

HAINES BOROUGH
RESOLUTION No. 18-02-745

Adopted

A RESOLUTION OF THE BOROUGH ASSEMBLY ASKING THE ALASKA LEGISLATURE TO REVISIT ALASKA STATUTES 29.26.250-290 COVERING RECALL ELECTIONS AND CLEARLY DEFINE THE DEGREE OF "CAUSE" REQUIRED BEFORE RECALL MAY PROCEED.

WHEREAS, recall elections concerning municipal and local elected officials have recently been held or contemplated in the Haines Borough, City of Unalaska, City of Homer, the Kenai Peninsula Borough, and the Petersburg Borough; 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 29.26.360 govern recall elections for municipal officials; and

WHEREAS, AS 29.26.250 Grounds for Recall and AS 29.26.260 Application for Recall Petition do not adequately define the standards for what constitutes both an action that would justify recall and how a local municipal official should evaluate the recall petition application's sufficiency; and

WHEREAS, in 1984, the Alaska Supreme Court explicitly asked the legislature to clarify the recall statutes in *Meiners v. Bering Strait School District*, 867 P.2d 287, 296; 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, there are two perspectives from which recall can be viewed. One is the "legal perspective" where recall is seen as an extreme event with narrowly-prescribed grounds. The other is the "political perspective" where recall grounds are construed broadly in order to allow voters maximum control. However, Alaska law requires some version of "for cause" recall, but also sets a low bar. Clarifying the degree of "cause" required to be shown for a recall to proceed would reduce confusion and the potential for litigation; and

WHEREAS, recall elections are expensive to both the municipality and to parties involved in expensive and protracted litigation to resolve the ambiguities in the statutes; and

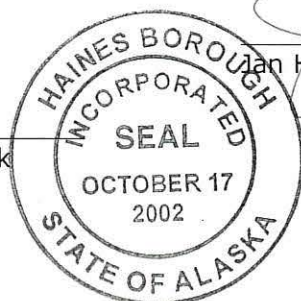
WHEREAS, Alaska can look to at least seven other states that require a specific ground for recall to be stated when a person or group attempts to recall an elected official: Georgia (Ga. Code § 21-4-3(7) and 21-4-4(c)), Kansas (KS. Stat. § 25-4301), Minnesota (Const. Art. VIII § 6), Montana (Mont. Code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

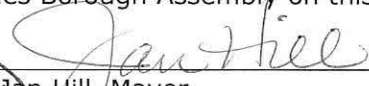
NOW, THEREFORE BE IT RESOLVED that the Haines Borough Assembly, by this resolution, hereby requests that the Alaska Legislature revisit the standards for recalling municipal officials and clearly define the degree of "cause" required to be shown before a recall may proceed.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this 13th day of February, 2018.

Attest:


Julie Cozzi, MMC, Borough Clerk




Jan Hill, Mayor