



House of Representatives

General Assembly

File No. 501

January Session, 2007

Substitute House Bill No. 6242

House of Representatives, April 16, 2007

The Committee on Government Administration and Elections reported through REP. CARUSO of the 126th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE RECALL OF MUNICIPAL ELECTED OFFICIALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2007*) (a) Any municipality may,
2 by ordinance adopted by its legislative body or in any town in which
3 the legislative body is a town meeting, by the board of selectmen,
4 provide for the recall of any elected official of a municipality who is
5 elected to a term of four years, except a judge of probate, provided
6 such ordinance complies with the provisions of this section.

7 (b) Any such ordinance shall provide for the recall of any elected
8 official of the municipality who is elected to a term of four years,
9 except a judge of probate, for any of the following reasons: (1)
10 Misappropriation of public property or funds, (2) violation of the oath
11 of office, (3) any felony conviction, (4) any act of malfeasance that
12 adversely affects the rights and interests of the public, and (5) failure to
13 perform any duty prescribed by law.

14 (c) No such ordinance shall authorize the recall of such an elected
15 official during the first one hundred twenty days of such official's term
16 or during the final one hundred twenty days of such official's term.

17 (d) Such ordinance shall authorize any three residents of such
18 municipality who are electors to initiate the recall of such elected
19 official by filing a joint affidavit with the town clerk of the
20 municipality which: (1) States the name of such elected official, (2)
21 requests recall petition forms, (3) attests that such electors, in good
22 faith, desire and propose to file a petition for the recall of such elected
23 official, and (4) contains a detailed statement of the grounds alleged for
24 such recall. Upon the filing of such affidavit, the town clerk shall issue
25 recall petition forms to such residents. Any resident of the
26 municipality who is an elector may sign said petition.

27 (e) The Secretary of the State shall prescribe the form of the recall
28 petition described in subsection (d) of this section and such petition
29 shall be available from the town clerk of any municipality that
30 authorizes the recall of such elected officials. The recall petition form
31 shall include a space for the name and office of the official whose recall
32 is sought, a space for the electors who are initiating such recall to
33 indicate the grounds for such recall, a statement that the purpose of the
34 petition is to seek a referendum on the recall of such official, a
35 statement of instructions to persons circulating the petition, lines for
36 the signatures, street addresses and dates of births of persons signing
37 the petition, spaces for the time and date on which the completed
38 petition is filed with the town clerk and spaces for the information
39 required under subsection (f) of this section concerning the circulation
40 of the petition.

41 (f) Such ordinance shall provide that each circulator of a recall
42 petition page shall be a resident of such municipality and an elector.
43 Each separate page of such petition shall contain a statement as to the
44 authenticity of the signatures on the petition and the number of such
45 signatures, and shall be signed under the penalties of false statement
46 by the circulator of the petition page, setting forth such circulator's

47 address and attesting that each person whose name appears on such
48 sheet signed the same in person in the presence of such circulator, that
49 the circulator either knows each such signer or that the signer
50 satisfactorily identified the signer to the circulator. Each separate sheet
51 of such petition shall also be acknowledged before an appropriate
52 person as provided in section 1-29 of the general statutes.

53 (g) Any person who signs a name other than the person's own to a
54 recall petition or who signs a name other than the person's own as
55 circulator of said petition shall be fined not more than one hundred
56 dollars or imprisoned not more than one year, or both.

57 (h) Such ordinance shall provide that no petition for the recall of an
58 official shall be effective unless filed with the town clerk not later than
59 four o'clock p.m. on the sixtieth calendar day after the town clerk
60 issues petition forms for such recall under subsection (d) of this
61 section. Upon the filing of a recall petition, the town clerk shall sign
62 and give to the person so submitting a page or pages of such petition a
63 receipt indicating the number of such pages filed and the date and
64 time when such pages were filed. The town clerk shall forthwith
65 transmit the petition to the registrars of voters of the municipality who
66 shall forthwith certify on each such petition page the number of
67 signers on the page who are electors in the municipality. In the
68 checking of signatures on recall petition pages, the registrars shall
69 reject any name if such name does not appear on the last-completed
70 active registry list in the municipality. The registrars shall not reject
71 any name for which the street address on the petition is different from
72 the street address on the registry list, if the person's date of birth, as
73 shown on the petition page, is the same as the date of birth on the
74 person's registration record. Each petition page shall contain a
75 statement signed by a registrar of voters of said municipality attesting
76 that the circulator is a resident of said municipality and an elector.
77 Unless such a statement by a registrar appears on each page so
78 submitted, the registrars shall reject such page. Any page of a petition
79 that does not contain a statement by the circulator as to the
80 authenticity of the signatures on the page, or upon which the

81 statement of the circulator is incomplete in any respect shall be rejected
82 by the registrars. The registrars shall also reject any page of a petition
83 they determine to have been circulated in violation of any other
84 provision of this section. The registrars shall complete their verification
85 of petition signatures and return the petition with their certifications to
86 the town clerk not later than seven calendar days after the petition is
87 filed with the town clerk.

88 (i) If, upon receiving a recall petition from the registrars of voters
89 under subsection (h) of this section, the town clerk determines that the
90 number of valid signatures on the petition is at least: (1) Thirty per cent
91 of the total number of electors whose names appear on the active
92 registry list of said municipality for a municipality with a population
93 of less than one thousand persons, (2) twenty-five per cent of the total
94 number of electors whose names appear on the active registry list of
95 said municipality for a municipality with a population of not less than
96 one thousand persons but not more than nine thousand nine hundred
97 ninety-nine persons, (3) twenty per cent of the total number of electors
98 whose names appear on the active registry list of said municipality for
99 a municipality with a population of not less than ten thousand persons
100 but not more than forty-nine thousand nine hundred ninety-nine
101 persons, (4) fifteen per cent of the total number of electors whose
102 names appear on the active registry list of said municipality for a
103 municipality with a population of not less than fifty thousand persons
104 but not more than ninety-nine thousand nine hundred ninety-nine
105 persons, or (5) ten per cent of the total number of electors whose names
106 appear on the active registry list of said municipality for a municipality
107 with a population of not less than one hundred thousand persons, as
108 applicable, (A) the town clerk shall forthwith certify the petition and
109 submit said certification to the legislative body of the municipality,
110 and (B) said legislative body shall, not later than seven days after
111 receipt of said certification, order a referendum to be held on the recall
112 of such elected official of the municipality not later than thirty days
113 after receipt of said certification.

114 (j) Any recall referendum conducted pursuant to this section shall

115 also be conducted in accordance with the provisions of chapter 152 of
116 the general statutes, provided such referendum shall only be valid if
117 twenty-five per cent or more of the number of electors whose names
118 appeared on the active registry list of said municipality at the time of
119 the last municipal election vote in such referendum. The form of the
120 question to be used on the voting machine ballot labels and absentee
121 ballots at said referendum shall be "Shall (name of the official and
122 office) be recalled?" If, upon the official determination of the results of
123 such vote, a majority of all the votes cast are in approval of the
124 question, the elected official's office shall be vacant and shall be filled
125 in accordance with the applicable provision of state or municipal law
126 concerning the filling of vacancies in said office.

127 (k) The provisions of this section shall not apply to any municipality
128 for which state or municipal authority exists on the effective date of
129 this section for the recall of an elected official of the municipality.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	New section

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Judicial Dept. (Probation); Correction, Dept.	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	STATE MANDATE - Cost	Potential	Potential

Explanation

The bill provides provisions for the recall of any elected official of a municipality who is elected to a term of four years, except a judge of probate. The bill could result in a cost to municipalities associated with a recall referendum. In the event that a majority of the votes cast in the referendum favor the recall, the elected official’s office will be vacant and that vacancy will be filled according to the provisions of state or municipal law. Costs associated with filling the vacancy will vary by the official’s office and the provisions regarding the vacancy. For instance, a municipality could incur significant costs if filling the vacancy required a town-wide election, as opposed to a district-wide election. In the five towns that currently have authority to recall local officials, such recall has rarely occurred.

The bill also imposes a fine of up to \$100 or imprisonment for up to one year or both on any person who violates the provisions of the bill. Any revenue from criminal fines imposed under the bill or marginal cost for incarceration and/or probation supervision in the community

as a result of the bill would be minimal.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the occurrence of recall referendums and elections. Potential revenues would remain constant into the future since they are set by statute.

OLR Bill Analysis**sHB 6242*****AN ACT CONCERNING THE RECALL OF MUNICIPAL ELECTED OFFICIALS.*****SUMMARY:**

This bill authorizes Connecticut municipalities to recall municipal elected officials serving four-year terms, other than probate judges, after their first 120 days in office and before their last 120 days. To do so, a municipality's legislative body or board of selectmen, whichever is applicable, must adopt an ordinance authorizing recall through referendum. The ordinance must comply with the bill's requirements concerning the grounds, initiating action, petition, signature requirements and verification process, and referendum's voting threshold, among other things.

The bill specifies that it does not apply to any municipality that has the authority to recall municipal officials as of its effective date (see BACKGROUND).

EFFECTIVE DATE: July 1, 2007

GROUND

A recall ordinance must allow the recall of a municipal elected official, other than a probate judge, serving a four-year term on any of the following grounds:

1. misappropriation of public property or funds,
2. violation of the oath of office,
3. any felony conviction,
4. any act of malfeasance that adversely affects the rights and

interests of the public, or

5. failure to perform any duty prescribed by law.

INITIATING ACTION

Under the ordinance, three residents who are electors in the municipality may initiate recall by filing a joint affidavit with the town clerk that (1) states the official’s name, (2) requests recall petition forms, (3) attests that they, in good faith, propose to file a petition to recall the official, and (4) details the alleged grounds. The town clerk must provide them with the petition when they file the affidavit.

PETITION FORMS AND CIRCULATORS

The bill requires the secretary of the state to create a standard petition form, which the town clerk must make available if a municipality authorizes recall. The petition form must include:

1. space for the name and office of the official who is the proposed recall’s subject;
2. space for the recall grounds;
3. a statement that the petition’s purpose is to seek a recall referendum;
4. instructions for the petition circulators;
5. lines for signatures, addresses, and birth dates of people who sign the petition (“signers”);
6. space for the time and date when the petition is filed with the town clerk; and
7. space for the circulator’s signature, address, and attestations described below.

The ordinance must allow any resident who is an elector in the municipality to circulate a petition. Circulators must sign each petition page under penalty of false statement, include their address, and attest

(1) to the authenticity and number of signatures and (2) that each signer did so in their presence and is either someone they know or alternatively, provided satisfactory identification. They must also have each page notarized.

Any circulator who falsifies a signature may be subject to a fine of up to \$100, one year in prison, or both.

SCHEDULE AND SIGNATURE VERIFICATION PROCESS

Under the ordinance, a circulator must file a recall petition with the town clerk by 4:00 p.m. on the 60th day after the clerk issues it. The town clerk must sign the petition and provide a receipt indicating the number of pages filed, and the time and date. The clerk must immediately transmit the petition to the registrars of voters. Similarly, the registrars must immediately verify the signatures to determine the signers’ status as electors. The registrars must complete the verification process within seven days after the circulator files the petition with the town clerk.

Reasons for Rejecting Signatures or Petition Pages

The ordinance must allow any resident who is an elector to sign the recall petition. The registrars of voters must reject names that do not appear on the municipality’s last active voter registry list but accept those that indicate different addresses on the petition as compared to the voter registry list, as long as the birth dates are consistent. The registrars must include a statement on each petition page attesting that the circulator is a resident and an elector of the municipality. If they are unable to make this statement for any petition page, they must reject it. Similarly, the registrars must reject any page that lacks a circulator’s statement of authenticity or has an incomplete statement of authenticity. Finally, they must reject any petition they determine violates the ordinance.

Any signer who falsifies a signature may be subject to a fine of up to \$100, one year in prison, or both.

Signature Requirements

A recall referendum may proceed only if the town clerk determines that the petition meets the signature requirements contained in the ordinance. If the petition contains the required number of valid signatures, the clerk must immediately certify the petition and submit it to the municipality's legislative body. Within seven days of receiving the certification, the legislative body must order the recall referendum, which must occur within 30 days of the certification.

The minimum number of valid signatures required is a percentage of the number of electors on the municipality's active voter registry list and based on its population. Table 1 shows the requirements.

TABLE 1: SIGNATURE REQUIREMENTS

<i>Municipality's Population</i>	<i>Signatures Required as % of Total Number of Electors on Active Registry</i>
Less than 1,000	30%
1,000 to 9,999	25%
10,000 to 49,999	20%
50,000 to 99,999	15%
100,000 or more	10%

VOTING THRESHOLD AND BALLOT DESIGNATION

Under an ordinance, a recall referendum is valid only if at least 25% of the electors whose names were on the active registry list at the time of the last municipal election vote. The ballot designation to be used is: "Shall (name of the official and office) be recalled?"

If a majority of all votes cast approve the question, the official is recalled. The office becomes vacant and is filled according to the law

on filling vacancies for that office.

BACKGROUND

The state Supreme Court has ruled that, because the General Assembly has not enacted legislation explicitly conferring the power to recall elected officials and the authority is not implied in other powers, towns cannot enact recall provisions by charter or ordinance (*Simons v. Canty*, 195 Conn. 524 (1985)). The only Connecticut towns that currently have authority to recall local officials are the five that were granted the authority by special act before the enactment of the Constitution's home rule provision. They are Bristol, Milford, New Haven, Stratford, and Westport.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 12 Nay 1 (03/30/2007)