

TESTIMONY IN OPPOSITION TO

L.D. 849

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

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Isabel Ekman, Esq., Chair

March 24, 2025

Senator Baldacci, Representative Salsbury, and esteemed members of the Committee on State and Local Government, I am Steven Bailey, executive director of the Maine School Boards Association, testifying on behalf of the MSBA Legislative Committee in opposition to L.D. 849.

Maine school board members deeply appreciate the care and thoughtfulness that the bill's sponsor has taken in shaping this bill. Rep. Sayre has been in frequent contact with our organization about L.D. 849 and clearly understands the complexity of this issue. While our members understand the goals of this bill, we do not believe that this proposal would solve the issues at hand and could exacerbate some of our local school board challenges.

Currently, Maine law allows for the recall of municipal officials under MRSA 30-A §2505, but this statute is incredibly narrow – limited to situations only when an official is convicted of a crime, “the victim of which is the municipality,” during the elected term of the official. Some municipalities and districts have their own ordinances or sections in their charter with a recall provision, but most do not.

We believe that, due to the seriousness of such a decision as the recall of a board member, this should remain a local issue, determined either by the next election or within the charter of the municipality. Local municipalities and districts are in the best position to determine if their community should be able to recall a board member, and what parameters would allow for a recall. That said, the bar established in L.D. 849 would seem an appropriate hurdle if such a recall were to be adopted locally. Recall of any elected official should not be at the whim of a few unhappy residents.

If a municipality or district is looking to allow for a recall of a board member, it can amend its charter. We acknowledge that making these changes can be a lengthy process, but we believe restraint and caution are needed when considering such a substantial change to a municipality or school district's system of governance.

Beyond this broader opposition, our members have questions about specific sections of this bill and their implications:

- 1) While L.D. 849 sets forth grounds for recall (and what is not grounds for recall), who would verify that a school board member did, in fact, meet these criteria? Would this be left up to the Town Clerk or municipal officers, who might have a vested interest in the recall effort, potentially opening the door for lawsuits? Or to the Secretary of State or another state agency? Or would it be left to

the courts? One suggestion would be for the town attorney to be the reviewer and make the decision on behalf of a municipality. This, of course, could add additional responsibilities or costs to municipalities.

- 2) We believe greater clarity is needed in section 1005, 1.B, which states that a board member could be recalled if they have “failed to perform duties prescribed by law.” This statute should reference duties as outlined in specific provisions of law: these include a board member’s Oath of Office, Title 20-1, subsection 1001, subsections 1-22, the Maine Human Rights Act, and the requirement to bargain laid out in Title 26, in addition to others. Referencing these specific duties would help to more clearly define these criteria for both board members and residents. This would provide important safeguards and help board members feel confident in their own decision-making, without fear of recall if they are acting within their duties.
- 3) Members also felt that more information should be required in the petition for recall described in this bill. The onus for a recall petition should be on the petitioner, who should cite specific examples of violations and back up the claims outlined in their petition to recall. This process must be more thorough to ensure board members are not unduly targeted.
- 4) There should also be more clarity about who has grounds to file a petition against a school board member. Is any member of a municipality or school unit allowed to petition? In many districts, a school board member may only be elected by the voters of one district in their municipality, or by just one town inside a larger district. Would any resident of an SAU be allowed to recall a school board member, or only those from within the board member’s specific voting district?

Some of our board members did express that they feel it is important for the state to take some action to create more stringent and enforceable standards around school board conduct and elections. However, our association is concerned that the language of L.D. 849 is still too broad and undefined and could allow for dangerous situations where individuals use this recall process to push out officials simply because they do not like their beliefs. We have unfortunately seen the local recall process used in this way in certain Maine communities, and without further language refinement, this bill could risk similar situations in other school districts.

This could lead to further dysfunction, disagreement and divisiveness on boards, and there would be less incentive for board members to come together to find agreement instead. We also are concerned about the potential added costs of such a change: recall elections often require a separate election and could lead to additional expenses for the municipality. For these reasons, MSBA urges your committee to vote “ought not to pass” on L.D. 849. Thank you for your consideration – I am happy to answer any questions you might have.