

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

1

HOUSE BILL 1062

Short Title: Town of Leland/Recall Officials. (Local)

Sponsors: Representative Iler.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Local Government, if favorable, Rules, Calendar, and Operations of the House

May 8, 2024

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF LELAND TO PROVIDE A
PROCEDURE TO RECALL ELECTED OFFICIALS, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Leland, being Chapter 564 of the Session
Laws of 1989, as amended, is amended by adding a new section to read:

"Sec. 4.2. Recall of Elected Officials. (a) The Mayor or any member of the Town Council
of the Town of Leland may be removed from office in the manner provided for in this section.

(b) A recall petition committee may file an affidavit with the Brunswick County Director
of Elections containing the name of the elected official whose removal is sought and a general
statement of the grounds alleged for removal. The Director of Elections shall provide the recall
petition committee filing the affidavit with petition forms for demanding the removal of a Town
elected official. The petition forms shall (i) be signed by the Director of Elections, (ii) be dated
on the date of issuance, (iii) be addressed to the Brunswick County Board of Elections, (iv)
contain the name of the persons to whom the forms are issued, (v) contain the name of the elected
official whose removal is sought, (vi) contain a general statement of the grounds on which the
removal is sought, and (vii) provide a place for signatures. The Director of Elections shall
promptly deliver a copy of the petition issued by the Director of Elections to the Town Clerk,
who shall enter the copy of the petition in a record book kept for that purpose. The record book
shall be maintained at the Office of the Town Clerk.

(c) A recall petition committee authorized under subsection (b) of this section shall be
comprised of at least five members who are registered voters within the Town and who shall
represent the signers of the petition. Each member of the recall petition committee shall sign the
petition and shall be responsible for circulating the petition within the Town limits and for
assembling and returning the petition to the Board of Elections as required by subsection (d) of
this section.

(d) A recall petition, to be effective, must be returned to the Board of Elections within 30
days after the filing of the affidavit. To be sufficient, a recall petition must bear the signatures of
at least twenty-five percent (25%) of the registered voters of the Town as shown by the
registration records of the last preceding general municipal election.

(e) The signatures to the petition need not all be appended to one paper. Each signer shall
add the signer's signature and place of residence, giving the complete street name, street number,
and town.

(f) The Board of Elections shall investigate the sufficiency of any petition and certify the
results of the investigation to the Town Council. The Board of Elections may employ persons as



1 it deems necessary to undertake that investigation. The Town Council shall reimburse the Board
2 of Elections for the reasonable cost of the investigation. The Board of Elections may adopt rules
3 concerning the validation of signatures appearing on the recall petition.

4 (g) The Board of Elections shall complete its investigation and issue its certification of
5 the results of the investigation within 10 days after the filing of any petition. However, the Board
6 of Elections shall not be obligated to conduct an investigation in any 30-day period immediately
7 preceding or in any 10-day period immediately following a countywide election. If, by the Board
8 of Elections' certification, the petition is shown to be insufficient, it may be amended within 10
9 days from the date of the certificate. The Board shall, within 10 days after any amendment,
10 complete an investigation of the amended petition. If the certification of the results of the
11 investigation shows the amended petition to be insufficient, a copy of the petition shall be
12 returned to the recall petition committee filing the petition, without prejudice to the filing of a
13 new petition.

14 (h) Upon a determination that a sufficient recall petition has been submitted, the Board
15 of Elections shall submit the petition to the Town Clerk, who shall submit it to the Town Council
16 and shall notify the elected official whose removal is sought. If the elected official whose removal
17 is sought does not resign within five days after receiving the notice, the Town Council shall order
18 and fix a date for holding a recall election. Subject to the remaining provisions of this section, an
19 election shall be held not less than 60 nor more than 90 days after the petition has been certified
20 as being sufficient. If any other general or special election is scheduled within this period, the
21 Town Council shall schedule the special election at the same time. If the provisions of general
22 law prohibit the holding of a special election during this time period and no general or special
23 election is otherwise scheduled during that period of time, then the Town Council shall schedule
24 the special recall election for a date within 10 days after the last day of the period of time during
25 which special elections are prohibited by general law.

26 (i) The Board of Elections shall cause legal notice of the election to be published. That
27 notice shall include the general statement of the grounds on which the recall is sought as alleged
28 in the affidavit and shall make all arrangements for holding the election in accordance with
29 general law. The recall election shall be conducted, returned, and the results declared as in other
30 elections in the Town of Leland. The Town shall reimburse the reasonable costs of the recall
31 election to the Board of Elections.

32 (j) The question of recalling any number of elected officials may be submitted at the
33 same election. However, as to each individual elected official, a separate petition shall be filed
34 and there shall be an entirely separate ballot.

35 (k) The ballots used in a recall election shall submit the following proposition:

36 [] FOR [] AGAINST

37 The recall of (name and title of elected official)."

38 (l) If less than a majority of the votes cast on the question of recalling an elected official
39 are for recall, the elected official shall continue in office for the remainder of the unexpired term
40 and, except as provided by subsection (n) of this section, shall be subject to recall as before. If a
41 majority of the votes are for the recall of the elected official designated on the ballot, the elected
42 official shall, regardless of any defects in the recall petition, be deemed removed from office on
43 the date the Board of Elections certifies the results of the recall election.

44 (m) If an elected official concerning whom a sufficient recall petition is submitted to the
45 Town Council resigns before the recall election or is removed from office as a result of the recall
46 election, the vacancy shall be filled in the manner provided for in G.S. 160A-63, except as
47 provided in subsection (o) of this section. An elected official who resigns after a sufficient
48 petition for the official's recall has been submitted to the Town Council or who is removed from
49 office by the voters as a result of a recall election shall not be appointed to fill the vacancy caused
50 by that elected official's own resignation or removal.

1 (n) No recall petition shall be filed in accordance with subsection (d) of this section
2 against an elected official who has been subjected to a recall election, and not removed thereby,
3 until at least six months after that recall election. No recall petition shall be filed in accordance
4 with subsection (d) of this section against an elected official during the first three months of the
5 term of that office or during the six months before the expiration of the term of that office.

6 (o) If the recall of two or more members of the Town Council or the recall of the Mayor
7 and one or more members of the Town Council are effected at a single recall election, the
8 successors of the elected officials recalled shall be elected by the registered voters of the Town
9 at a special municipal election and the successors shall serve for the remainder of the terms of
10 the elected officials recalled. The members of the Town Council who have not been recalled shall
11 call that special election, which shall be conducted by the Brunswick County Board of Elections
12 under the laws then governing elections in the State. If the recall of all or a majority of the
13 members of the Town Council is effected at a single election, they shall continue in office for the
14 purpose, and only for the purpose, of calling a special municipal election for the election of their
15 successors as provided in this section. That election shall also be conducted by the Brunswick
16 County Board of Elections under the laws then governing elections in the State. The Town shall
17 reimburse the reasonable costs of the recall election to the Board of Elections."

18 **SECTION 2.** Section 1 of this act becomes effective only if approved by the
19 registered voters of the Town of Leland in a referendum conducted by the Brunswick County
20 Board of Elections on November 4, 2025. The referendum shall be conducted in accordance with
21 the provisions of Chapter 163 of the General Statutes. The question on the ballot shall be:

22 "[] FOR [] AGAINST

23 Amending the Charter of the Town of Leland to allow for recall elections for the
24 Mayor or any member of the Town Council."

25 If a majority of the votes cast in the referendum shall be in the affirmative, Section 1
26 of this act shall become effective on the date that the Brunswick County Board of Elections
27 certifies the results of the referendum. If a majority of the votes cast in the referendum shall be
28 against the charter amendment, Section 1 of this act shall have no force and effect.

29 **SECTION 3.** This act is effective when it becomes law.