

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Establish a Recall Procedure for Elected Officials

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

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

CHAPTER 17

RECALL

§ 1301. Recall; grounds for recall

Every elected official in the State is subject to recall by the voters of the district in which the official is elected as provided in this chapter. Grounds for recall are neglect of duty, misuse of office or incompetence in the performance of duties when that neglect of duty, misuse of office or incompetence in the performance of duties has a material and adverse effect upon the conduct of the office; conviction of a drug-related crime; criminal conduct; corruption; misappropriation of public funds; obstruction of voter-approved initiatives; or violations of ethics laws. A petition for recall may not be filed against an elected official until the elected official has actually performed the duties of the office to which elected for a period of 6 months during the current term of that office. A petition may not be filed against an elected official during the last 6 months of the official's term of office. An elected official who is the subject of a petition shall continue to perform duties of the office until the result of the recall election is certified.

§ 1302. Recall petition; number of signatures

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

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

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

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

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

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

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

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

§ 1306. Recall election procedure

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

§ 1307. Recall of elected official; vacancy

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

§ 1308. Rulemaking

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

SUMMARY

This bill establishes a recall procedure for federal, state and local elected officials and specifies grounds for such a recall.