

## HOUSE BILL No. 2492

By Committee on Judiciary

1-23

1 AN ACT concerning elected officials; recall of; amending K.S.A. 25-4301  
2 and 25-4304 and K.S.A. 2013 Supp. 25-4306 and 25-4322 and  
3 repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 25-4301 is hereby amended to read as follows: 25-  
7 4301. All elected public officials in the state, ~~except judicial officers~~, are  
8 subject to recall by the voters of the state or the political subdivision from  
9 which elected.

10 Sec. 2. K.S.A. 25-4304 is hereby amended to read as follows: 25-  
11 4304. (a) K.S.A. 25-4305 to 25-4317, inclusive, *and amendments thereto*,  
12 apply only to recall of the governor, members of the legislature, *judges*,  
13 any public officials elected by the electors of the entire state ~~and~~, members  
14 of the state board of education *and all appointed judges and justices of the*  
15 *state*. For the purpose of this act, officers mentioned in this subsection are  
16 "state officers."

17 (b) ~~The provisions of this act do not apply to any judicial officer.~~

18 (e) ~~K.S.A. 25-4318 to 25-4331, inclusive, and amendments thereto,~~  
19 apply only to recall of all elected public officials who are provided by law  
20 to be elected at an election conducted by one or more county election  
21 officers, ~~except those officers specified in subsections (a) and (b)~~. For the  
22 purpose of this act, officers to which this subsection apply are "local  
23 officers."

24 (d) (c) Any person appointed or otherwise designated or elected to fill  
25 a vacancy in an office to which subsection (a) applies shall be a state  
26 officer for the purpose of this act. Any person appointed or otherwise  
27 designated or elected to fill a vacancy in an office to which subsection ~~(e)~~  
28 (b) applies shall be a local officer for the purpose of this act.

29 Sec. 3. K.S.A. 2013 Supp. 25-4306 is hereby amended to read as  
30 follows: 25-4306. The application under K.S.A. 25-4305, *and amendments*  
31 *thereto*, shall include: (a) the name and office of the person sought to be  
32 recalled; (b) the grounds for recall described in particular in not more than  
33 200 words; (c) a statement that the sponsors are residents of the state of  
34 Kansas and possess the qualifications of an elector of the state of Kansas  
35 and who signed the application with the statement of grounds for recall  
36 attached; (d) the designation of a recall committee of three sponsors who

1 shall represent all sponsors and subscribers in matters relating to the  
2 recall; (e) the designation of at least 100 residents of the state of Kansas  
3 who possess the qualifications of electors of the state of Kansas and who  
4 subscribe to the application as sponsors for purposes of circulation; and  
5 (f) the signatures and addresses of registered electors in the state or  
6 election district of the state officer sought to be recalled equal in number to  
7 not less than 10% of the votes cast for ~~all candidates~~ *the candidate* for the  
8 office of the state officer sought to be recalled, such percentage to be based  
9 upon the last general election for the current term of office of the officer  
10 sought to be recalled.

11 Sec. 4. K.S.A. 2013 Supp. 25-4322 is hereby amended to read as  
12 follows: 25-4322. (a) Before any petition for recall of a local officer is  
13 circulated, a copy thereof accompanied by names and addresses of the  
14 recall committee and sponsors shall be filed in the office of the county  
15 election officer with whom the petitions are required to be filed. The copy  
16 of the petition so filed shall be subscribed by the members of the recall  
17 committee in the presence of such county election officer. The recall  
18 committee shall represent all sponsors and subscribers in matters relating  
19 to the recall. Notice on all matters pertaining to the recall may be served  
20 on any member of the recall committee in person or by mail addressed to a  
21 committee member as indicated on the petition so filed. The county  
22 election officer, upon request, shall notify the recall committee of the  
23 official number of votes cast for all candidates for the office of the local  
24 officer sought to be recalled, such percentage to be based upon the last  
25 general election for the current term of office of the officer sought to be  
26 recalled.

27 (b) Before any petition for recall of a local officer is circulated, the  
28 county election officer shall transmit a copy of such petition to the county  
29 or district attorney or to the attorney designated pursuant to subsection (c)  
30 for determination of the sufficiency of the grounds stated in the petition for  
31 recall. Within five days of receipt of the copy of the petition from the  
32 county election officer, the county or district attorney or the attorney  
33 designated pursuant to subsection (c) shall make such determination and  
34 notify the county election officer, the officer sought to be recalled and the  
35 recall committee of such determination. Such determination shall include  
36 whether:

- 37 (1) The facts do not support the grounds for recall as stated in the  
38 petition for recall;
- 39 (2) the petition is not substantially in the required form;
- 40 (3) the petition was filed during the first 120 days of the term of  
41 office of the official sought to be recalled or within less than 180 days of  
42 the termination of the term of office of the officer sought to be recalled;
- 43 (4) the person named in the petition is not a local officer;

1 (5) there is an insufficient number of required signatures of any kind;

2 (6) the local officer sought to be recalled has been or is being  
3 subjected to another recall election during such officer's current term of  
4 office; or

5 (7) the application does not conform to any other requirement of this  
6 act.

7 (c) In the case of a recall of the county or district attorney, ~~a judge of~~  
8 ~~the district court of such county~~ *the secretary of state* shall designate an  
9 attorney to determine the sufficiency of the grounds stated in the petition  
10 for recall. Such attorney shall perform the duties imposed on the county or  
11 district attorney in the recall of other local officers.

12 (d) All mandamus proceedings to compel a recall election and all  
13 injunction proceedings to restrain a recall election shall be commenced  
14 within 30 days after the ~~county or district attorney's~~ *secretary of state's*  
15 decision.

16 Sec. 5. K.S.A. 25-4301 and 25-4304 and K.S.A. 2013 Supp. 25-4306  
17 and 25-4322 are hereby repealed.

18 Sec. 6. This act shall take effect and be in force from and after its  
19 publication in the statute book.