

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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FLOOR DEBATE

February 26, 2004 LB 820

when you get time.

ASSISTANT CLERK: Mr. President, LB 820 was introduced by Senator Schimek. (Read title.) The bill was read for the first time on January 7, referred to the Government Committee. That committee reports the bill to General File with no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, to open on advancement of LB 820.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. In 2002, the Legislature passed a bill on recall elections requiring that the filing clerk notify the official, sought to be recalled or removed, by certified mail. After receiving notice, the official is allowed to submit a defense statement. This defense statement is in response to the principal circulator's affidavit and allows the public official to explain why he or she should not be removed from office. Since that bill passed, an official who was sought to be recalled refused to pick up his certified letter. Since this was the only notification process specified in statute, the clerk wasn't able to utilize alternative methods of notice. Technically, if the official had never picked up his certified letter, he would not have had notice and the recall could not have proceeded. And that may have been good or bad, depending on your point of view. But this bill will alleviate that situation from occurring again. LB 820 changes the notice requirements in recall elections by requiring the filing clerk to notify the official sought to be removed by any of the following methods: one, personal service by leaving the affidavit with the official; two, residence service made by leaving the affidavit at the official's residence with a person of suitable age; or three, certified mail. These are the same procedures used in civil cases to notify persons of a lawsuit, so we tried to mimic those statutes. The bill also provides that if notification cannot be made with reasonable diligence by any of the methods previously mentioned, the filing clerk may notify the official by leaving a copy of the affidavit at the official's usual place of residence, and mailing a copy to the official's last known address. The same procedures then could also be used when