

SENATE BILL No. 448

By Committee on Elections and Local Government

1-25

9 AN ACT concerning recall petitions; pertaining to the time for filing
10 court proceedings; amending K.S.A. 2005 Supp. 25-4308 and 25-4322
11 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2005 Supp. 25-4308 is hereby amended to read as
15 follows: 25-4308. (a) The secretary of state shall review the application
16 and shall either certify such application or notify the recall committee of
17 the grounds of refusal. The secretary of state shall deny certification if
18 the secretary of state determines that:

19 (1) The facts do not support the grounds for recall as stated in the
20 application;

21 (2) the application is not substantially in the required form;

22 (3) the application was filed during the first 120 days of the term of
23 office of the official sought to be recalled or within less than 200 days of
24 the termination of the term of office of the state officer sought to be
25 recalled;

26 (4) the person named in the application is not a state officer;

27 (5) there is an insufficient number of required signatures of any kind;

28 (6) the state officer sought to be recalled has been or is being sub-
29 jected to another recall election during such officer's current term of
30 office; or

31 (7) the application does not conform to any other requirement of this
32 act.

33 (b) All mandamus proceedings to compel a recall election and all
34 injunction proceedings to restrain a recall election shall be commenced
35 ~~not less than~~ *within* 30 days after the secretary of state's decision.

36 Sec. 2. K.S.A. 2005 Supp. 25-4322 is hereby amended to read as
37 follows: 25-4322. (a) Before any petition for recall of a local officer is
38 circulated, a copy thereof accompanied by names and addresses of the
39 recall committee and sponsors shall be filed in the office of the county
40 election officer with whom the petitions are required to be filed. The
41 copy of the petition so filed shall be subscribed by the members of the
42 recall committee in the presence of such county election officer. The
43 recall committee shall represent all sponsors and subscribers in matters

1 relating to the recall. Notice on all matters pertaining to the recall may
2 be served on any member of the recall committee in person or by mail
3 addressed to a committee member as indicated on the petition so filed.
4 The county election officer, upon request, shall notify the recall commit-
5 tee of the official number of votes cast for all candidates for the office of
6 the local officer sought to be recalled, such percentage to be based upon
7 the last general election for the current term of office of the officer sought
8 to be recalled.

9 (b) Before any petition for recall of a local officer is circulated, the
10 county election officer shall transmit a copy of such petition to the county
11 or district attorney or to the attorney designated pursuant to subsection
12 (c) for determination of the sufficiency of the grounds stated in the pe-
13 tition for recall. Within five days of receipt of the copy of the petition
14 from the county election officer, the county or district attorney or the
15 attorney designated pursuant to subsection (c) shall make such determi-
16 nation and notify the county election officer, *the officer sought to be*
17 *recalled* and the recall committee of such determination. Such determi-
18 nation shall include whether:

19 (1) The facts do not support the grounds for recall as stated in the
20 petition for recall;

21 (2) the petition is not substantially in the required form;

22 (3) the petition was filed during the first 120 days of the term of office
23 of the official sought to be recalled or within less than 180 days of the
24 termination of the term of office of the officer sought to be recalled;

25 (4) the person named in the petition is not a local officer;

26 (5) there is an insufficient number of required signatures of any kind;

27 (6) the local officer sought to be recalled has been or is being sub-
28 jected to another recall election during such officer's current term of
29 office; or

30 (7) the application does not conform to any other requirement of this
31 act.

32 (c) In the case of a recall of the county or district attorney, a judge
33 of the district court of such county shall designate an attorney to deter-
34 mine the sufficiency of the grounds stated in the petition for recall. Such
35 attorney shall perform the duties imposed on the county or district at-
36 torney in the recall of other local officers.

37 (d) All mandamus proceedings to compel a recall election and all
38 injunction proceedings to restrain a recall election shall be commenced
39 ~~not less than~~ *within* 30 days after the county or district attorney's decision.

40 Sec. 3. K.S.A. 2005 Supp. 25-4308 and 25-4322 are hereby repealed.

41 Sec. 4. This act shall take effect and be in force from and after its
42 publication in the statute book.