

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 18-0939.01 Megan Waples x4348

HOUSE BILL 18-1268

HOUSE SPONSORSHIP

Gray,

SENATE SPONSORSHIP

Gardner,

House Committees

State, Veterans, & Military Affairs

Senate Committees

State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 CONCERNING THE PROCEDURES TO RECALL A DIRECTOR OF A SPECIAL
102 DISTRICT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes procedures to govern the recall of a director of a special district.

Section 4 of the bill requires the county clerk and recorder of the appropriate county to appoint a designated election official (DEO) to oversee the recall election. The director and the director's spouse or civil union partner cannot serve as the DEO.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 11, 2018

HOUSE
3rd Reading Unamended
April 3, 2018

HOUSE
Amended 2nd Reading
April 2, 2018

The bill requires that recall petitions must be approved as to form by the DEO before being circulated. To be approved, a petition must designate a committee to represent the signers, must name only one director, and must include a brief statement of the grounds for the recall. It must also provide certain warnings to electors concerning their eligibility to sign.

Section 5 requires that signed petitions be filed with the DEO within 60 days after their form has been approved. Signed petitions must include a signed and notarized affidavit from the circulator attesting to the circulator's compliance with the requirements of the law. Once a signed petition is filed, the DEO is required to review the petition and issue a written determination that the petition is sufficient or not sufficient within 5 business days, unless a protest is filed before that date.

An eligible elector may file a protest of a recall petition within 15 days after a petition is filed. In the case of a protest, a hearing is required and the DEO is the hearing officer. The hearing officer is required to issue a determination that the petition is sufficient or not sufficient within 15 days after the conclusion of the hearing.

If a petition is determined not sufficient, the committee representing the electors may withdraw, amend, and refile it within 15 days. A petition can only be withdrawn and refiled once.

A determination that a petition is sufficient or not sufficient is subject to judicial review on request by the director, the director's representative, or a majority of the committee representing the electors, but judicial review cannot include the statement of the grounds on which the recall is sought.

If a petition is determined sufficient, the board of the special district must set a date for the recall election, and determine whether the election will take place at the polling place or by mail ballot. If a regular special district election is to be held within 180 days after the date on which the board orders the recall election, the recall election must be held as part of the regular election. If the director is seeking reelection at that regular election, only the question of his or her reelection appears on the ballot. If the director's successor is to be chosen at that regular election, and the director is not seeking reelection, only the selection of the successor appears on the ballot. The recall election may also be held as part of a coordinated election if the information required for the ballot is determined within the deadline, and the county clerk and recorder agrees.

Section 6 provides that if the director resigns in writing prior to the election, the recall proceedings are terminated and the office is filled as a vacancy. The ballot for a recall election must include the statement of grounds for the recall that was included in the petition. The director may file a statement in support of his or her retention, which must also be included on the ballot if it is timely filed. The ballot must also include the names of candidates nominated to fill the office if the director is recalled.

If an incumbent is not recalled, or if a recall petition is deemed not sufficient, **section 7** authorizes the special district to reimburse the director for reasonable expenses. Under **section 10**, the special district must pay the costs of the county clerk and recorder and the DEO for the recall election.

Section 8 provides that after one recall election that does not recall the director, any subsequent recall petition must be signed by more than 50% of the eligible electors to be sufficient. **Section 11** makes a conforming amendment to the "Uniform Election Code of 1992".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 32-1-906, **amend** (1)
3 as follows:

4 **32-1-906. Directors subject to recall - applicability of laws.**

5 (1) ~~(a)~~ Any director elected OR APPOINTED to the board of any special
6 district who has actually held office for at least six months may be
7 recalled from office by the eligible electors of the special district; EXCEPT
8 THAT A PETITION SHALL NOT BE FILED TO RECALL A DIRECTOR WHOSE
9 TERM OF OFFICE EXPIRES IN LESS THAN SIX MONTHS FROM THE DATE THE
10 PETITION IS PRESENTED FOR FILING. EXCEPT AS PROVIDED IN SECTION
11 32-1-913, a petition signed by the lesser of three hundred eligible electors
12 or forty percent of the eligible electors demanding the recall of any
13 director named in the petition ~~shall~~ MUST be filed ~~in the court~~ IN
14 ACCORDANCE WITH SECTION 32-1-910 TO INITIATE A RECALL ELECTION.

15 ~~(b) In case of specific conflict between this part 9 and part 5 of~~
16 ~~article 4 of title 31, C.R.S., with respect to a recall, this part 9 controls.~~

17 ~~(b.5) The recall of a special district director is governed by the~~
18 ~~procedures set forth in part 5 of article 4 of title 31, C.R.S.; except that:~~

19 ~~(f) The term "registered elector" must be replaced by "eligible~~
20 ~~elector"; "municipality" must be replaced by "local government"; and~~

1 ~~"municipal clerk" or "clerk" must be replaced by "designated election~~
2 ~~official, or if none is designated, then the secretary of the local~~
3 ~~government";~~

4 ~~(H) The second paragraph of the warning contained in section~~
5 ~~31-4-502 (1)(a)(H), C.R.S., shall not be used for a local government recall~~
6 ~~election;~~

7 ~~(HH) The number of signatures required by section 31-4-502~~
8 ~~(1)(d), C.R.S., applies to a local government recall election only if a~~
9 ~~different number is not specified by this article or by title 1, C.R.S.; and~~

10 ~~(IV) The words "who resides within the municipality" in 31-4-503~~
11 ~~(3)(b), C.R.S., do not apply.~~

12 **SECTION 2.** In Colorado Revised Statutes, 32-1-907, **amend** (1)
13 as follows:

14 **32-1-907. Recall election - resignation.** (1) If a director subject
15 to a recall petition offers a resignation, it shall be accepted, and the
16 vacancy caused by the resignation, or from any other cause, shall be filled
17 as provided by section 32-1-905 (2). ~~If the director does not resign within~~
18 ~~five days after the sufficiency of the recall petition has been sustained, the~~
19 ~~board shall order that a recall election be held pursuant to part 5 of article~~
20 ~~4 of title 31, C.R.S.~~

21 **SECTION 3.** In Colorado Revised Statutes, **add** 32-1-908,
22 32-1-909, 32-1-910, 32-1-911, 32-1-912, 32-1-913, 32-1-914, and
23 32-1-915 as follows:

24 **32-1-908. Recall procedures.** PROCEDURES TO RECALL A
25 DIRECTOR OF A SPECIAL DISTRICT ARE GOVERNED BY THIS PART 9.

26 **32-1-909. Recall petition - designated election official -**
27 **approval as to form - definition.** (1) A RECALL PETITION SHALL NOT BE

1 CIRCULATED UNTIL IT HAS BEEN APPROVED AS MEETING THE
2 REQUIREMENTS OF THIS SECTION AS TO FORM.

3 (2) THE PROPOSED FORM OF A RECALL PETITION SHALL BE FILED
4 WITH THE COURT AS DEFINED IN SECTION 32-1-103 (2) FOR THE SPECIAL
5 DISTRICT. WITHIN FIVE BUSINESS DAYS OF RECEIPT OF A PROPOSED FORM
6 OF RECALL PETITION FOR A SPECIAL DISTRICT DIRECTOR, THE COURT SHALL
7 ISSUE AN ORDER APPOINTING A DESIGNATED ELECTION OFFICIAL WHO
8 SHALL PERFORM THE DUTIES SET FORTH FOR THE RECALL. THE
9 DESIGNATED ELECTION OFFICIAL SHALL NOT BE THE DIRECTOR SOUGHT TO
10 BE RECALLED BY THE PETITION OR THE SPOUSE OR CIVIL UNION PARTNER
11 OF THE DIRECTOR SOUGHT TO BE RECALLED BY THE PETITION.

12 (3) THE DESIGNATED ELECTION OFFICIAL SHALL APPROVE OR
13 DISAPPROVE A PETITION AS TO FORM BY THE CLOSE OF THE THIRD
14 BUSINESS DAY FOLLOWING HIS OR HER APPOINTMENT AS THE DESIGNATED
15 ELECTION OFFICIAL. ON THE DAY THAT THE PETITION IS APPROVED OR
16 DISAPPROVED AS TO FORM, THE DESIGNATED ELECTION OFFICIAL SHALL
17 MAIL OR TRANSMIT ELECTRONICALLY WRITTEN NOTICE OF THE APPROVAL
18 OR DISAPPROVAL TO THE COMMITTEE AS DEFINED IN SUBSECTION (4)(a) OF
19 THIS SECTION, THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT, AND
20 THE DIRECTOR SOUGHT TO BE RECALLED. IF THE DESIGNATED ELECTION
21 OFFICIAL DISAPPROVES THE PETITION AS TO FORM, THE DESIGNATED
22 ELECTION OFFICIAL SHALL IDENTIFY IN THE WRITTEN NOTICE THE PORTION
23 OR PORTIONS OF THE PETITION THAT ARE NOT SUFFICIENT AND THE
24 REASONS THEY ARE NOT SUFFICIENT.

25 (4) EACH PETITION MUST:

26 (a) DESIGNATE BY NAME AND ADDRESS AT LEAST THREE, BUT NOT
27 MORE THAN FIVE, ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT, REFERRED

1 TO IN THIS PART 9 AS THE "COMMITTEE", WHO REPRESENT THE SIGNERS
2 THEREOF IN ALL MATTERS AFFECTING THE PETITION;

3 (b) INCLUDE THE NAME OF ONLY ONE DIRECTOR TO BE RECALLED;
4 AND

5 (c) CONTAIN A GENERAL STATEMENT, IN NOT MORE THAN TWO
6 HUNDRED WORDS, OF THE GROUNDS ON WHICH THE RECALL IS SOUGHT,
7 WHICH STATEMENT IS INTENDED FOR THE INFORMATION OF THE ELECTORS
8 OF THE SPECIAL DISTRICT. THE STATEMENT MUST NOT INCLUDE ANY
9 PROFANE OR FALSE STATEMENT. THE ELECTORS OF THE SPECIAL DISTRICT
10 ARE THE SOLE AND EXCLUSIVE JUDGES OF THE LEGALITY,
11 REASONABLENESS, AND SUFFICIENCY OF THE GROUNDS ON WHICH THE
12 RECALL IS SOUGHT, AND SAID GROUNDS ARE NOT SUBJECT TO A PROTEST
13 OR TO JUDICIAL REVIEW.

14 (5) THE SIGNATURES TO A RECALL PETITION NEED NOT ALL BE ON
15 ONE SHEET OF PAPER. AT THE TOP OF EACH SIGNATURE PAGE OF THE
16 PETITION MUST BE PRINTED, IN BOLD-FACED TYPE, THE FOLLOWING:

17 WARNING:

18 IT IS AGAINST THE LAW:

19 FOR ANYONE TO SIGN THIS PETITION WITH ANY NAME OTHER
20 THAN ONE'S OWN OR TO KNOWINGLY SIGN ONE'S OWN NAME
21 MORE THAN ONCE FOR THE SAME MEASURE OR TO SIGN
22 SUCH PETITION WHEN NOT AN ELIGIBLE ELECTOR.

23 DO NOT SIGN THIS PETITION UNLESS YOU ARE AN ELIGIBLE
24 ELECTOR. TO BE AN ELIGIBLE ELECTOR, YOU MUST BE
25 REGISTERED TO VOTE IN COLORADO AND BE EITHER A
26 RESIDENT OF THE (NAME OF SPECIAL DISTRICT), OR BE THE
27 OWNER OR SPOUSE OR CIVIL UNION PARTNER OF AN OWNER

1 OF TAXABLE REAL OR PERSONAL PROPERTY IN THE (NAME
2 OF SPECIAL DISTRICT) AS DESCRIBED IN SECTION 32-1-103
3 (5) OF THE COLORADO REVISED STATUTES.

4 DO NOT SIGN THIS PETITION UNLESS YOU HAVE READ OR
5 HAVE HAD READ TO YOU THE PROPOSED MEASURE IN ITS
6 ENTIRETY AND UNDERSTAND ITS MEANING.

7 (6) DIRECTLY FOLLOWING THE WARNING REQUIRED BY
8 SUBSECTION (5) OF THIS SECTION MUST BE PRINTED IN BOLD-FACED TYPE
9 THE FOLLOWING:

10 PETITION TO RECALL (NAME OF DIRECTOR SOUGHT TO BE
11 RECALLED) FROM THE OFFICE OF DIRECTOR OF THE (NAME
12 OF SPECIAL DISTRICT).

13 **32-1-910. Petition in sections - signing - affidavit - review -**
14 **tampering with petition.** (1) A RECALL PETITION MAY BE CIRCULATED
15 AND SIGNED IN SECTIONS, BUT EACH SECTION MUST CONTAIN A FULL AND
16 ACCURATE COPY OF THE TITLE AND TEXT OF THE PETITION AS DESCRIBED
17 IN SECTION 32-1-909 (4), AND EACH SIGNATURE PAGE OF EACH SECTION
18 MUST INCLUDE THE LANGUAGE SET FORTH SECTION 32-1-909 (5) AND (6).

19 (2) (a) ALL SIGNED RECALL PETITIONS MUST BE FILED WITH THE
20 DESIGNATED ELECTION OFFICIAL WITHIN SIXTY DAYS FROM THE DATE ON
21 WHICH THE DESIGNATED ELECTION OFFICIAL APPROVES THE PETITION AS
22 TO FORM PURSUANT TO SECTION 32-1-909 (3).

23 (b) A RECALL PETITION SHALL BE SIGNED ONLY BY ELIGIBLE
24 ELECTORS OF THE SPECIAL DISTRICT USING THEIR OWN SIGNATURES, AFTER
25 WHICH EACH SUCH ELECTOR SHALL PRINT OR, IF SUCH ELECTOR IS UNABLE
26 TO DO SO, SHALL CAUSE TO BE PRINTED, SUCH ELECTOR'S LEGAL NAME,
27 THE RESIDENCE ADDRESS OF SUCH ELECTOR, INCLUDING THE STREET AND

1 NUMBER, IF ANY, AND THE DATE OF SIGNING OF THE PETITION.

2 (c) TO EACH PETITION OR PETITION SECTION MUST BE ATTACHED
3 A SIGNED, NOTARIZED, AND DATED AFFIDAVIT OF THE PERSON WHO
4 CIRCULATED THE PETITION STATING THE AFFIANT'S ADDRESS, THAT THE
5 AFFIANT IS EIGHTEEN YEARS OF AGE OR OLDER, THAT THE AFFIANT
6 CIRCULATED THE PETITION, THAT THE AFFIANT MADE NO
7 MISREPRESENTATION OF THE PURPOSE OF SUCH PETITION TO ANY SIGNER
8 OF THE PETITION, THAT EACH SIGNATURE ON THE PETITION WAS AFFIXED
9 IN THE AFFIANT'S PRESENCE, THAT EACH SIGNATURE ON THE PETITION IS
10 THE SIGNATURE OF THE PERSON WHOSE NAME IT PURPORTS TO BE, THAT TO
11 THE BEST OF THE KNOWLEDGE AND BELIEF OF THE AFFIANT EACH PERSON
12 SIGNING SAID PETITION WAS AT THE TIME OF SIGNING AN ELIGIBLE
13 ELECTOR OF THE SPECIAL DISTRICT, AND THAT THE AFFIANT NEITHER HAS
14 PAID NOR SHALL PAY AND THAT THE AFFIANT BELIEVES THAT NO OTHER
15 PERSON HAS SO PAID OR SHALL PAY, DIRECTLY OR INDIRECTLY, ANY
16 MONEY OR OTHER THING OF VALUE TO ANY SIGNER FOR THE PURPOSE OF
17 INDUCING OR CAUSING SUCH SIGNER TO SIGN SUCH PETITION.

18 (d) ANY DISASSEMBLY OF A PETITION OR PETITION SECTION THAT
19 SEPARATES THE AFFIDAVIT FROM THE SIGNATURES RENDERS THE
20 SIGNATURES ON SUCH PETITION OR PETITION SECTION INVALID AND OF NO
21 FORCE AND EFFECT.

22 (3) (a) PROMPTLY AFTER THE PETITION HAS BEEN FILED, THE
23 DESIGNATED ELECTION OFFICIAL SHALL REVIEW ALL PETITION
24 INFORMATION AND VERIFY THE INFORMATION AGAINST THE COUNTY
25 CLERK AND RECORDER'S REGISTRATION RECORDS AND THE COUNTY
26 ASSESSOR'S RECORDS TO DETERMINE WHETHER IT MEETS THE
27 REQUIREMENTS OF SECTION 32-1-906 (1) AND SUBSECTIONS (2)(a), (2)(b),

1 AND (2)(c) OF THIS SECTION.

2 (b) THE DESIGNATED ELECTION OFFICIAL SHALL ISSUE A WRITTEN
3 DETERMINATION THAT A RECALL PETITION IS SUFFICIENT OR NOT
4 SUFFICIENT BY THE CLOSE OF THE FIFTH BUSINESS DAY AFTER SUCH
5 PETITION IS FILED, UNLESS A PROTEST HAS BEEN FILED PURSUANT TO
6 SUBSECTION (3)(d) OF THIS SECTION PRIOR TO THAT DATE. ON THE DAY
7 THE DESIGNATED OFFICIAL ISSUES SUCH WRITTEN DETERMINATION, HE OR
8 SHE SHALL MAIL OR TRANSMIT ELECTRONICALLY A COPY OF THE
9 DETERMINATION TO THE DIRECTOR SOUGHT TO BE RECALLED, THE BOARD
10 OF DIRECTORS OF THE SPECIAL DISTRICT, AND THE COMMITTEE AS DEFINED
11 IN SECTION 32-1-909 (4)(a). THE DESIGNATED ELECTION OFFICIAL SHALL
12 MAKE A COPY OF THE PETITION AVAILABLE TO THE DIRECTOR SOUGHT TO
13 BE RECALLED.

14 (c) THE DESIGNATED ELECTION OFFICIAL SHALL DEEM THE
15 PETITION SUFFICIENT IF HE OR SHE DETERMINES THAT IT WAS TIMELY
16 FILED, HAS THE REQUIRED ATTACHED CIRCULATOR AFFIDAVITS, AND WAS
17 SIGNED BY THE REQUISITE NUMBER OF ELIGIBLE ELECTORS OF THE SPECIAL
18 DISTRICT WITHIN SIXTY DAYS FOLLOWING THE DATE UPON WHICH THE
19 DESIGNATED ELECTION OFFICIAL APPROVED THE FORM OF THE PETITION.
20 THE DESIGNATED ELECTION OFFICIAL SHALL NOT REMOVE THE SIGNATURE
21 OF AN ELIGIBLE ELECTOR FROM THE PETITION AFTER SUCH PETITION IS
22 FILED. IF THE DESIGNATED ELECTION OFFICIAL DETERMINES THAT A
23 PETITION OR PETITION SECTION IS NOT SUFFICIENT, THE DESIGNATED
24 ELECTION OFFICIAL SHALL IDENTIFY THOSE PORTIONS OF THE PETITION
25 THAT ARE NOT SUFFICIENT AND THE REASONS FOR SUCH DETERMINATION
26 IN THE WRITTEN DETERMINATION REQUIRED IN SUBSECTION (3)(b) OF THIS
27 SECTION.

1 (d) (I) AN ELIGIBLE ELECTOR OF THE DISTRICT MAY FILE A PROTEST
2 OF A RECALL PETITION WITHIN FIFTEEN DAYS AFTER SUCH PETITION IS
3 FILED. THE PROTEST MUST BE IN WRITING AND SIGNED UNDER OATH. THE
4 PROTEST MUST BE FILED IN THE OFFICE OF THE DESIGNATED ELECTION
5 OFFICIAL AND MUST SET FORTH SPECIFICALLY THE GROUNDS OF THE
6 PROTEST. THE GROUNDS FOR A PROTEST OF A RECALL PETITION INCLUDE,
7 BUT ARE NOT LIMITED TO, THE FAILURE OF ANY PORTION OF A PETITION,
8 PETITION SECTION, CIRCULATOR AFFIDAVIT, OR CIRCULATOR TO MEET THE
9 REQUIREMENTS OF THIS SECTION OR SECTION 32-1-909.

10 (II) UPON RECEIVING A PROTEST OF A RECALL PETITION, THE
11 DESIGNATED ELECTION OFFICIAL SHALL PROMPTLY MAIL A COPY OF THE
12 PROTEST, TOGETHER WITH A NOTICE FIXING A TIME FOR HEARING THE
13 PROTEST ON A DATE NOT LESS THAN FIVE NOR MORE THAN TEN BUSINESS
14 DAYS AFTER SUCH NOTICE IS MAILED, TO THE DIRECTOR SOUGHT TO BE
15 RECALLED, THE COMMITTEE AS DEFINED IN SECTION 32-1-909 (4)(a), AND
16 THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT.

17 (III) IF THE GROUNDS OF A PROTEST INCLUDE THE FAILURE OF THE
18 PETITION TO MEET THE SIGNATURE REQUIREMENTS OF SECTION 32-1-906
19 (1) OR SUBSECTION (2)(b) OF THIS SECTION, THE DESIGNATED ELECTION
20 OFFICIAL SHALL PROVIDE THE NOTICE OF THE HEARING TO THE COUNTY
21 CLERK AND RECORDER AND THE COUNTY ASSESSOR OF EACH COUNTY, ANY
22 PORTION OF THE LAND AREA OF WHICH IS LOCATED WITHIN THE
23 TERRITORIAL BOUNDARIES OF THE SPECIAL DISTRICT. AT LEAST ONE
24 BUSINESS DAY BEFORE THE HEARING, THE COUNTY CLERK AND RECORDER
25 OF EACH SUCH COUNTY SHALL PROVIDE TO THE DESIGNATED ELECTION
26 OFFICIAL A REGISTRATION LIST, AS DEFINED IN SECTION 1-13.5-103 (10),
27 FOR THE SPECIAL DISTRICT. AT LEAST ONE BUSINESS DAY BEFORE THE

1 HEARING, THE COUNTY ASSESSOR OF EACH SUCH COUNTY SHALL PROVIDE
2 TO THE DESIGNATED ELECTION OFFICIAL A PROPERTY OWNERS LIST, AS
3 DEFINED IN SECTION 1-13.5-103 (9), FOR THE SPECIAL DISTRICT. THE
4 SPECIAL DISTRICT SHALL PAY THE COSTS OF PRODUCING THE
5 REGISTRATION LISTS AND PROPERTY OWNERS LISTS. THE DESIGNATED
6 ELECTION OFFICIAL SHALL USE THE LISTS PREPARED IN ACCORDANCE WITH
7 THIS SUBSECTION (3)(d)(III) IN DETERMINING WHETHER THE PETITION IS
8 SUFFICIENT.

9 (IV) THE DESIGNATED ELECTION OFFICIAL SHALL SERVE AS THE
10 HEARING OFFICER. ALL TESTIMONY IN THE HEARING MUST BE GIVEN
11 UNDER OATH. THE HEARING OFFICER HAS THE POWER TO ISSUE SUBPOENAS
12 AND COMPEL THE ATTENDANCE OF WITNESSES. THE HEARING MUST BE
13 SUMMARY AND NOT SUBJECT TO DELAY AND MUST BE CONCLUDED WITHIN
14 FORTY DAYS AFTER THE PETITION IS FILED. NO LATER THAN FIVE BUSINESS
15 DAYS AFTER THE CONCLUSION OF THE HEARING, THE HEARING OFFICER
16 SHALL ISSUE A WRITTEN DETERMINATION OF WHETHER THE PETITION IS
17 SUFFICIENT OR NOT SUFFICIENT. IF THE HEARING OFFICER DETERMINES
18 THAT A PETITION IS NOT SUFFICIENT, THE HEARING OFFICER SHALL
19 IDENTIFY THOSE PORTIONS OF THE PETITION THAT ARE NOT SUFFICIENT
20 AND THE REASONS FOR THE INSUFFICIENCY. THE DESIGNATED ELECTION
21 OFFICIAL SHALL CERTIFY THE RESULT OF THE HEARING TO THE COMMITTEE
22 AS DEFINED IN SECTION 32-1-909 (4)(a), THE DIRECTOR SOUGHT TO BE
23 RECALLED, AND THE BOARD OF DIRECTORS OF THE SPECIAL DISTRICT.

24 (e) IF THE DESIGNATED ELECTION OFFICIAL DETERMINES THAT A
25 PETITION IS NOT SUFFICIENT, A MAJORITY OF THE COMMITTEE AS DEFINED
26 IN SECTION 32-1-909 (4)(a) MAY WITHDRAW THE PETITION AND AMEND IT
27 AND REFILE IT, EXCEPT THAT A PETITION WITHDRAWN AND REFILED IN

1 ACCORDANCE WITH THIS SUBSECTION (3)(e) SHALL NOT BE WITHDRAWN
2 AND REFILED AGAIN. THE COMMITTEE MAY AMEND THE PETITION BY
3 ADDING ANY REQUIRED INFORMATION RELATING TO THE SIGNERS OR BY
4 ATTACHING PROPER CIRCULATOR AFFIDAVITS. TO BE CONSIDERED, THE
5 AMENDED PETITION MUST BE REFILED WITH THE DESIGNATED ELECTION
6 OFFICIAL IN THE SAME MANNER AS THE ORIGINAL PETITION WITHIN FIFTEEN
7 DAYS AFTER THE DESIGNATED ELECTION OFFICIAL ISSUES THE
8 DETERMINATION THAT THE PETITION IS INSUFFICIENT. THE DESIGNATED
9 ELECTION OFFICIAL SHALL ISSUE A WRITTEN DETERMINATION THAT AN
10 AMENDED AND REFILED PETITION IS SUFFICIENT OR NOT SUFFICIENT WITHIN
11 FIVE BUSINESS DAYS AFTER THE PETITION IS REFILED. AN ELIGIBLE
12 ELECTOR MAY FILE A PROTEST OF AN AMENDED AND REFILED PETITION. A
13 PROTEST OF AN AMENDED AND REFILED PETITION IS SUBJECT TO THE
14 PROVISIONS OF SUBSECTION (3)(d) OF THIS SECTION, EXCEPT THAT THE
15 PROTEST MUST BE FILED WITHIN FIVE BUSINESS DAYS OF THE DATE ON
16 WHICH THE AMENDED PETITION WAS REFILED.

17 (f) A DETERMINATION THAT A RECALL PETITION IS SUFFICIENT OR
18 NOT SUFFICIENT IS SUBJECT TO REVIEW BY THE COURT AS DEFINED IN
19 SECTION 32-1-103 (2) UPON THE WRITTEN REQUEST OF THE DIRECTOR
20 SOUGHT TO BE RECALLED, THE DIRECTOR'S REPRESENTATIVE, OR A
21 MAJORITY OF THE COMMITTEE AS DEFINED IN SECTION 32-1-909 (4)(a),
22 EXCEPT THAT THE STATEMENT OF THE GROUNDS ON WHICH THE RECALL IS
23 SOUGHT PROVIDED PURSUANT TO SECTION 32-1-909 (4)(c) IS NOT SUBJECT
24 TO SUCH REVIEW. A REQUEST FOR JUDICIAL REVIEW MUST BE FILED WITHIN
25 FIVE BUSINESS DAYS AFTER THE DESIGNATED ELECTION OFFICIAL ISSUES
26 THE DETERMINATION.

27 (4) (a) (I) WHEN A RECALL PETITION IS DETERMINED SUFFICIENT,

1 THE DESIGNATED ELECTION OFFICIAL SHALL SUBMIT THE PETITION,
2 TOGETHER WITH A CERTIFICATE OF ITS SUFFICIENCY, TO THE BOARD OF
3 DIRECTORS OF THE SPECIAL DISTRICT AT A REGULAR OR SPECIAL MEETING
4 OF SUCH BOARD.

5 (II) IF NO REQUEST FOR JUDICIAL REVIEW IS FILED, THE BOARD
6 SHALL HOLD THE REGULAR OR SPECIAL MEETING WITHIN THIRTY DAYS
7 FOLLOWING THE EXPIRATION OF THE PERIOD WITHIN WHICH A PROTEST
8 MAY BE FILED, OR WITHIN THIRTY DAYS OF THE DATE THE WRITTEN
9 DETERMINATION OF SUFFICIENCY IS ISSUED, WHICHEVER IS LATER. IF A
10 REQUEST FOR JUDICIAL REVIEW IS FILED, THE BOARD SHALL HOLD THE
11 REGULAR OR SPECIAL MEETING WITHIN THIRTY DAYS FOLLOWING THE
12 ISSUANCE OF A FINAL ORDER FINDING THE PETITION SUFFICIENT.

13 (III) AT THE MEETING, THE BOARD SHALL ORDER AND FIX A DATE
14 FOR THE RECALL ELECTION TO BE HELD NOT LESS THAN SEVENTY-FIVE
15 DAYS NOR MORE THAN NINETY DAYS FROM THE DATE OF THE MEETING.
16 THE BOARD SHALL DETERMINE WHETHER VOTING IN THE RECALL ELECTION
17 IS TO TAKE PLACE AT THE POLLING PLACE OR BY MAIL BALLOT.

18 (b) NOTWITHSTANDING SUBSECTION (4)(a)(III) OF THIS SECTION,
19 IF A REGULAR SPECIAL DISTRICT ELECTION IS TO BE HELD WITHIN ONE
20 HUNDRED EIGHTY DAYS AFTER THE DATE THE BOARD ORDERS THE RECALL
21 ELECTION, THE RECALL ELECTION MUST BE HELD AS PART OF SUCH
22 REGULAR SPECIAL DISTRICT ELECTION; EXCEPT THAT:

23 (I) IF THE DIRECTOR SOUGHT TO BE RECALLED IS SEEKING
24 REELECTION AT THE REGULAR SPECIAL DISTRICT ELECTION, ONLY THE
25 QUESTION OF SUCH DIRECTOR'S REELECTION APPEARS ON THE BALLOT.

26 (II) IF A SUCCESSOR TO THE DIRECTOR SOUGHT TO BE RECALLED IS
27 TO BE SELECTED AT THE REGULAR SPECIAL DISTRICT ELECTION AND THE

1 DIRECTOR SOUGHT TO BE RECALLED IS NOT SEEKING REELECTION, ONLY
2 THE QUESTION OF THE SELECTION OF THE SUCCESSOR TO THE DIRECTOR
3 APPEARS ON THE BALLOT.

4 (5) A RECALL ELECTION SHALL BE CONDUCTED AND THE RESULT
5 OF SUCH ELECTION DECLARED IN ACCORDANCE WITH ARTICLE 13.5 OF
6 TITLE 1, UNLESS SUCH RECALL ELECTION IS CONDUCTED AS PART OF A
7 COORDINATED ELECTION AS PROVIDED IN SUBSECTION (6) OF THIS
8 SECTION.

9 (6) A RECALL ELECTION MAY BE CONDUCTED AS PART OF A
10 COORDINATED ELECTION ONLY IF:

11 (a) THE CONTENT OF THE RECALL ELECTION BALLOT IS FINALLY
12 DETERMINED BY THE DATE FOR CERTIFICATION OF THE BALLOT CONTENT
13 FOR THE COORDINATED ELECTION UNDER SECTION 1-5-203 (3); AND

14 (b) THE COUNTY CLERK AND RECORDER AGREES TO CONDUCT THE
15 RECALL ELECTION AS PART OF THE COORDINATED ELECTION.

16 (7) A PERSON COMMITS A MISDEMEANOR AND, UPON CONVICTION
17 THEREOF, SHALL BE PUNISHED AS PROVIDED IN SECTION 1-13-111, IF SUCH
18 PERSON WILLFULLY:

19 (a) DESTROYS, DEFACTS, MUTILATES, OR SUPPRESSES A RECALL
20 PETITION OR PETITION SECTION;

21 (b) FAILS TO FILE OR DELAYS THE DELIVERY OF A RECALL PETITION
22 OR PETITION SECTION;

23 (c) CONCEALS OR REMOVES A RECALL PETITION OR PETITION
24 SECTION FROM THE POSSESSION OF A PERSON AUTHORIZED BY LAW TO
25 HAVE THE CUSTODY THEREOF; OR

26 (d) AIDES, COUNSELS, PROCURES, OR ASSISTS ANOTHER PERSON IN
27 DOING ANY OF SAID ACTS.

1 **32-1-911. Resignation - vacancy filled - election - ballot -**

2 **nomination.** (1) IF THE DIRECTOR SOUGHT TO BE RECALLED RESIGNS BY
3 SUBMITTING A WRITTEN LETTER OF RESIGNATION TO THE DESIGNATED
4 ELECTION OFFICIAL AT ANY TIME PRIOR TO THE RECALL ELECTION, ALL
5 RECALL PROCEEDINGS MUST BE TERMINATED, AND THE VACANCY CAUSED
6 BY SUCH RESIGNATION MUST BE FILLED AS PROVIDED BY SECTION 32-1-905
7 (2)(a). IF THE DIRECTOR RESIGNS AFTER THE BALLOTS HAVE BEEN
8 PREPARED OR AT A TIME WHEN IT WOULD OTHERWISE BE IMPRACTICABLE
9 TO REMOVE THE RECALL QUESTION FROM THE BALLOT, VOTES CAST ON
10 THE RECALL QUESTION SHALL NOT BE COUNTED. IF THERE ARE NO OTHER
11 ISSUES TO BE VOTED ON AT SUCH ELECTION, THE RECALL ELECTION MUST
12 BE CANCELED AND NOTICE PROVIDED AS SET FORTH IN SECTION 1-13.5-513
13 (6).

14 (2) UNLESS THE DESIGNATED ELECTION OFFICIAL RECEIVES A
15 RESIGNATION FROM THE DIRECTOR SOUGHT TO BE RECALLED IN
16 ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, THE DESIGNATED
17 ELECTION OFFICIAL SHALL GIVE NOTICE OF THE ELECTION AND THE RECALL
18 QUESTION SUBSTANTIALLY IN COMPLIANCE WITH SECTION 1-13.5-502 AT
19 LEAST TWENTY DAYS BEFORE THE ELECTION.

20 (3) (a) THE OFFICIAL BALLOT FOR A RECALL ELECTION MUST
21 INCLUDE THE STATEMENT OF THE GROUNDS ON WHICH THE RECALL IS
22 SOUGHT, AS INCLUDED IN THE RECALL PETITION IN ACCORDANCE WITH
23 SECTION 32-1-909 (4)(c). THE DIRECTOR SOUGHT TO BE RECALLED MAY
24 SUBMIT TO THE DESIGNATED ELECTION OFFICIAL ON OR BEFORE THE DATE
25 ON WHICH THE BALLOT CONTENT MUST BE CERTIFIED UNDER SECTION
26 1-13.5-511 OR 1-5-203 (3), AS APPLICABLE, A STATEMENT OF NOT MORE
27 THAN THREE HUNDRED WORDS IN SUPPORT OF THE DIRECTOR'S RETENTION.

1 THE DIRECTOR SHALL NOT INCLUDE ANY PROFANE OR FALSE STATEMENT
2 IN THE STATEMENT IN SUPPORT OF HIS OR HER RETENTION. THE OFFICIAL
3 BALLOT MUST INCLUDE THE DIRECTOR'S STATEMENT IF THE STATEMENT IS
4 SUBMITTED ON OR BEFORE THE DATE OF THE CERTIFICATION OF THE
5 BALLOT.

6 (b) THE OFFICIAL BALLOT MUST INCLUDE, FOR EVERY DIRECTOR
7 WHOSE RECALL IS TO BE VOTED ON, THE WORDS: "SHALL (NAME OF
8 DIRECTOR SOUGHT TO BE RECALLED) BE RECALLED FROM THE OFFICE OF
9 DIRECTOR OF (NAME OF SPECIAL DISTRICT)?" FOLLOWING OR TO THE
10 RIGHT OF THE QUESTION MUST BE THE WORDS "YES" AND "NO" WITH A
11 BLANK SPACE OR BOX TO THE RIGHT OF EACH IN WHICH THE ELIGIBLE
12 ELECTOR MAY INDICATE HIS OR HER VOTE FOR OR AGAINST SUCH RECALL.

13 (c) FOLLOWING EACH RECALL QUESTION AS DESCRIBED IN
14 SUBSECTION (3)(b) OF THIS SECTION, THE OFFICIAL BALLOT MUST INCLUDE
15 THE NAMES OF THOSE PERSONS WHO HAVE BEEN NOMINATED AS
16 CANDIDATES IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION TO
17 SUCCEED THE DIRECTOR SOUGHT TO BE RECALLED. THE NAME OF THE
18 DIRECTOR SOUGHT TO BE RECALLED MUST NOT APPEAR ON THE BALLOT AS
19 A CANDIDATE FOR THE OFFICE. THE POSITION OF CANDIDATE NAMES ON
20 THE BALLOT SHALL BE DETERMINED BY LOT IN ACCORDANCE WITH
21 SECTION 1-13.5-902 (2).

22 (4) CANDIDATES TO SUCCEED THE DIRECTOR SOUGHT TO BE
23 RECALLED AT A RECALL ELECTION MUST BE NOMINATED IN ACCORDANCE
24 WITH SECTION 1-13.5-303 OR SECTION 1-13.5-305. SELF NOMINATIONS
25 MUST BE FILED NO LATER THAN SIXTY-FOUR DAYS PRIOR TO THE RECALL
26 ELECTION. AFFIDAVITS OF INTENT TO BE A WRITE-IN CANDIDATE MUST BE
27 FILED NO LATER THAN SIXTY-ONE DAYS PRIOR TO THE RECALL ELECTION.

1 THE DESIGNATED ELECTION OFFICIAL MAY PROVIDE A CALL FOR
2 NOMINATIONS IN ACCORDANCE WITH SECTION 1-1.5-501 (1).

3 (5) THE DESIGNATED ELECTION OFFICIAL SHALL MAKE ABSENTEE
4 BALLOTS AVAILABLE NO LATER THAN THREE BUSINESS DAYS AFTER THE
5 BOARD FIXES THE DATE FOR THE RECALL ELECTION. AN APPLICATION FOR
6 AN ABSENTEE BALLOT MUST BE FILED WITH THE DESIGNATED ELECTION
7 OFFICIAL NO LATER THAN THE TUESDAY IMMEDIATELY PRECEDING THE
8 RECALL ELECTION.

9 (6) IF A MAJORITY OF THOSE VOTING ON THE QUESTION OF THE
10 RECALL OF A DIRECTOR VOTE "NO", THE DIRECTOR SHALL CONTINUE IN
11 OFFICE. IF A MAJORITY VOTE "YES", THE DIRECTOR SHALL BE REMOVED
12 FROM OFFICE UPON COMPLIANCE WITH SECTION 32-1-901 BY HIS OR HER
13 SUCCESSOR.

14 (7) IF THE VOTE IN A RECALL ELECTION RECALLS THE INCUMBENT
15 DIRECTOR, THE CANDIDATE WHO HAS RECEIVED THE HIGHEST NUMBER OF
16 VOTES FOR THE VACATED OFFICE SHALL BE DECLARED ELECTED TO SERVE
17 THE REMAINDER OF THE TERM OF OFFICE. THE CANVASSING BOARD OR THE
18 DESIGNATED ELECTION OFFICIAL SHALL PROMPTLY ISSUE A CERTIFICATE
19 OF ELECTION TO THE DIRECTOR-ELECT. IF THE PERSON WHO RECEIVED THE
20 HIGHEST NUMBER OF VOTES FAILS TO COMPLY WITH SECTION 32-1-901
21 WITHIN THIRTY DAYS AFTER THE ISSUANCE OF A CERTIFICATE OF
22 ELECTION, OR IN THE EVENT NO PERSON SOUGHT ELECTION, THE OFFICE IS
23 DEEMED VACANT AND MUST BE FILLED IN ACCORDANCE WITH SECTION
24 32-1-905 (2)(a).

25 (8) MANDATORY OR OPTIONAL RECOUNTS OF BALLOTS IN A
26 RECALL ELECTION MUST BE CONDUCTED IN ACCORDANCE WITH SECTION
27 1-13.5-1306.

1 **32-1-912. Incumbent not recalled - reimbursement - definition.**

2 (1) IF AT ANY RECALL ELECTION THE DIRECTOR WHOSE RECALL IS SOUGHT
3 IS NOT RECALLED, OR IF THE HEARING OFFICER DETERMINES THAT A
4 RECALL PETITION IS NOT SUFFICIENT AFTER A PROTEST, THE SPECIAL
5 DISTRICT MAY REIMBURSE THE DIRECTOR SOUGHT TO BE RECALLED FOR
6 HIS OR HER ACTUAL REASONABLE EXPENSES.

7 (2) A DIRECTOR SOUGHT TO BE RECALLED WHO REQUESTS
8 REIMBURSEMENT SHALL FILE A WRITTEN REQUEST FOR REIMBURSEMENT
9 WITH THE BOARD OF THE SPECIAL DISTRICT. THE REQUEST MUST INCLUDE
10 THE DATE, AMOUNT, PROOF OF PAYMENT, AND PURPOSE FOR EACH
11 EXPENSE FOR WHICH THE DIRECTOR IS REQUESTING REIMBURSEMENT. THE
12 BOARD SHALL REVIEW THE REQUEST AND DETERMINE WHETHER THE
13 EXPENSES ARE REASONABLE EXPENSES UNDER SUBSECTION (3) OF THIS
14 SECTION AND WHETHER TO REIMBURSE SUCH EXPENSES. IF THE SPECIAL
15 DISTRICT DETERMINES TO REIMBURSE THE SUBMITTED EXPENSES, THE
16 SPECIAL DISTRICT SHALL ISSUE PAYMENT WITHIN FORTY-FIVE DAYS OF THE
17 RECEIPT OF THE REQUEST.

18 (3) (a) FOR PURPOSES OF THIS SECTION, "REASONABLE EXPENSES"
19 INCLUDE, BUT ARE NOT LIMITED TO, MONEY SPENT CHALLENGING THE
20 SUFFICIENCY OF THE RECALL PETITION AND IN PRESENTING TO THE
21 ELIGIBLE ELECTORS THE OFFICIAL POSITION OF THE DIRECTOR SOUGHT TO
22 BE RECALLED, INCLUDING CAMPAIGN LITERATURE.

23 (b) "REASONABLE EXPENSES" DO NOT INCLUDE:

24 (I) MONEY SPENT ON CHALLENGES AND COURT ACTIONS THAT ARE
25 FRIVOLOUS OR ARE NOT RELATED TO THE SUFFICIENCY OF THE RECALL
26 PETITION;

27 (II) PERSONAL EXPENSES FOR MEALS, LODGING, AND TRAVEL

- 1 COSTS FOR THE DIRECTOR SOUGHT TO BE RECALLED;
2 (III) THE COSTS OF MAINTAINING A CAMPAIGN STAFF;
3 (IV) REIMBURSEMENT FOR EXPENSES INCURRED BY A CAMPAIGN
4 COMMITTEE THAT HAS SOLICITED CONTRIBUTIONS;
5 (V) REIMBURSEMENT OF ANY KIND FOR EMPLOYEES IN THE
6 DIRECTOR'S OFFICE; AND
7 (VI) ALL EXPENSES INCURRED PRIOR TO THE FILING OF THE RECALL
8 PETITION.

9 **32-1-913. Second recall petition.** AFTER ONE RECALL PETITION
10 AN ELECTION, NO FURTHER PETITION SHALL BE FILED AGAINST THE SAME
11 DIRECTOR DURING THE TERM FOR WHICH THE DIRECTOR WAS ELECTED
12 UNLESS SUCH A PETITION IS SIGNED BY MORE THAN FIFTY PERCENT OF THE
13 ELIGIBLE ELECTORS OF THE DISTRICT.

14 **32-1-914. Powers of designated election official and county**
15 **clerk and recorder.** (1) THE DESIGNATED ELECTION OFFICIAL SHALL
16 RENDER ALL INTERPRETATIONS AND SHALL MAKE ALL INITIAL DECISIONS
17 AS TO CONTROVERSIES OR OTHER MATTERS ARISING OUT OF THE
18 OPERATION OF A RECALL ELECTION.

19 (2) ALL POWERS AND AUTHORITY GRANTED TO THE DESIGNATED
20 ELECTION OFFICIAL BY THIS ARTICLE 1 MAY BE EXERCISED BY THE COUNTY
21 CLERK AND RECORDER IN THE ABSENCE OF THE DESIGNATED ELECTION
22 OFFICIAL OR IN THE EVENT THE DESIGNATED ELECTION OFFICIAL FOR ANY
23 REASON IS UNABLE TO PERFORM THE DUTIES OF THE DESIGNATED
24 ELECTION OFFICIAL.

25 **32-1-915. Costs of recall.** THE SPECIAL DISTRICT SHALL
26 PROMPTLY PAY THE COSTS OF THE RECALL ELECTION, INCLUDING THE
27 REASONABLE COSTS OF THE COUNTY CLERK AND RECORDER AND

1 DESIGNATED ELECTION OFFICIAL, INCLUDING BUT NOT LIMITED TO THE
2 COSTS OF STAFF TIME, CONSULTANTS, PRINTING, AND PUBLICATION.

3 **SECTION 4.** In Colorado Revised Statutes, 1-13.5-106, **amend**
4 (2) as follows:

5 **1-13.5-106. Applicability of the "Uniform Election Code of**
6 **1992".** (2) All provisions of the "Uniform Election Code of 1992" not in
7 conflict with this ~~article~~ ARTICLE 13.5 apply to local government
8 elections; except that:

9 (a) Elections offenses and penalties described by parts 2 and 3 of
10 article 13 of this ~~title~~ TITLE 1 do not apply to elections authorized under
11 this ~~article~~, and ARTICLE 13.5;

12 (b) EXCEPT AS PROVIDED IN SUBSECTION (2)(c) OF THIS SECTION,
13 recall elections of local government officers must be conducted pursuant
14 to part 5 of article 4 of title 31; ~~C.R.S.~~ AND

15 (c) RECALL ELECTIONS OF DIRECTORS OF SPECIAL DISTRICTS
16 CREATED PURSUANT TO TITLE 32 AND DIRECTORS OF BUSINESS
17 IMPROVEMENT DISTRICTS WHO WERE ELECTED PURSUANT TO SECTION
18 31-25-1209 (1)(d) MUST BE CONDUCTED PURSUANT TO PART 9 OF ARTICLE
19 1 OF TITLE 32.

20 **SECTION 5. Applicability.** This act applies to petitions and
21 elections to recall a director of a special district initiated and conducted
22 on or after the effective date of this act.

23 **SECTION 6. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.