

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 737

**Senate State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 6/11/03**

Short Title: Durham School Recall Election.

(Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE RECALL ELECTIONS FOR THE DURHAM BOARD OF
2 EDUCATION.
3

4 The General Assembly of North Carolina enacts:

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

7 **SECTION 2.** Any registered voter of the Durham School Administrative
8 Unit may file an affidavit with the Durham County Director of Elections containing the
9 name of the official whose removal is sought and a general statement of the grounds
10 alleged for removal. However, if the member sought to be recalled is from a district,
11 the affidavit must be signed by a registered voter of that district. The Director of
12 Elections shall provide the registered voter filing the affidavit with petition forms for
13 demanding the removal of a Board of Education member. The petition forms shall:

- 14 (1) Be signed by the Director of Elections.
- 15 (2) Be dated on the date of issuance.
- 16 (3) Be addressed to the Durham County Board of Elections.
- 17 (4) Contain the name of the person to whom the form is issued.
- 18 (5) Contain the name of the official whose removal is sought.
- 19 (6) Contain a general statement of the grounds on which the removal is
20 sought.
- 21 (7) Provide a place for signatures.

22 The Director of Elections shall promptly deliver a copy of the petition issued by the
23 Director of Elections to the Superintendent of the Durham School Administrative Unit,
24 who shall enter the copy of the petition in a record book kept for that purpose. The
25 record book shall be maintained at the Office of the Superintendent.

26 **SECTION 3.** To be effective, a recall petition must be returned to the Board
27 of Elections within 30 days after the filing of the affidavit. To be sufficient, a recall
28 petition must bear the signatures of at least twenty-five percent (25%) of the registered

1 voters of the school administrative unit as shown by the registration records of the last
2 preceding general school administrative unit election. However, if the Board of
3 Education member was from a district, then to be sufficient a recall petition must bear
4 the signatures of at least twenty-five percent (25%) of the registered voters of the school
5 administrative unit district as shown by the registration records of the last preceding
6 general school administrative unit election.

7 **SECTION 4.** The signatures to the petition need not all be appended to one
8 paper. Each signer shall add his or her signature and the signer's place of residence,
9 giving the residence address including town. One of the signers of each paper shall take
10 an oath before an officer competent to administer oaths that each signature to the paper
11 appended is the genuine signature of the person whose name it purports to be.

12 **SECTION 5.** The Board of Elections shall investigate the sufficiency of any
13 petition and certify the results of the investigation to the Board of Education. The Board
14 of Elections may employ persons as it deems necessary to undertake such investigation.
15 The Board of Education shall reimburse the Board of Elections for the reasonable cost
16 of the investigation. The Board of Elections may adopt rules concerning the validation
17 of signatures appearing on the recall petition.

18 **SECTION 6.** The Board of Elections shall complete its investigation and
19 issue its certification of the results of the investigation within 15 days after the filing of
20 any petition. If, by the Board of Elections' certification, the petition is shown to be
21 insufficient, it may be amended within 10 days from the date of the certificate. The
22 Board shall, within 10 days after any amendment, complete an investigation of the
23 amended petition. If the certification of the results of the investigation shows the
24 amended petition to be insufficient, a copy of the petition shall be returned to the person
25 filing the petition, without prejudice to the filing of a new petition.

26 **SECTION 7.** Upon a determination that a sufficient recall petition has been
27 submitted, the Board of Elections shall order and fix a date for holding a recall election.
28 Subject to the remaining provisions of this section, an election shall be held not less
29 than 50 nor more than 70 days after the petition has been certified as being sufficient. If
30 any other general or special election is scheduled within this period, the Board of
31 Elections shall schedule the special election at the same time. If the provisions of
32 general law prohibit the holding of a special election during this time period and no
33 general or special election is otherwise scheduled during that period of time, then the
34 Board of Elections shall schedule the special recall election for a date within 10 days
35 after the last day of the period of time during which special elections are prohibited by
36 general law.

37 **SECTION 8.** The Board of Elections shall cause legal notice of the election
38 to be published. That notice shall include the general statement of the grounds on which
39 the recall is sought as alleged in the affidavit and shall make all arrangements for
40 holding such election in accordance with general law. The recall election shall be
41 conducted, returned, and the results declared as in other school administrative unit
42 elections in the Durham School Administrative Unit. If the member subject to recall is
43 from a district, the election shall be conducted only in that district. The reasonable costs

1 of the recall election shall be reimbursed to the Board of Elections by the Board of
2 Education.

3 **SECTION 9.** The question of recalling any number of officials may be
4 submitted at the same election. But as to each such official, a separate petition shall be
5 filed and there shall be an entirely separate ballot.

6 **SECTION 10.** The ballots used in a recall election shall submit the
7 following proposition:

8 " [] FOR [] AGAINST

9 The recall of (name and title of official)."

10 **SECTION 11.** If less than a majority of the votes cast on the question of
11 recalling an official are for recall, the official shall continue in office for the remainder
12 of the unexpired term and, except as provided by Section 13 of this act, shall be subject
13 to the recall as before. If a majority of such votes are for the recall of the official
14 designated on the ballot, the official shall, regardless of any defects in the recall
15 petition, be deemed removed from office.

16 **SECTION 12.** If an official is removed from office as a result of a recall
17 election, the vacancy shall be filled in the manner provided by law for filling vacancies
18 in that office. An official removed from office by the voters as a result of a recall
19 election shall not be appointed to fill the vacancy caused by that official's own removal
20 or resignation.

21 **SECTION 13.** No recall petition shall be filed against an officer who has
22 been subjected to a recall election, and not removed thereby, until at least one year after
23 that recall election. No recall petition shall be filed against an officer during either the
24 first or last six months of the term of that office.

25 **SECTION 14.** This act is effective when it becomes law.