

SECOND REGULAR SESSION

HOUSE BILL NO. 913

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS (19).

Pre-filed December 19, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3353L.011

AN ACT

To amend chapter 79, RSMo, by adding thereto two new sections relating to powers of certain cities of the fourth classification.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 79, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 79.061 and 79.062, to read as follows:

2 **79.061. 1. This section shall apply only to cities of the fourth classification with
2 forty thousand or more inhabitants.**

3 **2. The holder of any elective office in any such city may, for misconduct in office,
4 incompetence, or failure to perform prescribed duties, be removed by the qualified voters
5 of the city by recall petition in accordance with the procedure set out in this section, subject
6 to the following limitations:**

7 **(1) The officer has held office for at least six months;**

8 **(2) In the case of an office for a term of two years only, one recall petition may be
9 filed during such term;**

10 **(3) For a term of office more than two years, additional recall petitions may be
11 filed, but not less than six months later after voter disapproval of the last recall petition;**

12 **(4) The recalled officer may not be a candidate at a special election held to fill the
13 vacancy created by the recall, nor may the recalled officer be appointed by the appointing
14 authority to fill the vacancy.**

15 **3. A petition signed by voters qualified to vote for a successor to the incumbent
16 sought to be removed, equal in number to at least twenty-five percent of the total number
17 of registered voters in such city qualified to vote for a successor to the incumbent sought
18 to be removed, demanding the recall of a person from elective office shall be filed with the**

19 county clerk. The petition shall contain a statement not more than two hundred words in
 20 length of the reasons for which recall is sought. The petition for recall shall be filed with
 21 the appropriate county clerk or election authority within sixty days after the date of the
 22 earliest signature on the petition. The signatures to the petition need not all be appended
 23 to one paper, but each signer shall include the signer's place of residence, giving the street
 24 and number and the date signed. One of the signers of each such paper shall make oath
 25 before an officer competent to administer oaths that the statements therein made are true
 26 as the signer believes, and that each signature to the paper appended is the genuine
 27 signature of the person whose name it purports to be.

28 4. Within ten days from the date of filing such petition, the county clerk shall
 29 examine the petition and determine from the voters' register whether the petition is signed
 30 by the requisite number of voters, and if necessary, the council shall allow extra help for
 31 that purpose. The clerk shall attach to the petition a certificate showing the result of the
 32 examination. If by the clerk's certificate the petition is shown to be insufficient, it may be
 33 amended within ten days from the date of the certificate. The clerk shall, within ten days
 34 after such amendment, examine the amended petition, and if the certificate shows the
 35 amended petition to be insufficient, it shall be returned to the person filing it, without
 36 prejudice to the filing of a new petition to the same effect. If the petition is sufficient, the
 37 clerk shall submit it to the council without delay, and the council shall order the question
 38 to be submitted to the voters of the city.

39 5. A special election shall be held on the recall petition as soon as practicable and
 40 as may be determined by the election authority of the county. The question to be presented
 41 to the voters at such election shall be in substantially the following form:

- 42 FOR the removal of(name of officer)
- 43 from the office of(title of office)
- 44 AGAINST the removal of(name of officer)
- 45 from the office of(title of office)

46

47 If a majority of the votes cast on the question by the qualified voters voting thereon are in
 48 favor of removing the officer, then the officer shall be removed and a vacancy shall exist
 49 in the office. If a majority of the votes cast on the question by the qualified voters voting
 50 thereon are opposed to removing the officer, then the officer shall continue to serve during
 51 the term for which elected.

 79.062. 1. The city council may, by ordinance, adopt procedures for the initiative
 2 and referendum as provided in this section. Any proposal to adopt an ordinance, except
 3 an ordinance appropriating money, emergency ordinances, and ordinances for the levying

4 of taxes, may be submitted to the council by a petition signed by at least twenty-five percent
5 of the registered voters. The signatures, verification, authentication, inspection,
6 certification, amendment, and submission of the petition shall be in the same manner
7 provided in section 79.061.

8 **2. When a petition to adopt an ordinance is signed by at least twenty-five percent**
9 **of the registered voters, the council shall pass the ordinance without alteration, within**
10 **twenty days of the clerk's certification of the petition, or submit it for a vote at the next**
11 **municipal or state primary or general election. If a majority of the voters voting on the**
12 **proposed ordinance vote in favor thereof, it shall thereupon become a valid and binding**
13 **ordinance of the city.**

14 **3. If a petition protesting an ordinance, signed by at least twenty-five percent of the**
15 **registered voters of the city, is presented to the council, the council shall reconsider such**
16 **ordinance and, if it is not entirely repealed, submit the ordinance to the voters as provided**
17 **by subsection 2 of this section. Such ordinance shall not remain in effect after the election**
18 **unless a majority of the voters voting on it shall vote in favor thereof. The petition shall**
19 **be submitted, verified and certified in the same manner provided in section 79.061.**

20 **4. The question shall be submitted in substantially the following form:**
21 **Shall the following ordinance be (adopted) (repealed)? (Set out ordinance).**

22 **5. Any ordinance proposed by petition, or which is adopted by a vote of the people,**
23 **shall not be repealed or amended by the council for a period of two years after the**
24 **adoption of the ordinance except by a unanimous vote of all members of the council. Any**
25 **number of proposed ordinances may be voted upon at the same election. The council may**
26 **submit a proposition for the repeal of any such ordinance or for amendments thereto, to**
27 **be voted upon at any municipal election. Should the proposition receive a majority of the**
28 **votes cast thereon, it shall be repealed or amended accordingly.**