

LEGISLATIVE BILL 1121

Approved by the Governor April 10, 2012

Introduced by Lambert, 2.

FOR AN ACT relating to sanitary and improvement districts; to amend sections 31-787 and 31-789, Reissue Revised Statutes of Nebraska; to change provisions relating to signatures on recall petitions; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 31-787, Reissue Revised Statutes of Nebraska, is amended to read:

31-787 (1) A trustee of a sanitary and improvement district may be removed from office by recall pursuant to sections 31-786 to 31-793. A petition demanding that the question of removing a trustee be submitted to the qualified resident voters or qualified property owning voters that elected such trustee shall be signed by qualified resident voters or qualified property owning voters, as the case may be, who represent at least thirty-five percent of the number of votes cast for the trustee who received the most votes in the last district election pursuant to section 31-735 and who was elected by the same voters as the trustee whose recall is being sought. for an election to recall a trustee shall be sufficient if it complies with the requirements of this section.

(2) The signers of the petition shall be persons who were, on the date the initial petition papers are issued under subsection (7) of this section, eligible to vote in a district election as provided in section 31-735. A person's eligibility to sign a petition shall be the same as the person's eligibility to cast one or more votes at a district election under section 31-735. Only one person shall be allowed to sign on behalf of joint owners of property in the district or on behalf of a public, private, or municipal corporation that owns property in the district. If the trustee whose recall is sought was elected by vote of resident owners only, then only resident owners shall be allowed to sign the petition. If the trustee whose recall is sought was elected by vote of all owners of property, then all owners shall be allowed to sign the petition. Resident owner means qualified resident voter. All owners means all qualified resident voters and all qualified property owning voters.

(3) The filing clerk shall assign to each signature a count equal to the number of votes that the signer was eligible to cast on the date he or she signed. The number of votes that a signer was eligible to cast shall be based on section 31-735. If the signature was made by or for an owner of more than one parcel of property, the signature made by or on behalf of such owner shall be assigned a count equal to the total number of votes which the owner was eligible to cast.

(4) The filing clerk shall total the count assigned to the signatures on the petition. The petition shall be sufficient if the total is at least equal to thirty-five percent of the highest number of votes that were cast for a candidate at the previous district election for the trustee positions in the same category as the trustee whose recall is sought by the petition. The categories of trustees shall be the same as provided in section 31-735.

(5) The signatures shall be affixed to petition papers and shall be considered part of the petition.

~~(2)~~ (6) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one qualified resident voter of the district, if the trustee whose recall is being sought was elected solely by qualified resident voters, or at least one qualified resident voter or qualified property owning voter, if the trustee whose recall is being sought was elected by other qualified resident voters and qualified property owning voters. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name of the trustee sought to be removed and whether qualified property owning voters participated in the election of the trustee and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty days after the date of issuing the petitions.

~~(3)~~ (7) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his

or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, the number of papers issued, and whether qualified property owning voters may participate in signing the petitions. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued, the date they were issued, and whether qualified property owning voters may participate in signing the petitions. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to persons who may act as circulators of such petitions.

~~(4) Each signer of a recall petition shall be (a) qualified to vote in a district election and (b) a qualified resident voter if the trustee whose recall is being sought was elected solely by qualified resident voters.~~

Sec. 2. Section 31-789, Reissue Revised Statutes of Nebraska, is amended to read:

31-789 (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within thirty days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in section 31-787.

(2) Within fifteen days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by sufficient qualified resident voters and qualified property owning voters as provided in ~~subsection (1) of~~ section 31-787. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting that his or her signature be removed before the petitions are filed with the filing clerk for signature verification.

(3) If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the petition is found not to be sufficient, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

Sec. 3. Original sections 31-787 and 31-789, Reissue Revised Statutes of Nebraska, are repealed.