

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 675

Short Title: Yadkin Commission Recall. (Local)

Sponsors: Representative McCormick.

Referred to: Election Law and Campaign Finance Reform, if favorable, Judiciary I.

March 19, 2009

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW RECALL OF THE BOARD OF COMMISSIONERS OF YADKIN
2 COUNTY.
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4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** A member of the board of commissioners of a county may be
6 recalled as provided in this act.

7 **SECTION 2.** Any registered voter of the county may file an affidavit with the
8 county director of elections containing the name of the elected official whose removal is sought
9 and a general statement of the grounds alleged for removal. The director of elections shall
10 provide the registered voter filing the affidavit with petition forms for demanding the removal
11 of a member of the county board of commissioners. The petition forms shall:

- 12 (1) Be signed by the director of elections.
- 13 (2) Be dated on the date of issuance.
- 14 (3) Be addressed to the county board of elections.
- 15 (4) Contain the name of the person to whom the form is issued.
- 16 (5) Contain the name of the official whose removal is sought.
- 17 (6) Contain a general statement of the grounds on which the removal is sought.
- 18 (7) Provide a place for signatures.

19 The director of elections shall promptly deliver a copy of the petition issued by the director of
20 elections to the clerk to the board of commissioners, who shall enter the copy of the petition in
21 a record book kept for that purpose. The record book shall be maintained by the clerk.

22 **SECTION 3.** To be effective, a recall petition must be returned to the board of
23 elections within 30 days after the filing of the affidavit. To be sufficient, a recall petition must
24 bear the signatures of at least as many registered voters of the county as the number of votes
25 cast for the candidate subject to recall in the previous general election.

26 **SECTION 4.** The signatures to the petition need not all be appended to one paper.
27 Each signer shall add his or her name, signature, and the signer's place of residence, giving the
28 residence address including county. One of the witnesses to each signature shall take an oath
29 before an officer competent to administer oaths that each signature to the paper appended is the
30 genuine signature of the person whose name it purports to be.

31 **SECTION 5.** The board of elections shall investigate the sufficiency of any
32 petition and certify the results of the investigation to the board of commissioners. The board of
33 elections may employ persons as it deems necessary to undertake that investigation. The board
34 of elections may adopt rules concerning the validation of signatures appearing on the recall
35 petition.

36 **SECTION 6.** The board of elections shall complete its investigation and issue its
37 certification of the results of the investigation within 15 days after the filing of any petition. If,



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1 by the board of elections certification, the petition is shown to be insufficient, it may be
2 amended within 10 days from the date of the certificate. The board shall, within 10 days after
3 any amendment, complete an investigation of the amended petition. If the certification of the
4 results of the investigation shows the amended petition to be insufficient, a copy of the petition
5 shall be returned to the person filing the petition, without prejudice to the filing of a new
6 petition.

7 **SECTION 7.** Upon a determination that a sufficient recall petition has been
8 submitted, the board of elections shall submit the petition to the clerk to the board of
9 commissioners, who shall submit it to the board of commissioners and shall notify the officer
10 whose removal is sought. If the officer whose removal is sought does not resign within five
11 days after receiving the notice, the board of commissioners shall order and fix a date for
12 holding a recall election. Subject to the remaining provisions of this section, an election shall
13 be held not less than 90 nor more than 120 days after the petition has been certified as being
14 sufficient. If any other primary, general, or special election is scheduled within this period, the
15 board of commissioners shall schedule the special election at the same time. If the provisions of
16 general law prohibit the holding of a special election during this time period and no primary,
17 general, or special election is otherwise scheduled during that period of time, then the board of
18 commissioners shall schedule the special recall election for a date within 10 days after the last
19 day of the period of time during which special elections are prohibited by general law.

20 **SECTION 8.** The board of elections shall cause legal notice of the election to be
21 published. That notice shall include the general statement of the grounds on which the recall is
22 sought as alleged in the affidavit and shall make all arrangements for holding the election in
23 accordance with general law. The recall election shall be conducted, returned, and the results
24 declared as in other elections of that county.

25 **SECTION 9.** The question of recalling any number of officials may be submitted
26 at the same election. But as to each such official, a separate petition shall be filed and there
27 shall be an entirely separate ballot.

28 **SECTION 10.** The ballots used in a recall election shall submit the following
29 proposition:

30 FOR AGAINST

31 The recall of (name and title of official)."

32 **SECTION 11.** If less than a majority of the votes cast on the question of recalling
33 an official are for recall, the official shall continue in office for the remainder of the unexpired
34 term and, except as provided by Section 13 of this act, shall be subject to the recall as before. If
35 a majority of such votes are for the recall of the official designated on the ballot, the official
36 shall be deemed removed from office.

37 **SECTION 12.** If an official concerning whom a sufficient recall petition is
38 submitted to the board of commissioners resigns before the recall election or is removed from
39 office as a result of the recall election, the vacancy shall be filled in the manner provided by
40 law for filling vacancies in that office. An official removed from office by the voters as a result
41 of a recall election shall not be appointed to fill the vacancy caused by that official's own
42 removal or resignation.

43 **SECTION 13.** No petition to recall an officer may be filed within six months after
44 the officer's election to the governing body nor within six months before the expiration of the
45 officer's term. No more than one election may be held to recall an officer within a single term
46 of office of that officer.

47 **SECTION 14.** If the recalls of a majority of the members of the board of
48 commissioners are effected at a single recall election, the successors of the officers recalled
49 shall be elected by the registered voters of the county at a special election, and the successors
50 shall serve for the remainder of the terms of the officers recalled. The members of the board of
51 commissioners who have not been recalled shall call that special election, which shall be

1 conducted by the county board of elections under the laws then governing elections in the State.
2 If the recall of all the members of the board of commissioners is effected at a single election,
3 they shall continue in office for the purpose, and only for the purpose, of calling a special
4 election for the election of their successors as provided in this section. That election shall also
5 be conducted by the county board of elections under the laws then governing elections in the
6 State.

7 **SECTION 15.** This act expires December 6, 2010.

8 **SECTION 16.** This act applies to Yadkin County only.

9 **SECTION 17.** This act is effective when it becomes law.