

## Committee Substitute for House Bill No. 917

An act relating to elections; amending s. 100.361, F.S.; providing for municipal recall petitions to be attested to by a witness; removing determination of facial validity by the clerk; amending s. 101.657, F.S.; providing an alternative procedure for voting by absentee ballot; amending s. 102.012, F.S.; eliminating a requirement that election boards be composed of three inspectors and a clerk; eliminating the requirement that pollworkers be trained at formal classes; amending s. 102.021, F.S., to conform; amending s. 102.031, F.S.; providing for a deputy sheriff to be present at each polling place; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (7) of section 100.361, Florida Statutes, are amended to read:

100.361 Municipal recall.—

(1) RECALL PETITION.—Any member of the governing body of a municipality or charter county, hereinafter referred to in this section as “municipality,” may be removed from office by the electors of the municipality. When the official represents a district and is elected only by electors residing in that district, only electors from that district are eligible to sign the petition to recall that official and are entitled to vote in the recall election. When the official represents a district and is elected at-large by the electors of the municipality, all electors of the municipality are eligible to sign the petition to recall that official and are entitled to vote in the recall election. Where used in this section, the term “district” shall be construed to mean the area or region of a municipality from which a member of the governing body is elected by the electors from such area or region. Members may be removed from office by the following procedure:

(a) A petition shall be prepared naming the person sought to be recalled and containing a statement of grounds for recall in not more than 200 words limited solely to the grounds specified in paragraph (b). If more than one member of the governing body is sought to be recalled, whether such member is elected by the electors of a district or by the electors of the municipality at-large, a separate recall petition shall be prepared for each member sought to be recalled.

1. In a municipality or district of fewer than 500 electors, the petition shall be signed by at least 50 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

2. In a municipality or district of 500 or more but fewer than 2,000 registered electors, the petition shall be signed by at least 100 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

3. In a municipality or district of 2,000 or more but fewer than 5,000 registered electors, the petition shall be signed by at least 250 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

4. In a municipality or district of 5,000 or more but fewer than 10,000 registered electors, the petition shall be signed by at least 500 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

5. In a municipality or district of 10,000 or more but fewer than 25,000 registered electors, the petition shall be signed by at least 1,000 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

6. In a municipality or district of 25,000 or more registered electors, the petition shall be signed by at least 1,000 electors or by 5 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

Electors of the municipality or district making charges contained in the statement of grounds for recall and those signing the recall petition shall be designated as the "committee." A specific person shall be designated in the petition as chair of the committee to act for the committee. Electors of the municipality or district are eligible to sign the petition. Signatures and oaths of ~~witnesses~~ circulators shall be executed as provided in paragraph (c). All signatures shall be obtained within a period of 30 days, and the petition shall be filed within 30 days after the date the first signature is obtained on the petition.

(b) The grounds for removal of elected municipal officials shall, for the purposes of this act, be limited to the following and must be contained in the petition:

1. Malfeasance;
2. Misfeasance;
3. Neglect of duty;
4. Drunkenness;
5. Incompetence;
6. Permanent inability to perform official duties; and
7. Conviction of a felony involving moral turpitude.

(c) Each elector of the municipality signing a petition shall sign his or her name in ink or indelible pencil as registered in the office of the supervisor of elections and shall state on the petition his or her place of residence and voting precinct. Each petition shall contain appropriate lines for the signatures, printed name and street address addresses of the electors and an

oath, to be executed by a witness ~~the circulator~~ thereof, verifying the fact that ~~the witness the circulator~~ saw each person sign the counterpart of the petition, that each signature appearing thereon is the genuine signature of the person it purports to be, and that the petition was signed in the presence of the witness ~~the circulator~~ on the date indicated.

(d) The petition shall be filed with the auditor or clerk of the municipality or charter county, or his or her equivalent, hereinafter referred to as clerk, by the person designated as chair of the committee, and, when ~~the a~~ facially valid petition meeting the requirements of paragraph (b) is filed, the clerk shall submit such petition to the county supervisor of elections who shall, within a period of not more than 30 days after the petition is filed with the supervisor, determine whether the petition contains the required valid signatures. ~~If it is determined by the clerk that the petition does not meet the requirements of paragraph (b) and therefore is not facially valid, the clerk shall so notify the governing body of the municipality or charter county and take no further action.~~ The petition cannot be amended after it is filed with the clerk. The supervisor shall be paid by the persons or committee seeking verification the sum of 10 cents for each name checked.

(e) If it is determined that the petition does not contain the required signatures, the clerk shall so certify to the governing body of the municipality or charter county and file the petition without taking further action, and the matter shall be at an end. No additional names may be added to the petition, and the petition shall not be used in any other proceeding.

(f) If it is determined that the petition has the required signatures, then the clerk shall at once serve upon the person sought to be recalled a certified copy of the petition. Within 5 days after service, the person sought to be recalled may file with the clerk a defensive statement of not more than 200 words. The clerk shall, within 5 days, prepare a sufficient number of type-written, printed, or mimeographed copies of the recall petition and defensive statement, as well as the names, addresses, and oaths on the original petition, and deliver them to the person who has been designated as chair of the committee and take his or her receipt therefor. Such prepared copies shall be entitled "Recall Petition and Defense" and shall contain lines and spaces for signatures and printed names of registered electors, place of residence, election precinct number, and date of signing, together with oaths to be executed by the witnesses ~~circulators~~ which conform to the provisions of paragraph (c). The clerk shall deliver forms sufficient to carry the signatures of 30 percent of the registered electors.

(g) Upon receipt of the "Recall Petition and Defense," the committee may circulate them to obtain the signatures of 15 percent of the electors. Any elector who signs a recall petition shall have the right to demand in writing that his or her name be stricken from the petition. A written demand signed by the elector shall be filed with the clerk and upon receipt of the demand the clerk shall strike the name of the elector from the petition and place his or her initials to the side of the signature stricken. However, no signature may be stricken after the clerk has delivered the "Recall Petition and Defense" to the supervisor of elections for verification.

(h) Within 60 days after delivery of the “Recall Petition and Defense” to the chair, the chair shall file with the clerk the “Recall Petition and Defense” which bears the signatures of electors. The clerk shall assemble all signed petitions, check to see that each petition is properly verified by the oath of a witness ~~the circulator~~, and submit such petitions to the county supervisor of elections, who shall determine the number of valid signatures, purge the names withdrawn, certify within 30 days whether 15 percent of the qualified electors of the municipality have signed the petitions, and report his or her findings to the governing body. The supervisor shall be paid by the persons or committee seeking verification the sum of 10 cents for each name checked.

(i) If the petitions do not contain the required signatures, the clerk shall report such fact to the governing body and file the petitions, the proceedings shall be terminated, and the petitions shall not again be used. If the signatures do amount to at least 15 percent of the qualified electors, the clerk shall serve notice of that fact upon the person sought to be recalled and deliver to the governing body a certificate as to the percentage of qualified voters who signed.

(7) OFFENSES RELATING TO PETITIONS.—No person shall impersonate another, purposely write his or her name or residence falsely in the signing of any petition for recall or forge any name thereto, or sign any paper with knowledge that he or she is not a qualified elector of the municipality. No expenditures for campaigning for or against an officer being recalled shall be made until the date on which the recall election is to be held is publicly announced. The committee and the officer being recalled shall be subject to chapter 106. No person shall employ or pay another to accept employment or payment for circulating or witnessing a recall petition. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor of the second degree and shall, upon conviction, be punished as provided by law.

Section 2. Section 101.657, Florida Statutes, is amended to read:

101.657 Voting absentee ballots in person.—

(1) Notwithstanding s. 97.021(1), any qualified and registered elector who is unable to attend the polls on election day may pick up and vote an absentee ballot in person at the office of, and under the supervision of, the supervisor of elections. Before receiving the ballot, the elector must present a Florida driver's license, a Florida identification card issued under s. 322.051, or another form of picture identification approved by the Department of State. If the elector fails to furnish the required identification, or if the supervisor is in doubt as to the identity of the elector, the supervisor must follow the procedure prescribed in s. 101.49.

(2) As an alternative to the provisions of ss. 101.64, 101.647, and 101.65, the supervisor of elections may allow an elector to cast an absentee ballot in the main or branch office of the supervisor by depositing the voted ballot in a voting device used by the supervisor to collect or tabulate ballots. The results or tabulation may not be made before the close of the polls on election day.

(3) The elector must provide picture identification and must complete an In-Office Voter Certificate in substantially the following form:

IN-OFFICE VOTER CERTIFICATE

I, ..., am a qualified and registered voter of .... County, Florida. I do solemnly swear or affirm that I am the person so listed on the voter registration rolls of .... County and that I reside at the listed address. I understand that if I commit or attempt to commit fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election I could be convicted of a felony of the third degree and both fined up to \$5,000 and imprisoned for up to 5 years. I understand that my failure to sign this certificate and have my signature witnessed invalidates my ballot. I am entitled to vote an absentee ballot because I am unable to attend the polls on election day.

....(Voter's Signature)....

....(Address)....

....(City/State)....

....(Name of Witness)....

....(Signature of Witness)....

....(Type of identification provided)....

(4) Any elector may challenge an elector seeking to cast an absentee ballot under the provisions of s. 101.111. Any challenged ballot must be placed in a regular absentee ballot envelope. The canvassing board shall review the ballot and decide the validity of the ballot by majority vote.

(5) The canvass of returns for ballots cast under this section shall be substantially the same as votes cast by electors in precincts, as provided in s. 101.5614.

Section 3. Subsections (1) and (8) of section 102.012, Florida Statutes, are amended to read:

102.012 Inspectors and clerks to conduct elections.—

(1) The supervisor of elections of each county, at least 20 days prior to the holding of any election, shall appoint two election boards for each precinct in the county; however, the supervisor of elections may, in any election, appoint one election board if the supervisor has reason to believe that only one is necessary. ~~Each election board shall be composed of three inspectors and a clerk.~~ The clerk shall be in charge of, and responsible for, seeing that the election board carries out its duties and responsibilities. Each inspector and each clerk shall take and subscribe to an oath or affirmation, which shall be written or printed, to the effect that he or she will perform the duties of inspector or clerk of election, respectively, according to law and will endeavor to prevent all fraud, deceit, or abuse in conducting the election. The oath may be taken before an officer authorized to administer oaths or before any of the persons who are to act as inspectors, one of them to swear the others, and one of the others sworn thus, in turn, to administer the oath to the one who has not been sworn. The oaths shall be returned with the poll

list and the returns of the election to the supervisor. In all questions that may arise before the members of an election board, the decision of a majority of them shall decide the question. The supervisor of elections of each county shall be responsible for the attendance and diligent performance of his or her duties by each clerk and inspector.

(8) The supervisor of elections shall conduct training ~~classes~~ for inspectors, clerks, and deputy sheriffs prior to each first primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training ~~class~~ as required. A person who has attended previous training ~~classes~~ conducted within 2 years of the election may be appointed by the supervisor to fill a vacancy on election day. If no person with prior training is available to fill such vacancy, the supervisor of elections may fill such vacancy in accordance with the provisions of subsection (9) from among persons who have not received the training required by this section.

Section 4. Subsection (2) of section 102.021, Florida Statutes, is amended to read:

102.021 Compensation of inspectors, clerks, and deputy sheriffs.—

(2) Inspectors and clerks of election and deputy sheriffs serving at the precincts may receive compensation and travel expenses, as provided in s. 112.061, for attending the poll worker training classes required by s. 102.012(8).

Section 5. Subsection (2) of section 102.031, Florida Statutes, is amended to read:

102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms; unlawful solicitation of voters.—

(2) The sheriff shall deputize a deputy sheriff for each polling place ~~pre-  
cinct~~ who shall be present during the time the polls are open and until the election is completed, who shall be subject to all lawful commands of the clerk or inspectors, and who shall maintain good order. The deputy may summon assistance from among bystanders to aid him or her when necessary to maintain peace and order at the polls.

Section 6. This act shall take effect July 1, 2000.

Approved by the Governor June 7, 2000.

Filed in Office Secretary of State June 7, 2000.