

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 226
96TH GENERAL ASSEMBLY

1363L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 143.790, 190.015, 190.035, 190.040, and 321.120, RSMo, and to enact in lieu thereof seven new sections relating to emergency services.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 143.790, 190.015, 190.035, 190.040, and 321.120, RSMo, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 143.789,
3 143.790, 190.015, 190.035, 190.040, 190.056, and 321.120, to read as follows:

**143.789. The director of the department shall have the authority to impose an offset
2 against a refund owed to any taxpayer for the following items and in the following order
3 of priority:**

- 4 **(1) Delinquent taxes owed by the taxpayer to the United States;**
- 5 **(2) Delinquent taxes owed by the taxpayer to the state of Missouri;**
- 6 **(3) Debts owed by such taxpayer to any state agency or support obligation owed by
7 such taxpayer which are enforced by the division of family services on behalf of a person
8 who is receiving support enforcement services under section 454.425;**
- 9 **(4) Collection assistance fees authorized under section 143.790; and**
- 10 **(5) Eligible claims under section 143.790.**

143.790. 1. [Any hospital or health care provider who has provided health care services
2 to an individual who was not covered by a health insurance policy or was not eligible to receive
3 benefits under the state's medical assistance program of needy persons, Title XIX, P.L. 89-97,
4 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., under
5 chapter 208, RSMo, and the health insurance for uninsured children under sections 208.631 to
6 208.657, RSMo, at the time such health care services were administered, and such person has

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 failed to pay for such services for a period greater than ninety days, may submit a claim to the
8 director of the department of health and senior services for the unpaid health care services. The
9 director of the department of health and senior services shall review such claim. If the claim
10 appears meritorious on its face, the claim for the unpaid medical services shall constitute a debt
11 of the department of health and senior services for purposes of sections 143.782 to 143.788, and
12 the director may certify the debt to the department of revenue in order to set off the debtor's
13 income tax refund. Once the debt has been certified, the director of the department of health and
14 senior services shall submit the debt to the department of revenue under the setoff procedure
15 established under section 143.783.

16 2. At the time of certification, the director of the department of health and senior services
17 shall supply any information necessary to identify each debtor whose refund is sought to be set
18 off pursuant to section 143.784 and certify the amount of the debt or debts owed by each such
19 debtor.

20 3. If a debtor identified by the director of the department of health and senior services
21 is determined by the department of revenue to be entitled to a refund, the department of revenue
22 shall notify the department of health and senior services that a refund has been set off on behalf
23 of the department of health and senior services for purposes of this section and shall certify the
24 amount of such setoff, which shall not exceed the amount of the claimed debt certified. When
25 the refund owed exceeds the claimed debt, the department shall send the excess amount to the
26 debtor within a reasonable time after such excess is determined.

27 4. The department of revenue shall notify the debtor by certified mail the taxpayer whose
28 refund is sought to be set off that such setoff will be made. The notice shall contain the
29 provisions contained in subsection 3 of section 143.794, including the opportunity for a hearing
30 to contest the setoff provided therein, and shall otherwise substantially comply with the
31 provisions of subsection 3 of section 143.784.

32 5. Once a debt has been set off and finally determined under the applicable provisions
33 of sections 143.782 to 143.788, and the department of health and senior services has received
34 the funds transferred from the department of revenue, the department of health and senior
35 services shall settle with each hospital or health care provider for the amounts that the
36 department of revenue set off for such party. At the time of each settlement, each hospital or
37 health care provider shall be charged for administration expenses which shall not exceed twenty
38 percent of the collected amount.

39 6. Lottery prize payouts made under section 313.321, RSMo, shall also be subject to the
40 setoff procedures established in this section and any rules and regulations promulgated thereto.

41 7. The director of the department of revenue shall have priority to offset any delinquent
42 tax owed to the state of Missouri. Any remaining refund shall be offset to pay a state agency

43 debt or to meet a child support obligation that is enforced by the division of family services on
44 behalf of a person who is receiving support enforcement services under section 454.425, RSMo.

45 **8.] As used in this section, the following terms shall mean:**

46 **(1) "Appeals committee", a committee consisting of at least three people appointed**
47 **by a provider to hear patient appeals of review officer rulings:**

48 **(a) That the provider has a valid claim;**

49 **(b) Regarding the amount of the claim;**

50 **(c) That a claim qualifies as an eligible claim under this section;**

51 **(2) "Collection assistance fee", a fee in the amount of fourteen dollars payable to**
52 **the general fund of this state for each debt setoff being processed and an additional**
53 **seventeen dollars payable to the claim clearinghouse for each debt being processed by the**
54 **claim clearinghouse shall be recovered from each eligible claim to recover the costs**
55 **incurred in collecting debts under this section;**

56 **(3) "Court", the supreme court, court of appeals, or any circuit court of the state,**
57 **or any of their judicially or legislatively created subdivisions;**

58 **(4) "Department", the department of revenue;**

59 **(5) "Claim", a claim by a provider to receive payment of fifty dollars or more for**
60 **health care services provided by such provider to a patient which has not been paid in**
61 **whole or in part by the patient or third party payer for more than ninety days after the**
62 **date the patient was first billed for such health care services;**

63 **(6) "Claim clearinghouse", the entity selected by the department to receive and**
64 **submit eligible claims on behalf of a provider in accordance with this section. The claim**
65 **clearinghouse shall be selected by the department through use of and in compliance with**
66 **the applicable requirements of chapter 34;**

67 **(7) "Health care services", any services that a provider renders to a patient in the**
68 **course of such provider's furnishing of ambulance services to the patient. Health care**
69 **services shall include, but not be limited to, treatment of patients and transporting of**
70 **patients incidental, or pursuant, to the delivery of ambulance services by a provider or in**
71 **furtherance of the purposes for which such provider is organized and licensed, provided**
72 **that with respect to ground ambulance services provided by a provider that is not owned**
73 **and operated by a city, county, municipality, political subdivision, governmental entity, or**
74 **an entity that is exempt from federal and state income taxation, health care services shall**
75 **only include those ground ambulance services provided by the provider that qualify and**
76 **emergency services as defined in section 190.100 and are provided under the terms of an**
77 **agreement between the provider and a city, county, municipality, political subdivision, or**
78 **a governmental entity under section 190.105;**

79 (8) "Patient", an individual who has received health care services from a provider
80 and who was not, at the time such health care services were provided, eligible to receive
81 benefits under the state's medical assistance program for needy persons under chapter 208
82 and the health insurance for uninsured children under sections 208.631 to 208.657;

83 (9) "Provider", any provider of ambulance services licensed by the Missouri
84 department of health and senior services in accordance with chapter 190, to include but
85 not be limited to any provider of air ambulance services licensed under section 190.108 and
86 any provider of ground ambulance services licensed under section 190.109;

87 (10) "Refund", a patient's Missouri income tax refund which the department
88 determines to be due pursuant to the provisions of this chapter;

89 (11) "Review officer", a person designated by a provider to review claims, at the
90 request of a patient, to determine whether such provider has a valid claim, the amount of
91 such claim, and whether such claim qualifies as an eligible claim under this section.

92 2. Prior to submission of a claim to the claim clearinghouse, a provider shall send
93 written notice to a patient that such provider intends to submit a claim to the claim
94 clearinghouse for collection by setoff under this section. The notice shall:

95 (1) Provide the basis for the claim;

96 (2) State that the provider intends to request that the department apply the
97 patient's refund against the claim;

98 (3) State that a collection assistance fee will be added to the claim if it is submitted
99 for setoff;

100 (4) Inform the patient of the right to contest the validity or amount of such claim
101 by filing a request for a review with the provider; and

102 (5) State the time limit and procedure for requesting such review, and that failure
103 to request a review within thirty days following receipt of the notice required under this
104 section shall result in submission of the claim to the claim clearinghouse for setoff of the
105 debt by the department.

106 3. Upon receipt of the notice required under subsection 2 of this section, any patient
107 seeking review of a claim with the provider shall file a written request for review within
108 thirty days of receipt of such notice. A request for a review shall be deemed filed when
109 properly addressed and delivered to the United States Postal Service for mailing with
110 postage prepaid. A review officer shall be appointed by the provider to review such claim.
111 In reviewing a claim, any issue that has previously been litigated in a court proceeding
112 shall not be considered by the review officer. If the patient seeks a review of the claim and
113 the review officer finds either that the claim is invalid or the claim does not qualify as an
114 eligible claim under this section, the review officer's determination shall be final and

115 binding on the provider and such provider shall have no right to appeal such
116 determination. If all or part of the claim is found by the review officer to be valid and
117 eligible for setoff under this section, the review officer shall notify the provider and the
118 patient of such fact. Such notice shall:

119 (1) Inform the patient that the patient has the right to appeal the review officer's
120 determination by filing an appeal with the appeals committee;

121 (2) State the time limit and procedure for requesting such an appeal; and

122 (3) State that failure to request the appeal within thirty days following receipt of
123 the notice required under this subsection shall result in submission of the claim to the claim
124 clearinghouse for setoff of the debt by the department.

125 4. Upon receipt of the notice required under subsection 3 of this section, any patient
126 seeking an appeal of a determination of a review officer under subsection 4 of this section
127 shall file a written request for such appeal within thirty days following receipt of such
128 notice. An appeal shall be deemed filed when properly addressed and delivered to the
129 United States Postal Service for mailing with postage prepaid. An appeal of a review
130 officer's determination shall be heard by an appeals committee. In an appeal under this
131 section, any issue that has been previously litigated in a court proceeding shall not be
132 considered. A decision made after an appeal under this section shall determine whether
133 a claim is owed to the provider, the amount of the claim, and whether the claim is an
134 eligible claim under this section.

135 5. If the appeals committee finds a claim to be invalid or otherwise ineligible under
136 this section, the decision of the appeals committee shall be final and binding on the
137 provider and may not be appealed by the provider. If all or part of the claim is found by
138 the appeals committee to be valid and eligible for setoff under this section, the appeals
139 committee shall notify the provider and the patient of such fact. Such notice shall:

140 (1) Inform the patient that the patient has the right to challenge the appeals
141 committee determination by notifying the provider that it disagrees with the determination
142 and advising the provider as to the basis of such disagreement;

143 (2) State that the patient must notify the provider of the challenge within ninety
144 days of the patient's receipt of the notice from the appeals committee;

145 (3) Advise the patient that if the patient challenges the appeals committee's
146 determination under this subsection, the provider will not be permitted to setoff the
147 provider's claim against the patient's refund under this section unless and until the
148 provider files suit against the patient in court seeking a determination that the provider's
149 claim is valid regarding the amount of the claim and that the claim is eligible for setoff
150 under this section, and the court determines that the provider's claim is valid, the amount

151 of the provider's claim, and that provider's claim is eligible for setoff under this section;
152 and

153 (4) Advise the patient that if the patient does not challenge the appeal committee's
154 determination under this subsection, the provider will submit the claim to the claim
155 clearinghouse for setoff by the department under this subsection.

156 6. If the provider prevails in the lawsuit filed under subsection 5 of this section, the
157 provider may submit the claim to the claim clearinghouse for setoff by the department
158 under this section. If the patient prevails in the lawsuit filed by the provider under
159 subsection 5 of this section, the provider shall be:

160 (1) Forever barred from submitting the claim to the claim clearinghouse for setoff
161 by the department under this section;

162 (2) Forever barred from taking any other steps to collect the amount of the claim
163 from the patient; and

164 (3) Obligated to reimburse the patient for court costs and attorney's fees associated
165 with the lawsuit filed under subsection 5 of this section.

166 7. Any provider may submit a claim to the claim clearinghouse for review. In
167 connection with its submission of a claim to the claim clearinghouse, the provider,
168 whenever possible, shall provide the claim clearinghouse with the patient's full name,
169 Social Security number, address, and any other identifying information that the
170 department advises the claim clearinghouse is necessary for the department to setoff the
171 claim under this section. The provider shall also provide the claim clearinghouse with
172 information demonstrating the provider's compliance with the requirements of this section
173 with respect to the claim.

174 8. If the claim clearinghouse receives sufficient evidence that a provider has fully
175 complied with the requirements of this section and finds the claim valid, the claim shall be
176 deemed eligible for setoff by the department under this section and shall be forwarded to
177 the department. In connection with its submission of the claim to the department, the
178 claim clearinghouse, whenever possible, shall provide the department with the patient's full
179 name, Social Security number, address, and any other identifying information that the
180 department advises the claim clearinghouse is necessary for the department to setoff the
181 claim under this section.

182 9. If the claim clearinghouse determines that the provider has failed to comply with
183 any applicable requirements in this section or that the claim is not valid, the claim
184 clearinghouse shall return the claim to the provider.

185 10. If the department determines that a patient identified by a provider in an
186 eligible claim filed with the department is entitled to a refund, the department shall notify

187 the claim clearinghouse that a refund is available for setoff and the amount of such refund,
188 and whether the refund results from a joint or combined return. Notwithstanding any
189 provision of section 32.057 and any other confidentiality statute of this state to the
190 contrary, the department may provide the claim clearinghouse with all information
191 necessary to accomplish and carry out the provisions of this section and section 143.789,
192 but shall not provide the claim clearinghouse with any information whose disclosure is
193 prohibited by Section 6103(d) of the Internal Revenue Code of 1986, as amended. The
194 information obtained by the claim clearinghouse from the department in accordance with
195 this section and section 143.789 shall retain its confidentiality and shall only be used by the
196 claim clearinghouse for the purpose described in this section and section 143.789.

197 11. (1) At that time, the department shall also notify the patient by regular mail
198 that setoff against the patient's tax refund has been authorized under this section. The
199 notice shall include the following information:

200 (a) The amount of the eligible claim and the name of the provider seeking setoff;

201 (b) That a setoff to the patient's refund against the eligible claim has been
202 performed; and

203 (c) Any amount of the refund remaining after the offset of the eligible claim.

204 (2) In the case of a joint or combined return, the notice shall also state the name of
205 the nonobligated taxpayer named in the return, if any, against whom no claim is asserted,
206 the fact that no claim is asserted against such taxpayer, and the fact that such taxpayer is
207 entitled to receive a refund if it is due the taxpayer regardless of the claim asserted against
208 the taxpayer's spouse. In order to obtain the refund due the taxpayer, the taxpayer shall
209 apply in writing for an apportionment of the refund with the department within thirty
210 days of the date of receipt of the notice unless, in anticipation of the setoff of the taxpayer's
211 spouse's refund, such nonobligated taxpayer provided the department with a request for
212 apportionment of the anticipated refund which was filed at the same time the original tax
213 return was filed, in which case the department shall determine the apportionment of the
214 refund and forward the determination of apportionment and the nonobligated taxpayer's
215 portion of the refund to the nonobligated taxpayer within fifteen working days of the
216 transfer of the obligated taxpayer's portion of the refund to the claim clearinghouse.
217 Unless a request for apportionment of the anticipated refund was provided to the
218 department as provided in this section, within ninety days after the filing of such
219 taxpayer's application for apportionment of the refund with the department a
220 determination of apportionment shall be mailed to the nonobligated taxpayer by the
221 department. The apportionment of the refund shall be final upon the expiration of thirty
222 days from the date on which the determination of apportionment is mailed to the

223 nonobligated taxpayer unless, within such thirty-day period, the nonobligated taxpayer
224 applies in writing for a hearing with the department.

225 **12. The department shall then pay to the claim clearinghouse the amount that the**
226 **department has setoff for such provider, which shall include the collection assistance**
227 **allocable to the claim clearinghouse. In the event the department is unable to setoff the**
228 **entire eligible claim and collection assistance fee under this section, the setoff of the**
229 **collection assistance fee shall have priority over the setoff of the eligible claim. If, after the**
230 **department has paid to the claim clearinghouse the amount that the department has setoff**
231 **for the provider, the provider is found not to have complied with any applicable**
232 **requirement of this section, the provider shall send to the patient the entire amount of the**
233 **claim offset by the department for the provider plus an amount equal to the collection**
234 **assistance fee.**

235 **13. In addition to refunds, lottery prize payouts made under section 313.321 shall**
236 **be subject to the setoff procedures established in this section.**

237 **14. The director of the department of revenue and the director of the department of**
238 **health and senior services shall promulgate rules and regulations necessary to administer the**
239 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
240 **536.010, that is created under the authority delegated in this section shall become effective only**
241 **if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section**
242 **536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the**
243 **general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**
244 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
245 **and any rule proposed or adopted after August 28, 2007, shall be invalid and void.**

190.015. 1. Whenever the creation of an ambulance district is desired, a number of
2 voters residing in the proposed district equal to ten percent of the vote cast for governor in the
3 proposed district in the next preceding gubernatorial election may file with the county clerk in
4 which the territory or the greater part thereof is situated a petition requesting the creation thereof.
5 In case the proposed district is situated in two or more counties, the petition shall be filed in the
6 office of the county clerk of the county in which the greater part of the area is situated, and the
7 commissioners of the county commission of the county shall set the petition for public hearing.
8 The petition shall set forth:

- 9 (1) A description of the territory to be embraced in the proposed district;
- 10 (2) The names of the municipalities located within the area;
- 11 (3) The name of the proposed district;
- 12 (4) The population of the district which shall not be less than two thousand inhabitants;

13 (5) The assessed valuation of the area, which shall not be less than ten million dollars;
14 and

15 (6) A request that the question be submitted to the voters residing within the limits of
16 the proposed ambulance district whether they will establish an ambulance district pursuant to the
17 provisions of sections 190.001 to 190.090 to be known as "..... Ambulance District" for the
18 purpose of establishing and maintaining an ambulance service.

19 2. In any county with a charter form of government and with more than one million
20 inhabitants, fire protection districts created under chapter 321 may choose to create an ambulance
21 district with boundaries congruent with each participating fire protection district's existing
22 boundaries provided no ambulance district already exists in whole or part of any district being
23 proposed and the dominant provider of ambulance services within the proposed district as of
24 September 1, 2005, ceases to offer or provide ambulance services, and the board of each
25 participating district, by a majority vote, approves the formation of such a district and
26 participating fire protection districts are contiguous. Upon approval by the fire protection district
27 boards, subsection 1 of this section shall be followed for formation of the ambulance district.
28 Services provided by a district under this subsection shall only include emergency ambulance
29 services as defined in section 321.225.

30 **3. Except in any county with a charter form of government and with more than one**
31 **million inhabitants, any ambulance district established under this chapter on or after**
32 **August 28, 2011, may levy and impose a sales tax in lieu of a property tax to fund the**
33 **district. The petition to create the ambulance district shall state whether the district will**
34 **be funded by a property or a sales tax.**

190.035. Each notice shall state briefly the purpose of the election, setting forth the
2 proposition to be voted upon and a description of the territory. The notice shall further state that
3 any district upon its establishment shall have the powers, objects and purposes provided by
4 sections 190.005 to 190.085, and shall have the power to levy a property tax not to exceed thirty
5 cents on the one hundred dollars valuation, **or, in lieu of a property tax, to impose a sales tax**
6 **in an amount not to exceed one-half of one percent on all retail sales made in such**
7 **ambulance district which are subject to taxation pursuant to the provisions of sections**
8 **144.010 to 144.525.**

190.040. **1. For the organization of a district which shall levy a property tax, the**
2 question shall be submitted in substantially the following form:

3 Shall there be organized in the counties of, state of Missouri, an ambulance district
4 for the establishment and operation of an ambulance service to be located within the boundaries
5 of said proposed district and having the power to impose a property tax not to exceed the annual
6 rate of thirty cents on the hundred dollars assessed valuation without voter approval, and such

7 additional tax as may be approved hereafter by vote thereon, to be known as "..... Ambulance
8 District" as prayed for by petition filed with the county clerk of County, Missouri, on the
9 day of, 20....?

10 **2. For the organization of a district which shall levy a sales tax, the question shall**
11 **be submitted in substantially the following form:**

12 **Shall there be organized in the counties of, state of Missouri, an ambulance**
13 **district for the establishment and operation of an ambulance service to be located within**
14 **the boundaries of said district and having the power to impose a sales tax in an amount not**
15 **to exceed one-half of one percent without voter approval, and such additional tax as may**
16 **be approved hereafter by vote thereon, to be known as "..... Ambulance District" as**
17 **prayed for by petition filed with the county clerk of County, Missouri, on the**
18 **day of, 20....?**

19 **3. If a majority of the votes cast on the proposal by the qualified voters voting**
20 **thereon are in favor of the proposal, then the sales tax authorized in this section shall be**
21 **in effect and the governing body of the ambulance district shall lower the level of its tax**
22 **rate by an amount which reduces property tax revenues by an amount equal to fifty**
23 **percent of the amount of sales tax collected in the preceding year. If a majority of the votes**
24 **cast by the qualified voters voting are opposed to the proposal, then the governing body**
25 **of the ambulance district shall not impose the sales tax authorized in this section unless and**
26 **until the governing body of such ambulance district resubmits a proposal to authorize the**
27 **governing body of the ambulance district to impose the sales tax authorized by this section**
28 **and such proposal is approved by a majority of the qualified voters voting thereon.**

29 **4. All revenue received by a district from the tax authorized pursuant to this section**
30 **shall be deposited in a special trust fund, and be used solely for the purposes specified in**
31 **the proposal submitted pursuant to this section for so long as the tax shall remain in effect.**

32 **5. All sales taxes collected by the director of revenue pursuant to this section, less**
33 **one percent for cost of collection, which shall be deposited in the state's general revenue**
34 **fund after payment of premiums for surety bonds as provided in section 32.087, shall be**
35 **deposited in a special trust fund, which is hereby created, to be known as the "Ambulance**
36 **District Sales Tax Trust Fund". The moneys in the ambulance district sales tax trust fund**
37 **shall not be deemed to be state funds and shall not be commingled with any funds of the**
38 **state. The director of revenue shall keep accurate records of the amount of money in the**
39 **trust and the amount collected in each district imposing a sales tax pursuant to this section,**
40 **and the records shall be open to inspection by officers of the county and to the public. Not**
41 **later than the tenth day of each month, the director of revenue shall distribute all moneys**
42 **deposited in the trust fund during the preceding month to the governing body of the**

43 district which levied the tax. Such funds shall be deposited with the board treasurer of
44 each such district.

45 **6. The director of revenue may make refunds from the amounts in the trust fund**
46 **and credit any district for erroneous payments and overpayments made, and may redeem**
47 **dishonored checks and drafts deposited to the credit of such district. If any district**
48 **abolishes the tax, the district shall notify the director of revenue of the action at least ninety**
49 **days prior to the effective date of the repeal and the director of revenue may order**
50 **retention in the trust fund, for a period of one year, of two percent of the amount collected**
51 **after receipt of such notice to cover possible refunds or overpayment of the tax and to**
52 **redeem dishonored checks and drafts deposited to the credit of such accounts. After one**
53 **year has elapsed after the effective date of abolition of the tax in such district, the director**
54 **of revenue shall remit the balance in the account to the district and close the account of**
55 **that district. The director of revenue shall notify each district of each instance of any**
56 **amount refunded or any check redeemed from receipts due the district.**

57 **7. Except as modified in this section, all provisions of sections 32.085 and 32.087**
58 **shall apply to the tax imposed pursuant to this section.**

190.056. 1. Each member of an ambulance district board of directors shall be
2 **subject to recall from office by the registered voters of the election district from which he**
3 **or she was elected. Proceedings may be commenced for the recall of any such member by**
4 **the filing of a notice of intention to circulate a recall petition under this section.**

5 **2. Proceedings may not be commenced against any member if, at the time of**
6 **commencement, such member:**

7 **(1) Has not held office during his or her current term for a period of more than one**
8 **hundred eighty days; or**

9 **(2) Has one hundred eighty days or less remaining in his or her term; or**

10 **(3) Has had a recall election determined in his or her favor within the current term**
11 **of office.**

12 **3. The notice of intention to circulate a recall petition shall be served personally,**
13 **or by certified mail, on the board member sought to be recalled. A copy thereof shall be**
14 **filed, along with an affidavit of the time and manner of service, with the election authority,**
15 **as defined in chapter 115. A separate notice shall be filed for each board member sought**
16 **to be recalled and shall contain all of the following:**

17 **(1) The name of the board member sought to be recalled;**

18 **(2) A statement, not exceeding two hundred words in length, of the reasons for the**
19 **proposed recall; and**

20 **(3) The names and business or residential addresses of at least one but not more**
21 **than five proponents of the recall.**

22 **4. Within seven days after the filing of the notice of intention, the board member**
23 **may file with the election authority a statement, not exceeding two hundred words in**
24 **length, in answer to the statement of the proponents. If an answer is filed, the board**
25 **member shall also serve a copy of it, personally or by certified mail, on one of the**
26 **proponents named in the notice of intention. The statement and answer are intended solely**
27 **to be used for the information of the voters. No insufficiency in form or substance of such**
28 **statements shall affect the validity of the election proceedings.**

29 **5. Before any signature may be affixed to a recall petition, the petition is required**
30 **to bear all of the following:**

31 **(1) A request that an election be called to elect a successor to the board member;**

32 **(2) A copy of the notice of intention, including the statement of grounds for recall;**

33 **(3) The answer of the board member sought to be recalled, if any exists. If the**
34 **board member has not answered, the petition shall so state; and**

35 **(4) A place for each signer to affix his or her signature, printed name and**
36 **residential address, including any address in a city, town, village, or unincorporated**
37 **community.**

38 **6. Each section of the petition, when submitted to the election authority, shall have**
39 **attached to it an affidavit signed by the person circulating such section, setting forth all of**
40 **the following:**

41 **(1) The printed name of the affiant;**

42 **(2) The residential address of the affiant;**

43 **(3) That the affiant circulated that section and saw the appended signatures be**
44 **written;**

45 **(4) That according to the best information and belief of the affiant, each signature**
46 **is the genuine signature of the person whose name it purports to be;**

47 **(5) That the affiant is a registered voter of the election district of the board member**
48 **sought to be recalled; and**

49 **(6) The dates between which all the signatures to the petition were obtained.**

50 **7. A recall petition shall be filed with the election authority not more than one**
51 **hundred eighty days after the filing of the notice of intention.**

52 **8. The number of qualified signatures required in order to recall a board member**
53 **shall be equal in number to at least twenty-five percent of the number of voters who voted**
54 **in the most recent gubernatorial election in such election district.**

55 **9. Within twenty days from the filing of the recall petition the election authority**
56 **shall determine whether or not the petition was signed by the required number of qualified**
57 **signatures. The election authority shall file with the petition a certificate showing the**
58 **results of the examination. The election authority shall give the proponents a copy of the**
59 **certificate upon their request.**

60 **10. If the election authority certifies the petition to be insufficient, it may be**
61 **supplemented within ten days of the date of certification by filing additional petition**
62 **sections containing all of the information required by this section. Within ten days after**
63 **the supplemental copies are filed, the election authority shall file with them a certificate**
64 **stating whether or not the petition as supplemented is sufficient.**

65 **11. If the certificate shows that the petition as supplemented is insufficient, no**
66 **action shall be taken on it; however, the petition shall remain on file.**

67 **12. If the election authority finds the signatures on the petition, together with the**
68 **supplementary petition sections, if any, to be sufficient, it shall submit its certificate as to**
69 **the sufficiency of the petition to the ambulance district board of directors prior to its next**
70 **meeting. The certificate shall contain:**

71 **(1) The name of the member whose recall is sought;**

72 **(2) The number of signatures required by law;**

73 **(3) The total number of signatures on the petition; and**

74 **(4) The number of valid signatures on the petition.**

75 **13. Following the ambulance district board's receipt of the certificate, the election**
76 **authority shall order an election to be held on one of the election days specified in section**
77 **115.123. The election shall be held not less than forty-five days but not more than one**
78 **hundred twenty days from the date the ambulance district board receives the petition.**
79 **Nominations for board membership openings under this section shall be made by filing a**
80 **statement of candidacy with the election authority.**

81 **14. At any time prior to forty-two days before the election, the member sought to**
82 **be recalled may offer his or her resignation. If his or her resignation is offered, the recall**
83 **question shall be removed from the ballot and the office declared vacant. The member**
84 **who resigned shall not fill the vacancy, which shall be filled as otherwise provided by law.**

85 **15. The provisions of chapter 115 governing the conduct of elections shall apply,**
86 **where appropriate, to recall elections held under this section. The costs of the election shall**
87 **be paid as provided in chapter 115.**

321.120. 1. The decree of incorporation shall not become final and conclusive until it
2 has been submitted to an election of the voters residing within the boundaries described in such
3 decree, and until it has been assented to by a majority vote of the voters of the district voting on

4 the question. The decree shall also provide for the holding of the election to vote on the
5 proposition of incorporating the district, and to select three or five persons to act as the first
6 board of directors, and shall fix the date for holding the election.

7 2. The question shall be submitted in substantially the following form:

8 Shall there be incorporated a fire protection district?

9 G YES G NO

10 3. The proposition of electing the first board of directors or the election of subsequent
11 directors may be submitted on a separate ballot or on the same ballot which contains any other
12 proposition of the fire protection district. The ballot to be used for the election of a director or
13 directors shall be substantially in the following form:

14 OFFICIAL BALLOT Instruction to voters:

15 Place a cross (X) mark in the square opposite the name of the candidate or candidates you
16 favor. (Here state the number of directors to be elected and their term of office.) ELECTION

17 (Here insert name of district.) Fire Protection District. (Here insert date of election.) FOR

18 BOARD OF DIRECTORS

19 G

20 G

21 G

22 4. If a majority of the voters voting on the proposition or propositions voted in favor of
23 the proposition to incorporate the district, then the court shall enter its further order declaring the
24 decree of incorporation to be final and conclusive. In the event, however, that the court finds that
25 a majority of the voters voting thereon voted against the proposition to incorporate the district,
26 then the court shall enter its further order declaring the decree of incorporation to be void and
27 of no effect. If the court enters an order declaring the decree of incorporation to be final and
28 conclusive, it shall at the same time designate the first board of directors of the district who have
29 been elected by the voters voting thereon. If a board of three members is elected, the person
30 receiving the third highest number of votes shall hold office for a term of two years, the person
31 receiving the second highest number of votes shall hold office for a term of four years, and the
32 person receiving the highest number of votes shall hold office for a term of six years from the
33 date of the election of the first board of directors and until their successors are duly elected and
34 qualified. If a board of five members is elected, the person who received the highest number of
35 votes shall hold office for a term of six years, the persons who received the second and third
36 highest numbers of votes shall hold office for terms of four years and the persons who received
37 the fourth and fifth highest numbers of votes shall hold office for terms of two years and until
38 their successors are duly elected and qualified. Thereafter, members of the board shall be elected
39 to serve terms of six years and until their successors are duly elected and qualified[, provided

40 however, in any county with a charter form of government and with more than two hundred fifty
 41 thousand but fewer than three hundred fifty thousand inhabitants, any successor elected and
 42 qualified in the year 2005 shall hold office for a term of six years and until his or her successor
 43 is duly elected and qualified and any successor elected and qualified in the year 2006 or 2007
 44 shall hold office for a term of five years and until his or her successor is duly elected and
 45 qualified, and thereafter, members of the board shall be elected to serve terms of four years and
 46 until their successors are duly elected and qualified]. The court shall at the same time enter an
 47 order of record declaring the result of the election on the proposition, if any, to incur bonded
 48 indebtedness.

49 5. Notwithstanding the provisions of subsections 1 to 4 of this section to the contrary,
 50 upon a motion by the board of directors in districts where there are three-member boards, and
 51 upon approval by the voters in the district, the number of directors may be increased to five,
 52 except that in any county of the first classification with a population of more than nine hundred
 53 thousand inhabitants such increase in the number of directors shall apply only in the event of a
 54 consolidation of existing districts. The ballot to be used for the approval of the voters to increase
 55 the number of members on the board of directors of the fire protection district shall be
 56 substantially in the following form:

57 Shall the number of members of the board of directors of the (Insert
 58 name of district) Fire Protection District be increased to five members?

59 G YES G NO

60

61 If a majority of the voters voting on the proposition vote in favor of the proposition then at the
 62 next election of board members after the voters vote to increase the number of directors, the
 63 voters shall select two persons to act in addition to the existing three directors as the board of
 64 directors. The court which entered the order declaring the decree of incorporation to be final
 65 shall designate the additional board of directors who have been elected by the voters voting
 66 thereon as follows: the one receiving the second highest number of votes to hold office for a
 67 term of four years, and the one receiving the highest number of votes to hold office for a term
 68 of six years from the date of the election of such additional board of directors and until their
 69 successors are duly elected and qualified. Thereafter, members of the board shall be elected to
 70 serve terms of six years and until their successors are duly elected and qualified[, provided
 71 however, in any county with a charter form of government and with more than two hundred fifty
 72 thousand but fewer than three hundred fifty thousand inhabitants, any successor elected and
 73 qualified in the year 2005 shall hold office for a term of six years and until his or her successor
 74 is duly elected and qualified and any successor elected and qualified in the year 2006 or 2007
 75 shall hold office for a term of five years and until his or her successor is duly elected and

76 qualified, and thereafter, members of the board shall be elected to serve terms of four years and
77 until their successors are duly elected and qualified].

78 6. Members of the board of directors in office on the date of an election pursuant to
79 subsection 5 of this section to elect additional members to the board of directors shall serve the
80 term to which they were elected or appointed and until their successors are elected and qualified.

T