to collect and submit the completed registration applications to the SOS.
13. Requires the SOS to establish a procedure for registering recall petition circulators, including circulator registration applications, in the Elections Procedures Manual.
14. Requires the SOS to publish all information regarding circulator requirements online.
15. Prescribes requirements for the information that must be included in a recall circulator registration application, which includes:
 - a) the circulator's full name, residence address, telephone number and email address;
 - b) the recall petition on which the circulator will gather signatures;
 - c) a statement that the circulator consents to the jurisdiction of Arizona courts in resolving any disputes concerning the circulation of petitions;
 - d) the address of the person or organization in Arizona for which the circulator is gathering signatures and at which the circulator will accept service of process related to disputes; and
 - e) a signed and notarized affidavit that includes an acknowledgment that, under penalty of a class 1 misdemeanor, the person is eligible to register as a circulator and to the best of the person's knowledge the information provided is correct.
16. Requires the SOS to register and assign a circulator registration number to the circulator within 5 business days after submission and review of a complete and correct registration application.
17. Prohibits a person from registering as a recall circulator if the person has:
 - a) had a civil or criminal penalty imposed for a violation of specified election, initiative, referendum or recall statutes within the previous five years;
 - b) been convicted of treason or a felony and has not had civil right to vote restored; or
 - c) been convicted of any criminal offense involving fraud, forgery or identity theft.

18. Deems all signatures collected by a circulator invalid if the circulator is properly served with a subpoena to provide evidence and fails to appear or produce documents as provided for in the subpoena.
19. Allows the party serving the subpoena to request a court order directing the filing officer to remove signatures collected by the circulator.
20. Allows any person to challenge the lawful registration of circulators in the superior court of the county where the circulator is registered.
21. Prohibits a petition circulator challenge from being commenced more than 10 business days after the date that the filing officer received, processed and made available all final petition sheets individually numbered.
22. Allows a petition circulator challenger to amend the complaint after the filing officer has removed signatures and signatures sheets.
23. Requires a petition circulator challenge to be advanced on the court calendar and decided as soon as possible.
24. Allows either party to a petition circulator challenge the right to appeal to the Arizona Supreme Court within 5 calendar days after the superior court enters a judgment.
25. Entitles the prevailing party to reasonable attorney fees in an action to challenge the registration of a circulator.
26. Classifies, as a class 1 misdemeanor, knowingly omitting or misrepresenting information or providing false information on a circulator registration application or otherwise improperly register.
27. Defines *paid circulator*.

Withdrawal of Petition Signature

28. Allows a person to withdraw a petition signature by 5:00 p.m. on the date the petition containing the person's signature is submitted for verification by:
 - a) verifying the withdrawal by signing a simple statement of intent;
 - b) mailing a signed, notarized statement of intent to withdraw to the receiving officer; or
 - c) drawing a line through the signature and printed name on the petition.
29. Classifies, as a class 1 misdemeanor, knowingly giving or receiving money or any other thing of value for signing a statement of signature withdrawal.

Recall Petition Signature Fraud

30. States that a person commits recall petition signature fraud if the person, with the intent to defraud:
 - a) intentionally collects recall petition signature sheets with the knowledge that the person whose name appears on the signature sheet did not actually sign the petition; or
 - b) uses any fraudulent means, method, trick, device or artifice to obtain signatures on a recall petition.

31. Provides that a person who is paid by a person or organization to employ or subcontract with persons who fraudulently obtain recall petition signatures or who obtain signatures through other unlawful means is not guilty of a violation if the person:
 - a) reports the suspected unlawful or fraudulent signature collection to the filing officer; and
 - b) refuses to file the suspected unlawful or fraudulent signatures.
32. Provides that a person who engages or participates in a pattern of recall petition signature fraud is guilty of a class 4 felony and is prohibited from participating for five years in any election, initiative, referendum or recall campaign.
33. Defines *pattern of recall petition signature fraud*.
34. Requires the SOS to maintain a list of persons who have been convicted of participating in a pattern of recall petition signature fraud and who are barred from participating in specified campaigns for five years from the date of conviction.
35. Requires the SOS to publish the list on its website and requires the SOS to remove a person from the list on expiration of the five-year prohibition.
36. Requires the SOS to provide a copy of the list upon request.

Refusal of Filing Officer to File Recall Petitions

37. Requires the filing officer to provide a person who submits a petition, signature sheet or affidavit with a written statement of the reason for refusal if the filing officer refuses to:
 - a) accept and file a petition for recall that was timely presented; or
 - b) transmit the facsimiles of a signature sheet or affidavit to the county recorder for certification.
38. Allows any citizen to apply to the superior court, within 5 days of refusal, for a writ of mandamus to compel the filing officer to file the petition or transmit the facsimiles.
39. Allows any citizen, for matters involving statewide recalls, to file a complaint with the county attorney or Attorney General.
40. Allows a county attorney or the Attorney General to apply, within 5 days after the complaint is made, to the superior court for a writ of mandamus to compel the SOS to file the petition or transmit the facsimiles.
41. Requires the action to be advanced on the court calendar and heard and decided as soon as possible.
42. Allows either party to appeal to the Arizona Supreme Court within 5 calendar days after entry of judgment by the superior court.
43. Allows the superior court decision to be stayed pursuant to court rule.
44. Requires the filing officer, if the court finds the petition is legally sufficient, to file the petition with a certified copy of the judgment attached.

45. Requires the most current version of the general county register statewide voter registration database, at the time of filing a court action challenging a recall petition, to constitute the official record to be used to determine whether the signer of a petition was not registered to vote at the address given on the date of signing the petition.
46. Requires the county recorder to examine the version of the general county register that was current on the date the signer signed the petition to determine the validity of the signature and to determine whether the person was eligible to sign the petition at the time of signing if the address of the signer given on the date of signing the petition is different from the most current version of the general county register.
47. Allows a certified copy of the affidavit of registration of any signer dated before the signing of the petition to be introduced into evidence if the affidavit is in the possession of the county recorder but has not yet been filed in the general county register.
48. Allows an action to contest the validity of a recall based on the actions of the filing officer or in compliance with relevant statute to only be brought in the appropriate court.
49. Allows any person to contest the validity of a recall.
50. Requires separate court actions related to the same recall to be consolidated before the appropriate venue.
51. Allows any person to seek to enjoin the SOS or other officer from certifying or printing the official ballot for the election that will include the proposed recall and to enjoin the certification or printing of the ballot.
52. Designates the Maricopa County Superior Court as having jurisdiction of actions relating to statewide recalls.
53. Designates the applicable county superior court as having jurisdiction with respect to actions relating to local recalls for a county, special district or school district.
54. Designates the superior court of the county in which the majority of the population of a city or town is located as having jurisdiction for actions relating to recalls for the city or town.

Miscellaneous

55. Applies the prohibition on a party designation being included on a recall ballot to only nonpartisan offices, rather than all offices.
56. Designates the proper officer in charge of elections for a recall election as the:
 - a) SOS, for a state office or a member of the Legislature;
 - b) county officer in charge of elections, for a county or special taxing district officer or superior court judge;
 - c) city or town clerk, for a city or town officer; and
 - d) county school superintendent of the county in which the school district is located, for a member of a school district governing board.

57. Classifies, as a class 1 misdemeanor unless otherwise designated, knowingly:
- a) filling out the name and address portion of a recall petition with the intent to commit fraud;
 - or
 - b) violating any provision of recall statutes, regardless of whether the person is an officer.
58. Adds sections of statute specifically for the filing officer and county recorder removal of recall petition signature sheets and recall petition signatures, rather than requiring the filing officer or county recorder to follow instructions for initiative and referendum petition signature removal.
59. Prohibits a signature sheet returned by a filing officer to be reused or resubmitted at a later date.
60. Requires the signature sheets to be submitted to a county recorder by the filing officer as a facsimile of the front and back of the form, rather than original sheets.
61. Allows the county recorder to send notice of recall petition certification results electronically.
62. Specifies that the last preceding election used to determine the number of signatures required to demand the recall of a public officer elected at a nonpartisan election is the last preceding election at which the public officer who is the subject of the recall was declared elected.
63. Requires a recall election to be called by a county board of supervisors if the recall election is for a special taxing district officer.
64. Defines *special taxing district*.
65. Makes technical and conforming changes.
66. Becomes effective on the general effective date.

House Action

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3 rd Read	3/4/21		31-28-1

Prepared by Senate Research
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MH/gs