

TESTIMONY NEITHER FOR NOR AGAINST

L.D. 1443

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**AN ACT TO ESTABLISH A RECALL PROCESS FOR  
PUBLIC SCHOOL BOARD MEMBERS**

Senator Nangle, Representative Stover, and members of the State and Local Government Committee. I am Steven Bailey, executive director of the Maine School Boards Association, testifying on behalf of the legislative committee of the Maine School Boards Association, neither for nor against L.D. 1443.

Currently, Title 30-A, Chapter 121, §2505, sub-§9 is the only statute that provides guidance and parameters for recall of elected officials, to include school board members. Some municipalities with charters have included this provision as part of their section on elected officials. These sections vary from community to community, and in those school districts whose towns do not have a charter, the only provision for recall is this recall statute as noted above.

Of note, another northeast state prevents a recall within a board member's first year and also within six (6) months of an upcoming election.

Prior testimony on L.D. 1102 provided the scenario now being experienced by school boards. L.D. 1102 and L.D. 1181 both are proposing recall of elected officials "for any reason". Here is a section from that testimony for L.D. 1102 that we think is pertinent to the review of this bill.

School board members, once elected or appointed, attest to an oath "to faithfully discharge, to the best of my abilities, the duties incumbent on me as 'Director of 'x' school department according to the Constitution and laws of the State. So help me God." As stated within the oath, the Constitution and the laws of the state are to be followed by all school board members. Within Title 20-A §1001, duties are given to each school board of Maine's public schools and not to individual school board members. Chapter 101, Subchapter 1: School Boards - Duties of school boards - School boards shall perform the following duties. [PL 1981, c. 693, §§5, 8 (NEW).]

1. General duties. They shall have the duties prescribed to them in this Title.

There are 22 duties prescribed to school boards with this subchapter.

School board members and their roles are different from that of selectmen, legislators, or other elected municipal officials. These folks are responsible and responsive to those who elect them. While school board members are elected/appointed at the municipal level, their duties are, as noted above, prescribed by the Constitution and laws of the state.

School board members serve until they resign, are defeated within an election, or are dismissed when they miss three meetings in a row and their absences are unexcused (by statute and policy). School board members together form the governance team of their district. They only have authority when acting together in an officially called meeting and take action within that meeting.

The charge provided to school boards is an extremely important one, and they take this duty extremely seriously. They have responsibility for the safety, care, and education of all students within the district, and oversight of the full operation of the school district. No decision is made lightly and decisions are made based on what is in the best interest of the organization (the students and the school district). Parents play a key role in the education of the students, as important partnerships are developed between school staff and administrators for the benefit of the students. With the key players being students, parents, teachers, support staff, administrators, superintendent and school board, the school board is the governing body making decisions for the school district. Therefore, some decisions considered or made by school boards are extremely difficult, and to some members of the public are going to seem controversial. School board members need to be able to engage in important and meaningful discussions during their meetings in order to determine what their vote will be in the best interest of students and in the best interest of the school district.

L.D. 1443 is a bill that provides a partial structure for the process of a recall consideration. First of all, and importantly, there is section 1, Grounds for Recall as changed within the sponsor's amendment. Clearly, this bill is different from L.D. 1102 and L.D. 1181 where recall can occur for any reason. Sections 1.a through 1.c provide three much more specific criteria when a recall could be provided. After Grounds for Recall, 1.c, the statement that follows is a majorly important point within the proposed bill: "a school board member's discretionary performance of a lawful act or a prescribed duty is not a ground for recall." And while this is important, there is some vagueness in this language here. The better policy is to have a very narrow avenue for recall that is limited to real, well-defined misconduct and not simply hinging on the political winds of the moment.

Secondly, there is a procedure that describes both the percentage of voters that must sign a petition to initiate the recall as well as the percentage of voters who must vote in the recall election in order for the recall election to be valid. This percentage is set at 25% for the threshold of the voters in the school administrative unit who voted at the last gubernatorial election to sign the petition for recall. And the recall must be approved by a majority of voters in the recall election in which the total vote is at least 30% (as clarified by the sponsor through his amendment) of votes cast in the election.

The other typical procedural steps are not included within this proposed L.D. and should be established to provide clarity and precision within the recall process. There are municipalities that have these types of steps outlined, and those in the Charters of Scarborough and Kennebunk could be followed. Therefore, we feel this proposal is incomplete.

Additionally, Title 30-A, §2505 would be revised to exclude school board members from being impacted by this section of statute. Instead, recall of a member of a school board would be governed by 20-A, §1005 (were L.D. 1443 to be approved).

Where all municipalities do not have a charter, and the current recall of elected officials is now only guided by Title 30-A, §2505, sub-§9, the legislative committee of the Maine School Boards Association is neither for nor against L.D. 1443. However, they do support the components of the proposed bill. Given L.D. 1443 in comparison to L.D. 1102 or L.D. 1181, there is only one choice if there is to be a recall for school board members, and that would be L.D. 1443, to be considered with the recommended changes to provide greater clarity and precision.