

LEGISLATIVE REFERENCE BUREAU

2015D02911LKK:BTW

L.R.B. Form No. 4 (Rev. 3/25/10)

No. \_\_\_\_\_

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending Title 65 (Public Officers) of the Pennsylvania Consolidated Statutes, providing for recall election of State and local officers, for recall petition process, for review of recall petitions, for recall election and for prohibited practices.

INTRODUCED \_\_\_\_\_ 20\_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

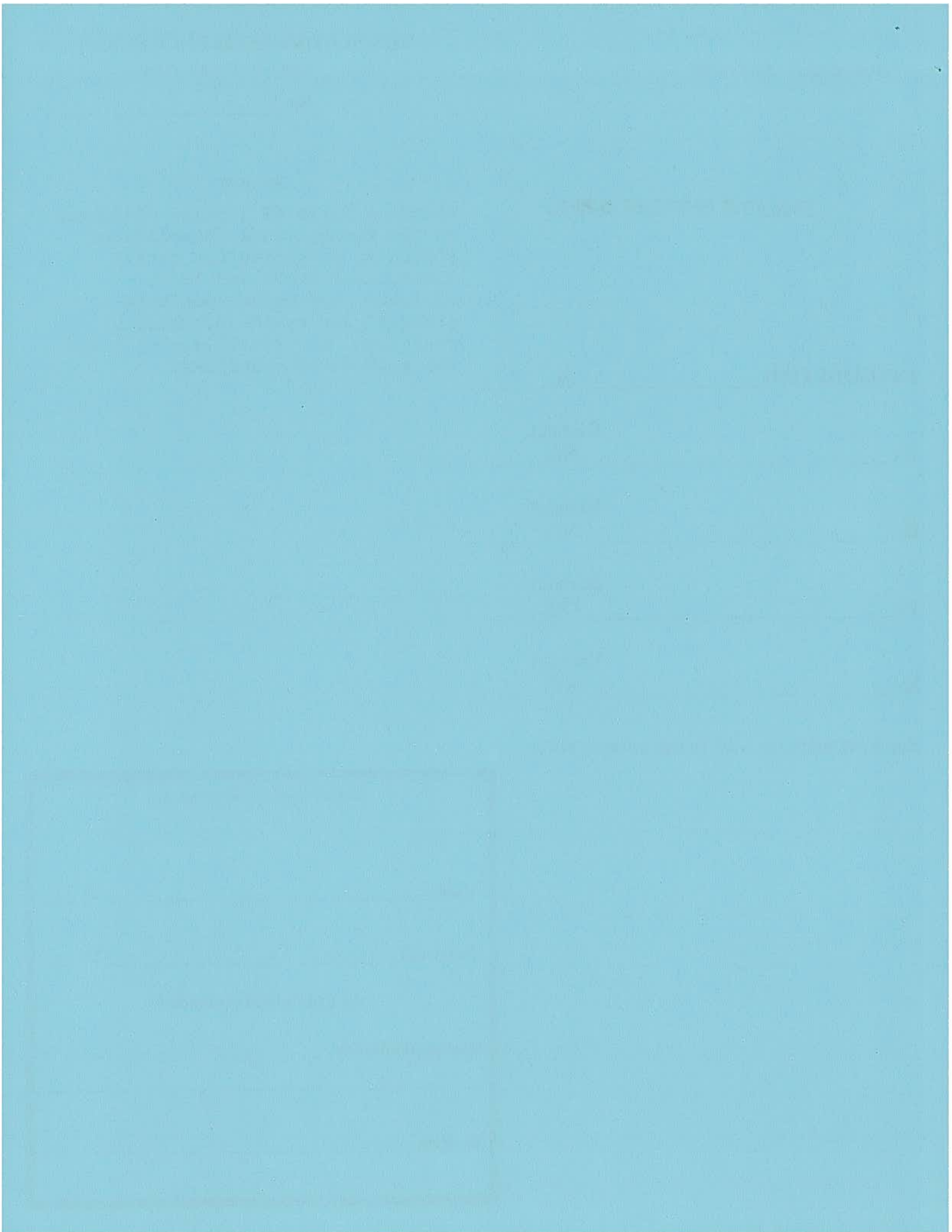
By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

By \_\_\_\_\_ District NO. \_\_\_\_\_

See next page for additional co-sponsors.

<b>Referred to Committee on</b>	
Date _____	20_____
Reported _____	20_____
<b>As Committed-Amended</b>	
<b>Recommendation</b>	
_____	
By Hon. _____	



## AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania  
2 Consolidated Statutes, providing for recall election of State  
3 and local officers, for recall petition process, for review  
4 of recall petitions, for recall election and for prohibited  
5 practices.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 65 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a chapter to read:

10 CHAPTER 14

11 RECALL ELECTIONS

12 Sec.

13 1401. Definitions.

14 1402. Grounds for recall.

15 1403. Initiating proceedings.

16 1404. Review of proposed petition.

17 1405. Issuing, circulating and verifying petition.

18 1406. Recall election.

19 1407. Prohibited practices.

1 1408. Rules and regulations.

2 § 1401. Definitions.

3 The following words and phrases when used in this chapter  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 "Election official." The term includes:

7 (1) In the case of a Statewide elected public officer or  
8 member of the General Assembly, the Secretary of the  
9 Commonwealth.

10 (2) In the case of any other elected public officer, the  
11 local election official for the jurisdiction in which the  
12 officer resides.

13 "Malfeasance." The willful commission of an unlawful or  
14 wrongful act in the performance of an elected public officer's  
15 duties that is substantially outside the scope of the authority  
16 of the officer and infringes on the rights of any person or  
17 entity.

18 "Nonfeasance." The willful, repeated failure of an elected  
19 public officer to perform a specific act that is a required part  
20 of the duties of the officer.

21 "Officer." A person elected by the public in the executive  
22 or legislative branch of the Commonwealth or any political  
23 subdivision of the Commonwealth.

24 § 1402. Grounds for recall.

25 An officer is subject to recall by the voters of this  
26 Commonwealth, or the political subdivision from which elected,  
27 for malfeasance or nonfeasance.

28 § 1403. Initiating proceedings.

29 (a) Proposed petition.--Whenever 25 or more eligible voters  
30 of this Commonwealth or of any political subdivision of this

1 Commonwealth desire to demand the recall and discharge of an  
2 officer under section 8 of Article VI of the Constitution of  
3 Pennsylvania, the voters shall prepare a proposed petition  
4 stating that the officer has committed an act or acts of  
5 malfeasance or nonfeasance while in office as grounds for  
6 recall. Judicial officers are not subject to recall.

7 (b) Form and content.--The Secretary of the Commonwealth  
8 shall prescribe by rule the form required for a recall petition.  
9 Each page of the petition shall include:

10 (1) The name and office held by the officer who is the  
11 subject of the recall petition.

12 (2) The specific grounds upon which the officer is  
13 sought to be recalled and a concise synopsis of the facts  
14 that are alleged to warrant recall on those grounds.

15 (3) A statement that a recall election, if conducted,  
16 will be conducted at public expense.

17 (4) A statement that each person signing the petition:

18 (i) Is an eligible voter residing within the  
19 district where the officer serves or, in the case of a  
20 Statewide officer, in this Commonwealth.

21 (ii) Knows the purpose and content of the petition.

22 (iii) Is signing of the person's own free will and  
23 may only sign once.

24 (5) A space for the following information regarding each  
25 signer:

26 (i) Signature and signature date.

27 (ii) Printed first, middle and last name.

28 (iii) Residence address, including municipality and  
29 county.

30 (iv) Date of birth.

1 (c) Filing.--The persons submitting the petition shall  
2 designate in writing no more than three persons among them to  
3 represent all petitions in matters relating to the recall. The  
4 proposed petition shall be filed with the appropriate election  
5 official and accompanied by a fee of \$100.

6 (d) Notice.--Within 10 days of receiving a proposed petition  
7 that satisfies the requirements of this section, the election  
8 official shall notify in writing the officer named in the  
9 petition and forward the proposed petition for action under  
10 section 1404 (relating to review of proposed petition) as  
11 follows:

12 (1) For a Statewide official or member of the General  
13 Assembly, to the Supreme Court.

14 (2) For all other officers, to the court of common pleas  
15 for the jurisdiction in which the officer resides.

16 § 1404. Review of proposed petition.

17 (a) Review of petition.--Upon receiving a proposed petition,  
18 the court shall review the proposed petition to determine  
19 whether it alleges specific facts that, if proven, would  
20 constitute grounds for recall of the officer under section 8 of  
21 Article VI of the Constitution of Pennsylvania and section 1402  
22 (relating to grounds for recall). If it does not, the court  
23 shall immediately issue an order dismissing the petition and  
24 stating the reasons for dismissal. If the proposed petition does  
25 allege specific facts that, if proven, would constitute grounds  
26 for recall, the court shall assign the case for a public  
27 hearing. The court shall complete the review under this section  
28 and dismiss the proposed petition or assign the case for hearing  
29 within 10 days of receiving the petition.

30 (b) Hearing.--A public hearing on the allegations of a

1 proposed petition shall be held within 20 days after issuance of  
2 the order assigning the case for hearing under subsection (a).

3 The court shall determine:

4 (1) whether the persons proposing the petition have  
5 shown by a preponderance of the evidence that the factual  
6 allegations supporting the petition are true; and

7 (2) if true, whether the persons proposing the petition  
8 have shown that the facts found to be true are sufficient  
9 grounds for recall.

10 If the court decides that the standard expressed in paragraph  
11 (2) has not been met, the court shall dismiss the petition. If  
12 the court decides that the standard for decision expressed in  
13 paragraph (2) has been met, the court shall prescribe, by order  
14 to the appropriate election official, the statement of the  
15 specific facts and grounds that must appear on the petition for  
16 recall issued under section 1405 (relating to issuing,  
17 circulating and verifying petition).

18 (c) Bad faith.--If the court dismisses a petition under this  
19 section because the persons proposing the petition have acted in  
20 bad faith in violation of section 1407 (relating to prohibited  
21 practices), the court may assess the persons proposing the  
22 petition reasonable costs of conducting the hearing.

23 § 1405. Issuing, circulating and verifying petition.

24 (a) Issuance.--Upon receipt of the order from the court  
25 reviewing a proposed petition, the election official shall issue  
26 a recall petition.

27 (b) Circulation.--The number of signatures required on a  
28 petition are as follows:

29 (1) For a Statewide officer or member of the General  
30 Assembly, signatures of eligible voters equal to 25% of the

1 total number of votes cast for all candidates for the office  
2 to which the officer whose recall is demanded was elected at  
3 the preceding election.

4 (2) For any officer not included in paragraph (1),  
5 signatures of eligible voters equal to 35% of the total  
6 number of votes cast for all candidates for the office to  
7 which the officer whose recall is demanded was elected at the  
8 preceding election.

9 When the required number of signatures on the petition has been  
10 secured, the petition may be filed with the appropriate election  
11 official. The petition must be filed within 90 days after the  
12 date of issuance.

13 (c) Verification.--Upon the filing of a petition, the  
14 election official shall verify the number and eligibility of  
15 signers in the manner provided by the Secretary of the  
16 Commonwealth. If the election official determines that the  
17 petition has been signed by a sufficient number of eligible  
18 voters, the election official shall certify the petition and  
19 immediately notify in writing the petitioners and the officer  
20 named in the petition. If the petition is not signed by a  
21 sufficient number of eligible voters, the election official  
22 shall dismiss the petition.

23 § 1406. Recall election.

24 (a) Date.--If an election official certifies that a petition  
25 bears the required number of signatures, the election official  
26 shall promptly fix a date for the election to determine whether  
27 or not the officer charged shall be recalled and discharged from  
28 office. The election shall be held at the next primary or  
29 general election not less than 45 days from the certification.

30 (b) Conduct of election.--The election shall be conducted in



1 the manner provided under the act of June 3, 1937 (P.L.1333,  
2 No.320), known as the Pennsylvania Election Code.

3 (c) Result.--If a majority of the votes cast in a recall  
4 election favor the removal of the officer, upon certification of  
5 that result, the officer is removed from office and the office  
6 is vacant.

7 (d) Vacancy.--An office that is vacant following a recall  
8 election shall be filled by special election conducted in  
9 accordance with the Pennsylvania Election Code.

10 § 1407. Prohibited practices.

11 (a) General rule.--A person proposing a petition may not  
12 allege any material fact in support of the petition that the  
13 person knows is false or has alleged with reckless disregard of  
14 whether it is false. A person may not intentionally make any  
15 false entry on a petition or aid, abet, counsel or procure  
16 another to do so. A person may not use threat, intimidation,  
17 coercion or other corrupt means to interfere or attempt to  
18 interfere with the right of any eligible voter to sign or not to  
19 sign a recall petition of the voter's own free will. A person  
20 may not for any consideration, compensation, gift, reward or  
21 thing of value promise to sign or not to sign a recall petition.

22 (b) Dismissal.--The court reviewing a proposed recall  
23 petition may dismiss the petition for violation of this section.

24 § 1408. Rules and regulations.

25 The Secretary of the Commonwealth may promulgate rules and  
26 regulations necessary to administer this chapter.

27 Section 2. This act shall take effect in 60 days.

