

SENATE BILL NO. 508

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (26).

1842S.01H

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 162, RSMo, by adding thereto one new section relating to school board recall elections.

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

Section A. Chapter 162, RSMo, is amended by adding thereto
2 one new section, to be known as section 162.089, to read as
3 follows:

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 ten percent of the number of voters who voted in the
8 most recent election held to elect a district board member
9 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 ninety 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 chapter 115. Each notice shall contain the following:

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

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

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

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

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

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

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

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

47 c. Moral turpitude as that phrase shall be taken in
48 the plain or ordinary and usual sense;

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 grounds for recall.
- 68 (b) The election authority shall neither have nor
69 assume the authority to determine the validity of the
70 grounds for recall.
- 71 (3) No notice of intention shall name more than one
72 board member sought to be recalled.
- 73 (4) (a) If the election authority finds that the
74 notice of intention contains the required information under
75 this section, the election authority shall attach to the
76 affidavit a certification showing that the notice has been
77 properly filed.
- 78 (b) Within three business days after the
79 certification, the election authority shall send
80 notification of the filing of the notice by registered mail
81 to the school district administration, the school board, and
82 the board member sought to be recalled.

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

91 3. (1) After the election authority certifies the
92 notice, the proponents of the recall may begin circulating a
93 petition for recall and collecting signatures on such
94 petition.

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

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

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

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

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

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

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

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

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

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

127 4. (1) Within sixty days after the beginning date for
128 the collection of signatures, the completed petition with
129 the required number of signatures shall be filed with the
130 election authority. The signatures to the petition need not
131 all be attached to one paper, but the person who files the
132 petition with the election authority shall sign each page
133 attesting that the signatures attached are true and correct
134 to the best of such person's knowledge and belief. Such
135 signature on each page of the petition shall be notarized.

136 (2) Within fifteen business days after the date of
137 filing the signed petition, the election authority shall
138 examine the petition and determine whether the petition is
139 signed by the required number of registered voters.

140 Signatures that cannot be verified shall not be counted.

141 (3) (a) If the election authority finds the signed
142 petition to be insufficient, the election authority shall,
143 within three business days after such determination, send
144 notification of the insufficiency by registered mail to the
145 person who filed the signed petition. The election

146 authority shall specify the errors, omissions, or other
147 problems that cause the insufficiency.

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

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

156 (4) If the election authority finds the signed
157 petition to be sufficient, the election authority shall
158 attach to the petition a certificate showing the result of
159 the examination. The election authority shall, within three
160 business days after the certification, send notification of
161 the sufficiency and certification by registered mail to the
162 person who filed the signed petition, the school district
163 administration, the school board, and the board member
164 sought to be recalled.

165 5. (1) Upon receipt of the notification of the
166 sufficiency of the petition and the election authority's
167 certification, the election authority shall order the
168 question to be submitted to the voters of the district on
169 one of the following days:

170 (a) The next general election day;

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

175 (c) At the next election in which the voters of the
176 school district vote for any school board member on the

177 general municipal election day, if that date is no fewer
178 than ninety calendar days after the date of notification.

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

184 6. (1) The name of the member who is the subject of
185 the recall shall appear on the ballot under the separate
186 heading "(name of school district) Recall Election".

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

190 (3) (a) If a majority of the votes cast on the
191 question by the qualified voters voting thereon are opposed
192 to removing the member, or if the number of votes opposed to
193 removal equal the number of votes in favor of removal, the
194 member shall remain in office and shall not be subject to
195 another recall election during the remainder of the member's
196 term.

197 (b) If a majority of the votes cast on the question by
198 the qualified voters voting thereon in a November election
199 are in favor of removing the member, a successor shall be
200 chosen in the same manner as any vacancy on the district
201 board is filled.

202 (c) If a majority of the votes cast on the question by
203 the qualified voters voting thereon in an April election are
204 in favor of removing the member and the number of candidates
205 on the ballot is greater than the number of seats for
206 expired board member terms, the successor shall be the
207 candidate receiving the next highest number of votes after
208 the seats for expired board member terms are filled. If the

209 number of candidates is not greater than the number of seats
210 of expired board member terms, a successor shall be chosen
211 in the same manner as any vacancy on the district board is
212 filled.

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

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

222 9. The secretary of state shall compile an annual
223 report listing the name of each school board member, the
224 school district the member serves, the member's election
225 date, and the expiration date of the member's term. Such
226 report shall be sorted by the school district names. Such
227 report shall be posted on the secretary of state's website
228 on July first of each year.

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