

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1121**

Introduced by Lambert, 2.

Read first time January 19, 2012

Committee:

A BILL

1 FOR AN ACT relating to sanitary and improvement districts; to amend  
2 sections 31-787 and 31-789, Reissue Revised Statutes of  
3 Nebraska; to change provisions relating to signatures on  
4 recall petitions; to harmonize provisions; and to repeal  
5 the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 31-787, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           31-787 (1) A trustee of a sanitary and improvement  
4 district may be removed from office by recall pursuant to sections  
5 31-786 to 31-793. ~~A petition demanding that the question of removing~~  
6 ~~a trustee be submitted to the qualified resident voters or qualified~~  
7 ~~property owning voters that elected such trustee shall be signed by~~  
8 ~~qualified resident voters or qualified property owning voters, as the~~  
9 ~~case may be, who represent at least thirty five percent of the number~~  
10 ~~of votes cast for the trustee who received the most votes in the last~~  
11 ~~district election pursuant to section 31-735 and who was elected by~~  
12 ~~the same voters as the trustee whose recall is being sought. for an~~  
13 election to recall a trustee shall be sufficient if it complies with  
14 the requirements of this section.

15           (2) The signers of the petition shall be persons who  
16 were, on the date they signed, eligible to vote in a district  
17 election as provided in section 31-735. A person's eligibility to  
18 sign a petition shall be the same as the person's eligibility to cast  
19 one or more votes at a district election under section 31-735. Only  
20 one person shall be allowed to sign on behalf of joint owners of  
21 property in the district or on behalf of a public, private, or  
22 municipal corporation that owns property in the district. If the  
23 trustee whose recall is sought was elected by vote of resident owners  
24 only, then only resident owners shall be allowed to sign the  
25 petition. If the trustee whose recall is sought was elected by vote

1 of all owners of property, then all owners shall be allowed to sign  
2 the petition. Resident owner means qualified resident voter. All  
3 owners means all qualified resident voters and all qualified property  
4 owning voters.

5 (3) The filing clerk shall assign to each signature a  
6 count equal to the number of votes that the signer was eligible to  
7 cast on the date he or she signed. The number of votes that a signer  
8 was eligible to cast shall be based on section 31-735. If the  
9 signature was made by or for an owner of more than one parcel of  
10 property, the signature made by or on behalf of such owner shall be  
11 assigned a count equal to the total number of votes which the owner  
12 was eligible to cast.

13 (4) The filing clerk shall total the count assigned to  
14 the signatures on the petition. The petition shall be sufficient if  
15 the total is at least equal to thirty-five percent of the highest  
16 number of votes that were cast for a candidate at the previous  
17 district election for the trustee positions in the same category as  
18 the trustee whose recall is sought by the petition. The categories of  
19 trustees shall be the same as provided in section 31-735.

20 (5) The signatures shall be affixed to petition papers  
21 and shall be considered part of the petition.

22 ~~(2)~~ (6) The petition papers shall be procured from the  
23 filing clerk. Prior to the issuance of such petition papers, an  
24 affidavit shall be signed and filed with the filing clerk by at least  
25 one qualified resident voter of the district, if the trustee whose

1 recall is being sought was elected solely by qualified resident  
2 voters, or at least one qualified resident voter or qualified  
3 property owning voter, if the trustee whose recall is being sought  
4 was elected by other qualified resident voters and qualified property  
5 owning voters. Such voter or voters shall be deemed to be the  
6 principal circulator or circulators of the recall petition. The  
7 affidavit shall state the name of the trustee sought to be removed  
8 and whether qualified property owning voters participated in the  
9 election of the trustee and shall request that the filing clerk issue  
10 initial petition papers to the principal circulator for circulation.  
11 The filing clerk shall notify the principal circulator or circulators  
12 that the necessary signatures must be gathered within thirty days  
13 after the date of issuing the petitions.

14           ~~(3)~~ (7) The filing clerk, upon issuing the initial  
15 petition papers or any subsequent petition papers, shall enter in a  
16 record, to be kept in his or her office, the name of the principal  
17 circulator or circulators to whom the papers were issued, the date of  
18 issuance, the number of papers issued, and whether qualified property  
19 owning voters may participate in signing the petitions. The filing  
20 clerk shall certify on the papers the name of the principal  
21 circulator or circulators to whom the papers were issued, the date  
22 they were issued, and whether qualified property owning voters may  
23 participate in signing the petitions. No petition paper shall be  
24 accepted as part of the petition unless it bears such certificate.  
25 The principal circulator or circulators who check out petitions from

1 the filing clerk may distribute such petitions to persons who may act  
2 as circulators of such petitions.

3 ~~(4) Each signer of a recall petition shall be (a)~~  
4 ~~qualified to vote in a district election and (b) a qualified resident~~  
5 ~~voter if the trustee whose recall is being sought was elected solely~~  
6 ~~by qualified resident voters.~~

7 Sec. 2. Section 31-789, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 31-789 (1) The principal circulator or circulators shall  
10 file, as one instrument, all petition papers comprising a recall  
11 petition for signature verification with the filing clerk within  
12 thirty days after the filing clerk issues the initial petition papers  
13 to the principal circulator or circulators as provided in section  
14 31-787.

15 (2) Within fifteen days after the filing of the petition,  
16 the filing clerk shall ascertain whether or not the petition is  
17 signed by sufficient qualified resident voters and qualified property  
18 owning voters as provided in ~~subsection (1) of~~ section 31-787. No new  
19 signatures may be added after the initial filing of the petition  
20 papers. No signatures may be removed unless the filing clerk receives  
21 an affidavit signed by the person requesting that his or her  
22 signature be removed before the petitions are filed with the filing  
23 clerk for signature verification.

24 (3) If the petition is found to be sufficient, the filing  
25 clerk shall attach to the petition a certificate showing the result

1 of such examination. If the petition is found not to be sufficient,  
2 the filing clerk shall file the petition in his or her office without  
3 prejudice to the filing of a new petition for the same purpose.

4                   Sec. 3. Original sections 31-787 and 31-789, Reissue  
5 Revised Statutes of Nebraska, are repealed.