



2026 South Dakota Legislature

House Bill 1004

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 As provided in this Act, a county commissioner may be removed from office at any
5 time by voters eligible to elect a commissioner pursuant to § 7-8-2.

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

7 A petition for the removal of a county commissioner and election of a successor
8 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 petition is filed with
16 the county auditor.

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

18 A petition pursuant to this Act must contain:

19 (1) The place of residence of the petition's signer;

20 (2) The date of signing the petition; and

21 (3) A statement alleging at least one of the allowable grounds on which the removal
22 of a county commissioner may be sought, which are:

23 (a) Corruption;

24 (b) Crimes in office;

- 1 (c) Drunkenness;
2 (d) Gross incompetency;
3 (e) Gross partiality;
4 (f) Malfeasance;
5 (g) Misconduct;
6 (h) Nonfeasance;
7 (i) Oppression; and
8 (j) Theft.

9 The State Board of Elections shall, by rule promulgated pursuant to chapter 1-26,
10 prescribe the form of the petition.

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

12 If a petition is filed with the county auditor and meets the requirements of sections
13 2 and 3 of this Act, the county auditor must present the petition at the next meeting of
14 the board of commissioners of which the commissioner sought to be removed is a member.

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

16 A special election on the question of the removal of a county commissioner and
17 election of a successor must be held within sixty days after the a petition is submitted to
18 the board of commissioners pursuant to section 4 of this Act, except if the petition is filed
19 within ninety days prior to a primary, general, or statewide special election, in which case
20 the question must be submitted at that election.

21 The commissioner sought to be removed may be a candidate and, unless the
22 commissioner requests otherwise in writing, the county auditor shall place the
23 commissioner's name on the official ballot without nomination. The auditor shall place on
24 the official ballot the name of any other candidate nominated, as provided in chapter 7-8.
25 The candidate having the highest number of votes must be declared elected. If no other
26 candidate is nominated for the position, a recall election may not be held, and the
27 commissioner must remain in office.

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

29 The procedure for challenging a petition established in §§ 12-1-13 to 12-1-16,
30 inclusive, is applicable to a petition pursuant to this Act, but only the petition signatures
31 may be so challenged. A failure to challenge petition signatures pursuant to §§ 12-1-13

1 to 12-1-16, inclusive, does not prohibit an interested person from challenging the filing of
2 the petition or the sufficiency of the specific statement of the grounds of the petition.

3 A challenge to the petition regarding the specific statement of the grounds required
4 in section 3 of this Act must be filed in circuit court within five business days after the
5 petition is presented to the board of commissioners pursuant to section 4 of this Act. The
6 circuit court shall conduct an expedited declaratory judgment hearing with no right to trial
7 by jury.

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

9 If a county commissioner sought to be removed is elected in a special election
10 pursuant to section 5 of this Act, the commissioner must continue in office. If a successor
11 is elected, the commissioner is deemed removed from office upon or at the expiration of
12 the time for qualification of the successor. The successor shall qualify within ten days after
13 receiving notification of election, and in case of a failure to qualify, the office is deemed
14 vacant. The qualified successor of any removed commissioner shall hold office during the
15 remainder of the removed commissioner's unexpired term.