



One Hundred First Legislature - First Session - 2009
Introducer's Statement of Intent
LB 349

Chairperson: Bill Avery
Committee: Government, Military and Veterans Affairs
Date of Hearing: February 18, 2009

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 349 would change provisions relating to the recall of elected officials. The bill would require the registered voter(s) seeking the recall to submit a statement alleging facts which, if true, would establish one of three grounds for which recall of the official is sought: malfeasance in office, misfeasance in office, or nonfeasance in office.

The bill would create a process for the official to respond to the statement, giving the official the option of submitting a defense statement that would be printed on the petition papers, or the official could file an action in the district court to challenge the sufficiency of the allegations in the statement. There would not be a hearing, nor would there be a cost to either party. The court would presume the allegations in the statement to be true and would determine whether the allegations in the statement establish the existence of malfeasance in office, misfeasance in office, or nonfeasance in office.

If the allegations were found to be sufficient to establish the existence of one of the three grounds, the individual whose removal is sought could then submit the aforementioned defense statement to be printed on the petition papers. However, if the allegations were found not to be sufficient, the filing clerk would not issue petition papers and the recall effort would be concluded.

LB 349 also establishes a reporting requirement for filing clerks to notify the Secretary of State when initial petition papers are issued, when the recall petition is found to be sufficient and an election will be held, and with the results of the election. The Secretary of State will compile such records. Furthermore, the petition papers shall include a statement of the estimated cost of the recall election, which is to be filled out by the filing clerk.

Principal Introducer:

Senator Scott Lautenbaugh