

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 942

Short Title: Sanitary District Recall.

(Public)

Sponsors: Representative Dockham.

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

April 1, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROCEDURES FOR RECALL ELECTIONS IN SANITARY
3 DISTRICTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 130A-66 reads as rewritten:

6 "**§ 130A-66. Removal of member of board.**

7 ~~A petition with the signatures of twenty five percent (25%) or more of the voters within a~~
8 ~~sanitary district which requests the removal from office of one or more members of a sanitary~~
9 ~~district board for malfeasance or nonfeasance in office may be filed with the board of~~
10 ~~commissioners of the county in which all or the greater portion of the voters of a sanitary~~
11 ~~district are located. Upon receipt of the petition, the county board of commissioners shall meet~~
12 ~~and adopt a resolution to hold an election on the question of removal. In the event that more~~
13 ~~than one member of a sanitary district board is subjected to recall in an election, the names of~~
14 ~~each member of the board subjected to recall shall appear upon separate ballots. If in a recall~~
15 ~~election, a majority of the votes within the sanitary district are cast for the removal of a member~~
16 ~~or members of the sanitary district board subject to recall, the member or members shall cease~~
17 ~~to be a member or members of the sanitary district board. A vacancy shall be immediately~~
18 ~~filled. The expenses of holding a recall election shall be paid from the funds of the sanitary~~
19 ~~district.~~

20 (a) A member of a sanitary district board may be recalled as provided in this section.

21 (b) Any registered voter of the sanitary district may file an affidavit with the county
22 director of elections containing the name of the elected official whose removal is sought and a
23 general statement of the grounds alleged for removal. The director of elections shall provide the
24 registered voter filing the affidavit with petition forms for demanding the removal of a member
25 of the sanitary district board. The petition forms shall:

26 (1) Be signed by the director of elections.

27 (2) Be dated on the date of issuance.

28 (3) Be addressed to the county board of elections.

29 (4) Contain the name of the person to whom the form is issued.

30 (5) Contain the name of the official whose removal is sought.

31 (6) Contain a general statement of the grounds on which the removal is sought.

32 (7) Provide a place for signatures.

33 The director of elections shall promptly deliver a copy of the petition to the clerk to the sanitary
34 district board, who shall enter the copy of the petition in a record book kept for that purpose.
35 The record book shall be maintained by the clerk.

36 (c) To be effective, a recall petition must be returned to the board of elections within 30
37 days after the filing of the affidavit. To be sufficient, a recall petition must bear the signatures



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1 of at least as many registered voters of the sanitary district as the number of votes cast for the
2 candidate subject to recall in the previous general election.

3 (d) The signatures to the petition need not all be appended to one paper. Each signer
4 shall add his or her name, signature, and the signer's place of residence, giving the residence
5 address including sanitary district. One of the witnesses to each signature shall take an oath
6 before an officer competent to administer oaths that each signature to the paper appended is the
7 genuine signature of the person whose name it purports to be.

8 (e) The board of elections shall investigate the sufficiency of any petition and certify
9 the results of the investigation to the sanitary district board. The board of elections may employ
10 persons as it deems necessary to undertake that investigation. The board of elections may adopt
11 rules concerning the validation of signatures appearing on the recall petition.

12 (f) The board of elections shall complete its investigation and issue its certification of
13 the results of the investigation within 15 days after the filing of any petition. If, by the board of
14 elections certification, the petition is shown to be insufficient, it may be amended within 10
15 days from the date of the certificate. The board shall, within 10 days after any amendment,
16 complete an investigation of the amended petition. If the certification of the results of the
17 investigation shows the amended petition to be insufficient, a copy of the petition shall be
18 returned to the person filing the petition, without prejudice to the filing of a new petition.

19 (g) Upon a determination that a sufficient recall petition has been submitted, the board
20 of elections shall submit the petition to the clerk to the sanitary district board, who shall submit
21 it to the board and shall notify the officer whose removal is sought. If the officer whose
22 removal is sought does not resign within five days after receiving the notice, the sanitary
23 district board shall order and fix a date for holding a recall election. Subject to the remaining
24 provisions of this section, an election shall be held not less than 90 nor more than 120 days
25 after the petition has been certified as being sufficient. If any other primary, general, or special
26 election is scheduled within this period, the sanitary district board shall schedule the special
27 election at the same time. If the provisions of general law prohibit the holding of a special
28 election during this time period and no primary, general, or special election is otherwise
29 scheduled during that period of time, then the sanitary district board shall schedule the special
30 recall election for a date within 10 days after the last day of the period of time during which
31 special elections are prohibited by general law.

32 (h) The board of elections shall cause legal notice of the election to be published. That
33 notice shall include the general statement of the grounds on which the recall is sought as
34 alleged in the affidavit and shall make all arrangements for holding the election in accordance
35 with general law. The recall election shall be conducted, returned, and the results declared as in
36 other elections of that sanitary district.

37 (i) The question of recalling any number of officials may be submitted at the same
38 election, but as to each such official, a separate petition shall be filed and there shall be an
39 entirely separate ballot.

40 (j) The ballots used in a recall election shall submit the following proposition:

41 " FOR AGAINST

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

43 (k) If less than a majority of the votes cast on the question of recalling an official are for
44 recall, the official shall continue in office for the remainder of the unexpired term and, except
45 as provided by subsection (m) of this section, shall be subject to the recall as before. If a
46 majority of such votes are for the recall of the official designated on the ballot, the official shall
47 be deemed removed from office.

48 (l) If an official concerning whom a sufficient recall petition is submitted to the
49 sanitary district board resigns before the recall election or is removed from office as a result of
50 the recall election, the vacancy shall be filled in the manner provided by law for filling
51 vacancies in that office. An official removed from office by the voters as a result of a recall

1 election shall not be appointed to fill the vacancy caused by that official's own removal or
2 resignation.

3 (m) No petition to recall an officer may be filed within six months after the officer's
4 election to the governing body nor within six months before the expiration of the officer's term.
5 No more than one election may be held to recall an officer within a single term of office of that
6 officer.

7 (n) If the recalls of a majority of the members of the board of commissioners are
8 affected at a single recall election, board of commissioners of the county where each vacating
9 member resided shall appoint someone to serve the remainder of the unexpired term.

10 (o) If any sanitary district lies in more than one county, the county in which the largest
11 number of registered voters of the district reside shall handle all duties under this section other
12 than actually conducting the recall election, provided that the several boards of elections may
13 agree among them to allocate duties to each board concerning acceptance and verification of
14 the signatures of residents of that county."

15 **SECTION 2.** This act is effective when it becomes law.