
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-2392.1/11

ATTY/TYPIST: AI:mos

BRIEF DESCRIPTION:

Initiative Measure No. 1144

filed March 3, 2011

AN ACT Relating to restoring the right of the electorate to recall elected officials as guaranteed by section 1, Articles XXXIII and XXXIV of the Washington state Constitution; amending RCW 29A.56.120; creating new sections; and repealing RCW 29A.56.140.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The Washington state electorate has on repeated occasions passed initiatives only to have the will of the voters repealed by their elected officials. The purpose of this act is to remove the obstacles that prevent citizens from recalling their elected representatives. In doing so, elected officials will be more responsive to the citizens after being elected as opposed to creating special favors for special interest groups or playing partisan politics at the expense of the taxpayers. In addition, the goal is to prevent the judicial arm of government from unwittingly usurping this power of the electorate, namely, to recall those they put in office.

(1) In 1984, in its attempt to reestablish the provision of the Constitution, the Washington state legislature revised the language of

the statute. They wanted to reassure elected officials they could be removed for cause only. The 1984 amendment was written so broadly that the legislature has allowed the courts to extend their jurisdiction over the issue of recalls beyond the authority originally delegated by the Constitution.

(2) The problem is that in today's environment, an elected officer may excuse an improper or unlawful act by simply declaring the act was conducted in the public interest and performed "honestly, faithfully, and to the best of one's ability." This broad language has legitimized unlawful, unethical, and improper conduct by elected officials. The recall is not a viable corrective option because the citizen has essentially been elbowed out of the recall process by the legal influence.

(3) This act is to restore the rights of the people to utilize the right of recall without undue interference by the courts. Elected officials have to be held accountable. It is not reasonable to excuse away or shield elected officials from recall by allowing any type of wrongful conduct by an elected official, merely because a plea can be made that the action was carried out "honestly, faithfully, and to the best of one's ability." The decision by the people to call for an accounting from their representatives belongs to them. It cannot be decided in favor of an elected official, such as in a motion to dismiss or some such other procedural, legal technicality handed from the court.

(4) Even good intentions by public officials can and do result in gross mismanagement of the public's trust, funds, and assets. If it can be established by the court that recall charges are not frivolous, then it is the people's right to determine the political fate of that official. The proper venue for a recall of an elected official is the political arena, not the judicial arena. The final decision belongs to the people, not the courts.

Sec. 2. RCW 29A.56.120 and 2003 c 111 s 1408 are each amended to read as follows:

Any person making a charge shall file it with the elections officer whose duty it is to receive and file a declaration of candidacy for the office concerning the incumbent of which the recall is to be demanded. The officer with whom the charge is filed shall promptly (1) serve a copy of the charge upon the officer whose recall is demanded, and (2) certify and transmit the charge to the preparer of the ballot synopsis provided in RCW 29A.56.130. (~~The manner of service shall be the same as for the commencement of a civil action in superior court.~~)

NEW SECTION. **Sec. 3.** RCW 29A.56.140 (Determination by superior court--Correction of ballot synopsis) and 2003 c 111 s 1410 are each repealed.

NEW SECTION. **Sec. 4.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 5.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 6.** This act may be known and cited as the right of the electorate to recall elected officials act.