

1977 Senate Bill 222

Date published: May 25, 1978

### CHAPTER 403, Laws of 1977

AN ACT to renumber 9.10 (4) (c); to consolidate, renumber and amend 9.10 (4) (a) and (b); and to amend 9.10 (1), (2) (a), (3) (a) and (7), 17.24 (1), 17.25 (1), 17.26 (intro.) and 119.12 (1) of the statutes, relating to removal of certain local elective officers by recall election.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 9.10 (1), (2) (a) and (3) (a) of the statutes are amended to read:

9.10 (1) The qualified electors of the state, of any county, congressional, judicial or legislative district, or city, village, town, or of any congressional, legislative, judicial or school district may petition for the recall of any elective official after the first year of the term for which ~~he~~ the official is elected by filing a petition with the same official or agency with whom the petition for nomination to the office was filed demanding the recall of the officeholder. The petition shall be signed by electors equal to at least 25% of the vote cast for the office of governor at the last election within the same district or territory as that of the officeholder being recalled. ~~In cities, if~~ If at the last election any group of candidates were voted for in common to fill 2 or more offices of the same designation, the required number of petition signers shall be equal to 25% of the number computed by dividing the total vote for that office by the number of offices filled jointly.

(2) (a) The preparation and form of the recall petition shall be governed by s. 8.15. In addition, a recall petition for a city, village, town or school district office shall contain a specific statement of good and sufficient reason upon which removal is sought.

(3) (a) The provisions of this subsection apply for the recall of all elective officials other than city, village, town and school district officials. City, village, town and school district officials are recalled under sub. (4).

SECTION 1e. 9.10 (4) (a) and (b) of the statutes are consolidated, renumbered 9.10 (4) (a) and amended to read:

9.10 (4) (a) For the recall of any city, village, town or school district official, the municipal clerk shall verify the eligibility of the respective signers and circulators, shall certify thereto and shall transmit the petition to the clerk of circuit court within 10 days of the filing date. The circuit court within 10 days after receipt of the petition shall determine by hearing whether the petition states good and sufficient reason for the recall. The clerk of circuit court shall notify the incumbent of the hearing date. The person subject to recall and the petition circulators may appear by counsel and the court may take testimony with respect to the recall petition. If the circuit court judge determines the grounds stated in the petition and proof offered at the hearing show good and sufficient reasons for recall, the judge shall issue a certificate directing the common council governing body or school board to hold an election under this section. ~~If the reasons are found insufficient or do not show good cause~~ grounds stated in the petition and proof offered at the hearing do not show good and sufficient reason for recall, issuance of the certificate shall be denied. Any party aggrieved by the circuit court determination may appeal to the supreme court within 10 days following the circuit court determination by filing a notice of appeal with the clerk of the supreme court. An appeal under this section shall have preference on the supreme court calendar. The appeal shall stay enforcement of a certificate issued by the circuit court until the supreme court determines the appeal. ~~(b) The common council governing body or school board~~ upon receiving the certificate from the circuit court shall call a special election not less than 50 nor more than 60 days from the date of the certificate. The special election for recall of more than one official may be held on the same day.

SECTION 1m. 9.10 (4) (c) of the statutes is renumbered 9.10 (4) (b).

SECTION 1s. 9.10 (7) of the statutes is amended for read:

9.10 (7) The purpose of this section is to facilitate the operation of article XIII, section 12, of the constitution and to extend ~~similar~~ the same rights to city electors of cities, villages, towns and school districts.

SECTION 2. 17.24 (1) of the statutes is amended to read:

17.24 (1) ~~A~~ Except as provided in s. 9.10, a vacancy in any elective village office may be filled by appointment by a majority of the members of the village board for the residue of the unexpired term or until a special election is held under sub. (2). A vacancy in an appointive office shall be filled in the same manner as the original appointment.

SECTION 3. 17.25 (1) of the statutes is amended to read:

17.25 (1) In the town board, by the remaining supervisors and the town clerk, except as provided in s. 9.10 and except when the vacancy is caused by removal by the circuit judge as provided by law, which latter vacancy shall be filled by appointment by ~~the said that~~ judge. Vacancies in other elective town offices shall be filled by appointment by the town board, except as provided in s. 9.10 and except for vacancies caused by removal by the judge of the circuit court which latter vacancy shall be filled by ~~the said that~~ judge. Persons appointed under this subsection to fill vacancies shall hold office for the residue of the unexpired term, except persons appointed to fill vacancies in the office of municipal justice and member of the water or light commission, which persons shall hold office only until their successors are elected and qualify and such successors shall be elected at the annual town meeting next after the vacancy occurs if such vacancy occurs 12 days or more prior to such meeting;

otherwise at the annual town meeting held in the year next succeeding; but no election to fill a vacancy in such office shall be held at the time of holding the regular election for such office.

SECTION 4. 17.26 (intro.) of the statutes is amended to read:

17.26 (intro.) ~~Vacancies~~ Except as provided in s. 9.10, vacancies in school district boards and boards of education operating under the general law or under special charters shall be filled as follows:

SECTION 5. 119.12 (1) of the statutes is amended to read:

119.12 (1) Board members are subject to all restrictions, liabilities, punishments and limitations, including recall under s. 9.10 (4), prescribed by law for members of the common council in their city and are exempt from jury duty. A majority of the members-elect of the board may dismiss from office for malfeasance any member of the board. The board shall provide by resolution the manner of hearing and disposing of complaints against a board member.

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