

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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Legislative Document

No. 1911

H.P. 1402

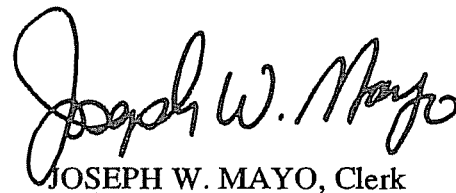
House of Representatives, February 18, 1994

**RESOLUTION, Proposing an Amendment to the Constitution of Maine  
to Provide for the Recall of Persons Holding Elective Civil Offices.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.  
Reference to the Committee on State and Local Government suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative LEMKE of Westbrook.  
Cosponsored by Senator HANDY of Androscoggin and  
Representatives: ADAMS of Portland, AHEARNE of Madawaska, CARROLL of Gray,  
COFFMAN of Old Town, DEXTER of Kingfield, GOULD of Greenville, GRAY of Sedgwick,  
JACQUES of Waterville, MICHAEL of Auburn, MORRISON of Bangor, POULIOT of  
Lewiston, RAND of Portland, TRACY of Rome, Senators: CONLEY of Cumberland, LUTHER  
of Oxford.

2 **Constitutional amendment. RESOLVED:** Two thirds of each  
branch of the Legislature concurring, that the following  
4 amendment to the Constitution of Maine be proposed:

6 **Constitution, Art. IX, §5-A** is enacted to read:

8 Section 5-A. Removal by recall. Every person holding any  
elective civil office under this State is subject to recall and  
10 discharge by the legal voters of the State or of the political  
subdivision of the State from which that person was elected  
pursuant to the following procedures.

12 A petition demanding recall and reciting that the officer  
14 has committed some act or acts of malfeasance or misfeasance  
16 while in office, or has violated the oath of office, and  
18 describing those acts in 200 words or less must be signed by a  
number of voters qualified to vote in the recall election at  
least equal to 35% of the number of votes cast for all candidates  
for that person's office at the preceding election.

20 This petition must be filed with the officer with whom a  
22 petition for nomination to such office must be filed under the  
24 laws of this State and such officer shall verify the signatures  
and call a special election if required.

26 The ballot at the election must describe in not more than  
28 200 words the reasons for demanding the recall of the officer, as  
set forth in the recall petition, and must set forth in not more  
30 than 200 words the officer's justification for the actions  
complained of in the petition.

32 The Legislature shall provide such other procedures as will  
34 facilitate the implementation of this section.

36 ; and be it further

38 **Constitutional referendum procedure; form of question; effective**  
40 **date. Resolved:** That the municipal officers of this State shall  
42 notify the inhabitants of their respective cities, towns and  
plantations to meet, in the manner prescribed by law for holding  
44 a general election, at the next general election in the month of  
November following passage of this resolution, to vote upon the  
46 ratification of the amendment proposed in this resolution by  
voting upon the following question:

48 "Do you favor amending the Constitution of Maine as proposed  
by a resolution of the Legislature to provide for the recall  
50 and discharge of persons holding elective civil office for

2 commission of acts of misfeasance or malfeasance while in  
office or violation of oath of office upon the petition of a  
4 number of voters qualified to vote in the recall election at  
least equal to 35% of the number of votes cast for all  
6 candidates for that office in the preceding election?"

8 The legal voters of each city, town and plantation shall  
vote by ballot on this question and designate their choice by a  
10 cross or check mark placed within the corresponding square below  
the word "Yes" or "No." The ballots must be received, sorted,  
12 counted and declared in open ward, town and plantation meetings  
and returns made to the Secretary of State in the same manner as  
14 votes for members of the Legislature. The Governor shall review  
the returns and, if it appears that a majority of the legal votes  
16 are cast in favor of the amendment, the Governor shall proclaim  
that fact without delay and the amendment becomes part of the  
18 Constitution on the date of the proclamation; and be it further

20 **Secretary of State shall prepare ballots. Resolved:** That the  
Secretary of State shall prepare and furnish to each city, town  
and plantation all ballots, returns and copies of this resolution  
22 necessary to carry out the purpose of this referendum.

#### 24 STATEMENT OF FACT

26 This constitutional resolution provides for citizen recall  
28 of elected officials for misfeasance, malfeasance or violation of  
oath while in office on the petition of qualified voters equal to  
30 35% of the total number of votes cast for that office in the  
preceding election. The provision for the recall of elective  
32 officials and the procedures set forth for its implementation are  
based on similar constitutional provisions in other states.