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AN ACT

RELATING TO MUNICIPALITIES; PROVIDING GROUNDS FOR THE RECALL
ELECTION OF ELECTIVE OFFICERS IN COMMISSION-MANAGER
MUNICIPALITIES; REQUIRING A DETERMINATION BY THE DISTRICT
COURT THAT PROBABLE CAUSE EXISTS FOR THE GROUNDS FOR RECALL;
MAKING TECHNICAL AND CONFORMING CHANGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-14-16 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-13-16) is amended to read:

"3-14-16. COMMISSION-MANAGER--RECALL--ELECTION--
BALLOT--EFFECT--FILLING VACANCIES.--

A. In any commission-manager municipality, any
elective officer is subject to a recall election for
malfeasance or misfeasance in office or a violation of the
oath of office based upon acts or failures to act occurring
during the current term of the official sought to be
recalled.

B. The factual allegations that support the
grounds for recall shall be presented in a complaint to the
district court for the county in which the recall is proposed
to be conducted. The district court shall hold a hearing to
determine if probable cause exists for the grounds for
recall. The proponents of the recall effort and the officer
sought to be recalled shall be given an opportunity to

1 present evidence at the hearing. In making its
2 determination, the district court shall only consider
3 evidence of acts or failures to act occurring during the
4 current term of the official sought to be recalled.

5 C. If the district court determines that probable
6 cause for the recall exists, the recall petition may be
7 circulated. The recall petition shall cite the grounds of
8 malfeasance or misfeasance in office or violation of the oath
9 of office by the official concerned. The cited grounds shall
10 be based upon acts or failures to act occurring during the
11 current term of the official sought to be recalled. The
12 grounds for recall in the petition shall be as found by the
13 district court in its finding of probable cause. The recall
14 petition shall be signed by the qualified electors in a
15 number more than twenty percent of the average number of
16 voters who voted at the previous four regular municipal
17 elections or more than twenty percent of the number of voters
18 who voted at the previous regular municipal election,
19 whichever is the greater.

20 D. The municipal clerk shall verify that the
21 persons who signed the petition are qualified electors in the
22 district and that the petition contains the proper number of
23 signatures. If the municipal clerk has so verified the
24 petition, the commission shall call a special election unless
25 the regular municipal election occurs within sixty days, in

1 which case the qualified electors shall vote on the recall at
2 the regular election. In either case, there shall be a
3 special ballot containing the name of the officer, the title
4 of the office and the dates of the beginning and termination
5 of the officer's official term. Below the name of the
6 officer shall be two phrases, "For the recall" and "Against
7 the recall", one below the other with a space after each for
8 placing a cross where desired. If a majority of the votes
9 cast favor recall and the number of votes cast favoring a
10 recall are equal to or more than the number the officer
11 received when the officer was a candidate for office, the
12 officer who is the subject of recall is recalled from the
13 office and the office in question is declared vacant.

14 E. If an officer is recalled, the officer shall
15 not be eligible for reelection until the term for which the
16 officer was originally elected has expired.

17 F. If the recall election results in a failure to
18 secure the votes necessary to recall, the officer in question
19 shall not be subject again to recall until six months have
20 elapsed from the date the previous recall election was held.

21 G. A vacancy created by a recall election shall be
22 filled in the same manner as other vacancies on the commission
23 are filled. If all commissioners are recalled at the same
24 election, the municipal clerk or, if there is no municipal
25 clerk, the district court shall, within three days, call an

1 election as provided in Section 3-14-8 NMSA 1978 for the

2 election of five commissioners."

HB 49
Page 4

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