
SENATE BILL No. 35

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-8-6.

Synopsis: Recall elections. Provides for the recall of an elected or appointed school board member or a town legislative body member if the public access counselor has issued an advisory opinion that determines that the school board or the town legislative body has violated a public access law.

Effective: July 1, 2005.

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January 4, 2005, read first time and referred to Committee on Rules and Legislative Procedure.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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SENATE BILL No. 35



A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-8-6 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 6. Recall From Certain Offices**

5 **Sec. 1. This chapter applies only to an individual who holds any**
6 **of the following offices:**

- 7 (1) **An elected or appointed school board office.**
- 8 (2) **A town legislative body office.**

9 **Sec. 2. The definitions in IC 3-5-2, IC 5-14-4, and IC 36-1-2**
10 **apply to this chapter.**

11 **Sec. 3. Except as provided in sections 4 and 18 of this chapter,**
12 **an individual may be removed from office under Article 6, Section**
13 **8 of the Constitution of the State of Indiana by recall of the voters**
14 **of:**

- 15 (1) **the election district that the individual represents, if the**
16 **individual holds an elected office; or**
- 17 (2) **the school corporation governed by the school board of**



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which the individual is a member, if the individual holds an appointed school board office.

Sec. 4. An individual may be removed from office by recall under this chapter only if both of the following apply:

(1) The counselor has issued an advisory opinion under IC 5-14-5 determining that the:

(A) school board; or

(B) town legislative body;

on which the individual serves has violated a public access law.

(2) If neither of the following applies on the date an application for a certified recall petition is filed:

(A) The individual has held the office for not more than six (6) months.

(B) The individual's term of office or appointment expires on a date specified by law or resolution, and the expiration date is within one (1) year.

Sec. 5. (a) The commission shall prescribe the following:

(1) The form for an application for a recall petition.

(2) The form for a recall petition.

(b) The forms prescribed under subsection (a) must identify both of the following:

(1) The individual who is subject to the petition.

(2) The office the individual holds.

Sec. 6. (a) Before circulating a recall petition or obtaining signatures, the sponsor of the recall petition must do the following:

(1) Complete an application for a recall petition.

(2) File the completed application with the circuit court clerk of the county that contains the greatest percentage of population of the school corporation or the town.

(3) Obtain from the officer with whom the application was filed the form for a recall petition.

(b) A copy of the counselor's advisory opinion must be attached to the application.

(c) A circuit court clerk providing a form for a recall petition under this section shall note on the form the date on which the application for the petition was filed.

Sec. 7. The sponsor of the recall petition may make copies of the form obtained under section 6(a)(3) of this chapter to provide space for additional signatures, if no signatures were placed on the form before duplication.

Sec. 8. The sponsor of the recall petition must do the following

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to have the recall petition certified:

(1) Obtain the signatures of at least ten percent (10%) of the registered voters of:

(A) the election district of:

(i) an elected school board member; or

(ii) a town legislative body member;

subject to the recall; or

(B) the school corporation served by an appointed school board member subject to the recall.

(2) File the recall petition with the circuit court clerk who received the application for the sponsor's recall petition under section 6 of this chapter not later than noon sixty (60) days after the date the application was filed.

Sec. 9. A circuit court clerk who receives a recall petition under section 8 of this chapter shall determine whether the required number of registered voters have signed the petition by examining the registration records of the circuit court clerk or board of registration of each county in which the election district or school corporation is located.

Sec. 10. Not later than noon thirty (30) days after the petition is filed under section 8 of this chapter, the circuit court clerk shall determine whether the petition complies with section 8 of this chapter and do one (1) of the following:

(1) If the petition complies with section 8 of this chapter, certify the recall petition.

(2) Deny certification and require the sponsor of the petition to make specific amendments to the petition to comply with section 8 of this chapter before granting certification.

Sec. 11. If the circuit court clerk who received a recall petition denies certification of the recall petition under section 10 of this chapter, the circuit court clerk shall immediately notify the petition's sponsor of the denial by certified mail.

Sec. 12. Whenever a circuit court clerk certifies a recall petition under section 10 of this chapter, the circuit court clerk shall certify this determination to the county election board of the county where the recall petition was certified.

Sec. 13. (a) The county election board receiving a certification under section 12 of this chapter shall issue an order for a recall election to be held at the next primary or general election to be held more than sixty (60) days after the date the recall petition is certified.

(b) If the individual subject to the recall resigns from office and

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1 the resignation is effective not later than fourteen (14) days after
2 the recall petition is certified, the county election board may not
3 order a recall election under this section.

4 (c) Unless the individual subject to the recall resigns as provided
5 in subsection (b), a recall election shall be held on the date specified
6 by the county election board in the order issued under subsection
7 (a).

8 Sec. 14. A recall election ordered under this chapter shall be
9 held in:

- 10 (1) the election district of:
 - 11 (A) an elected school board member; or
 - 12 (B) a town legislative body member;
- 13 subject to the recall; or
- 14 (2) each precinct wholly or partially located in the school
15 corporation of an appointed school board member subject to
16 the recall.

17 Sec. 15. Except as provided in this chapter, IC 3 governs a recall
18 election under this chapter.

19 Sec. 16. The county election board of each county in which a
20 recall election is conducted shall place the following public question
21 on the ballot in the form provided by IC 3-10-9-4:

22 "Shall _____ (insert the name of the
23 school board member or town legislative body member as the
24 name appeared on the certified recall petition) be recalled
25 from the office of (insert "school board member" or "town
26 legislative body member", whichever applies) for
27 _____ (insert the name of the school
28 corporation or town where the member who is the subject of
29 the certified recall petition holds office)?"

30 Sec. 17. (a) If a majority of the votes cast on the public question
31 under section 16 of this chapter are in favor of the recall, the
32 individual is removed from office when the public question is
33 declared approved under:

- 34 (1) IC 3-12-4-9; or
- 35 (2) IC 3-12-5-2.

36 (b) Notwithstanding any other law, if the individual resigns or
37 is removed from office under this chapter, the individual may not
38 be selected or elected to fill the vacancy created by the resignation
39 or removal.

40 Sec. 18. If a majority of the votes cast on a public question under
41 section 16 of this chapter are opposed to the recall, the following
42 apply during the term of office or appointment of the individual

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1 **subject to the recall election:**

2 **(1) The individual subject to the recall election may not be**
3 **subject to another recall election.**

4 **(2) The circuit court clerk who received the recall petition**
5 **may not certify another recall petition for the recall of the**
6 **individual.**

7 **Sec. 19. A vacancy in an elected office resulting from the**
8 **removal of the individual subject to a recall election under this**
9 **chapter shall be filled under IC 3-13.**

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