

SENATE BILL REPORT

SB 5131

As Passed Senate, February 23, 2021

Title: An act relating to county clerks duties related to recall petitions.

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

Sponsors: Senator Holy.

Brief History:

Committee Activity: State Government & Elections: 1/22/21, 2/05/21 [DP].

Floor Activity: Passed Senate: 2/23/21, 48-0.

Brief Summary of Bill

- Changes responsibility for notifying recall parties of the hearing date from the clerk to the superior court.
- Changes responsibility for transmitting the recall ballot synopsis from the superior court to the clerk.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Wilson, J., Ranking Member; Hasegawa and Hawkins.

Staff: Samuel Brown (786-7470)

Background: Recall of Elected Officers. The Washington State constitution provides for the recall of elected officials for malfeasance, misfeasance, or violation of the oath of office. Malfeasance in office is defined as the commission of an unlawful act interfering with the performance of an official duty; misfeasance in office means the performance of an official duty in an improper manner. Any registered voter may file a petition under oath

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demanding a recall of an elected official with a detailed description of each act constituting grounds for recall with the elections officer who accepts declarations of candidacy for the office. For statewide officials or officials whose jurisdictions are in multiple counties, the officer is the Secretary of State; for all other officials, the proper elections officer is the county auditor.

Ministerial Duties Related to Recalls. Within 15 days after receiving a recall petition, the county prosecutor, or Attorney General if the county prosecutor is the subject of the recall, or the subject of the recall's jurisdiction lies within multiple counties, must prepare a ballot synopsis of the recall charges. 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 is subject to recall 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 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.

Summary of Bill: The superior court, rather than the court clerk, notifies the recall petitioner and official subject to recall of the hearing date.

The court clerk, rather than the superior court, certifies and transmits the recall ballot synopsis.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a housekeeping bill. The current process is completely backwards to the way things should be, resulting in confusion and inefficiency. This creates a timelier recall process, better aligns officials' roles, and assures public that the recall process operates in a fair, transparent manner. Problems with the current process are exacerbated by communication challenges due to the COVID pandemic and an increase in recall petitions. In one case, the court did not transmit the hearing date in

a timely fashion and parties had to seek a continuance, costing additional attorneys' fees.

Persons Testifying: PRO: Senator Jeff Holy, Prime Sponsor; Timothy Grisham, Washington Association of County Officials; Josie Delvin, Washington State Association of County Clerks.

Persons Signed In To Testify But Not Testifying: No one.