



2025 South Dakota Legislature

House Bill 1087

Introduced by: **Representative Ismay**

1 **An Act to authorize the recall of county commissioners.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 7:**

4 A county commissioner may be removed from office at any time by the voters
 5 qualified to vote for a successor, as provided in this Act.

6 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 7:**

7 A petition demanding the election of a successor for a county commissioner sought
 8 to be removed must be signed by:

9 (1) Fifteen percent of the registered voters of the district that the commissioner
 10 represents; or

11 (2) Five percent of the registered voters of the county, if the commissioner serves the
 12 entire county.

13 The percentage and number of signatures required in this section are based upon
 14 the total number of registered voters at the last preceding general election. A signature
 15 on the petition is not valid if signed more than sixty days before the filing of the petitions.

16 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 7:**

17 A petition pursuant to this Act must contain a specific statement of the grounds on
 18 which removal is sought. The allowable grounds for removal are misconduct, malfeasance,
 19 nonfeasance, crimes in office, drunkenness, gross incompetency, corruption, theft,
 20 oppression, or gross partiality. The form for the petition must be prescribed by the state
 21 Board of Elections, by rule promulgated pursuant to chapter 1-26.

22 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 7:**

1 If a petition is filed with the county auditor and meets the requirements of sections
2 1 to 3, inclusive, of this Act, the county auditor must present the petition to the county
3 commission at its next meeting.

4 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 7:**

5 A special election on the question of a successor must be held within sixty days
6 after the filing of a petition pursuant to section 4 of this Act, except if the petition is filed
7 within ninety days prior to a primary, general, or statewide special election, in which case
8 the question must be submitted at the primary, general, or statewide special election.

9 Any county commissioner sought to be removed may be a candidate and, unless
10 the commissioner requests otherwise in writing, the auditor shall place the commissioner's
11 name on the official ballot without nomination. The auditor shall also place on the official
12 ballot the name of any other candidate nominated as provided in chapter 7-8. If no other
13 candidate is nominated for the position, a recall election may not be held, and the
14 commissioner must remain in office.

15 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 7:**

16 The procedure for challenging a petition established in §§ 12-1-13 to 12-1-16,
17 inclusive, is applicable to the petition, but only the petition signatures may be so
18 challenged. A failure to challenge petition signatures pursuant to §§ 12-1-13 to 12-1-16,
19 inclusive, does not prohibit an interested person from challenging the filing of the petition
20 or the sufficiency of the specific statement of the grounds of the recall petition.

21 A challenge to the petition regarding the specific statement of the grounds of the
22 petition must be filed in circuit court within five business days of the filing of the petition.
23 The circuit court shall conduct an expedited declaratory judgment hearing with no right to
24 trial by jury.

25 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 7:**

26 If a county commissioner sought to be removed is elected in a special election
27 pursuant to section 5 of this Act, the commissioner must continue in office. If some person
28 other than the commissioner is elected, the commissioner is deemed removed from office
29 upon or at the expiration of the time for qualification of the successor. The successor shall
30 qualify within ten days after receiving notification of election, and in case of a failure to

- 1 qualify, the office is deemed vacant. The qualified successor of any removed commissioner
- 2 shall hold office during the remainder of the removed commissioner's unexpired term.