

SENATE BILL NO. 891

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

3994S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapters 67 and 162, RSMo, by adding thereto four new sections relating to recall of local officials.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 67 and 162, RSMo, are amended by
2 adding thereto four new sections, to be known as sections
3 67.2200, 67.2203, 67.2206, and 162.089, to read as follows:

67.2200. 1. As used in sections 67.2200 to 67.2206,
2 "elected official of a political subdivision" or "official"
3 shall mean any elected official of a county, city, town, or
4 village, excluding elected officials in third class cities
5 under chapter 77.

6 2. An elected official of a political subdivision may
7 be removed by the qualified voters of such political
8 subdivision by recall petition in accordance with the
9 procedure under sections 67.2200 to 67.2206 subject to the
10 following limitations:

11 (1) The recalled official shall have held office for
12 at least six months; and

13 (2) The recalled official shall not be a candidate to
14 succeed himself or herself at a special election held to
15 fill the vacancy created by the official's recall and shall
16 not be appointed to fill the vacancy.

17 3. A petition signed by voters eligible to vote for a
18 successor to the official sought to be removed, which shall

19 have a number of signatures equal to at least ten percent of
20 the total number of votes cast in the last election held for
21 the official's seat currently held by the official whose
22 removal is sought, demanding the recall of the official may
23 be filed with the election authority of the jurisdiction
24 over the political subdivision. Such petition shall contain
25 a statement of the reason for which recall is sought, which
26 shall not be more than two hundred words in length. The
27 petition for recall shall be filed no later than sixty days
28 after the date of the earliest signature on the petition. A
29 reason for recall may be misconduct in office, incompetence,
30 or failure to perform duties prescribed by law. The
31 signatures to the petition need not all be appended to one
32 page. Each signer to the petition shall add his or her
33 signature; the signer's place of residence, including street
34 and number; and the date signed. One of the signers of each
35 such page shall make an oath before an officer competent to
36 administer oaths that the statements made therein are true,
37 as he or she believes, and that each signature to the page
38 appended is the genuine signature of the person whose name
39 it purports to be.

67.2203. Within ten days of the date of filing the
2 petition provided in section 67.2200, the election authority
3 shall examine and, from the voters' register, ascertain
4 whether the petition is signed by the requisite number of
5 voters. The election authority shall attach to the petition
6 a certificate that states the result of the examination. If
7 the election authority's certificate states the petition is
8 insufficient, the petition may be amended for ten days after
9 the date of the certificate. If the petition is amended,
10 the election authority shall examine the amended petition
11 within ten days of the amendment's submission. If the

12 election authority issues a certificate stating the amended
13 petition is insufficient, the petition shall be returned to
14 the person who filed the petition without prejudice to
15 filing a new petition to the same effect. If the election
16 authority certifies the amended petition is sufficient, the
17 election authority shall submit the petition to the
18 political subdivision without delay, and the political
19 subdivision shall order the question to be submitted to the
20 voters.

67.2206. 1. A special election shall be held on the
2 recall petition as soon as practicable and as may be
3 determined by the election authority of the political
4 subdivision. The question to be presented to the voters at
5 such election shall be in substantially the following form:

- 6 FOR the removal of _____ (name of official)
7 from the office of (name of office).
- 8 AGAINST the removal of _____ (name of
9 official) from the office of (name of
10 office).

11 2. If a majority of the qualified electors voting on
12 the question at such election vote for the removal of the
13 official, a vacancy shall exist in such office. If a
14 majority of the qualified electors voting on the question at
15 such election vote against the removal of the official, the
16 official shall continue to serve for the remainder of the
17 term for which he or she was elected.

162.089. 1. (1) Each member of any school board of
2 any public school district shall be subject to recall from
3 office by the registered voters of the school district such
4 member was elected to represent. Such recall election shall
5 be held upon the submission of a petition signed by

6 registered voters of the district equal in number to at
7 least twenty-five percent of the number of voters who voted
8 in the most recent election held to elect a district board
9 member in such district.

10 (2) No proceedings shall be commenced against any
11 member under this section if, at the time of commencement,
12 such member:

13 (a) Has not held office during the member's term for
14 more than thirty days;

15 (b) Has fewer than one hundred eighty days remaining
16 in the member's term; or

17 (c) Has had a recall election determined in the
18 member's favor during the member's current term of office.

19 2. (1) Proceedings may be commenced for the recall of
20 any school board member by the filing of a notice of
21 intention to circulate a recall petition under this
22 section. The notice shall be filed with the election
23 authority having jurisdiction over the school district under
24 this chapter and chapter 115. Each notice shall contain the
25 following:

26 (a) The name and office of the board member sought to
27 be recalled;

28 (b) A statement of grounds, not exceeding two hundred
29 words in length, listing the particular reasons for the
30 proposed recall;

31 (c) A sworn statement of at least three proponents of
32 the recall that they are registered voters in the school
33 district and that the information in the statement of
34 grounds is true, correct, and complete to the best of the
35 knowledge and belief of the proponent;

36 (d) The printed names and the business or residential
37 addresses of the proponents of the recall making the sworn
38 statement under paragraph (c) of this subdivision; and

39 (e) The notarized signature of each of the proponents
40 of the recall making the sworn statement under paragraph (c)
41 of this subdivision.

42 (2) (a) The grounds for recall required to be stated
43 in paragraph (b) of subdivision (1) of this subsection may
44 include but shall not be limited to the following:

45 a. Conduct that relates to and adversely affects the
46 rights and interests of the public;

47 b. Commission of an act or acts of malfeasance;

48 c. Moral turpitude;

49 d. Violation of the member's oath of office;

50 e. Abuse of power or authority;

51 f. Misuse or misappropriation of public property or
52 public moneys;

53 g. Conviction of a felony;

54 h. Willful violation of any code of ethics applicable
55 to such member as provided in the revised statutes of
56 Missouri;

57 i. Violation of any school board policy of the school
58 district in which the member serves;

59 j. Breach of public trust;

60 k. Lack of responsiveness to concerns raised by the
61 public or staff;

62 l. Promotion and implementation of measures that are
63 counterproductive to the best interests of the students and
64 staff of the school district; or

65 m. Violation of any applicable provision of chapter
66 610; except that, discretionary performance of a lawful act

67 or a prescribed duty shall not constitute a ground for
68 recall.

69 (b) The election authority shall neither have nor
70 assume the authority to determine the validity of the
71 grounds for recall.

72 (3) No notice of intention shall name more than one
73 board member sought to be recalled.

74 (4) (a) If the election authority finds that the
75 notice of intention contains the required information under
76 this section, the election authority shall attach to the
77 affidavit a certification showing that the notice has been
78 properly filed.

79 (b) Within three business days after the
80 certification, the election authority shall send
81 notification of the filing of the notice by registered mail
82 to the school district administration, the school board, and
83 the board member sought to be recalled.

84 (c) Within fourteen days after the receipt of the
85 notice, the board member who is the subject of the notice
86 may file with the election authority a statement, not
87 exceeding two hundred words in length, in answer to the
88 statement of the proponents. If an answer is filed, the
89 election authority shall make the answer available for
90 public viewing upon request at the election authority's
91 office.

92 3. (1) After the election authority certifies the
93 notice, the proponents of the recall may begin circulating a
94 petition for recall and collecting signatures on such
95 petition.

96 (a) Any person circulating a petition for recall shall
97 be a registered voter in the district of the board member
98 sought to be recalled.

99 (b) Collection of signatures may begin after seven
100 days have passed following the election authority's
101 certification with the date of the certification counted as
102 the first day. The election authority shall indicate the
103 date on which collection of signatures may begin in the
104 certification of the notice. The number of signatures
105 required to equal the twenty-five percent of voters
106 necessary under subsection 1 of this section shall be
107 determined by the election authority.

108 (2) Each page of the petition for recall shall include:

109 (a) The name and office of the member for whom recall
110 is sought;

111 (b) The grounds for recall described in particular, in
112 no more than two hundred words;

113 (c) A statement that the petition signatories are
114 registered voters of the district in which the member sought
115 to be recalled serves; and

116 (d) Space for the date of the signing, the signer's
117 printed name, the house number and street name of each
118 signer's residence, and each signer's signature.

119 (3) Each signer shall be a registered voter in the
120 school district.

121 (4) Each signer shall provide the date of the signing,
122 the signer's printed name, the house number and street name
123 of the signer's residence, and the signer's signature.

124 (5) Every person signing a petition shall do so in the
125 presence of the person who is circulating the petition and
126 who will execute the affidavit of verification for each page
127 of the petition.

128 4. (1) Within sixty days after the beginning date for
129 the collection of signatures, the completed petition with
130 the required number of signatures shall be filed with the

131 election authority. The signatures to the petition need not
132 all be attached to one paper, but the person who files the
133 petition with the election authority shall sign each page
134 attesting that the signatures attached are true and correct
135 to the best of such person's knowledge and belief. Such
136 signature on each page of the petition shall be notarized.

137 (2) Within fifteen business days after the date of
138 filing the signed petition, the election authority shall
139 examine the petition and determine whether the petition is
140 signed by the required number of registered voters.
141 Signatures that cannot be verified shall not be counted.

142 (3) (a) If the election authority finds the signed
143 petition to be insufficient, the election authority shall,
144 within three business days after such determination, send
145 notification of the insufficiency by registered mail to the
146 person who filed the signed petition. The election
147 authority shall specify the errors, omissions, or other
148 problems that cause the insufficiency.

149 (b) The signed petition shall be returned to the
150 person who filed the signed petition, without prejudice to
151 the refileing of the petition or the filing of a new petition.

152 (c) The person who filed the signed petition shall
153 have thirty days after the date of notification of
154 insufficiency to correct the insufficiencies and refile the
155 petition. If the petition is not corrected and refiled, the
156 petition and all its signatures shall be void.

157 (4) If the election authority finds the signed
158 petition to be sufficient, the election authority shall
159 attach to the petition a certificate showing the result of
160 the examination. The election authority shall, within three
161 business days after the certification, send notification of
162 the sufficiency and certification by registered mail to the

163 person who filed the signed petition, the school district
164 administration, the school board, and the board member
165 sought to be recalled.

166 5. (1) Upon receipt of the notification of the
167 sufficiency of the petition and the election authority's
168 certification, the election authority shall order the
169 question to be submitted to the voters of the district on
170 one of the following days:

171 (a) The next general election day;

172 (b) At a special election to be called on the first
173 Tuesday after the first Monday in November of odd-numbered
174 years if that date is no fewer than ninety calendar days
175 after the date of notification; or

176 (c) At the next election in which the voters of the
177 school district vote for any school board member on the
178 general municipal election day, if that date is no fewer
179 than ninety calendar days after the date of notification.

180 (2) If no election will occur or can be called at the
181 times described in this subsection before the term of the
182 member who is the subject of the recall petition expires, no
183 recall election shall be held and such member may serve the
184 remainder of the member's term.

185 6. (1) The name of the member who is the subject of
186 the recall shall appear on the ballot under the separate
187 heading "(name of school district) Recall Election".

188 (2) The question on the ballot shall be in
189 substantially the following form: "Shall school board
190 member (name of member) be removed from the school board?".

191 (3) (a) If a majority of the votes cast on the
192 question by the qualified voters voting thereon are opposed
193 to removing the member, the member shall remain in office

194 and shall not be subject to another recall election during
195 the remainder of the member's term.

196 (b) If a majority of the votes cast on the question by
197 the qualified voters voting thereon in a November election
198 are in favor of removing the member, the vacancy shall be
199 filled in the manner provided in this chapter.

200 (c) If a majority of the votes cast on the question by
201 the qualified voters voting thereon in an April election are
202 in favor of removing the member and the number of candidates
203 on the ballot is greater than the number of seats for
204 expired board member terms, the vacancy shall be filled by
205 the candidate receiving the next highest number of votes
206 after the seats for expired board member terms are filled.
207 If the number of candidates is not greater than the number
208 of seats of expired board member terms, the vacancy shall be
209 filled in the manner provided in this chapter.

210 7. A school board member who has been recalled shall
211 not fill the vacancy created by the recall, but such member
212 may seek election to the school board at any election not
213 held to fill the vacancy created by the member's recall.

214 8. Except as otherwise provided in this section, the
215 provisions of this chapter and chapter 115 governing the
216 conduct of school board elections shall apply, if
217 appropriate, to recall elections held under this section.
218 The costs of the election shall be paid as provided in
219 chapter 115.

✓