

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 525

H.P. 394

House of Representatives, January 19, 1999

An Act to Establish Recall Provisions for Elected County and Municipal Officials.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GOODWIN of Pembroke.
Cosponsored by Representatives: DUGAY of Cherryfield, GILLIS of Danforth, JACOBS of Turner, MENDROS of Lewiston, SHOREY of Calais, SNOWE-MELLO of Poland, STANLEY of Medway.

Be it enacted by the People of the State of Maine as follows:

2
4 Sec. 1. 30-A MRSA §9 is enacted to read:

6 §9. Recall of county officers

8 The qualified electors of any county may petition for the
10 recall of any elected county officer by filing a petition with
12 the county clerk or county administrator demanding the recall of
the elected official, except that counties that have adopted
charters that include a recall process are exempt from the
provisions of this section.

14 1. Reasons for recall; petitions for recall. An elected
16 official may be subject to recall for misfeasance, malfeasance or
18 nonfeasance in office. The petition must be signed by a number of
20 electors of the political subdivision represented by that elected
22 official equal to at least 15% of the vote cast during the last
regular county commissioner election within that political
subdivision. The recall petition must state the reason for which
removal is sought.

24 2. Sufficiency of petitions; calling of recall elections;
26 notification. Within 3 days after the petition is offered for
28 filing, the clerk or administrator with whom the petition is left
30 shall determine by careful examination whether the petition is
32 sufficient and so state in a certificate attached to the
34 petition. If the petition is found to be insufficient, the
36 certificate must state the particulars creating the
38 insufficiency. The petition may be amended to correct any
40 insufficiency within 5 days following the affixing of the
42 original certificate. Within 2 days after the offering of the
amended petition for filing, it must again be carefully examined
to determine sufficiency and a certificate stating the findings
must be attached. Immediately upon finding an original or amended
petition sufficient, the clerk or administrator with whom the
petition is left shall file the petition with the county
commissioners. The commissioners shall call a special recall
election to be held not less than 30 days nor more than 35 days
from the filing date. The elected county official against whom
the recall petition is filed must be notified of the special
election within 24 hours of the calling of the special election.

44 3. Form of ballot. Unless the county officer whose removal
46 is sought has resigned before the receipt by the county
48 commissioners of the certificate of sufficiency, a recall
50 election must be held. The form of the ballot at such election
must follow the format: "Shall (name of county official) be
recalled?" If a majority of those voting on this question votes
in favor of the recall, that official is removed and the county
commissioners shall order an election to fill the vacancy.

2 4. Procedure on refusal to call vote on recall. Failure by
4 the county commissioners to call an election required under
6 subsection 3 within 10 days of the filing of the recall petition
 is deemed to be a final agency action that may be appealed under
 Title 5, chapter 375, subchapter VII.

8 5. Limit on recall attempts. After one recall petition and
10 recall election, a further recall petition may not be filed
12 against the same official for the same reason during the term for
 which the official was elected.

14 Sec. 2. 30-A MRS §2505 is enacted to read:

16 §2505. Recall of elected officials

18 The qualified electors of any municipality may petition for
20 the recall of any elected official by filing a petition with the
22 municipal clerk demanding the recall of the elected official,
 except that municipalities that have adopted a charter that
 includes a recall process are exempt from the provisions of this
 section.

24 1. Reasons for recall; petitions for recall. An elected
26 official may be subject to recall for misfeasance, malfeasance or
28 nonfeasance in office. The petition must be signed by a number of
30 electors of the political subdivision represented by that elected
 official equal to at least 15% of the vote cast during the last
 regular municipal election within that political subdivision. The
 recall petition must state the reason for which removal is sought.

32 2. Sufficiency of petitions; calling of recall elections;
34 notification. Within 3 days after the petition is offered for
36 filing, the clerk with whom the petition is left shall determine
38 by careful examination whether the petition is sufficient and so
40 state in a certificate attached to the petition. If the petition
42 is found to be insufficient, the certificate must state the
44 particulars creating the insufficiency. The petition may be
46 amended to correct any insufficiency within 5 days following the
48 affixing of the original certificate. Within 2 days after the
50 offering of the amended petition for filing, it must again be
 carefully examined to determine sufficiency and a certificate
 stating the findings must be attached. Immediately upon finding
 an original or amended petition sufficient, the clerk with whom
 the petition is left shall file the petition with the municipal
 council or board. The council or board shall call a special
 recall election to be held not less than 30 days nor more than 35
 days from the filing date. The elected municipal official against
 whom the recall petition is filed must be notified of the special
 election within 24 hours of the calling of the special election.

2 3. Form of ballot. Unless the municipal officer whose
3 removal is sought has resigned before the receipt by the
4 municipal council or board of the certificate of sufficiency, a
5 recall election must be held. The form of the ballot at such
6 election must follow the format: "Shall (name of municipal
7 officer) be recalled?" If a majority of those voting on this
8 question vote in favor of the recall, that official is removed
9 and the municipal council or board shall order an election to
10 fill the vacancy.

11 4. Procedure on refusal to call vote on recall. Failure by
12 the municipal council or board to order an election required
13 under subsection 3 within 10 days of the filing of the recall
14 petition is deemed to be a final agency action that may be
15 appealed under Title 5, chapter 375, subchapter VII.

16 5. Limit on recall attempts. After one recall petition and
17 recall election, a further recall petition may not be filed
18 against the same official for the same reason during the term for
19 which the official was elected.

22 SUMMARY

23 This bill provides voters with the option to petition for
24 the recall of any elected municipal or county official.
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