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:

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

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

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

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The sheets of a recall petition shall set forth in every instance the name of the signer, his or her residence address, town or city, and the date when the signature is affixed. The recall petition shall also contain lines for an oath, to be executed by a witness who is a qualified elector and to verify the fact that the witness saw each person sign the counterpart of the recall petition, that each signature appearing thereon is the genuine signature of the person it purports to be, and that the recall petition was signed in the presence of the witness on the date indicated.

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

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

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

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

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

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

§ 2. This act shall take effect immediately.