

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 338  
PROPOSED SENATE COMMITTEE SUBSTITUTE H338-PCS30342-LB-55

Short Title: Burke School Board Recall.

(Local)

Sponsors:

Referred to:

March 15, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW RECALL OF MEMBERS OF THE BURKE COUNTY BOARD OF  
EDUCATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Any member of the Burke County Board of Education may be removed from office in the manner provided for in this act.

**SECTION 2.(a)** Any registered voter of the Burke County School Administrative Unit may make and file with the Board of Elections of Burke County an affidavit containing the name of the official whose removal is sought and a general statement of the grounds alleged for removal. The supervisor of elections shall thereupon deliver to the registered voter making such affidavit copies of petitions for demanding such a removal, printed forms of which the supervisor of elections shall keep on hand. Such blank forms shall be issued by the supervisor of elections with his or her signature thereto attached and shall be dated and addressed to the Board of Elections of Burke County, indicate the person to whom issued, state the name of the official whose removal is sought, and shall contain the general statement of the grounds on which the removal is sought as alleged in the affidavit.

**SECTION 2.(b)** A copy of the petition shall be promptly delivered to the Superintendent of the Burke County School Administrative Unit, who shall enter the copy of the petition in a record book kept for that purpose in the office of the superintendent. A recall petition to be effective must be returned within 30 days after the filing of the affidavit and, to be sufficient, must bear the signatures of registered voters of the school administrative unit equal in number to at least fifteen percent (15%) of the registered voters of the school administrative unit as shown by the registration records of the last preceding general school administrative unit election.

**SECTION 2.(c)** The signatures to the petition need not all be appended to one paper, but each signer shall add the signer's place of residence, giving the residence address, including town. One of the signers of each such paper shall take an oath before an officer competent to administer oaths that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

**SECTION 2.(d)** The Board of Elections of Burke County shall investigate the sufficiency of any such petition and certify the results of such investigation to the Board of Education. The Board of Elections may employ such persons as it deems necessary to undertake such investigations, and the reasonable cost of such investigation shall be reimbursed



1 to the Board of Elections by the school administrative unit. The Board of Elections may adopt  
2 such rules and regulations as it deems necessary or advisable concerning the validation of  
3 signatures appearing on the recall petition.

4 **SECTION 2.(e)** The Board of Elections shall complete its investigation and issue  
5 its certification of the results of such investigation within 15 days after the filing of any such  
6 petition. If, by the Board of Elections' certification, the petition is shown to be insufficient, it  
7 may be amended within 10 days from the date of said certificate. The Board shall, within 10  
8 days after such amendment, make like examination of the amended petition, and if its  
9 certificate shall show the same to be insufficient, it shall be returned to the person filing the  
10 same, without prejudice, however, to the filing of a new petition to the same effect.

11 **SECTION 2.(f)** Upon a determination that a sufficient recall petition has been  
12 submitted, the Board of Elections shall order and fix a date for holding a recall election. Subject  
13 to the remaining provisions of this subsection, any such election shall be held not less than 60  
14 or more than 90 days after the petition has been certified as being sufficient. If any other  
15 primary, general, or special election is scheduled within such period, the Board of Elections  
16 shall schedule the special election at the same time. If the provisions of general law prohibit the  
17 holding of special elections during the time aforesaid, and no general or special election is  
18 otherwise scheduled during said period of time, then the Board of Elections shall schedule the  
19 special recall election for some date within 10 days after the last day of the period of time  
20 during which special elections are prohibited by general law.

21 **SECTION 2.(g)** The Burke County Board of Elections shall cause legal notice of  
22 the election to be published, the notice to include the general statement of the grounds on which  
23 the recall is sought as alleged in the affidavit, and shall make all arrangements for holding such  
24 election in accordance with general law, and the same shall be conducted, returned, and the  
25 results thereof declared in all respects as other school administrative unit elections in the Burke  
26 County School Administrative Unit. The reasonable costs of such election shall be reimbursed  
27 to the Board of Elections by the school administrative unit.

28 **SECTION 2.(h)** The question of recalling any number of officials may be  
29 submitted at the same election, but, as to each such official, a separate petition shall be filed,  
30 and there shall be an entirely separate ballot.

31 **SECTION 2.(i)** The ballots used in a recall election shall submit the following  
32 proposition:

33 "  FOR  AGAINST  
34 Recall of (name and title of official)."

35 **SECTION 2.(j)** If less than a majority of the votes cast on the question of recalling  
36 an official be for recall, the official shall continue in office for the remainder of the unexpired  
37 term, but, except as provided by Section 3(a) of this act, subject to the recall as before. If a  
38 majority of such votes be for the recall of the official designated on the ballot, the official shall,  
39 regardless of any defects in the recall petition, be deemed removed from office.

40 **SECTION 2.(k)** If an official is removed from office as a result of a recall election,  
41 the vacancy so caused shall be filled in the manner provided by law for filling vacancies in  
42 such office. An official removed from office by the voters as a result of a recall election shall  
43 not be appointed to fill the vacancy caused by that official's own removal or resignation.

44 **SECTION 3.(a)** No recall petition shall be filed during that term of office against  
45 an officer who has been subjected to a recall election and not removed thereby.

46 **SECTION 3.(b)** No recall petition shall be filed against an officer during either the  
47 first or last six months of the term of that office. If a person is serving only until an election  
48 shall be held to fill the office for the remainder of a term, no recall petition shall be filed against  
49 that officer during the six-month period before that election.

50 **SECTION 4.** This act becomes effective January 1, 2012.