

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**HOUSE BILL 338
Senate State and Local Government Committee Substitute Adopted 6/14/11**

Short Title: Burke School Board Recall.

(Local)

Sponsors:

Referred to:

March 15, 2011

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW RECALL OF MEMBERS OF THE BURKE COUNTY BOARD OF
2 EDUCATION.
3

4 The General Assembly of North Carolina enacts:

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

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

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

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

30 **SECTION 2.(d)** The Board of Elections of Burke County shall investigate the
31 sufficiency of any such petition and certify the results of such investigation to the Board of
32 Education. The Board of Elections may employ such persons as it deems necessary to
33 undertake such investigations, and the reasonable cost of such investigation shall be reimbursed
34 to the Board of Elections by the school administrative unit. The Board of Elections may adopt
35 such rules and regulations as it deems necessary or advisable concerning the validation of
36 signatures appearing on the recall petition.



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

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

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

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

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

30 FOR AGAINST
31 Recall of (name and title of official)."

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

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

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

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

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