

HOUSE BILL NO. 220

INTRODUCED BY J. ESSMANN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RECALL LAWS; ALLOWING ELECTED OFFICIALS OF STATE-DISTRICTS OR POLITICAL SUBDIVISIONS TO BE RECALLED FOR ANY REASON; AMENDING SIGNATURE REQUIREMENTS FOR RECALL ELECTIONS; REVISING DEFINITIONS; AND AMENDING SECTIONS 2-16-602, 2-16-603, AND 2-16-614, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-16-602, MCA, is amended to read:

"2-16-602. Definitions. As used in this part, the following definitions apply:

(1) "Local judicial district" means the district for an elected or appointed judicial officer other than:

- (a) a supreme court justice;
- (b) the clerk of the supreme court; or
- (c) an officer of a state judicial district.

~~(1)(2)~~ "Political subdivision" means a local government unit including but not limited to a county, city, or town established under authority of Article XI, section 1, of The Constitution of the State of Montana, ~~or~~ a school district, ~~or a local judicial district.~~

~~(2)(3)~~ "Public office" means a position of duty, trust, or authority created by the constitution, ~~or~~ by the legislature, ~~or~~ by a political subdivision through authority conferred by the constitution or the legislature that meets the following criteria:

- (a) the position must possess a delegation of a portion of the sovereign power of government to be exercised for the benefit of the public;
- (b) the powers conferred and the duties to be discharged must be defined, directly or impliedly, by the constitution, the legislature, or by a political subdivision through legislative authority;
- (c) the duties must be performed independently and without control of a superior power other than the law; unless the legislature has created the position and placed it under the general control of a superior office or body; and
- (d) the position must have some permanency and continuity and not be only temporary or occasional.



1 ~~(3)~~(4) "State-district" means a public service commission district, a legislative representative or senatorial
2 district, or a state judicial district.

3 (5) "State judicial district" means a judicial district organized under Title 3, chapter 5, or the division or
4 district of a water judge, chief water judge, or associate water judge."

5
6 **Section 2.** Section 2-16-603, MCA, is amended to read:

7 **"2-16-603. Officers subject to recall -- grounds for recall.** (1) Any person holding a public office of
8 the state or any of its political subdivisions, either by election or appointment, is subject to recall from office.

9 (2) A public officer holding an elective office may be recalled by the qualified electors entitled to vote for
10 the elective officer's successor. A public officer holding an appointive office may be recalled by the qualified
11 electors entitled to vote for the successor or successors of the elective officer or officers who have the authority
12 to appoint a person to that position.

13 (3) ~~Physical~~ Except as provided in 5-7-305 and subsection (4) of this section, physical or mental lack
14 of fitness, incompetence, violation of the oath of office, official misconduct, or conviction of a felony offense
15 enumerated in Title 45 are the only grounds for recall. A person may not be recalled for performing a mandatory
16 duty of the office that the person holds or for not performing any act that, if performed, would subject the person
17 to prosecution for official misconduct.

18 (4) A public officer holding an elective state-district office or an elective political subdivision office may
19 be recalled for any reason subject to the provisions of [section 3]."

20
21 NEW SECTION. Section 3. Unrestricted recall for elected state-district and political subdivision
22 **offices.** (1) A petition for a recall subject to 2-16-603(4):

23 (a) must include a stated reason for the recall; and

24 (b) is subject to the signature requirements in 2-16-614(2).

25 (2) A recall under this section is cumulative and in addition to, rather than a substitute for, a recall subject
26 to the provisions of 2-16-603(3).

27
28 **Section 4.** Section 2-16-614, MCA, is amended to read:

29 **"2-16-614. Number of electors required for recall petition.** (1) For a recall petition pursuant to
30 2-16-603(3):

1 (a) Recall petitions for elected or appointed state officers must contain the signatures of qualified electors
2 equaling at least 10% of the number of persons registered to vote at the preceding state general election.

3 ~~(2)(b)~~ A petition for the recall of a state-district officer must contain the signatures of qualified electors
4 equaling at least 15% of the number of persons registered to vote in the last preceding election in that district.

5 ~~(3)(c)~~ ~~(a)(i)~~ Except as provided in subsection ~~(3)(b)~~ (1)(c)(ii), recall petitions for elected or appointed
6 county officers must contain the signatures of qualified electors equaling at least 15% of the number of persons
7 registered to vote at the preceding county general election.

8 ~~(b)(ii)~~ If a recall petition is for a county commissioner in a county that is divided into commissioner
9 districts pursuant to 7-4-2102, then the petition:

10 ~~(i)(A)~~ must contain the signatures of qualified electors equaling at least 15% of the number of persons
11 registered to vote at the preceding county general election; and

12 ~~(i)(B)~~ must also contain the signatures from at least 15% of the qualified electors residing in that
13 commissioner's commission district.

14 ~~(4)(d)~~ ~~Recall petitions for elected or appointed officers of municipalities or school districts~~ A recall petition
15 for an elected or appointed officer of a municipality, school district, or local judicial district must contain the
16 signatures of qualified electors equaling at least 20% of the number of persons registered to vote at the preceding
17 election for the municipality, ~~or~~ school district, or local judicial district.

18 (2) For a recall petition pursuant to 2-16-603(4):

19 (a) A petition for the recall of a state-district officer holding an elected office must contain the signatures
20 of qualified electors equaling at least 20% of the number of persons registered to vote in the last preceding
21 election in that district.

22 (b) (i) Except as provided in subsection (2)(b)(ii), recall petitions for county officers holding an elected
23 office must contain the signatures of qualified electors equaling at least 20% of the number of persons registered
24 to vote at the preceding county general election.

25 (ii) If a recall petition is for a county commissioner in a county that is divided into commissioner districts
26 pursuant to 7-4-2102, then the petition:

27 (A) must contain the signatures of qualified electors equaling at least 20% of the number of persons
28 registered to vote at the preceding county general election; and

29 (B) must also contain the signatures from at least 20% of the qualified electors residing in that
30 commissioner's commission district.

1 (c) A recall petition for an officer holding an elected office in a municipality, school district, or local judicial
2 district must contain the signatures of qualified electors equaling at least 25% of the number of persons registered
3 to vote at the preceding election for the municipality, school district, or local judicial district."

4
5 NEW SECTION. Section 5. Codification instruction. [Section 3] is intended to be codified as an
6 integral part of Title 2, chapter 16, part 6, and the provisions of Title 2, chapter 16, part 6, apply to [section 3].

7 - END -