



State of Wisconsin
1997 - 1998 LEGISLATURE

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**SENATE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 40**

April 30, 1998 – Offered by Senator GEORGE.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 2: after “member” insert “and recall of city, village, town and
3 school district officers”.

4 **2.** Page 1, line 3: delete “section 1” and substitute:

5 “**SECTION 1c.** 9.10 (2) (b) of the statutes is amended to read:

6 9.10 (2) (b) A recall petition for a city, village, town or school district office shall
7 contain a statement of a reason for the recall which is related to the official
8 responsibilities of the official for whom the grounds which constitute the cause and
9 the cause upon which removal is sought. In this paragraph, “cause” means
10 inefficiency, neglect of duty, official misconduct or malfeasance in office.

11 **SECTION 1d.** 9.10 (2) (d) of the statutes is amended to read:

12 9.10 (2) (d) No petition may be offered for filing for the recall of an officer unless
13 the petitioner first files a registration statement under s. 11.05 (1) or (2) with the

1 filing officer with whom the petition is filed. The petitioner shall append to the
2 registration a statement indicating his or her intent to circulate a recall petition, the
3 name of the officer for whom recall is sought and, in the case of a petition for the recall
4 of a city, village, town or school district officer, a statement of a reason for the recall
5 ~~which is related to the official responsibilities of the official for whom~~ the cause upon
6 which removal is sought. No petitioner may circulate a petition for the recall of an
7 officer prior to completing registration. The last date that a petition for the recall of
8 a state, congressional, legislative, judicial or county officer may be offered for filing
9 is 5 p.m. on the 60th day commencing after registration. The last date that a petition
10 for the recall of a city, village, town or school district officer may be offered for filing
11 is 5 p.m. on the 30th day commencing after registration. After the recall petition has
12 been offered for filing, no name may be added or removed. No signature may be
13 counted unless the date of the signature is within the period provided in this
14 paragraph.

15 **SECTION 1e.** 9.10 (4) (a) of the statutes is amended to read:

16 9.10 (4) (a) Within 10 days after a petition for the recall of a city, village, town
17 or school district official, is offered for filing, the officer against whom the petition is
18 filed may file a written challenge with the municipal clerk or board of election
19 commissioners or school district clerk with whom it is filed, specifying any alleged
20 insufficiency. If a challenge is filed, the petitioner may file a written rebuttal to the
21 challenge with the clerk or board of election commissioners within 5 days after the
22 challenge is filed. If a rebuttal is filed, the officer against whom the petition is filed
23 may file a reply to any new matter raised in the rebuttal within 2 days after the
24 rebuttal is filed. Within 14 days after the expiration of the time allowed for filing a
25 reply to a rebuttal, the clerk or board of election commissioners shall file the

1 certificate or an amended certificate. Within 31 days after the petition is offered for
2 filing, the clerk or board of election commissioners shall determine by careful
3 examination of the face of the petition whether the petition is sufficient and shall so
4 state in a certificate attached to the petition. If the petition is found to be insufficient,
5 the certificate shall state the particulars creating the insufficiency. The petition may
6 be amended to correct any insufficiency within 5 days following the affixing of the
7 original certificate. Within 2 days after the offering of the amended petition for filing,
8 the clerk or board of election commissioners shall again carefully examine the face
9 of the petition to determine sufficiency and shall attach to the petition a certificate
10 stating the findings. Immediately upon finding an original or amended petition
11 sufficient, ~~except in cities over 500,000 population, the municipal clerk or, school~~
12 ~~district clerk or board of election commissioners shall transmit the petition to the~~
13 ~~governing body or to the school board. Immediately upon finding an original or~~
14 ~~amended petition sufficient, in cities over 500,000 population, the board of election~~
15 ~~commissioners shall file the petition in its office~~ circuit court for the county in which
16 the office of the clerk or board of election commissioners is located.

17 **SECTION 1f.** 9.10 (4) (b) and (c) of the statutes are created to read:

18 9.10 (4) (b) Within 10 days after receipt of the petition, the circuit court shall
19 determine, after hearing, whether the petition states grounds which constitute
20 cause, as defined in sub. (2) (b), for recall. The clerk of court shall notify the official
21 for whom removal is sought of the hearing date. The official and the person who
22 offers the petition for filing may appear by counsel and the court may take testimony
23 with respect to the petition. If the circuit court determines that the grounds stated
24 in the petition, if true, constitute cause for recall, the court shall issue a certificate
25 directing that an election be held under this section. If the petition concerns a city,

1 village or town office, the court shall transmit the petition and certificate to the
2 governing body of the city, village or town, except in cities over 500,000 population,
3 where the court shall transmit the petition and certificate to the board of election
4 commissioners. If the petition concerns a school district office, the court shall
5 transmit the petition and certificate to the school board. Upon receiving a petition
6 and certificate, the governing body, board of election commissioners or school board
7 shall file the petition and certificate in its office. If the court determines that the
8 grounds stated in the petition, if true, do not constitute cause for recall, the court
9 shall not issue the certificate.

10 (c) Any party aggrieved by the circuit court determination may appeal to the
11 court of appeals within the time period specified in s. 808.04 (2). An appeal under
12 this section shall be given precedence over other matters not accorded similar
13 precedence by law. The appeal shall stay the holding of a recall primary and election
14 under a certificate issued by the circuit court until the court of appeals determines
15 the validity of the certificate, but other acts required to be undertaken preparatory
16 to the primary and election shall proceed during the pendency of the appeal.

17 **SECTION 1g.** 9.10 (4) (d) of the statutes is amended to read:

18 9.10 (4) (d) The governing body, school board or board of election
19 commissioners, upon receiving the certificate from the circuit court under par. (b),
20 shall call an election on the Tuesday of the 6th week commencing after the date of
21 the certificate. If Tuesday is a legal holiday, the recall election shall be held on the
22 first day after Tuesday which is not a legal holiday.

23 **SECTION 1m”.**

24 **3.** Page 2, line 13: after that line insert:

