



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 157

130th General Assembly
(As Introduced)

Reps. Stautberg, Beck, Becker, Ruhl, Terhar

BILL SUMMARY

- Establishes a procedure to remove an elective township officer from office, by holding a recall election.
- Requires that a petition stating the grounds for removal be filed with the board of elections, to commence the procedure.
- Requires that another petition be filed proposing candidates to succeed each township elective officer being removed from office.
- Dictates the form of, and language in, the ballot for the recall election.

CONTENT AND OPERATION

Recall of elective township officers

The bill establishes a procedure whereby any elective officer of a township, the township trustees or the township fiscal officer, may be removed from office by the qualified voters of the township, by holding a recall election.¹

Commencement of the removal procedure

The removal procedure is commenced by filing with the board of elections a petition that demands the election of a successor to the person sought to be removed. The petition must be signed by qualified electors equal in number to at least 15% of the total votes cast at the most recent regular township election. The petition must contain a general statement in not more than 200 words of the grounds upon which the removal

¹ R.C. 503.23.

of the person is sought. The form, sufficiency, and regularity of the petition is to be determined as provided in the general election laws, which basically means that the board of elections will verify the signatures by checking them against the voter registration records.²

If the petition is sufficient, and if the person whose removal is sought does not resign within five days after the sufficiency of the petition has been determined, the board of township trustees must thereupon order and fix a day for holding an election to determine the question of removing the elective officer from office, and for the selection of a successor to each officer named in the petition. The election must be held not less than 30 nor more than 40 days from the time of the finding of the sufficiency of the petition. The election authorities are required to publish notice and make all arrangements for holding the election. The election must be conducted and the result thereof returned and declared in all respects as are the results of regular township elections.³

The question of removing any officer from office cannot be submitted to the electors until the officer has served at least one year of the term during which the officer is sought to be recalled. The bill states that its method of removal is in addition to such other methods of removal as are provided by law.⁴

Petition nominating candidates to succeed removed officers

The nomination of candidates to succeed each officer sought to be removed must be made, without the intervention of a primary election, by filing with the election authorities, at least 20 days before the special election, a petition proposing a person for each office. The petition must be signed by electors equal in number to 10% of the total votes cast at the most recent regular township election for township trustee.⁵

Ballot language

The bill requires the ballots at the recall election, with respect to each person whose removal is sought, to submit the question: "Shall (name of person) be removed from the office of (name of office) by recall?" Immediately following each question, the bill requires two propositions to be printed on the ballots: (1) for the recall of the person named, and (2) against the recall of the person named, with a square placed

² R.C. 503.25(A).

³ R.C. 503.25(B).

⁴ R.C. 503.25(D).

⁵ R.C. 503.25(C).



immediately to the left of each proposition, in which the electors may place a mark to vote for either proposition. The names of candidates to fill the vacancy must be placed under each of the questions. The name of the officer whose removal is sought cannot appear on the ballot as a candidate to succeed the officer's self.⁶

After the election

If a majority of the votes cast on the question of removal are affirmative, the person whose removal is sought is removed from office upon the announcement of the official canvass of that election, and the candidate receiving the plurality of the votes cast for candidates for that office is declared elected. The successor of any person so removed holds office during the unexpired term of the successor's predecessor.

If, at any recall election, the incumbent whose removal is sought is not recalled, the incumbent must be repaid the incumbent's actual and legitimate expenses for the election from the treasury of the township.⁷

COMMENT

The bill may present a potential constitutional issue. The Ohio Constitution provides that any state law allowing the removal of a public officer from office must provide a complaint and hearing before removing the officer from office. Such a method of removal is in addition to impeachment or another method of removal authorized by the Constitution.⁸ The bill's recall election procedure does not involve a complaint and hearing, nor is it impeachment, and the Ohio Constitution does not otherwise have any other method of removal for township officers or permit their recall.

HISTORY

ACTION	DATE
Introduced	05-07-13

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⁶ R.C. 503.25(D).

⁷ R.C. 503.25(D).

⁸ Ohio Const., Art. II, Sec. 38.

