
**State Government & Tribal Relations
Committee**

SB 5131

Brief Description: Concerning county clerks duties related to recall petitions.

Sponsors: Senator Holy.

Brief Summary of Bill

- Transfers the responsibility for notifying the petitioner moving to recall an elected official and the elected official of the hearing date from the county clerk to the superior court.
- Transfers the responsibility for certifying and transmitting the recall ballot synopsis from the superior court to the county clerk.

Hearing Date: 3/11/21

Staff: Jason Zolle (786-7124).

Background:

The Process for Recalling an Elected Official.

The state constitution provides for the recall of elected officials for malfeasance, misfeasance, or violation of the oath of office. A registered voter in the state or in the relevant jurisdiction may file a petition under oath demanding a recall of an elected official with a detailed description of each act constituting grounds for recall. The petition must be filed with the elections officer who accepts declarations of candidacy for the office. For statewide officials or officials whose jurisdictions are in multiple counties, that officer is the Secretary of State; for all other officials, that officer is the county auditor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Within 15 days after receiving a recall petition, a ballot synopsis of the recall charges must be prepared by the Attorney General, for statewide or multi-county jurisdictions, or the county prosecutor. The ballot synopsis may not exceed 200 words, and must contain a concise statement of the elements of the charge. Once complete, the ballot synopsis must be transmitted to the superior court of the county in which the officer subject to recall resides for the court to approve the synopsis and determine the factual and legal sufficiency of the charges.

Within 15 days of receiving the ballot synopsis, the superior court must hold a hearing and determine whether the charges in the recall petition are factually and legally sufficient and whether the ballot synopsis is adequate. The court does not determine the truth of the charges. Instead, it assesses whether the charges allow identification of the official being charged and the acts alleged, and whether, if true, the acts constitute a basis for recall. The superior court clerk notifies the petitioner and the official subject to recall of the hearing date. The superior court certifies and transmits the ballot synopsis to the recall petitioner, the official subject to recall, and the relevant elections officer.

County Clerks.

The county clerk is an elected position that has a variety of administrative and financial duties under state and local laws. Per the state Constitution, the county clerk also serves as the clerk of the superior court for that county. The duties of the court clerk include recording court proceedings, processing and maintaining court records, assisting in court proceedings, administering oaths, collecting and disbursing court fees, fines, and other collections, and issuing court orders and decrees.

Summary of Bill:

The responsibility for notifying the petitioner moving to recall an elected official and the elected official of the hearing date is transferred from the county clerk to the superior court.

The responsibility for certifying and transmitting the recall ballot synopsis is transferred from the superior court to the county clerk.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.