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HOUSE BILL 40

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Dennis J. Roch and Daniel A. Ivey-Soto

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING GROUNDS FOR THE RECALL
ELECTION OF ELECTIVE OFFICERS IN COMMISSION-MANAGER
MUNICIPALITIES; REQUIRING A DETERMINATION BY THE DISTRICT COURT
THAT PROBABLE CAUSE EXISTS FOR THE GROUNDS FOR RECALL; MAKING
TECHNICAL AND CONFORMING CHANGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-14-16 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-13-16) is amended to read:

"3-14-16. COMMISSION-MANAGER--RECALL--ELECTION--BALLOT--
EFFECT--FILLING VACANCIES.--

A. In any commission-manager municipality, any
elective officer is subject to a recall election. [~~Upon
petition seeking the recall of an elective officer~~] Subject to
the provisions of Subsection B of this section, a petition for

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1 a recall election shall cite grounds of malfeasance or
2 misfeasance in office or violation of the oath of office by the
3 official concerned. The cited grounds shall be based upon acts
4 or failures to act occurring during the current term of the
5 official sought to be recalled. The recall petition shall be
6 signed by the qualified electors in a number more than twenty
7 percent of the average number of voters who voted at the
8 previous four regular municipal elections or more than twenty
9 percent of the number of voters who voted at the previous
10 regular municipal election, whichever is the greater [~~the~~
11 ~~commission shall call a special election unless the regular~~
12 ~~municipal election occurs within sixty days, in which case the~~
13 ~~qualified electors shall vote on the recall at the regular~~
14 ~~election)].~~

15 B. Prior to and as a condition of circulating a
16 petition for recall pursuant to the provisions of Subsection A
17 of this section, the factual allegations supporting the grounds
18 for malfeasance or misfeasance in office or violation of the
19 oath of office stated in the petition shall be presented to the
20 district court for the county in which the recall is proposed
21 to be conducted. The petition shall not be circulated unless,
22 after a hearing in which the proponents of the recall effort
23 and the officer sought to be recalled are given an opportunity
24 to present evidence, the district court determines that
25 probable cause exists for the grounds for recall.

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1 ~~[B-]~~ C. Upon verification of the petition, the
2 commission shall call a special election unless the regular
3 municipal election occurs within sixty days, in which case the
4 qualified electors shall vote on the recall at the regular
5 election. In either case, there shall be a special ballot
6 containing the name of the officer, the title of the office [~~he~~
7 ~~holds~~] and the dates of the beginning and termination of [~~his~~
8 the officer's official term. Below the name of the officer
9 shall be two phrases, "For the recall" and "Against the
10 recall", one below the other with a space after each for
11 placing a cross where desired. If a majority of the votes cast
12 favor recall and the number of votes cast favoring a recall are
13 equal to or more than the number the officer received when [~~he~~
14 the officer was a candidate for office, the officer who is the
15 subject of recall is recalled from the office and the office in
16 question is declared vacant.

17 ~~[G-]~~ D. If an officer is recalled, [~~he~~] the officer
18 shall not be eligible for reelection until the term for which
19 [~~he~~] the officer was originally elected has expired.

20 ~~[D-]~~ E. If the recall election results in a failure
21 to secure the votes necessary to recall, the officer in
22 question shall not be subject again to recall until six months
23 have elapsed from the date the previous recall election was
24 held.

25 ~~[E-]~~ F. A vacancy created by a recall election

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1 shall be filled in the same manner as other vacancies on the
2 commission are filled. If all commissioners are recalled at
3 the same election, the municipal clerk or, if there is no
4 municipal clerk, the district court shall, within three days,
5 call an election as provided in Section [~~14-13-8 New Mexico~~
6 ~~Statutes Annotated, 1953 Compilation~~] 3-14-8 NMSA 1978 for the
7 election of five commissioners."

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