

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1112

H.P. 767

House of Representatives, March 20, 2009

### **An Act To Establish a Recall Procedure for Elected Officials**

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Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative JOY of Crystal.

Cosponsored by Representatives: AYOTTE of Caswell, GIFFORD of Lincoln, McFADDEN of Dennysville, SAVIELLO of Wilton, THOMAS of Ripley, Senator: SHERMAN of Aroostook.

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

2 **Sec. 1. 21-A MRSA c. 17** is enacted to read:

3 **CHAPTER 17**

4 **RECALL**

5 **§1301. Recall**

6 Every elected official in the State is subject to recall by the voters of the district in  
7 which the official is elected as provided in this chapter. A petition for recall may not be  
8 filed against an elected official until the elected official has actually performed the duties  
9 of the office to which elected for a period of 6 months during the current term of that  
10 office. A petition may not be filed against an elected official during the last 6 months of  
11 the official's term of office. An elected official sought to be recalled shall continue to  
12 perform duties of the office until the result of the recall election is certified.

13 **§1302. Recall petition; number of signatures**

14 A petition to recall an elected official must be signed by a number of voters equal to  
15 not less than 10% of the number of votes cast for candidates for that office at the last  
16 preceding election in the electoral district of the elected official sought to be recalled.

17 **§1303. Recall of senators, representatives, elected state officials or county officials;**  
18 **filing petitions**

19 A petition with the signatures required under section 1302 demanding the recall of a  
20 United States Senator, a Representative to Congress, a State Senator, a State  
21 Representative or a county official except a county commissioner must be filed with the  
22 Secretary of State.

23 **§1304. Recall of elected county commissioner or municipal official; filing petition**

24 A petition with the signatures required under section 1302 demanding the recall of an  
25 elected county commissioner or municipal officer must be filed with the county clerk of  
26 the county in which the largest portion of the registered voters in the electoral district  
27 reside.

28 **§1305. Sufficiency or insufficiency of recall petition; determination; notice; special**  
29 **election**

30 **1. Determination of sufficiency.** Within 35 days after the filing of a recall petition  
31 under this chapter, the filing official with whom the recall petition is filed shall make an  
32 official declaration of the sufficiency or insufficiency of the petition. If the recall petition  
33 is determined to be insufficient, the filing official shall notify the person or organization  
34 sponsoring the recall of the insufficiency of the petition. It is not necessary to give  
35 notification unless the person or organization sponsoring the recall files with the filing  
36 official a written notice of sponsorship and a mailing address.

1            **2. Calling of recall election.** Immediately upon determining pursuant to subsection  
2 1 that a petition is sufficient, but not later than 35 days after the date of filing the petition,  
3 the filing official with whom the petition is filed shall call a recall election to determine  
4 whether the voters will recall the official whose recall is sought. The election must be  
5 held on the next regular election date that is not less than 95 days after the date the  
6 petition is filed.

7            **§1306. Recall election procedure**

8            The procedure governing a recall election under this chapter is the same, so far as  
9 possible and unless otherwise provided in rules adopted implementing this chapter, as  
10 that by which the relevant elected official was elected to office. If the filing official with  
11 whom the petition is filed is not required to give public notice of an election concerning  
12 the office in question, the filing official shall give notice to the official or officials  
13 required by law to give public notice of the election, cause the ballots to be printed,  
14 provide election supplies and do all things necessary to conduct the election in the  
15 manner provided in this chapter. Fewer precinct election officials than the number  
16 otherwise required under the law may be assigned to duty if it appears that the votes to be  
17 cast will not necessitate the number of precinct election officials otherwise so required.

18           **§1307. Recall of elected official; vacancy**

19           After the recall election held pursuant to section 1306, if the results support the recall  
20 of the elected official, the official empowered by law to perform the duties of that  
21 recalled official in the event of that official's absence, death, illness or inability to act  
22 shall perform and discharge the duties of the office vacated until the successor to fill the  
23 vacancy is duly elected and qualified. If the power to fill a vacancy by appointment  
24 exists, the office must be filled in the same manner by temporary appointment until a  
25 successor is duly elected and qualified. If there is no official empowered by law to  
26 perform the duties of the recalled official and there is no existing power to fill the  
27 vacancy by appointment, the Governor may fill the vacancy until the recalled official's  
28 successor is elected and qualified.

29           **§1308. Rulemaking**

30           The Secretary of State shall adopt rules implementing this chapter. Rules adopted  
31 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,  
32 subchapter 2-A.

33           **SUMMARY**

34           This bill establishes a recall procedure for federal, state and local elected officials.