

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 86
101ST GENERAL ASSEMBLY

0831H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 115.646, RSMo, and to enact in lieu thereof three new sections relating to political influence in school districts, with penalty provisions.

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

Section A. Section 115.646, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 115.646, 162.052, and 162.089, to read as follows:

115.646. **1.** No contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision, **including school districts and charter schools**, to advocate, support, or oppose **the passage or defeat of any ballot measure or the nomination or election of any** candidate for public office, **or to direct any public funds to, or pay any debts or obligations of, any committee supporting or opposing such ballot measures or candidates.** This section shall not be construed to prohibit any public official of a political subdivision, **including school districts and charter schools**, from making public appearances or from issuing press releases concerning any such ballot measure. **Any purposeful violation of this section shall be punished as a class four election offense.**

2. No candidate for public office shall accept, spend, or authorize the expenditure of, any local, state, or federal public funds for the candidate's election or campaign expenses, or to pay the debts or obligations of any committee.

162.052. 1. The registered voters of a school district may file a petition with the district's school board asking that an item be placed on a board meeting agenda. If the school board of a school district receives a petition, signed by at least five percent of the registered voters of the school district who voted in the last school board election, calling for an item to be placed on the agenda for the school board, then the school board shall place the requested item on the next meeting's agenda and shall take a vote on the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 petitioned item within the next three board meetings. The petition shall include each
8 signer's printed or typed name, registered voting address, signature, and the date signed.
9 The school district shall verify the petition requirements with the local election authority
10 of the district.

11 2. The school board shall follow all relevant board policies in regards to the
12 placement of the item on the agenda, time allowed for discussion, testimony allowed,
13 quorum requirements, the process by which a vote is taken, and the required number of
14 votes for approval.

15 3. The petition shall contain a concise statement of what the school board is being
16 requested to discuss and vote upon. Such statement shall consist of no more than one
17 hundred words. The item requested by the petition shall be presented to the board in its
18 exact form and shall not be modified by the board.

19 4. A petition to request an item to be placed on the school board's agenda shall not
20 be submitted for the same item more than once every six months.

21 5. Items that may be presented to the board by petition shall include, but shall not
22 be limited to:

23 (1) Implementing, changing, or repealing a board policy;

24 (2) Modifying or reversing an action by school administration or requesting that
25 certain action be taken by school administration;

26 (3) Implementing, changing, or discontinuing the use of any curriculum or course
27 of instruction; or

28 (4) Modifying the school calendar.

29 6. The petition process under this section shall not be used to recall board members,
30 change district boundaries, authorize any bonding, impose any additional tax, or for any
31 other purpose that would require an issue be placed on the ballot to be voted upon by
32 residents at an election. However, a petition may be used under this section to request that
33 any of the issues described under this subsection be discussed at an upcoming school board
34 meeting and voted upon by the school board for further consideration by the district's
35 voters.

162.089. 1. (1) Each member of any school board of any public school district shall
2 be subject to recall from office by the registered voters of the school district such member
3 was elected to represent. Such recall election shall be held upon the submission of a
4 petition signed by registered voters of the district equal in number to at least twenty-five
5 percent of the number of voters who voted in the most recent election held to elect a district
6 board member in such district.

7 **(2) No proceedings shall be commenced against any member under this section if,**
8 **at the time of commencement, such member:**

9 **(a) Has not held office during the member's term for more than ninety days;**

10 **(b) Has fewer than one hundred eighty days remaining in the member's term; or**

11 **(c) Has had a recall election determined in the member's favor during the**
12 **member's current term of office.**

13 **2. (1) Proceedings may be commenced for the recall of any school board member**
14 **by the filing of a notice of intention to circulate a recall petition under this section. The**
15 **notice shall be filed with the election authority having jurisdiction over the school district**
16 **under chapter 115. Each notice shall contain the following:**

17 **(a) The name and office of the board member sought to be recalled;**

18 **(b) A statement of grounds, not exceeding two hundred words in length, listing the**
19 **particular reasons for the proposed recall;**

20 **(c) A sworn statement of at least three proponents of the recall that they are**
21 **registered voters in the school district and that the information in the statement of grounds**
22 **is true, correct, and complete to the best of the knowledge and belief of the proponent;**

23 **(d) The printed names and the business or residential addresses of the proponents**
24 **of the recall making the sworn statement under paragraph (c) of this subdivision; and**

25 **(e) The notarized signature of each of the proponents of the recall making the**
26 **sworn statement under paragraph (c) of this subdivision.**

27 **(2) (a) The grounds for recall required to be stated in paragraph (b) of subdivision**
28 **(1) of this subsection may include but shall not be limited to the following:**

29 **a. Conduct that relates to and adversely affects the rights and interests of the**
30 **public;**

31 **b. Commission of an act or acts of malfeasance;**

32 **c. Moral turpitude as that phrase shall be taken in the plain or ordinary and usual**
33 **sense;**

34 **d. Violation of the member's oath of office;**

35 **e. Abuse of power or authority;**

36 **f. Misuse or misappropriation of public property or public moneys;**

37 **g. Conviction of a felony;**

38 **h. Willful violation of any code of ethics applicable to such member as provided in**
39 **the revised statutes of Missouri;**

40 **i. Violation of any school board policy of the school district in which the member**
41 **serves;**

42 **j. Breach of public trust;**

- 43 **k. Lack of responsiveness to concerns raised by the public or staff;**
44 **l. Promotion and implementation of measures that are counterproductive to the**
45 **best interests of the students and staff of the school district; or**
46 **m. Violation of any applicable provision of chapter 610; except that, discretionary**
47 **performance of a lawful act or a prescribed duty shall not constitute a ground for recall.**
48 **(b) The election authority shall neither have nor assume the authority to determine**
49 **the validity of the grounds for recall.**
50 **(3) No notice of intention shall name more than one board member sought to be**
51 **recalled.**
52 **(4) (a) If the election authority finds that the notice of intention contains the**
53 **required information under this section, the election authority shall attach to the affidavit**
54 **a certification showing that the notice has been properly filed.**
55 **(b) Within three business days after the certification, the election authority shall**
56 **send notification of the filing of the notice by registered mail to the school district**
57 **administration, the school board, and the board member sought to be recalled.**
58 **(c) Within fourteen days after the receipt of the notice, the board member who is**
59 **the subject of the notice may file with the election authority a statement, not exceeding two**
60 **hundred words in length, in answer to the statement of the proponents. If an answer is**
61 **filed, the election authority shall make the answer available for public viewing upon**
62 **request at the election authority's office.**
63 **3. (1) After the election authority certifies the notice, the proponents of the recall**
64 **may begin circulating a petition for recall and collecting signatures on such petition.**
65 **(a) Any person circulating a petition for recall shall be a registered voter in the**
66 **district of the board member sought to be recalled.**
67 **(b) Collection of signatures may begin after seven days have passed following the**
68 **election authority's certification with the date of the certification counted as the first day.**
69 **The election authority shall indicate the date on which collection of signatures may begin**
70 **in the certification of the notice. The number of signatures required to equal the twenty-**
71 **five percent of voters necessary under subsection 1 of this section shall be determined by**
72 **the election authority.**
73 **(2) Each page of the petition for recall shall include:**
74 **(a) The name and office of the member for whom recall is sought;**
75 **(b) The grounds for recall described in particular, in no more than two hundred**
76 **words;**
77 **(c) A statement that the petition signatories are registered voters of the district in**
78 **which the member sought to be recalled serves; and**

79 (d) Space for the date of the signing, the signer's printed name, the house number
80 and street name of each signer's residence, and each signer's signature.

81 (3) Each signer shall be a registered voter in the school district.

82 (4) Each signer shall provide the date of the signing, the signer's printed name, the
83 house number and street name of the signer's residence, and the signer's signature.

84 (5) Every person signing a petition shall do so in the presence of the person who is
85 circulating the petition and who will execute the affidavit of verification for each page of
86 the petition.

87 4. (1) Within sixty days after the beginning date for the collection of signatures, the
88 completed petition with the required number of signatures shall be filed with the election
89 authority. The signatures to the petition need not all be attached to one paper, but the
90 person who files the petition with the election authority shall sign each page attesting that
91 the signatures attached are true and correct to the best of such person's knowledge and
92 belief. Such signature on each page of the petition shall be notarized.

93 (2) Within fifteen business days after the date of filing the signed petition, the
94 election authority shall examine the petition and determine whether the petition is signed
95 by the required number of registered voters. Signatures that cannot be verified shall not
96 be counted.

97 (3) (a) If the election authority finds the signed petition to be insufficient, the
98 election authority shall, within three business days after such determination, send
99 notification of the insufficiency by registered mail to the person who filed the signed
100 petition. The election authority shall specify the errors, omissions, or other problems that
101 cause the insufficiency.

102 (b) The signed petition shall be returned to the person who filed the signed petition,
103 without prejudice to the refiling of the petition or the filing of a new petition.

104 (c) The person who filed the signed petition shall have thirty days after the date of
105 notification of insufficiency to correct the insufficiencies and refile the petition. If the
106 petition is not corrected and refiled, the petition and all its signatures shall be void.

107 (4) If the election authority finds the signed petition to be sufficient, the election
108 authority shall attach to the petition a certificate showing the result of the examination.
109 The election authority shall, within three business days after the certification, send
110 notification of the sufficiency and certification by registered mail to the person who filed
111 the signed petition, the school district administration, the school board, and the board
112 member sought to be recalled.

113 **5. (1) Upon receipt of the notification of the sufficiency of the petition and the**
114 **election authority's certification, the election authority shall order the question to be**
115 **submitted to the voters of the district on one of the following days:**

- 116 **(a) The next general election day;**
117 **(b) At a special election to be called on the first Tuesday after the first Monday in**
118 **November of odd-numbered years if that date is no fewer than ninety calendar days after**
119 **the date of notification; or**
120 **(c) At the next election in which the voters of the school district vote for any school**
121 **board member on the general municipal election day, if that date is no fewer than ninety**
122 **calendar days after the date of notification.**

123 **(2) If no election will occur or can be called at the times described in this subsection**
124 **before the term of the member who is the subject of the recall petition expires, no recall**
125 **election shall be held and such member may serve the remainder of the member's term.**

126 **6. (1) The name of the member who is the subject of the recall shall appear on the**
127 **ballot under the separate heading "(name of school district) Recall Election".**

128 **(2) The question on the ballot shall be in substantially the following form: "Shall**
129 **school board member (name of member) be removed from the school board?".**

130 **(3) (a) If a majority of the votes cast on the question by the qualified voters voting**
131 **thereon are opposed to removing the member, the member shall remain in office and shall**
132 **not be subject to another recall election during the remainder of the member's term.**

133 **(b) If a majority of the votes cast on the question by the qualified voters voting**
134 **thereon in a November election are in favor of removing the member, a successor shall be**
135 **chosen in the same manner as any vacancy on the district board is filled.**

136 **(c) If a majority of the votes cast on the question by the qualified voters voting**
137 **thereon in an April election are in favor of removing the member and the number of**
138 **candidates on the ballot is greater than the number of seats for expired board member**
139 **terms, the successor shall be the candidate receiving the next highest number of votes after**
140 **the seats for expired board member terms are filled. If the number of candidates is not**
141 **greater than the number of seats of expired board member terms, a successor shall be**
142 **chosen in the same manner as any vacancy on the district board is filled.**

143 **7. A school board member who has been recalled shall not fill the vacancy created**
144 **by the recall, but such member may seek election to the school board at any election not**
145 **held to fill the vacancy created by the member's recall.**

146 **8. Except as otherwise provided in this section, the provisions of chapter 115**
147 **governing the conduct of elections shall apply, if appropriate, to recall elections held under**
148 **this section. The costs of the election shall be paid as provided in chapter 115.**