

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1533

H.P. 1125

House of Representatives, May 2, 2011

An Act To Provide for a Method To Remove an Elected Municipal Official

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative SANDERSON of Chelsea.
Cosponsored by Senator THOMAS of Somerset and
Representatives: BLODGETT of Augusta, CLARKE of Bath, COTTA of China, HARVELL
of Farmington, O'CONNOR of Berwick, SIROCKI of Scarborough.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** municipalities conduct official business that must be attended to on a
4 daily basis, mostly by a small group of municipal officials; and

5 **Whereas,** many small municipalities do not have sufficient charters or ordinances to
6 respond timely to misconduct or malfeasance by their municipal officials; and

7 **Whereas,** misconduct or malfeasance by an official in a small municipality that does
8 not have the legal means to address the issue can directly affect the ability of the
9 municipality to conduct its official business, which has a negative effect on the public
10 interest and is of a direct concern to the State; and

11 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
12 the meaning of the Constitution of Maine and require the following legislation as
13 immediately necessary for the preservation of the public peace, health and safety; now,
14 therefore,

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

16 **Sec. 1. 30-A MRSA §2505** is enacted to read:

17 **§2505. Recall of municipal officials**

18 Except as otherwise provided by the municipality's ordinances or charter, an elected
19 official of a municipality may be recalled from office pursuant to this section. For
20 purposes of this section, "official" has the same meaning as section 2604, subsection 2.

21 **1. Petition for recall.** On the written petition pursuant to subsection 5 of a number
22 of voters equal to at least 10% of the number of votes cast in the municipality at the last
23 gubernatorial election, an election must be held to determine the recall of an elected
24 official of that municipality.

25 **2. Notice of intention.** In order to initiate a recall election under subsection 1, the
26 initiator of the petition shall file a notice of intention of recall with the municipal clerk of
27 the municipality. A notice of intention of recall under this subsection must include the
28 name, address and contact information of the person filing the notice and the name and
29 position of the official subject to recall under this section. Only a person registered to
30 vote in the municipality may file a notice of intention of recall under this subsection.

31 **3. Petition forms.** Within 3 business days of receipt of a notice of intention of recall
32 under subsection 2, the municipal clerk shall prepare petition forms for the collection of
33 signatures under subsection 4 and send notice to the initiator of the petition under
34 subsection 2 that the petition forms are available. The municipality may charge the
35 initiator of the petition a reasonable fee for preparing and providing the petition forms
36 under this subsection. A petition form under this subsection must include:

1 A. At the top of the form, the name and position of the official subject to recall, the
2 name and contact information of the initiator of the petition and the date by which the
3 signatures must be submitted to the municipal clerk under subsection 4;

4 B. Spaces for each voter's signature, actual street address and printed name; and

5 C. Space at the bottom of the form for the name, address and signature of the person
6 circulating the petition form.

7 **4. Collection and submission of signatures.** A petition form under subsection 3
8 may be circulated or signed only by a registered voter of the municipality. A circulator of
9 a petition form shall fill in the information required under subsection 3, paragraph C and
10 sign the form prior to submission of the form to the municipal clerk. The initiator of the
11 petition under subsection 2 shall collect the petition forms from all circulators and submit
12 the signed petition forms to the municipal clerk within 14 days of receipt of notice from
13 the clerk that the petition forms are available under subsection 3. A municipal clerk may
14 not accept a petition form submitted more than 14 days after sending notice of availability
15 to the initiator under subsection 3, and any voter signatures on that form are invalid.

16 **5. Petition certification and notification.** Within 7 business days of receiving
17 petition forms under subsection 4, the municipal clerk shall determine whether the
18 petition forms meet the criteria under subsection 4 and certify the validity of any
19 signatures on the petition forms. If the municipal clerk finds that the number of valid
20 signatures submitted under subsection 4 meets or exceeds the requirements under
21 subsection 1, the clerk shall certify the petition and immediately send notification of the
22 certification to the municipal officers, the initiator of the petition and the official subject
23 to the recall. If the municipal clerk finds the number of valid signatures submitted under
24 subsection 4 does not meet the requirements for a petition under subsection 1, the
25 municipal clerk shall file the petition and the petition forms in the clerk's office and notify
26 the initiator of the petition.

27 **6. Scheduling recall election.** Within 10 business days of certification of the
28 petition under subsection 5, the municipal officers shall schedule a recall election to
29 determine whether the official subject to the recall petition should be recalled. The
30 election must be held no less than 45 days nor more than 75 days after certification of the
31 petition under subsection 5 unless a regular municipal election is scheduled to be held
32 within 90 days of the certification of the petition under subsection 5, in which case the
33 recall election must be held on the date of the regular municipal election. If the
34 municipal officers fail to schedule a recall election within 10 days of certification of the
35 recall petition under subsection 5, the municipal clerk shall schedule the recall election
36 pursuant to the date requirements of this subsection.

37 **7. Ballots for recall election.** If the official subject to the recall does not resign
38 from office within 10 business days of certification of the recall petition under subsection
39 5, the ballots for the recall election under subsection 6 must be printed. A ballot for a
40 recall election under this section must read:

41 "Do you authorize the recall of (name of official) from the position of (name of
42 office)?"

43 () Yes () No"

