

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-94
SENATE BILL 1286

AN ACT TO ALLOW RECALL ELECTIONS IN THE CITY OF RANDLEMAN.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Randleman, being Chapter 209 of the Private Laws of 1905, is amended by adding a new section to read:

"Section 3.1. Recall of Officials by the People.

(a) The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent.

(b) Prior to circulating any petition under this section, it must be registered with the City Clerk, and the petition with signatures must be submitted to the City Clerk within 30 days of that date in order to be considered.

(c) The procedure to effect the removal of an incumbent of an elective office shall be as follows: a petition demanding an election of a successor of the person sought to be removed and signed by at least thirty percent (30%) of the total number of registered voters in the City shall be filed with the City Clerk. In order to be effective, the petition when filed shall list both the name of the officer to be removed and the cause for removal. The cause for removal must relate to the misfeasance, malfeasance, or nonfeasance of the officer, or for personal conduct that brings the office into disrepute. The superior court shall have jurisdiction of issues relating to whether cause is sufficient.

(d) The signatures to the petition need not be on one petition paper, but each signer shall add to the signature that person's residence address. One or more of the signers of the petition shall make oath before an officer competent to administer oaths that the statements therein made are true, as that person believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(e) Within 10 days from the date of filing such a petition, the City Clerk shall examine and from the records of the board of elections determine whether the petition is signed by the required number of qualified electors, and the Clerk shall attach to the petition a certificate showing the results of such examination. If by the Clerk's certificate, the petition is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Clerk shall, within 10 days after such amendment, examine the amended petition in the same fashion. If the Clerk's certificate shows the petition to be insufficient, it shall be returned to the person filing the same, but such return shall not prevent the filing of a new petition if it is otherwise allowed by this

section. If the petition shall be deemed to be sufficient, the Clerk shall without delay submit the same to the board of elections which conducts elections for the City.

(f) If the petition shall be found to be sufficient, the board of elections which conducts elections for the City shall set a date for holding an election for the remainder of the unexpired term in the same manner as provided in this Charter and in Chapter 163 of the General Statutes of North Carolina for regular municipal elections, such election to be held not greater than 90 days from the date of the Clerk's certificate to the board of elections that a sufficient petition is filed. Candidates' names shall be placed on the ballot, the election held, and the results canvassed, under the same rules, conditions, and regulations as are prescribed for municipal elections under this Charter and Chapter 163 of the General Statutes of North Carolina. Opening and closing dates for candidate filing shall be set by the board of elections, and notice of the election shall be published at least three days prior to the opening of candidate filing.

(g) The successor of any officer so removed shall hold office for the unexpired term of the predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless that incumbent requests otherwise in writing, the board of elections shall place the incumbent's name on the official ballot without filing. At the election, if some other person than the incumbent is elected, the incumbent shall thereupon be deemed removed from the office upon the taking of the oath of office of the successor.

(h) In case the person elected should fail to take the oath of office within 10 days after certification of the election returns, the office shall be deemed vacant, and in that event, the office shall be filled for the remainder of the unexpired term by the Board of Aldermen, but the officer removed shall not be eligible to election by the board, and the person chosen by the Council shall be subject to recall as other elected officials. If the incumbent receives the most votes in the election, the incumbent shall continue his office.

(i) Such method of removal shall be cumulative and additional to any other method provided by law. In the event any officer is recalled, the elected successor shall be subject to recall in the same manner as the originally elected officer.

(j) Time limitation. No person shall be subject to recall if the petition is filed within six months of the person having taken office, within six months of a recall election, or within six months of the expiration of the term."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives