

HOUSE BILL 92

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 2;
Title 8, Chapter 47 and Title 49, Chapter 2, relative
to recall of locally elected officials.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-2-213, is amended by deleting the section.

SECTION 2. Tennessee Code Annotated, Title 8, Chapter 47, is amended by adding the following as a new part:

8-47-201. Part definitions.

As used in this part, "local official" means an elected member of a legislative body, mayor, sheriff, trustee, register, clerk, assessor of property, or member of a school board.

8-47-202. Recall of local officials.

A local official may be removed from office by the registered voters of the jurisdiction from which the local official was elected.

8-47-203. Recall process.

(a) A person who resides within the geographic boundaries of the jurisdiction of which a local official is sought to be removed may file a petition with the county election commission that demands the recall of the local official. The petition must be signed by registered voters who reside within the geographic boundaries of the jurisdiction of which the local official is sought to be removed equal in number to at least sixty-six percent (66%) of the total vote cast for that member in the last regular election. Each person signing the petition must sign the person's name, provide the date of signing, and

provide the signer's place of residence by street and number or by other customary designation.

(b) The petition must contain a general statement of the grounds upon which the removal is sought.

(c) A petition must include a sworn affidavit by the petition circulator stating the number of petition signers, that each petition signature is the genuine signature of the person whose name it purports to be, and that the signatures were made in the presence of the affiant.

(d) Within fifteen (15) days of receipt of the petition, the county election commission shall determine the sufficiency of the petition signatures. The county election commission shall attach a certificate to the petition with the results. If the county election commission determines the petition signatures are:

(1) Sufficient, then within seven (7) days of such determination, the county election commission shall give notice of the filed petition by publication in a newspaper of general circulation and shall provide the grounds upon which removal of a local official is sought; or

(2) Insufficient, then the person who filed the petition may amend the petition within ten (10) days from the date of the certificate and file the amended petition with the county election commission. Within fifteen (15) days of receipt of an amended petition, the county election commission shall make a sufficiency determination. If the amended petition is still deemed insufficient or if no amended petition is filed, then the county election commission shall attach a certificate to the petition and return the petition to the person who filed the petition. If an amended petition is deemed sufficient, then the county election commission shall provide notice as required by subdivision (d)(1).

(e) A separate petition must be filed for each local official sought to be removed.

8-47-204. Recall election.

(a) A county election commission shall call an election on the question of whether to recall a local official if the county election commission determines that a petition is sufficient in accordance with § 8-47-203(d).

(b) The question must only be posed to voters who are represented by the local official sought to be removed.

(c) The question on the ballot must ask whether the local official should be recalled, and the voter must be provided the option to vote "for recall" or "against recall."

(d) If sixty-six percent (66%) or more of those voting vote "for recall," then the person named shall be declared removed from office and the office must be declared vacant. A vacancy must be filled in accordance with the applicable law for the office.

(e) No election for the purpose of recall shall be held within a period beginning ninety (90) days before and ending ninety (90) days after a regular election.

8-47-205. Applicability.

(a) Local officials are subject to removal under this part if the county, municipal, or metropolitan legislative body, as applicable, adopts this part by a two-thirds (2/3) vote of the legislative body of the county, municipality, or metropolitan government.

(b) This part does not apply to an innovative school district as defined in § 49-8-1502.

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the code commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.