

STATE OF NEW YORK

1060

2021-2022 Regular Sessions

IN SENATE

January 6, 2021

Introduced by Sen. KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to the removal of a special district officer by recall

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public officers law is amended by adding a new section
2 36-a to read as follows:

3 § 36-a. Removal of a special district officer by recall. 1. Any
4 elected officer of a special district may be removed from office by a
5 recall petition. The recall petition shall contain the signatures of at
6 least ten percent of the number of electors or five thousand electors,
7 whichever is less, in each local government entity or special district
8 in which the elected officer sought to be recalled represents; provided,
9 however, that where the local government entity or special district
10 contains five hundred or fewer electors, the recall petition shall
11 contain the signatures of at least twenty percent of the number of elec-
12 tors. No signature on a petition shall be valid unless it is the
13 original signature of an elector.

14 2. The state board of elections shall prepare a sample form of a
15 recall petition which meets the requirements of this subdivision and
16 shall distribute or cause such form to be distributed to each local
17 board of elections. Such form shall be made available to the public,
18 upon request, by the state board of elections and each local board of
19 elections. A recall petition shall contain the name of the person sought
20 to be recalled and a general statement of the grounds for removal. If
21 more than one member of the governing body is sought to be recalled, a
22 separate recall petition shall be prepared for each member sought to be
23 recalled. Only electors of the municipality or district of the elected
24 officer sought to be recalled are eligible to sign the recall petition.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD03939-02-1

1 The sheets of a recall petition shall set forth in every instance the
2 name of the signer, his or her residence address, town or city, and the
3 date when the signature is affixed. The recall petition shall also
4 contain lines for an oath, to be executed by a witness who is a quali-
5 fied elector and to verify the fact that the witness saw each person
6 sign the counterpart of the recall petition, that each signature appear-
7 ing thereon is the genuine signature of the person it purports to be,
8 and that the recall petition was signed in the presence of the witness
9 on the date indicated.

10 3. A recall petition shall be valid for no more than ninety days
11 commencing from the date of the first signature on such petition. A
12 recall petition shall be filed with the county board of elections and
13 within ten days of such filing the board where the petition was filed
14 shall make a final determination regarding the sufficiency of the number
15 of signatures on the petition and provide timely written notice of such
16 determination to the contact person named in the cover sheet accompan-
17 ing the petition. The contact person or any individual who signed the
18 petition may seek judicial review of such determination in a proceeding
19 pursuant to article seventy-eight of the civil practice laws and rules.

20 4. A recall petition that is deemed insufficient by the board of
21 elections shall be returned to the person who filed such petition, with-
22 out prejudice to the filing of a new recall petition to the same effect.
23 If a recall petition is deemed sufficient by the board of elections, the
24 board shall submit such petition to the governing body of the special
25 district without delay. A recall petition shall not be accepted if filed
26 before the elected officer has served for at least ninety days.

27 5. If the person sought to be recalled in the recall petition files a
28 resignation pursuant to section thirty-one of this article with the
29 presiding officer or clerk of the governing body of the special district
30 prior to the recall petition being determined to be sufficient, the
31 presiding officer or clerk shall immediately notify the county board of
32 elections and the governing body of the special district of such resig-
33 nation.

34 6. The governing body of the special district shall meet within thirty
35 days after certification and receipt of the recall petition and, upon a
36 majority vote of the members of the special district, shall vote to
37 approve the recall petition for the named elected officer sought to be
38 recalled.

39 7. If the recall petition is approved by the governing body of the
40 special district, the governing body shall fix a date for holding a
41 special election not less than seventy days nor more than eighty days
42 from the date on which the governing body received the verified recall
43 petition. Any special election held pursuant to this subdivision shall
44 be held in the same manner in which a special election is held for a
45 special district; provided, however, that a recall petition filed ninety
46 days before the general election in any year for any office authorized
47 to be filled at a general election, such special election shall occur at
48 the general election held thereafter.

49 8. This section shall apply in addition to any other method provided
50 by state law for removing an elected officer.

51 § 2. This act shall take effect immediately.