

SUBJECT: Allowing a recall election in a general-law municipality

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 7 ayes — Hill, Bailey, Davila, Ehrhardt, Staples, Tillery, Woolley
0 nays
1 present, not voting — Thompson
1 absent — Conley

SENATE VOTE: On final passage, February 2 — 30-0

WITNESSES: None

DIGEST: SB 95 would amend the Local Government Code to create a recall procedure for elected officials in general-law cities. The bill would establish the following limits:

- a recall petition would be prohibited within 90 days after the start of an official's term of office and 90 days before the term of office was to end;
- a recall petition would be prohibited for 90 days after a failed recall effort for the same official.

A valid petition would have to be filed with the appropriate authority within 90 days of the initial circulation date, contain valid signatures of a number equal to 25 percent of the total voters who participated in the most recent mayoral election, either citywide or for the particular ward or district involved, and comply with petition requirements in Election Code Chapter 277. A petition could allow the recall of only one officer.

A person circulating a recall petition would have to perform certain duties, including reading the petition statement prior to each person signing their name, witness each signature, ascertain each signature date is correct and verify signer's voter registration status and registration number.

Procedures and contents of the petition would be specified, and petitions would have to be accompanied by an affidavit of the circulator. A recall petition and a cover letter would have to be filed with the municipal clerk, secretary or mayor on the same date. Required information would include the name and office being recalled, one to three recall proponent's names and signatures.

If a petition was found valid, the authority would be required to order a recall election. The authority would be required to return an invalid petition with its written rejection reasons to one of the recall proponents. The authority would be required to send a letter by certified mail to the recalled official within five days and name the recall election date.

The municipal governing body would be required to set the recall election date (no earlier than 45 days) at its next meeting following the recall notice. The recall election ballot would be required to read:

"Recalling (officer's name) from the office of (office title, including any place number or other distinguishing number)" providing space for a yes or no vote.

An election with a majority of the vote supporting a recall of an elected official would constitute a vacancy in office, and the statutes governing procedures for a vacant office would apply. An official who resigned during a recall effort or who was recalled would be prohibited from an appointment to the office for the remaining term.

Local Government Code sec. 21.002, dealing with removal of a mayor or alderman in a general-law city, would be repealed.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

Voters in most home-rule cities — those of 5,000 or more population that have adopted an operating charter — are given a clear right to recall elected officials. Voters in general-law municipalities, which depend on the state's general laws for governing principals, should have that right too.

Current law requires elected members of a city council to act as a court, after receiving a petition by the voters to determine if an elected official should be removed. This procedure is outdated and does not give the voters of the municipality the opportunity to decide for themselves whether an elected official should be recalled.

OPPONENTS
SAY:

No apparent opposition.