

2015-2016 #5

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S. WARD
9:13 A.M.

Colorado Secretary of State

ORIGINAL

Be it Enacted by the People of the State of Colorado:

Article XXI of the Colorado Constitution is repealed and re-enacted as follows:

Article XXI. RECALL FROM OFFICE.

Section 1. Eligibility. Elective officers in any state or local legislative, executive, or judicial office are eligible for recall. The purpose of this article is to increase public accountability of public officers.

Section 2. Procedures. (1) Any four registered electors in the recall area may file at any time signed requests to recall eligible officers. Legislative, council, court, and other local election districts shall be the recall area for their officers. Statewide recalls shall be held by the secretary of state and local recalls by the election office of any county, or city and county, in the recall area, except the governor shall select another office or court in two days when an election or judicial officer is named for recall.

(2) Election offices shall deliver a sample petition section within two days. Each black ink section shall contain 100 entry lines, 20 per 8 1/2" by 14" page in portrait layout; the affidavit required in 2006 for state initiatives; and the question, "Shall (names of officers) be recalled as (titles and government)?" No government agent shall detain, stop, cite, or arrest petition circulators or signers for, while, or related to peaceably petitioning, but petition-based perjury, forgery, and other felony frauds shall be prosecuted.

(3) Statewide petition entries shall be first filed within 180 days of sample section delivery, and local entries within 90 days. One 30-day extension to file added entries signed at any time shall start when a first report of invalidity is issued by the later of the election office or court. Added entries shall be reviewed similarly.

(4) The required number of valid petition entries shall be the lesser of 5% of active registered electors in the recall area or 100,000 such entries. Signers shall be registered electors in the recall area. Entry lines shall require only signature, printed name, residential address, and city or town. No error, use, or lack of minor details like middle name, common nickname, initials, street type or direction, apartment, or postal code shall void entries. No sample section or affidavit error shall void entries. Entries shall be reviewed individually, with no random or statistical sampling or machine reading. Varied entries with a signature, readable first and last name and street address, and attached affidavit with or without errors shall be presumed valid until the officer disproves validity by clear and convincing evidence in a court review.

(5) Within 15 days of filings, the election office shall count, review, itemize, and report entries for validity. Within five days of the report, only recall filers and the officer may each protest without fee to the supreme court for its new review of disputed entries. A report of that validity review shall issue within 30 days of the protest filing. Only recall filers prevailing in a protest shall receive attorney fees and costs.

(6) Local elections on eligible officers shall occur on a Tuesday within 60 days after final validation, and statewide elections on the first November election date at least 60 days after. Ballots shall repeat the question for each officer, list “Yes” and “No” choices, and list one website from each side. Death, resignation, or announced retirement shall stop recalls but not pending successor petitions or elections.

(7) Ballots shall then list eligible successors and one website from each. The officer is ineligible. The required number of valid successor petition entries shall be the lesser of 0.5% of active registered electors in the recall area or 10,000 such entries. Entries shall be first filed by 90 days before the election. Successor entry validation and extension time shall be 20% of that time for recall entries. Otherwise, relevant petition procedures in subsections 2(2)-2(5) shall apply to successor petitions.

(8) Recalled officers shall lose their offices at once. If no successor be elected, local successors shall be elected similarly within 120 days, and statewide successors the next November. Runoff elections are prohibited. Interim replacement of governor and mayors only shall occur. Successors are ineligible for a recall election for that office for two years.

Section 3. Enforcement. (1) Except by good faith mistake, no person shall sign a petition more than once or if ineligible. Any adult citizen may circulate any petition. To reduce retaliation and coercion, circulator payments and recall donations shall never be identified, reported, or limited. Other campaign costs and all petitions shall be public records. Except to provide public records, no one shall directly or indirectly give or receive government funds, labor, or aid in any recall or successor campaign or to repay its costs. Election dates also include the first Tuesday in November of odd-numbered years.

(2) “Elective” means in an office subject to regular, special, or retention elections, even if term limited. Judicial officers shall be eligible for recall after their election. This article also applies in all home rule jurisdictions as a matter of statewide concern. Recalled officers and those who resign or announce retirement during their recall process shall not be any officer for the next five years. Officers who defeat a recall election are ineligible for a recall election for that office for four years. A recall election occurs on its last election date. Up to five officers in one recall area may be listed on one recall petition, but they shall be voted on separately. The secretary of state website shall always list by name, title, and government all officers eligible for recall, and all persons ineligible for recall until the election date on that website.

(3) To enforce this article unrelated to specific petition validity, any adult citizen may file a court case in any district court, and the case shall be decided within 30 days. Direct appeals shall be filed within 10 days to the supreme court and shall be decided within 60 days. Only successful plaintiffs enforcing this article shall be awarded their costs, attorney fees, and damages, and only against governments and officers. Added recall requirements or any local recall laws are prohibited. This article shall be self-executing, severable, and effective upon passage. It shall be interpreted strictly in favor of this fundamental right to petition for recall and succession, and against governments and

officers. It shall supersede any conflicting state or local constitutional, statutory, charter, ordinance, or other law, prior opinion, rule, regulation, or legal provision.

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