

SECOND REGULAR SESSION

# SENATE BILL NO. 657

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

3510S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To amend chapter 162, RSMo, by adding thereto one new section relating to school board member recall elections.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 162, RSMo, is amended by adding thereto  
2 one new section, to be known as section 162.089, to read as  
3 follows:

162.089. 1. (1) Each member of any school board of  
2 any public school district shall be subject to recall from  
3 office by the registered voters of the school district such  
4 member was elected to represent. Such recall election shall  
5 be held upon the submission of a petition signed by  
6 registered voters of the district equal in number to at  
7 least twenty-five percent of the number of voters who voted  
8 in the most recent election held to elect a district board  
9 member in such district.

10 (2) No proceedings shall be commenced against any  
11 member under this section if, at the time of commencement,  
12 such member:

13 (a) Has not held office during the member's term for  
14 more than thirty days;

15 (b) Has fewer than one hundred eighty days remaining  
16 in the member's term; or

17 (c) Has had a recall election determined in the  
18 member's favor during the member's current term of office.

19           2.   (1) Proceedings may be commenced for the recall of  
20 any school board member by the filing of a notice of  
21 intention to circulate a recall petition under this  
22 section. The notice shall be filed with the election  
23 authority having jurisdiction over the school district under  
24 this chapter and chapter 115. Each notice shall contain the  
25 following:

26           (a) The name and office of the board member sought to  
27 be recalled;

28           (b) A statement of grounds, not exceeding two hundred  
29 words in length, listing the particular reasons for the  
30 proposed recall;

31           (c) A sworn statement of at least three proponents of  
32 the recall that they are registered voters in the school  
33 district and that the information in the statement of  
34 grounds is true, correct, and complete to the best of the  
35 knowledge and belief of the proponent;

36           (d) The printed names and the business or residential  
37 addresses of the proponents of the recall making the sworn  
38 statement under paragraph (c) of this subdivision; and

39           (e) The notarized signature of each of the proponents  
40 of the recall making the sworn statement under paragraph (c)  
41 of this subdivision.

42           (2) (a) The grounds for recall required to be stated  
43 in paragraph (b) of subdivision (1) of this subsection may  
44 include but shall not be limited to the following:

45           a. Conduct that relates to and adversely affects the  
46 rights and interests of the public;

47           b. Commission of an act or acts of malfeasance;

48           c. Moral turpitude;

49           d. Violation of the member's oath of office;

50           e. Abuse of power or authority;

51           f. Misuse or misappropriation of public property or  
52 public moneys;

53           g. Conviction of a felony;

54           h. Willful violation of any code of ethics applicable  
55 to such member as provided in the revised statutes of  
56 Missouri;

57           i. Violation of any school board policy of the school  
58 district in which the member serves;

59           j. Breach of public trust;

60           k. Lack of responsiveness to concerns raised by the  
61 public or staff;

62           l. Promotion and implementation of measures that are  
63 counterproductive to the best interests of the students and  
64 staff of the school district; or

65           m. Violation of any applicable provision of chapter  
66 610; except that, discretionary performance of a lawful act  
67 or a prescribed duty shall not constitute a ground for  
68 recall.

69           (b) The election authority shall neither have nor  
70 assume the authority to determine the validity of the  
71 grounds for recall.

72           (3) No notice of intention shall name more than one  
73 board member sought to be recalled.

74           (4) (a) If the election authority finds that the  
75 notice of intention contains the required information under  
76 this section, the election authority shall attach to the  
77 affidavit a certification showing that the notice has been  
78 properly filed.

79           (b) Within three business days after the  
80 certification, the election authority shall send  
81 notification of the filing of the notice by registered mail

82 to the school district administration, the school board, and  
83 the board member sought to be recalled.

84 (c) Within fourteen days after the receipt of the  
85 notice, the board member who is the subject of the notice  
86 may file with the election authority a statement, not  
87 exceeding two hundred words in length, in answer to the  
88 statement of the proponents. If an answer is filed, the  
89 election authority shall make the answer available for  
90 public viewing upon request at the election authority's  
91 office.

92 3. (1) After the election authority certifies the  
93 notice, the proponents of the recall may begin circulating a  
94 petition for recall and collecting signatures on such  
95 petition.

96 (a) Any person circulating a petition for recall shall  
97 be a registered voter in the district of the board member  
98 sought to be recalled.

99 (b) Collection of signatures may begin after seven  
100 days have passed following the election authority's  
101 certification with the date of the certification counted as  
102 the first day. The election authority shall indicate the  
103 date on which collection of signatures may begin in the  
104 certification of the notice. The number of signatures  
105 required to equal the twenty-five percent of voters  
106 necessary under subsection 1 of this section shall be  
107 determined by the election authority.

108 (2) Each page of the petition for recall shall include:

109 (a) The name and office of the member for whom recall  
110 is sought;

111 (b) The grounds for recall described in particular, in  
112 no more than two hundred words;

113 (c) A statement that the petition signatories are  
114 registered voters of the district in which the member sought  
115 to be recalled serves; and

116 (d) Space for the date of the signing, the signer's  
117 printed name, the house number and street name of each  
118 signer's residence, and each signer's signature.

119 (3) Each signer shall be a registered voter in the  
120 school district.

121 (4) Each signer shall provide the date of the signing,  
122 the signer's printed name, the house number and street name  
123 of the signer's residence, and the signer's signature.

124 (5) Every person signing a petition shall do so in the  
125 presence of the person who is circulating the petition and  
126 who will execute the affidavit of verification for each page  
127 of the petition.

128 4. (1) Within sixty days after the beginning date for  
129 the collection of signatures, the completed petition with  
130 the required number of signatures shall be filed with the  
131 election authority. The signatures to the petition need not  
132 all be attached to one paper, but the person who files the  
133 petition with the election authority shall sign each page  
134 attesting that the signatures attached are true and correct  
135 to the best of such person's knowledge and belief. Such  
136 signature on each page of the petition shall be notarized.

137 (2) Within fifteen business days after the date of  
138 filing the signed petition, the election authority shall  
139 examine the petition and determine whether the petition is  
140 signed by the required number of registered voters.  
141 Signatures that cannot be verified shall not be counted.

142 (3) (a) If the election authority finds the signed  
143 petition to be insufficient, the election authority shall,  
144 within three business days after such determination, send

notification of the insufficiency by registered mail to the person who filed the signed petition. The election authority shall specify the errors, omissions, or other problems that cause the insufficiency.

(b) The signed petition shall be returned to the person who filed the signed petition, without prejudice to the refiling of the petition or the filing of a new petition.

(c) The person who filed the signed petition shall have thirty days after the date of notification of insufficiency to correct the insufficiencies and refile the petition. If the petition is not corrected and refiled, the petition and all its signatures shall be void.

(4) If the election authority finds the signed petition to be sufficient, the election authority shall attach to the petition a certificate showing the result of the examination. The election authority shall, within three business days after the certification, send notification of the sufficiency and certification by registered mail to the person who filed the signed petition, the school district administration, the school board, and the board member sought to be recalled.

5. (1) Upon receipt of the notification of the sufficiency of the petition and the election authority's certification, the election authority shall order the question to be submitted to the voters of the district on one of the following days:

(a) The next general election day;

(b) At a special election to be called on the first Tuesday after the first Monday in November of odd-numbered years if that date is no fewer than ninety calendar days after the date of notification; or

176 (c) At the next election in which the voters of the  
177 school district vote for any school board member on the  
178 general municipal election day, if that date is no fewer  
179 than ninety calendar days after the date of notification.

180 (2) If no election will occur or can be called at the  
181 times described in this subsection before the term of the  
182 member who is the subject of the recall petition expires, no  
183 recall election shall be held and such member may serve the  
184 remainder of the member's term.

185 6. (1) The name of the member who is the subject of  
186 the recall shall appear on the ballot under the separate  
187 heading "(name of school district) Recall Election".

188 (2) The question on the ballot shall be in  
189 substantially the following form: "Shall school board  
190 member (name of member) be removed from the school board?".

191 (3) (a) If a majority of the votes cast on the  
192 question by the qualified voters voting thereon are opposed  
193 to removing the member, the member shall remain in office  
194 and shall not be subject to another recall election during  
195 the remainder of the member's term.

196 (b) If a majority of the votes cast on the question by  
197 the qualified voters voting thereon in a November election  
198 are in favor of removing the member, the vacancy shall be  
199 filled in the manner provided in this chapter.

200 (c) If a majority of the votes cast on the question by  
201 the qualified voters voting thereon in an April election are  
202 in favor of removing the member and the number of candidates  
203 on the ballot is greater than the number of seats for  
204 expired board member terms, the vacancy shall be filled by  
205 the candidate receiving the next highest number of votes  
206 after the seats for expired board member terms are filled.  
207 If the number of candidates is not greater than the number

208 of seats of expired board member terms, the vacancy shall be  
209 filled in the manner provided in this chapter.

210 7. A school board member who has been recalled shall  
211 not fill the vacancy created by the recall, but such member  
212 may seek election to the school board at any election not  
213 held to fill the vacancy created by the member's recall.

214 8. Except as otherwise provided in this section, the  
215 provisions of this chapter and chapter 115 governing the  
216 conduct of school board elections shall apply, if  
217 appropriate, to recall elections held under this section.  
218 The costs of the election shall be paid as provided in  
219 chapter 115.

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