

No. 363, S.]

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#### CHAPTER 385

AN ACT to repeal and recreate 10.44 (1), (3) and (4) of the statutes, relating to recall elections.

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

10.44 (1), (3) and (4) of the statutes are repealed and recreated to read:

10.44 RECALL ELECTIONS. (1) A petition addressed to the common council of any city, filed after April 1, 1961, and demanding the election of a successor to the incumbent of any elective office of such city containing a specific statement of good and sufficient reasons upon which removal of the incumbent is sought, and signed by electors entitled to vote for such successor equal in number to at least 25 per cent of the total number of votes cast for governor in such city at the last preceding November election, or in the instance of an incumbent elected to office from a ward or district, at least 25 per cent of the votes cast for governor

at the last preceding November election in said ward or district respectively, may be filed with the clerk of the circuit court of the county in which such city is located at any time after the incumbent has held office for at least one year. The clerk of the circuit court shall promptly submit the petition so filed to the clerk of the election commission if such city has an election commission or if no election commission of such city exists, then such petition shall be transmitted to the city clerk of such city and the election commission or city clerk, as the case may be, shall verify the eligibility of the respective signers and circulators of the petition and shall make a certification with respect to such eligibility and return the petition to the clerk of the circuit court within 10 days from the time that such petition was originally transmitted to the election commission or city clerk as the case may be. The clerk of the circuit court shall thereupon transmit the petition together with the determination as herein provided for to the circuit court for hearing and determination and shall notify the incumbent of the date when a hearing will be held upon such petition. If at the last preceding election any group of candidates were voted for in common to fill 2 or more offices of the same designation the proportion of signers of such petition shall be computed upon the entire vote cast for governor in the last preceding November election divided by the number of such offices filled at said election. If it appears that a circulator of the petition has made false statements under oath with respect to the signers thereof, or fraudulent representations in soliciting signatures for such petition, the penalty shall be the same as for false swearing.

(3) Within 10 days next following the receipt of the petition by the circuit court judge from the circuit court clerk, the court shall determine upon hearing whether or not the petition states good and sufficient reason for the recall of the incumbent. The incumbent may appear by counsel as may the circulators and the court may take testimony with respect to the petition filed herein. If the circuit court judge determines that the grounds stated in the petition and the proof offered with respect thereto show good and sufficient reasons for the election of a successor, the circuit judge shall issue a certificate directing the common council to hold an election as provided in this section. If such reasons are found insufficient or do not demonstrate good cause, the issuance of a certificate shall be denied. Any party aggrieved by the determination of the circuit court may appeal to the supreme court within 10 days following the determination by the circuit court and by filing a notice of appeal with the clerk of the supreme court. An appeal under this section shall be entitled to preference on the calendar of the supreme court. If a certificate has been issued by the circuit court, the appeal shall stay the enforcement thereof until the appeal has been determined by the supreme court.

(4) Upon the issuance of the certificate of the circuit court the clerk of such court shall transmit the petition with the certificate to the common council of such city and the common council shall order and fix a date for holding an election not less than 50 nor more than 60 days from the circuit court judge's certificate attached to the petition. If the circuit court clerk certifies that petitions are sufficient to require an election to recall more than one official, such elections may be held on the same day.

Approved August 7, 1961.