HOUSE BILL NO. 220

INTRODUCED BY J. ESSMANN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISIONING RECALL LAWS; ALLOWING ELECTED OFFICIALS OF
STATE-DISTRICTS OR POLITICAL SUBDIVISIONS TO BE RECALLED FOR ANY REASON; AMENDING
SIGNATURE REQUIREMENTS FOR RECALL ELECTIONS; REVISIONING 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.

(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.

(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."
"State-district" means a public service commission district, a legislative representative or senatorial district, or a state judicial district.

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

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

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

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

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

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

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

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

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

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

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

"2-16-614. Number of electors required for recall petition. (1) For a recall petition pursuant to 2-16-603(3):"
(a) Recall petitions for elected or appointed state officers must contain the signatures of qualified electors equaling at least 10% of the number of persons registered to vote at the preceding state general election.

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

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

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

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

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

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

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

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

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

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

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

(B) must also contain the signatures from at least 20% of the qualified electors residing in that commissioner’s commission district.
(c) A recall petition for an officer holding an elected office in a municipality, school district, or local judicial
district must contain the signatures of qualified electors equaling at least 25% of the number of persons registered
to vote at the preceding election for the municipality, school district, or local judicial district."

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

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