

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1125

S.P. 375

In Senate, March 23, 2017

An Act To Establish a Recall Procedure for Elected Officials

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

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator CHENETTE of York.
Cosponsored by Representative COOPER of Yarmouth.

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; grounds for 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. Grounds for recall are neglect of
8 duty, misuse of office or incompetence in the performance of duties when that neglect of
9 duty, misuse of office or incompetence in the performance of duties has a material and
10 adverse effect upon the conduct of the office; conviction of a drug-related crime; criminal
11 conduct; corruption; misappropriation of public funds; obstruction of voter-approved
12 initiatives; or violations of ethics laws. A petition for recall may not be filed against an
13 elected official until the elected official has actually performed the duties of the office to
14 which elected for a period of 6 months during the current term of that office. A petition
15 may not be filed against an elected official during the last 6 months of the official's term
16 of office. An elected official who is the subject of a petition shall continue to perform
17 duties of the office until the result of the recall election is certified.

18 **§1302. Recall petition; number of signatures**

19 A petition to recall an elected official must be signed by a number of voters of the
20 district in which the official is elected equal to not less than 15% of the number of votes
21 cast for candidates for that office at the last preceding election in the electoral district of
22 the elected official. The party affiliation of signatories to a petition must be proportional
23 to the party affiliation of the voters who cast votes for candidates for that office at the last
24 preceding election in the electoral district of the elected official.

25 **§1303. Recall of senators, representatives, elected state officials and certain county**
26 **officials; filing petition**

27 A petition with the signatures required under section 1302 demanding the recall of a
28 United States Senator, a Representative to Congress, the Governor, a State Senator, a
29 State Representative or an elected county official other than a county commissioner must
30 be filed with the Secretary of State and reviewed for compliance with section 1301 and
31 this chapter by the Commission on Governmental Ethics and Election Practices.

32 **§1304. Recall of elected county commissioner or municipal official; filing petition**

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

1 **§1305. Sufficiency or insufficiency of recall petition; determination; notice; special**
2 **election**

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

10 **2. Calling of recall election.** Immediately upon determining pursuant to subsection
11 1 that a petition is sufficient, but not later than 35 days after the date of the filing of the
12 petition, the filing official with whom the petition is filed shall call a recall election to
13 determine whether the voters will recall the official whose recall is sought. The election
14 must be held on the next regular election date that is not less than 95 days after the date
15 the petition is filed.

16 **§1306. Recall election procedure**

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

27 **§1307. Recall of elected official; vacancy**

28 After a recall election held pursuant to section 1306, if the results support the recall
29 of the elected official, the official empowered by law to perform the duties of that
30 recalled official in the event of that official's absence, death, illness or inability to act
31 shall perform and discharge the duties of the office vacated until a successor is duly
32 elected and qualified. If the power to fill a vacancy by appointment exists, the office must
33 be filled in the same manner by temporary appointment until a successor is duly elected
34 and qualified. If there is no official empowered by law to perform the duties of the
35 recalled official and there is no existing power to fill the vacancy by appointment, the
36 Governor may appoint a person to fill the vacancy until the recalled official's successor is
37 elected and qualified.

38 **§1308. Rulemaking**

39 The Maine Commission on Governmental Ethics and Election Practices and the
40 Secretary of State shall adopt rules implementing this chapter. Rules adopted pursuant to
41 this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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SUMMARY

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

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specifies grounds for such a recall.