

SENATE No. 2969

Senate, October 28, 2024 - Substituted as a new draft (Senator Tarr) for the Senate Bill to recall elected officials in the town of Manchester-by-the-Sea (Senate, No. 440).

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act providing for recall elections in the town of Manchester-by-the-Sea.

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 office elected solely by the voters of the town of
2 Manchester-by-the-Sea may be recalled and removed from the office by the registered voters of
3 the town for lack of fitness, incompetence, neglect of duties, corruption, malfeasance,
4 misfeasance or violation of oath pursuant to this act.

5 SECTION 2. Not less than 200 registered voters of the town of Manchester-by-the-Sea
6 may initiate a recall by filing with the town clerk an affidavit of intent to recall, signed under the
7 penalties of perjury, containing the name of the officer and the office held whose recall is sought
8 and a statement of the grounds of recall, including specific facts supporting at least 1 of the
9 reasons specified in section 1. The town clerk shall immediately forward the recall affidavit to
10 the board of registrars of voters to verify the signatures.

11 SECTION 3. The board of registrars of voters shall certify to the town clerk a sufficient
12 number of signatures within 14 calendar days of receipt of the initial recall affidavit. The town

13 clerk shall, within 3 business days thereafter, deliver to the first 10 registered voters who signed
14 the initial recall affidavit a formal numbered printed recall petition sheet with the town clerk's
15 signature and official seal attached thereto. The blank recall petition sheet shall be: (i) dated and
16 addressed to the select board; (ii) contain the name of the officer sought to be recalled, the office
17 from which recall is sought and the grounds for recall as stated in the initial recall affidavit,
18 including specific facts supporting at least 1 of the reasons specified in section 1; and (iii)
19 demand the election of a successor to the office. The names of the first 10 registered voters who
20 signed the initial recall affidavit shall be listed above the voter signature lines and any
21 instructions to signers. A copy of the petition shall be entered in a record book to be kept in the
22 office of the town clerk.

23 SECTION 4. The recall petition shall be returned and filed with the town clerk and the
24 board of registrars of voters, not later than 5:00 P.M. 30 calendar days following the date of
25 delivery of the recall petition sheet or the next business day, if the thirtieth day falls on a
26 Saturday, Sunday or legal holiday. The clerk shall notify the first 10 registered voters who signed
27 the initial recall affidavit of the final date and hour for filing. The recall petition sheet shall be
28 signed by not less than 20 per cent of the registered voters of the town of Manchester-by-the-Sea
29 as of the last annual town election and every signature shall include the place of residence of the
30 signer with the street and number. Within 5 business days following the receipt of the signed
31 recall petition sheet, the town clerk shall submit the recall petition sheet to the board of registrars
32 of voters, and the board of registrars of voters shall certify in writing thereon the number of
33 signatures that are names of registered voters in the town as of the date the petition sheet was
34 filed with the town clerk.

35 SECTION 5. If the recall petition sheet is found and certified by the board of registrars of
36 voters to be sufficient, the town clerk shall submit the certified recall petition sheet to the select
37 board within 2 business days. The select board shall immediately, and in not more than 5
38 business days, give written notice of the receipt of the certified recall petition sheet to the officer
39 sought to be recalled. If the officer sought to be recalled does not resign within 3 business days,
40 the select board shall, within 5 business days of the last day upon which the officer must resign
41 under this section, order a recall election to be held not less than 64 days nor more than 90
42 calendar days from the date of the vote scheduling the recall election; provided, however, that if
43 any other town election is scheduled to occur within 100 calendar days after the date of the vote,
44 the select board may, in its discretion, place the question of recall on the ballot at such other
45 election. If a vacancy occurs in the office sought to be recalled after a recall election has been
46 ordered, but the recall election has not yet been conducted, the election shall nevertheless
47 proceed as provided in this act.

48 SECTION 6. An officer sought to be recalled may be a candidate to succeed themselves in
49 an election to be held to fill the vacancy. The nomination of all candidates, the publication of the
50 warrant for the recall election and the conduct of the nomination and publication shall be in an
51 accordance with the law relating to elections.

52 SECTION 7. The incumbent shall continue to perform the duties of the office until the
53 recall election unless the incumbent resigns. If the incumbent is not recalled, the incumbent shall
54 remain in office for the remainder of the incumbent's unexpired term, subject to recall as before.
55 If recalled in the recall election, the incumbent shall be considered removed from office
56 immediately. The successor, upon qualification, shall hold office during the unexpired term;
57 provided, however, that if such person is not qualified within 10 business days of the recall

58 election, the position shall be deemed vacant and may be filled in accordance with applicable
59 law.

60 SECTION 8. Ballots used in a recall election shall contain the following proposition:

61 “Shall (insert name and office) be recalled from office?”

62 Immediately to the right of the proposition, there shall be a designated place for the
63 voters to vote for or against the proposition.

64 Under the proposition shall appear the word “Candidates” with directions to the voters as
65 required by section 42 of chapter 54 of the General Laws, and beneath this, listed alphabetically,
66 shall appear the names of the candidates nominated as provided by law.

67 If a majority of the votes cast on the recall question is in favor of the recall, the officer
68 shall be recalled and the ballots for candidates shall be counted. The candidate who received the
69 highest number of votes shall be elected to the office. If a majority of the votes cast on the recall
70 question is against the recall, the ballots for candidates to fill the potential vacancy need not be
71 counted.

72 SECTION 9. An initial recall affidavit shall not be filed against an elected official within
73 3 months after the official has taken office nor, in the case of an officer subjected to a recall
74 election and not recalled thereby, until at least 3 months have elapsed after the election that the
75 recall was submitted to the voters.

76 SECTION 10. A person who has been recalled from office or who has resigned from
77 office after the recall petition sheet has been filed with the select board shall not be appointed to
78 any town office, board or committee within 3 years after the recall or resignation.

SECTION 11. This act shall take effect upon its passage.