S T A T E O F N E W Y O R K

5516

2011-2012 Regular Sessions

I N S E N A T E

May 27, 2011

Introduced by Sen. DeFRANCISCO -- 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 and the election law, in relation to the recall of state and local elected officials

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph h of subdivision 1 of section 30 of the public officers law, as amended by chapter 209 of the laws of 1954, is amended and a new paragraph i is added to read as follows:

h. His OR HER refusal or neglect to file his OR HER official oath or undertaking, if one is required, before or within thirty days after the commencement of the term of office for which he OR SHE is chosen, if an elective office, or if an appointive office, within thirty days after notice of his OR HER appointment, or within thirty days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within thirty days after notice to him OR HER in pursuance of law, that such renewal undertaking is required. The neglect or failure of any state or local officer to execute and file his OR HER oath of office and official undertaking within the time limited therefor by law, shall not create a vacancy in the office if such officer was on active duty in the armed forces of the United States and absent from the county of his OR HER residence at the time of his OR HER election or appointment, and shall take his OR HER oath of office and execute his OR HER official undertaking within thirty days after receipt of notice of his OR HER election or appointment, and provided such oath of office and official undertaking be filed within ninety days following the date it has been taken and subscribed, any inconsistent provision of law, general, special, or local to the contrary, notwithstanding[.]; OR

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

LBD11559-04-1

I. HIS OR HER REMOVAL FROM OFFICE PURSUANT TO ARTICLE THREE-A OR THREE-B OF THIS CHAPTER.

S 2. The public officers law is amended by adding two new articles 3-A and 3-B to read as follows:

ARTICLE 3-A

RECALL OF STATE ELECTED OFFICIALS

SECTION 45. DEFINITIONS.
46. APPLICATION FOR RECALL.
47. PETITION FOR RECALL.
48. FILING OF PETITION.
49. RECALL ELECTION.
49-A. JUDICIAL REVIEW.
49-B. GROUNDS FOR RECALL.
49-C. RULES AND REGULATIONS.

S 45. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "RECALL COMMITTEE" MEANS A COMMITTEE OF THREE SPONSORS OF AN APPLICATION FOR RECALL WHO AGREE, IN WRITING ON SUCH APPLICATION, TO REPRESENT ALL SPONSORS AND SUBSCRIBERS OF A RECALL CONDUCTED PURSUANT TO THIS ARTICLE.

2. "SPONSOR" MEANS ANY PERSON WHO SIGNS AN APPLICATION FOR RECALL AND WHO ALSO AGREES, IN WRITING ON SUCH APPLICATION, TO CIRCULATE A PETITION FOR RECALL.

3. "STATE ELECTED OFFICIAL" MEANS THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE COMPTROLLER, THE ATTORNEY GENERAL OR A MEMBER OF THE STATE LEGISLATURE.

S 46. APPLICATION FOR RECALL. 1. THE RECALL OF A STATE ELECTED OFFICIAL SHALL BE PROPOSED BY THE FILING OF AN APPLICATION THEREFOR WITH THE STATE BOARD OF ELECTIONS. A FILING FEE OF ONE HUNDRED DOLLARS SHALL BE INCLUDED WITH EACH SUCH APPLICATION. SUCH FEE SHALL BE REFUNDED TO THE APPLICANT IF THE APPLICATION IS PROPERLY FILED PURSUANT TO THIS SECTION. IN THE EVENT AN APPLICATION IS NOT PROPERLY FILED, SUCH FEE SHALL BE TRANSFERRED TO THE COMPTROLLER FOR DEPOSIT INTO THE STATE GENERAL FUND.

2. NO APPLICATION FOR THE RECALL OF THE GOVERNOR, LIEUTENANT GOVERNOR, COMPTROLLER OR ATTORNEY GENERAL SHALL BE FILED WITHIN THE FIRST TWO HUNDRED FORTY DAYS OF HIS OR HER TERM OF OFFICE; OR FOR THE RECALL OF A MEMBER OF THE STATE LEGISLATURE, DURING THE FIRST ONE HUNDRED TWENTY DAYS OF HIS OR HER TERM OF OFFICE. FURTHERMORE, NO APPLICATION FOR THE RECALL OF ANY STATE ELECTED OFFICIAL SHALL BE FILED DURING THE FINAL TWO HUNDRED DAYS OF HIS OR HER TERM OF OFFICE.

IN ADDITION, NO APPLICATION FOR THE RECALL OF ANY STATE ELECTED OFFICIAL SHALL BE FILED IF A RECALL ELECTION SHALL HAVE BEEN HELD RELATING TO SUCH OFFICIAL DURING HIS OR HER CURRENT TERM OF OFFICE.

3. EVERY APPLICATION FOR RECALL PURSUANT TO THIS SECTION SHALL INCLUDE:

(A) THE NAME AND OFFICE OF THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED;

(B) THE GROUNDS FOR RECALL DESCRIBED IN DETAIL IN A STATEMENT OF NOT MORE THAN TWO HUNDRED WORDS;

(C) A STATEMENT THAT THE SPONSORS WHO SIGNED THE STATEMENT OF GROUNDS FOR RECALL ARE REGISTERED VOTERS IN THIS STATE, EXCEPT, IN THE CASE OF THE RECALL OF A MEMBER OF THE STATE LEGISLATURE, ARE REGISTERED VOTERS IN THE ASSEMBLY OR SENATE DISTRICT FROM WHICH SUCH MEMBER WAS ELECTED;

(D) THE DESIGNATION OF A RECALL COMMITTEE OF THREE SPONSORS WHO AGREE IN WRITING TO REPRESENT ALL SPONSORS AND SUBSCRIBERS RELATING TO THE RECALL;

(E) THE DESIGNATION OF NOT LESS THAN ONE HUNDRED REGISTERED VOTERS IN THE STATE, EXCEPT, THAT IN THE CASE OF THE RECALL OF A MEMBER OF THE STATE LEGISLATURE, NOT LESS THAN ONE HUNDRED REGISTERED VOTERS IN THE ASSEMBLY OR SENATE DISTRICT FROM WHICH SUCH MEMBER WAS ELECTED, WHO SUBSCRIBE TO THE APPLICATION AS SPONSORS THEREOF AND AGREE TO CIRCULATE THE PETITION FOR THE RECALL IN SUCH APPLICATION; AND

(F) THE SIGNATURES AND ADDRESSES OF REGISTERED VOTERS IN THE STATE, EXCEPT, IN THE CASE OF THE RECALL OF A MEMBER OF THE STATE LEGISLATURE, OF REGISTERED VOTERS IN THE ASSEMBLY OR SENATE DISTRICT FROM WHICH SUCH MEMBER WAS ELECTED, EQUAL IN NUMBER TO NOT LESS THAN TEN PERCENT OF THE VOTES CAST IN THE LAST ELECTION OF THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED.

4. UPON FINAL SUBMISSION OF AN APPLICATION FOR RECALL PURSUANT TO THIS SECTION, THE STATE BOARD OF ELECTIONS SHALL REVIEW SUCH APPLICATION, AND THEREAFTER PROVIDE NOTICE BY FIRST CLASS MAIL TO ANY MEMBER OF THE RECALL COMMITTEE OF SUCH BOARD'S ACCEPTANCE OR REJECTION OF SUCH APPLICATION. THE STATE BOARD OF ELECTIONS SHALL REJECT ANY APPLICATION FOR RECALL THAT IT DETERMINES:

(A) IS NOT SUBSTANTIALLY IN THE REQUIRED FORM;

(B) WAS FILED IN VIOLATION OF SUBDIVISION TWO OF THIS SECTION;

(C) THE PERSON NAMED IN THE APPLICATION IS NOT A STATE ELECTED OFFICIAL;

(D) THERE IS AN INSUFFICIENT NUMBER OF SIGNATURES OF ANY TYPE; OR

(E) THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED HAS BEEN SUBJECTED OR IS SUBJECT TO A SEPARATE RECALL PROCEEDING DURING SUCH OFFICIAL'S CURRENT TERM OF OFFICE.

5. THE LOCAL BOARDS OF ELECTIONS SHALL PROVIDE SUCH ASSISTANCE TO THE STATE BOARD OF ELECTIONS AS SHALL BE NECESSARY TO DETERMINE THE NUMBER OF VOTES CAST DURING THE ELECTION OF ANY STATE ELECTED OFFICIAL.

S 47. PETITION FOR RECALL. 1. (A) UPON APPROVAL OF AN APPLICATION FOR RECALL SUBMITTED PURSUANT TO SECTION FORTY-SIX OF THIS ARTICLE, THE STATE BOARD OF ELECTIONS SHALL PRESCRIBE THE FORM OF AND PREPARE A PETITION CONTAINING:

(I) THE NAME AND OFFICE OF THE STATE ELECTED OFFICIAL TO BE RECALLED;

(II) THE STATEMENT OF THE GROUNDS FOR RECALL INCLUDED IN THE APPLICATION;

(III) THE STATEMENT OF WARNING REQUIRED IN PARAGRAPH (B) OF THIS SUBDIVISION;

(IV) SUFFICIENT SPACE FOR SIGNATURES AND ADDRESSES OF SIGNATORIES; AND

(V) SUCH OTHER PROVISIONS REQUIRED BY THE STATE BOARD OF ELECTIONS TO ASSURE PROPER HANDLING AND CONTROL.

PETITIONS, FOR PURPOSES OF CIRCULATION, SHALL BE PREPARED BY THE STATE BOARD OF ELECTIONS IN A NUMBER REASONABLY CALCULATED TO ALLOW FOR FULL CIRCULATION THROUGHOUT THE STATE, EXCEPT, IN THE CASE OF A MEMBER OF THE STATE LEGISLATURE, THROUGHOUT THE APPROPRIATE ASSEMBLY OR SENATE DISTRICT. THE STATE BOARD OF ELECTIONS SHALL NUMBER EACH PETITION IT ISSUES AND SHALL MAINTAIN A RECORD OF THE PETITIONS DELIVERED TO EACH SPONSOR.

(B) ANY PERSON WHO SIGNS A NAME OTHER THAN THAT PERSON'S OWN NAME TO A PETITION FOR RECALL OR WHO KNOWINGLY SIGNS A PETITION FOR THE SAME RECALL OF A STATE ELECTED OFFICIAL OR WHO KNOWINGLY SIGNS A PETITION FOR THE RECALL OF A STATE ELECTED OFFICIAL WHEN HE OR SHE IS NOT ELIGIBLE TO VOTE FOR THE OFFICE HELD BY SUCH OFFICIAL SHALL BE GUILTY OF THE CLASS A MISDEMEANOR OF PERJURY IN THE THIRD DEGREE AS DEFINED IN SECTION 210.05 OF THE PENAL LAW. EACH PAGE OF A PETITION SHALL INCLUDE A STATEMENT OF WARNING RELATING TO SUCH OFFENSE.

2. PETITIONS MAY BE CIRCULATED ONLY BY SPONSORS AND ONLY IN PERSON THROUGHOUT THE STATE OR, IN THE CASE OF THE RECALL OF A MEMBER OF THE STATE LEGISLATURE, THROUGHOUT THE ASSEMBLY OR SENATE DISTRICT FROM WHICH SUCH MEMBER WAS ELECTED. NO SINGLE PAGE OF A PETITION SHALL BE CIRCULATED IN MORE THAN ONE COUNTY. THE BOARD OF ELECTIONS FOR SUCH COUNTY SHALL CERTIFY TO THE STATE BOARD OF ELECTIONS THE SUFFICIENCY OF THE SIGNATURES ON THE PETITION PAGES FOR THAT COUNTY. ANY REGISTERED VOTER ENTITLED TO VOTE FOR THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED IN THE PETITION, SHALL BE AUTHORIZED TO SUBSCRIBE TO SUCH PETITION BY SIGNING HIS OR HER NAME AND ADDRESS, AS IT APPEARS ON HIS OR HER VOTER REGISTRATION. A PERSON WHO HAS SIGNED HIS OR HER NAME TO A PETITION MAY WITHDRAW HIS OR HER NAME AND SUPPORT BY PROVIDING WRITTEN NOTICE THEREOF TO THE STATE BOARD OF ELECTIONS PRIOR TO THE DATE SUCH PETITION IS FILED WITH SUCH BOARD. ALL NECESSARY SIGNATURES FOR THE FILING OF A PETITION SHALL BE SECURED WITHIN NINETY DAYS OF THE DELIVERY OF THE PETITION BY THE STATE BOARD OF ELECTIONS TO THE RECALL COMMITTEE. ALL SIGNATURES ON A PETITION SHALL BE IN INK. ILLEGIBLE SIGNATURES, UNLESS ACCOMPANIED BY A LEGIBLE PRINTED NAME, MAY BE REJECTED BY THE STATE BOARD OF ELECTIONS.

3. PRIOR TO FILING WITH THE STATE BOARD OF ELECTIONS, EACH PETITION PAGE SHALL BE CERTIFIED BY AN AFFIDAVIT OF THE SPONSOR WHO PERSONALLY CIRCULATED SUCH PAGE. THE AFFIDAVIT SHALL STATE IN SUBSTANCE THAT (A) THE PERSON SIGNING SUCH AFFIDAVIT IS A SPONSOR, (B) SUCH SPONSOR IS THE ONLY PERSON WHO CIRCULATED SUCH PETITION PAGE, (C) THE SIGNATURES WERE MADE IN THE SPONSOR'S ACTUAL PRESENCE, (D) TO THE BEST OF THE SPONSOR'S KNOWLEDGE, THE SIGNATURES ARE THOSE OF THE PERSONS WHOSE NAMES THEY PURPORT TO BE, AND (E) THE SPONSOR CIRCULATED THE PETITION IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

4. NO PETITION FOR RECALL SHALL BE FILED WITHIN ONE HUNDRED EIGHTY DAYS OF THE END OF THE TERM OF OFFICE OF THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED.

5. EVERY PETITION FOR RECALL OF A STATE ELECTED OFFICIAL SHALL BE SIGNED BY A NUMBER OF REGISTERED VOTERS ELIGIBLE TO VOTE FOR THE OFFICE HELD BY THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED, IN AN AMOUNT EQUAL TO OR MORE THAN TWENTY-FIVE PERCENT OF THE VOTES CAST IN THE ELECTION FOR SUCH OFFICE DURING THE PREVIOUS ELECTION.

S 48. FILING OF PETITION. 1. THE STATE BOARD OF ELECTIONS, WITH THE ASSISTANCE OF THE LOCAL BOARDS OF ELECTIONS, SHALL DETERMINE THE SUFFICIENCY OF EACH PETITION FOR RECALL FILED WITH IT WITHIN THIRTY DAYS OF THE RECEIPT THEREOF. AFTER THE REVIEW OF A PETITION, THE STATE BOARD OF ELECTIONS SHALL IMMEDIATELY PROVIDE NOTICE OF THE SUFFICIENCY OF THE PETITION TO THE RECALL COMMITTEE AND THE STATE ELECTED OFFICIAL NAMED IN THE PETITION. A PETITION SHALL BE DEEMED TO HAVE BEEN IMPROPERLY FILED WHEN THE STATE BOARD OF ELECTIONS FINDS THAT (A) THERE IS AN INSUFFICIENT NUMBER OF SIGNATURES OF QUALIFIED REGISTERED VOTERS, OR (B) THE PETITION WAS FILED WITHIN LESS THAN ONE HUNDRED EIGHTY DAYS OF THE END OF THE TERM OF OFFICE OF THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED.

2. UPON RECEIPT OF NOTICE THAT THE FILING OF A PETITION IS IMPROPER OR INSUFFICIENT, A RECALL COMMITTEE MAY AMEND AND CORRECT SUCH PETITION BY CIRCULATING A SUPPLEMENTARY PETITION WITHIN TWENTY DAYS OF NOTICE FROM THE STATE BOARD OF ELECTIONS, IF SUCH SUPPLEMENTARY PETITION IS FILED WITH THE STATE BOARD OF ELECTIONS PRIOR TO THE ONE HUNDRED EIGHTIETH DAY BEFORE THE EXPIRATION OF THE TERM OF OFFICE OF THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED.

3. IF THE STATE BOARD OF ELECTIONS SHALL DETERMINE THAT A RECALL PETITION IS PROPERLY FILED, IT SHALL ESTABLISH THE BALLOT FORM AND SHALL

CALL A SPECIAL ELECTION TO BE HELD PURSUANT TO THE ELECTION LAW NOT LESS THAN SIXTY DAYS, NOR MORE THAN NINETY DAYS AFTER THE DETERMINATION THAT THE PETITION WAS PROPERLY FILED. PROVIDED, THAT IF A PRIMARY OR GENERAL ELECTION IS TO BE HELD DURING SUCH PERIOD OF TIME, THE RECALL SPECIAL ELECTION SHALL BE HELD ON THE SAME DATE AND BALLOT AS SUCH PRIMARY OR GENERAL ELECTION. THE BALLOT FOR A RECALL SPECIAL ELECTION SHALL BE DESIGNED WITH THE QUESTION OF WHETHER THE STATE ELECTED OFFICIAL SHALL BE RECALLED, PLACED ON THE BALLOT IN THE FOLLOWING TEXT: "SHALL (NAME OF STATE ELECTED OFFICIAL) BE RECALLED FROM THE OFFICE OF (STATE OFFICE HELD)?", WITH PROVISION MADE FOR MARKING SUCH QUESTION "YES" OR "NO".

S 49. RECALL ELECTION. 1. THE STATE BOARD OF ELECTIONS SHALL PROVIDE EACH BOARD OF ELECTIONS, EXCEPT, IN THE CASE OF A RECALL ELECTION FOR A MEMBER OF THE STATE LEGISLATURE, PROVIDE TO EACH BOARD OF ELECTIONS IN SUCH MEMBER'S ASSEMBLY OR SENATE DISTRICT, WITH FOUR COPIES OF THE STATEMENT OF THE GROUNDS FOR RECALL OF THE STATE ELECTED OFFICIAL WHICH WAS INCLUDED IN THE APPLICATION AND A REBUTTAL THEREOF, OF NOT MORE THAN TWO HUNDRED WORDS, SUBMITTED BY THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED. THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED MAY PROVIDE THE STATE BOARD OF ELECTIONS WITH HIS OR HER REBUTTAL STATEMENT WITHIN TEN DAYS OF THE NOTIFICATION THAT A PETITION HAS BEEN PROPERLY FILED. EVERY BOARD OF ELECTIONS SHALL POST COPIES OF THE STATEMENTS FOR AND AGAINST RECALL AT EACH POLLING PLACE.

2. IF A MAJORITY OF THE VOTES CAST ON THE QUESTION OF RECALL ARE IN FAVOR OF RECALL, THE STATE ELECTED OFFICIAL SHALL BE REMOVED FROM HIS OR HER OFFICE.

S 49-A. JUDICIAL REVIEW. ANY PERSON AGGRIEVED BY A DETERMINATION MADE PURSUANT TO THIS ARTICLE MAY SEEK JUDICIAL REVIEW THEREOF IN A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES COMMENCED IN SUPREME COURT FOR THE COUNTY OF ALBANY OR FOR THE COUNTY IN WHICH THE STATE ELECTED OFFICIAL SOUGHT TO BE RECALLED RESIDES.

S 49-B. GROUNDS FOR RECALL. THE GROUNDS FOR RECALL PURSUANT TO THIS ARTICLE SHALL BE MISCONDUCT IN OFFICE, OR INCOMPETENCE OR FAILURE TO PERFORM THE DUTIES OF THE OFFICE OF THE STATE ELECTED OFFICIAL. NO RECALL SUBMITTED TO VOTERS SHALL BE DEEMED VOID ON THE BASIS OF INSUFFICIENCY OF THE GROUNDS, APPLICATION OR PETITION THEREFOR.

S 49-C. RULES AND REGULATIONS. THE STATE BOARD OF ELECTIONS IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

ARTICLE 3-B
RECALL OF LOCAL ELECTED OFFICIALS

SECTION 50. DEFINITIONS.
51. APPLICATION FOR RECALL.
52. PETITION FOR RECALL.
53. FILING OF PETITION.
54. RECALL ELECTION.
55. JUDICIAL REVIEW.
56. GROUNDS FOR RECALL.
57. RULES AND REGULATIONS.

S 50. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "LOCAL ELECTED OFFICIAL" MEANS ANY OFFICER ELECTED TO A POSITION WITH A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT OR DISTRICT CORPORATION, OR ANY AGENCY, DEPARTMENT, DIVISION, BOARD, COMMISSION OR BUREAU THEREOF; PROVIDED, THAT, SUCH TERM SHALL NOT INCLUDE ANY JUDGE OR JUSTICE OF A COURT.

2. "RECALL COMMITTEE" MEANS A COMMITTEE OF THREE SPONSORS OF AN APPLICATION FOR RECALL WHO AGREE, IN WRITING ON SUCH APPLICATION, TO REPRESENT ALL SPONSORS AND SUBSCRIBERS OF A RECALL CONDUCTED PURSUANT TO THIS ARTICLE.

3. "SPONSOR" MEANS ANY PERSON WHO SIGNS AN APPLICATION FOR RECALL AND WHO ALSO AGREES, IN WRITING ON SUCH APPLICATION, TO CIRCULATE A PETITION FOR RECALL.

S 51. APPLICATION FOR RECALL. 1. THE RECALL OF A LOCAL ELECTED OFFICIAL SHALL BE PROPOSED BY THE FILING OF AN APPLICATION THEREFOR WITH THE BOARD OF ELECTIONS FOR THE COUNTY IN WHICH THE OFFICE HELD BY THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED IS LOCATED. A FILING FEE OF FIFTY DOLLARS SHALL BE INCLUDED WITH EACH SUCH APPLICATION. SUCH FEE SHALL BE REFUNDED TO THE APPLICANT IF THE APPLICATION IS PROPERLY FILED PURSUANT TO THIS SECTION. IN THE EVENT AN APPLICATION IS NOT PROPERLY FILED, SUCH FEE SHALL BE TRANSFERRED TO THE COUNTY TREASURER FOR DEPOSIT INTO THE COUNTY GENERAL FUND.

2. SUBJECT TO THE RULES AND REGULATIONS OF THE STATE BOARD OF ELECTIONS, THE RECALL OF A LOCAL ELECTED OFFICIAL SHALL BE CONDUCTED BY THE BOARD OF ELECTIONS IN WHICH THE PETITION IS REQUIRED TO BE FILED.

3. NO APPLICATION FOR THE RECALL OF A LOCAL ELECTED OFFICIAL (A) SERVING A TERM OF FOUR YEARS SHALL BE FILED WITHIN THE FIRST TWO HUNDRED FORTY DAYS OF HIS OR HER TERM OF OFFICE OR (B) SERVING A TERM OF TWO YEARS SHALL BE FILED DURING THE FIRST ONE HUNDRED TWENTY DAYS OF HIS OR HER TERM OF OFFICE. FURTHERMORE, NO APPLICATION FOR THE RECALL OF ANY LOCAL ELECTED OFFICIAL SHALL BE FILED DURING THE FINAL TWO HUNDRED DAYS OF HIS OR HER TERM OF OFFICE.

IN ADDITION, NO APPLICATION FOR THE RECALL OF ANY LOCAL ELECTED OFFICIAL SHALL BE FILED IF A RECALL ELECTION SHALL HAVE BEEN HELD RELATING TO SUCH OFFICIAL DURING HIS OR HER CURRENT TERM OF OFFICE.

4. EVERY APPLICATION FOR RECALL PURSUANT TO THIS SECTION SHALL INCLUDE:

(A) THE NAME AND OFFICE OF THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED;

(B) THE GROUNDS FOR RECALL DESCRIBED IN DETAIL IN A STATEMENT OF NOT MORE THAN TWO HUNDRED WORDS;

(C) A STATEMENT THAT THE SPONSORS WHO SIGNED THE STATEMENT OF GROUNDS FOR RECALL ARE REGISTERED VOTERS OF THE ELECTORATE FOR THE OFFICE HELD BY THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED;

(D) THE DESIGNATION OF A RECALL COMMITTEE OF THREE SPONSORS WHO AGREE IN WRITING TO REPRESENT ALL SPONSORS AND SUBSCRIBERS RELATING TO THE RECALL;

(E) THE DESIGNATION OF NOT LESS THAN FORTY REGISTERED VOTERS, WHO SUBSCRIBE TO THE APPLICATION AS SPONSORS THEREOF AND AGREE TO CIRCULATE THE PETITION FOR THE RECALL IN SUCH APPLICATION; AND

(F) THE SIGNATURES AND ADDRESSES OF REGISTERED VOTERS OF THE ELECTORATE FOR THE OFFICE HELD BY THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED, EQUAL IN NUMBER TO NOT LESS THAN TEN PERCENT OF THE VOTES CAST IN THE LAST ELECTION OF THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED.

5. UPON FINAL SUBMISSION OF AN APPLICATION FOR RECALL PURSUANT TO THIS SECTION, THE BOARD OF ELECTIONS SHALL REVIEW SUCH APPLICATION, AND THEREAFTER PROVIDE NOTICE BY FIRST CLASS MAIL TO ANY MEMBER OF THE RECALL COMMITTEE OF SUCH BOARD'S ACCEPTANCE OR REJECTION OF SUCH APPLICATION. THE BOARD OF ELECTIONS SHALL REJECT ANY APPLICATION FOR RECALL THAT IT DETERMINES:

(A) IS NOT SUBSTANTIALLY IN THE REQUIRED FORM;

(B) WAS FILED IN VIOLATION OF SUBDIVISION THREE OF THIS SECTION;
(C) THE PERSON NAMED IN THE APPLICATION IS NOT A LOCAL ELECTED OFFICIAL;
(D) THERE IS AN INSUFFICIENT NUMBER OF SIGNATURES OF ANY TYPE; OR
(E) THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED HAS BEEN SUBJECTED OR IS SUBJECT TO A SEPARATE RECALL PROCEEDING DURING SUCH OFFICIAL'S CURRENT TERM OF OFFICE.

S 52. PETITION FOR RECALL. 1. (A) UPON APPROVAL OF AN APPLICATION FOR RECALL SUBMITTED PURSUANT TO SECTION FIFTY-ONE OF THIS ARTICLE, THE BOARD OF ELECTIONS SHALL PRESCRIBE THE FORM OF AND PREPARE A PETITION CONTAINING:
(I) THE NAME AND OFFICE OF THE LOCAL ELECTED OFFICIAL TO BE RECALLED;
(II) THE STATEMENT OF THE GROUNDS FOR RECALL INCLUDED IN THE APPLICATION;
(III) THE STATEMENT OF WARNING REQUIRED IN PARAGRAPH (B) OF THIS SUBDIVISION;
(IV) SUFFICIENT SPACE FOR SIGNATURES AND ADDRESSES OF SIGNATORIES; AND
(V) SUCH OTHER PROVISIONS REQUIRED BY THE BOARD OF ELECTIONS TO ASSURE PROPER HANDLING AND CONTROL.

PETITIONS, FOR PURPOSES OF CIRCULATION, SHALL BE PREPARED BY THE BOARD OF ELECTIONS IN A NUMBER REASONABLY CALCULATED TO ALLOW FOR FULL CIRCULATION THROUGHOUT THE ELECTORATE FOR THE OFFICE HELD BY THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED. THE BOARD OF ELECTIONS SHALL NUMBER EACH PETITION IT ISSUES AND SHALL MAINTAIN A RECORD OF THE PETITIONS DELIVERED TO EACH SPONSOR.

(B) ANY PERSON WHO SIGNS A NAME OTHER THAN THAT PERSON'S OWN NAME TO A PETITION FOR RECALL OR WHO KNOWINGLY SIGNS A PETITION FOR THE SAME RECALL OF A LOCAL ELECTED OFFICIAL OR WHO KNOWINGLY SIGNS A PETITION FOR THE RECALL OF A LOCAL ELECTED OFFICIAL WHEN HE OR SHE IS NOT ELIGIBLE TO VOTE FOR THE OFFICE HELD BY SUCH OFFICIAL SHALL BE GUILTY OF THE CLASS A MISDEMEANOR OF PERJURY IN THE THIRD DEGREE AS DEFINED IN SECTION 210.05 OF THE PENAL LAW. EACH PAGE OF A PETITION SHALL INCLUDE A STATEMENT OF WARNING RELATING TO SUCH OFFENSE.

2. PETITIONS MAY BE CIRCULATED ONLY BY SPONSORS AND ONLY IN PERSON THROUGHOUT THE ELECTORATE FOR THE OFFICE HELD BY THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED. THE BOARD OF ELECTIONS SHALL CERTIFY THE SUFFICIENCY OF THE SIGNATURES ON THE PETITION PAGES. ANY REGISTERED VOTER ENTITLED TO VOTE FOR THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED IN THE PETITION, SHALL BE AUTHORIZED TO SUBSCRIBE TO SUCH PETITION BY SIGNING HIS OR HER NAME AND ADDRESS, AS IT APPEARS ON HIS OR HER VOTER REGISTRATION. A PERSON WHO HAS SIGNED HIS OR HER NAME TO A PETITION MAY WITHDRAW HIS OR HER NAME AND SUPPORT BY PROVIDING WRITTEN NOTICE THEREOF TO THE BOARD OF ELECTIONS PRIOR TO THE DATE SUCH PETITION IS FILED WITH SUCH BOARD. ALL NECESSARY SIGNATURES FOR THE FILING OF A PETITION SHALL BE SECURED WITHIN NINETY DAYS OF THE DELIVERY OF THE PETITION BY THE BOARD OF ELECTIONS TO THE RECALL COMMITTEE. ALL SIGNATURES ON A PETITION SHALL BE IN INK. ILLEGIBLE SIGNATURES, UNLESS ACCOMPANIED BY A LEGIBLE PRINTED NAME, MAY BE REJECTED BY THE BOARD OF ELECTIONS.

3. PRIOR TO FILING WITH THE BOARD OF ELECTIONS, EACH PETITION PAGE SHALL BE CERTIFIED BY AN AFFIDAVIT OF THE SPONSOR WHO PERSONALLY CIRCULATED SUCH PAGE. THE AFFIDAVIT SHALL STATE IN SUBSTANCE THAT (A) THE PERSON SIGNING SUCH AFFIDAVIT IS A SPONSOR, (B) SUCH SPONSOR IS THE ONLY PERSON WHO CIRCULATED SUCH PETITION PAGE, (C) THE SIGNATURES WERE MADE IN THE SPONSOR'S ACTUAL PRESENCE, (D) TO THE BEST OF THE SPONSOR'S KNOWLEDGE, THE SIGNATURES ARE THOSE OF THE PERSONS WHOSE NAMES THEY PURPORT

TO BE, AND (E) THE SPONSOR CIRCULATED THE PETITION IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

4. NO PETITION FOR RECALL SHALL BE FILED WITHIN ONE HUNDRED EIGHTY DAYS OF THE END OF THE TERM OF OFFICE OF THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED.

5. EVERY PETITION FOR RECALL OF A LOCAL ELECTED OFFICIAL SHALL BE SIGNED BY A NUMBER OF REGISTERED VOTERS ELIGIBLE TO VOTE FOR THE OFFICE HELD BY THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED, IN AN AMOUNT EQUAL TO OR MORE THAN TWENTY-FIVE PERCENT OF THE VOTES CAST IN THE ELECTION FOR SUCH OFFICE DURING THE PREVIOUS ELECTION.

S 53. FILING OF PETITION. 1. THE BOARD OF ELECTIONS SHALL DETERMINE THE SUFFICIENCY OF EACH PETITION FOR RECALL FILED WITH IT WITHIN THIRTY DAYS OF THE RECEIPT THEREOF. AFTER THE REVIEW OF A PETITION, THE BOARD OF ELECTIONS SHALL IMMEDIATELY PROVIDE NOTICE OF THE SUFFICIENCY OF THE PETITION TO THE RECALL COMMITTEE AND THE LOCAL ELECTED OFFICIAL NAMED IN THE PETITION. A PETITION SHALL BE DEEMED TO HAVE BEEN IMPROPERLY FILED WHEN THE BOARD OF ELECTIONS FINDS THAT (A) THERE IS AN INSUFFICIENT NUMBER OF SIGNATURES OF QUALIFIED REGISTERED VOTERS, OR (B) THE PETITION WAS FILED WITHIN LESS THAN ONE HUNDRED EIGHTY DAYS OF THE END OF THE TERM OF OFFICE OF THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED.

2. UPON RECEIPT OF NOTICE THAT THE FILING OF A PETITION IS IMPROPER OR INSUFFICIENT, A RECALL COMMITTEE MAY AMEND OR CORRECT SUCH PETITION BY CIRCULATING A SUPPLEMENTARY PETITION WITHIN TWENTY DAYS OF NOTICE FROM THE BOARD OF ELECTIONS, IF SUCH SUPPLEMENTARY PETITION IS FILED WITH THE BOARD OF ELECTIONS PRIOR TO THE ONE HUNDRED EIGHTIETH DAY BEFORE THE EXPIRATION OF THE TERM OF OFFICE OF THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED.

3. IF THE BOARD OF ELECTIONS SHALL DETERMINE THAT A RECALL PETITION IS PROPERLY FILED, THE COMMISSIONERS OF SUCH BOARD SHALL JOINTLY CALL A SPECIAL ELECTION TO BE HELD PURSUANT TO THE ELECTION LAW NOT LESS THAN SIXTY DAYS, NOR MORE THAN NINETY DAYS AFTER THE DETERMINATION THAT THE PETITION WAS PROPERLY FILED. PROVIDED, THAT IF A PRIMARY OR GENERAL ELECTION IS TO BE HELD DURING SUCH PERIOD OF TIME, THE RECALL SPECIAL ELECTION SHALL BE HELD ON THE SAME DATE AND BALLOT AS SUCH PRIMARY OR GENERAL ELECTION. THE BALLOT FOR A RECALL SPECIAL ELECTION SHALL BE DESIGNED WITH THE QUESTION OF WHETHER THE LOCAL ELECTED OFFICIAL SHALL BE RECALLED, PLACED ON THE BALLOT IN THE FOLLOWING TEXT: "SHALL (NAME OF LOCAL ELECTED OFFICIAL) BE RECALLED FROM THE OFFICE OF (LOCAL OFFICE HELD)?", WITH PROVISION MADE FOR MARKING SUCH QUESTION "YES" OR "NO".

S 54. RECALL ELECTION. 1. THE BOARD OF ELECTIONS SHALL PROVIDE EACH POLLING PLACE WITH FOUR COPIES OF THE STATEMENT OF THE GROUNDS FOR RECALL OF THE LOCAL ELECTED OFFICIAL WHICH WAS INCLUDED IN THE PETITION AND A REBUTTAL THEREOF, OF NOT MORE THAN TWO HUNDRED WORDS, SUBMITTED BY THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED. THE LOCAL ELECTED OFFICIAL SOUGHT TO BE RECALLED MAY PROVIDE THE BOARD OF ELECTIONS WITH HIS OR HER REBUTTAL STATEMENT WITHIN TEN DAYS OF THE NOTIFICATION THAT A PETITION HAS BEEN PROPERLY FILED. EVERY BOARD OF ELECTIONS SHALL POST COPIES OF THE STATEMENTS FOR AND AGAINST RECALL AT EACH POLLING PLACE.

2. IF A MAJORITY OF THE VOTES CAST ON THE QUESTION OF RECALL ARE IN FAVOR OF RECALL, THE LOCAL ELECTED OFFICIAL SHALL BE REMOVED FROM HIS OR HER OFFICE.

S 55. JUDICIAL REVIEW. ANY PERSON AGGRIEVED BY A DETERMINATION MADE PURSUANT TO THIS ARTICLE MAY SEEK JUDICIAL REVIEW THEREOF IN A PROCEEDING PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES COMMENCED IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE RECALL PETITION IS REQUIRED TO BE FILED.

S 56. GROUNDS FOR RECALL. THE GROUNDS FOR RECALL PURSUANT TO THIS ARTICLE SHALL BE MISCONDUCT IN OFFICE, OR INCOMPETENCE OR FAILURE TO PERFORM THE DUTIES OF THE OFFICE OF THE LOCAL ELECTED OFFICIAL. NO RECALL SUBMITTED TO VOTERS SHALL BE DEEMED VOID ON THE BASIS OF INSUFFICIENCY OF THE GROUNDS, APPLICATION OR PETITION THEREFOR.

S 57. RULES AND REGULATIONS. THE STATE BOARD OF ELECTIONS IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

S 3. Section 3-102 of the election law is amended by adding a new subdivision 16-b to read as follows:

16-B. ADMINISTER THE PROVISIONS OF ARTICLE THREE-A OF THE PUBLIC OFFICERS LAW AND PROMULGATE SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF ARTICLE THREE-B OF THE PUBLIC OFFICERS LAW.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.