

## Revisiting the Recall: Supporters say it's justified any time; opponents say it's being misused

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Mary Fontes (left) and Rosemarie Murch process the Pearce Recall petitions in the Arizona Secretary of State's Office. The petitions have since been turned over to the Maricopa County Recorder's Office for validation. (Photo by Evan Wyloge/Arizona Capitol Times)

The right to use recall elections that Arizona fought for so vigorously during its quest for statehood has rarely been used in the past 100 years, but a flurry of recent attempts to oust elected officials from office has some questioning whether the process is being abused.

Activists pulled a recall petition against Senate President Russell Pearce just months after he was re-elected by a 22-point margin. Others sought to recall Gov. Jan Brewer not long after her 12-point win in November. In both cases, recall organizers targeted the officials over actions and political views that were well known to the voters who put them in office.

If Pearce's foes are victorious, the illegal immigration firebrand would be only the third state-level official subjected to a recall campaign and only the second to ever be removed from office through Arizona's cherished recall process according to political historians. The official who lost a recall election was Pinal County Judge Stephen Abbey in 1924.

While some question the wisdom of trying to recall a legislator whose popularity in his west Mesa district has historically been strong, others question whether the recall organizers are misusing a process they say was intended for only the most grievous offenses.

"Recalls should be reserved for egregious behavior. And sponsoring legislation that is overwhelmingly popular doesn't qualify as egregious," said Pearce ally Rep. John Kavanagh. The legislation the Fountain Hills Republican referred to is the controversial-but-popular illegal immigration bill SB1070.

"The recalls against Senator (Jon) Kyl and Governor Brewer were jokes. They only continued because the media covered them and gave the organizers what they wanted — a cheap shot at in-office politicians."

One reason for the recalls, he said, was to distract officeholders and force them to drain their campaign accounts fighting the recall.

In 2011 alone, activists have taken out recall petitions against Brewer, Pearce, Phoenix City Councilman Sal DiCiccio, Pima County Sheriff Clarence Dupnik, Rep. Carl Seel and U.S. Sen. Jon Kyl, who can't actually be recalled because he is a federal officeholder. During the 2010 election

cycle, foes of then-Rep. Rich Crandall, U.S. Rep. Gabrielle Giffords and U.S. Sen. John McCain took out recall petitions as well but never gathered enough signatures.

Republican lobbyist Kurt Davis said the right to recall elected officials should be used judiciously. But people more often use them to generate negative news coverage about politicians they disagree with, he said.

"Quite frankly, you have some people simply using it as a political weapon, as opposed to what it was actually intended for by our founders. You have people who simply pull recall petitions to get the bad story on somebody they may disagree with," Davis said. "It's become, in some sense, a political joke."

And Democratic lobbyist Mario Diaz, who served as chief of staff to former Gov. Janet Napolitano, said voters' wishes should be respected. If voters in LD18 wanted to get rid of Pearce, he said, they would have done so in November.

"The election is on Election Day, and that's when the changes can be made," said Diaz, of the firm Mario Diaz & Associates.

But others reject the notion that a recall is only justified if an elected official's behavior rises to the level of malfeasance or criminality.

Ed Buck, the businessman who led the recall effort against former Gov. Evan Mecham in 1987, said he isn't convinced by the "nothing-has-changed" arguments against the Pearce recall. (See sidebar, page 4) There's no legal or moral threshold for what qualifies an elected official for recall, Buck said, nor should there be.

"(State law) says a person may be recalled for any reason or no reason whatsoever," said Buck, who now lives in California. "If they are just unhappy with him, that's enough. It's not like an indictment. We don't have to say, 'He's broken this law.' All we have to say is that we have buyer's remorse."

Longtime Democratic operative George Cunningham said recall elections are simply another layer of accountability for elected officials.

If an official commits a crime, he said, the courts can deal with it. But if an official lies to the public, betrays the public's wishes or commits some other type of non-criminal transgression, voters can make their voices heard.

"If someone commits malfeasance or misfeasance in office, there are other branches of government that can deal with that," said Cunningham, who served in the administrations of former Govs. Rose Mofford and Janet Napolitano. "That shouldn't be the only place where a recall is valid."

Brewer recall organizer Tommi "Mimi" Pryor said she tried to oust the governor over her efforts to cut about 280,000 people from Arizona's Medicaid program and her refusal to reinstate organ transplant coverage that she cut in 2010. Both positions were highly publicized by Democrats during the campaign.

But when nothing changed, Pryor said she wanted to bring attention to those issues with a recall. She believes that negative attention it generated helped persuade Brewer to reinstate the transplant coverage and scale back her proposal to cut Medicaid.

"There are many reasons for running a recall," Pryor said. "As with any election, as with any initiative, as with any referendum, as with any bill that might be introduced in the Legislature, oftentimes you're able to create awareness for issues."

Pryor said she was not discouraged that voter support for Brewer did not appear to diminish by the time she pulled her recall petition. "I don't see why that matters. It's better to light a candle than curse the darkness," she said.

In the case of Pearce, recall organizer Randy Parraz disagreed with the assertion that nothing had changed since the election last year that would diminish public support for Pearce in his heavily Republican district. Pearce's ascension to Senate president was the game-changer that convinced Parraz to push for a recall. The decision to recall Pearce was less about his views, Parraz said, and more about how they influence his leadership of the Senate.

"We felt (Pearce) was not going to be able to act in the best interest of Arizona, given his own political agenda. And he's shown that to be true," Parraz said.

Pearce also became embroiled in the Fiesta Bowl scandal after it came to light that he accepted a number of trips to college football games across the country and failed to disclose gifts he received from the bowl.

But while Parraz said he found a great deal of support for the Pearce recall and helped register new voters who signed the petitions, he acknowledged that he didn't talk to any pro-Pearce voters who changed their minds about him when he was elevated to the Senate leadership.

No statewide officials or legislators have ever been successfully recalled in Arizona and the attempts to do so have been few and far between, but they are fairly common at the municipal level. Tom Belsche, deputy director of the League of Arizona Cities and Towns, said recalls are more frequent at that level because cities have a greater connection to voters through the many services they provide, and there are usually fewer signatures to collect.

"It can be as low as 30 to 40 signatures in order to cause a recall to happen. That's a couple hours work for someone with a petition at a post office," Belsche said.

The League of Arizona Cities and Towns does not keep records on the number or success rate of municipal recalls.

One reason it is more challenging to mount recall efforts against legislators is their relative anonymity, despite holding higher office. Movements to recall officials are bolstered if voters knew who the official is, as well as what he has done to inspire the push to remove him from office.

Legislators are usually more anonymous than city council members and mayors. According to the National Conference of State Legislatures (NCSL), only 20 state legislators have been subjected to recall since 1913, and only 13 lost their seats. Cunningham, a former legislator, estimated that less than a third of his constituents knew who he was when he was in office.