

SENATE NO. 459

AN ACT AUTHORIZING THE TOWN OF MANCHESTER-BY-THE-SEA TO RECALL ELECTED MUNICIPAL OFFICIALS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Any holder of an elective office in the town of Manchester-by-the-Sea may be
2 recalled there from by the registered voters of the town as herein provided, for reason of lack of
3 fitness, incompetence, neglect of duties, corruption, malfeasance, misfeasance or violation of
4 oath.

5 SECTION 2. Three hundred registered voters of the town may file with the town clerk a recall
6 affidavit, using either a blank recall affidavit as prepared by the town clerk or an affidavit
7 substantially similar thereto, containing the name of the officer sought to be recalled and a
8 statement of the grounds for recall. The town clerk shall thereupon deliver to the first named
9 voter on the affidavit copies of petition blanks addressed to the board of selectmen demanding
10 the recall, copies of which printed forms the clerk shall keep available. The blanks shall be
11 issued under the signature and official seal of the town clerk. They shall be dated, and shall
12 contain the names of the first 10 voters whose names appear on the recall affidavit, the name of
13 the person whose recall is sought and the grounds of recall as stated in the affidavit, and shall
14 demand the election of a successor to the office. A copy of the petition shall be entered in a
15 record book to be kept in the office of the town clerk. The recall petition shall be returned and
16 filed with the town clerk within 30 days after the filing of the affidavit, with signatures, names
17 and street addresses of at least 20 per cent of the registered voters of the town as of the date the

18 affidavit was filed with the town clerk. Within 5 working days of receipt, the town clerk shall
19 submit the petition to the registrars of voters in the town, and the registrars shall forthwith
20 certify thereon the number of signatures which are names of registered voters of the town.

21 SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient, it
22 shall be submitted with his certificate to the board of selectmen without delay. The board of
23 selectmen shall forthwith give written notice of the receipt of the certificate, either by hand or
24 by certified mail, return receipt requested, to the officer sought to be recalled. If the officer does
25 not resign within 5 working days after receipt of the notice, the board of selectmen shall
26 forthwith order an election to be held on a date fixed by them not less than 64 nor more than 90
27 days after the date the election is called, but if any other town election is scheduled to occur
28 within 120 days after the receipt of the certificate, the board of selectmen shall postpone the
29 holding of the recall election to the date of such other election. If a vacancy occurs in the office
30 after a recall election has been ordered, the election shall nevertheless proceed as provided in
31 this act.

32 SECTION 4. An officer sought to be removed may be a candidate to succeed himself in an
33 election to be held to fill the vacancy, and unless the officer requests otherwise in writing, the
34 town clerk shall place said name on the ballot without nomination. The nomination of other
35 candidates, the publication of the warrant for the recall election, and the conduct of the same,
36 shall all be in accordance with the provisions of the law relating to elections, unless otherwise
37 provided in this act.

38 SECTION 5. The incumbent shall continue to perform the duties of his office until the recall
39 election. If the incumbent is not recalled, he shall continue in office for the remainder of his

40 unexpired term, subject to recall as before, except as provided in this act. If recalled and not re-
41 elected in the recall election, the incumbent shall be deemed removed. If the successor fails to
42 qualify within 5 days after receiving notification of his election, the office shall be deemed
43 vacant.

44 SECTION 6. Ballots used in a recall election shall contain the following question:

45 Shall (name and title of officer whose recall is sought) be recalled? Yes_____ No_____

46 Under the question shall appear the word "Candidates", the directions to voters required by
47 section 42 of chapter 54 of the General Laws, and beneath this, the names of candidates
48 nominated as hereinbefore provided.

49 If a majority of the votes cast upon the question of recall is against the recall, the ballots for
50 candidates shall not be counted. If a majority of the votes cast upon the question of recall is in
51 favor of the recall, the officer shall be recalled and the ballots for candidates shall be counted.

52 The candidate receiving the highest number of votes shall be declared elected and shall serve for
53 the balance of the unexpired term of the officer recalled.

54 SECTION 7. A recall petition shall not be filed against an officer within 6 months after he takes
55 office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until
56 at least 6 months have elapsed after the election at which the recall was submitted to the voters
57 of the town.

58 SECTION 8. A person who has been recalled from an office or who has resigned from office
59 while recall proceedings were pending against him shall not be appointed to any town office
60 within 1 year after the recall or resignation.

61 SECTION 9. This act shall take effect upon its passage.