

SESSION OF 2003

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 103**

As Agreed to March 31, 2003

Brief *

SB 103 amends the law dealing with recall elections and the ouster procedure. The bill clarifies which election results are used to calculate the percentage of electors needed to sign recall petition, alters statutes dealing with grounds for recall and for ouster, and deletes the requirement that statements of persons subject to recall petitions must be posted at polling places and provide instead that these statements shall be maintained in the county election office.

Under the bill, the Secretary of State or the county or district attorney's decision to approve the recall petition would be based on determining if the facts support the grounds for recall. In addition, other statutory requirements regarding the validity of petitions are listed for both state and local official recall proceedings. In addition, all mandamus proceedings to compel a recall and all injunction proceedings to restrain a recall would have to be commenced not later than 30 days after the decision at the state or local level.

The bill clarifies that the percentage of signatures required on a recall petition is calculated using the votes cast for all candidates for the office of the state or local officer sought to be recalled. Such percentage would be based upon the last general election for the current term of office of the officer being recalled.

The bill removes incompetence as one of the grounds for recall and defines misconduct in office as a violation of law by the officer that impacts the officer's ability to perform the official duties of the office. The bill also adds to the ouster statute the additional grounds for forfeiture of office to include any person who demonstrates mental

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impairment such that the person lacks the capacity to manage the office held.

The bill authorizes the county election officer to maintain a 200-word statement by the officer being recalled in defense of such officer's conduct in the county election office for public inspection instead of posting it at each polling place as required by current law.

Background

A representative of the Secretary of State's Office, the League of Kansas Municipalities, and the Kansas Association of School Boards testified in support of SB 103. All three representatives proposed amendments to the bill.

The Senate Committee of the Whole amended the bill by deleting the provisions which created a temporary recall board.

The House Committee on Ethics and Elections added language requested by the Secretary of State's Office which clarified that the percentage required for a recall petition would apply to "the votes cast for all candidates for the office of the state (or local) officer sought to be recalled." In addition, the local officer recall could not happen if the officer is within 180 days of the termination of the term of office. The bill as drafted had 200 days.

The Conference Committee agreed upon the House Committee's amendments to the bill and made clarifying amendments.

The Division of the Budget's fiscal note indicates that potential costs to the Secretary of State's Office and to counties to organize recall boards would be negligible. The fiscal note also states that there is anticipated a small amount of savings to the county election officers in photocopying and printing costs because they would not be required to make copies of recall statements for each of the 3,300 precincts in Kansas. The note states that the Attorney General's Office would not be fiscally impacted by the passage of the bill.