Southwest Alaska Municipal Conference

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Alaska Peninsula
Aleutian Chain
Bristol Bay
Kodiak Island
Pribilof Islands

MEMBERSHIP RESOLUTION FY18-08

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE MEMBERSHIP REQUESTING THAT THE ALASKA STATE LEGISLATURE REVISIT THE STANDARD FOR RECALLING MUNICIPAL OFFICIALS TO DETERMINE THE SUFFICIENCY OF DEFINITIONS AND PROCESSES THEREIN

WHEREAS, recall elections concerning municipal elected officials have recently been held or contemplated in the City of Homer, the Kenai Peninsula Borough, the Haines Borough, the City of Cordova, the Petersburg Borough, and the City of Unalaska; and

WHEREAS, recall elections are an important part of the democratic process and therefore, the rules governing recall must be clear and easily understood by voters, elected officials, and municipal employees; and

WHEREAS, Alaska Statutes 29.26.240 through AS 29.26.360 govern recall elections for municipal officials; and

WHEREAS, the standards for what constitutes both an action that would justify recall and how a local municipal official should evaluate the recall petition's sufficiency are not clearly defined in the Alaska Statutes, leading to a wide range of interpretations; and

WHEREAS, in 1984, the Alaska Supreme Court suggested that the Legislature clarify the recall statutes. The court made the following statement in Meiners v. Bering Strait School District, 867 P.2d 287, 296 (Alaska 1984): "Each issue in this case arises because one or another of the provisions of Alaska's recall statute is in some way ambiguous. The need for judicial participation in the recall process could be decreased by more carefully drawn statutes. Article XI, Section 8, of the Alaska Constitution commands the Legislature to prescribe both the procedures and the grounds for recall. The political nature of the recall makes the legislative process, rather than judicial statutory interpretation, the preferable means of striking the balances necessary to give effect to the Constitutional command that elected officers shall be subject to recall……(W)e commend to the Legislature the suggestion that these statutes be revised to clarify its intentions;" and

WHEREAS, over the past 30 years, and despite the Alaska Supreme Court's request, the Alaska Legislature still has not clarified the statutes related to recalling municipal officials; and

WHEREAS, "misconduct in office," currently one of the grounds for recalling a municipal official, is undefined in the Alaska Statutes and the level and type of misconduct required is not specified; and

WHEREAS, the Alaska Supreme Court has stated that it was not advisable to force municipal clerks who are not attorneys to rely on in-depth legal analyses including reviews of case law to determine the sufficiency of recall petitions; and

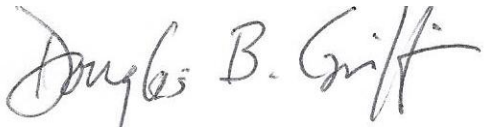
WHEREAS, the Alaska Legislature can look to at least 29 other states for examples of laws when deciding how to clarify Alaska's recall statutes, as recall of local officials is allowed in Alabama (Ala. Code §11-44-130), Arizona (Const. Art. 8), Arkansas (Ark. Code §14-47-112), California (Const. Art. 2, §19 and Cal. Election Code §11000), Colorado (Const. Art. 21, §4 and Rev. Stat. §31/4/501), Florida (Fla. Stat. §100.361), Georgia (Const. Art. 2, §2.4 and Ga. Code §214-1), Idaho (Const. Art. 6, §6 and Id. Code §34- 1701), Kansas (Const. Art. 4, §3 and Kan. Stat. §25-4301), Louisiana (Const. Art. 10, §26 and La. Rev. Stat. §18:1300), Michigan (Const. Art. 2, §8 and Mich. Comp. Laws §168.951), Minnesota (Minn. Stat. §351.14), Missouri (Mo. Rev. Stat. §77.650 and §78.260), Montana (Mont. Code §2-16-601), Nebraska (Neb. Rev. Stat. §31-786 and §32- 1309), Nevada (Const. Art. 2, §9), New Hampshire (N.H. Rev. Stat. §49D:3(e)), New Jersey (Const. Art. 1, §2(b)), New Mexico (Const. Art. 10, §9), North Dakota (Const. Art. 3, §10), Ohio (Ohio Code §705.92), Oregon (Const. Art. 2, §18 and ORS §249.865), South Dakota (S.C. Codified Laws §9-13-29), Tennessee (Tenn. Code §6-31-301), Washington (Const. Art. §33-34 and Wash. Code §29A.56.110), West Virginia (W.Va. Code §8-12-4(3)), Wisconsin (Const. Art. 13, §12 and Wis. Stat. §9, 10), and Wyoming (Wyo. Stat. §15-4-110); and

WHEREAS, Alaska can look to at least seven other states that require a specific ground for recall to be stated when a person or group attempts to recall an elected official: Georgia (Ga. Code §21-4-3(7) and 21-4-4(c)), Kansas (KS Stat. §25-4301), Minnesota (Const. Art. VIII §6), Montana (Mont. Code §2-16-603), Rhode Island (Const. Art. IV §1), Virginia (Va. Code §24.2-233) and Washington (Const. Art. 1, §33.

NOW BE IT RESOLVED that the Southwest Alaska Municipal Conference Membership requests that the Alaska Legislature revisit the standards for recalling municipal officials to determine the sufficiency of the definitions and processes therein.

PASSED AND ADOPTED by the Southwest Alaska Municipal Conference Membership on this 2nd day of March 2018.

IN WITNESS THERETO: ATTEST:



Rebecca Skinner, SWAMC President

Doug Griffin, SWAMC Executive Director