

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 140
Committee Substitute Favorable 3/7/11

Short Title: Oak Island/Recall Officials.

(Local)

Sponsors:

Referred to:

February 21, 2011

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE CHARTER OF THE TOWN OF OAK ISLAND TO PROVIDE
3 A PROCEDURE TO RECALL ELECTED OFFICIALS, SUBJECT TO A
4 REFERENDUM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The Charter of the Town of Oak Island, being S.L. 1999-66, as
7 amended by S.L. 2001-478 and S.L. 2003-84, is amended by adding a new section to read as
8 follows:

9 "Sec. 5.4. Recall of Elected Officials. (a) The Mayor or any member of the Town Council
10 of the Town of Oak Island may be removed from office in the manner provided for in this
11 section.

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

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

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

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



1 (f) The Board of Elections shall investigate the sufficiency of any petition and certify
 2 the results of the investigation to the Town Council. The Board of Elections may employ
 3 persons as it deems necessary to undertake that investigation. The Town Council shall
 4 reimburse the Board of Elections for the reasonable cost of the investigation. The Board of
 5 Elections may adopt rules concerning the validation of signatures appearing on the recall
 6 petition.

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

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

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

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

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

39 " FOR AGAINST

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

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

48 (m) If an elected official concerning whom a sufficient recall petition is submitted to the
 49 Town Council resigns before the recall election or is removed from office as a result of the
 50 recall election, the vacancy shall be filled in the manner provided by Section 4.3 or Section 4.4
 51 of this Charter for filling vacancies in that office, except as provided in subsection (o) of this

1 section. An elected official who resigns after a sufficient petition for his or her recall has been
2 submitted to the Town Council or who is removed from office by the voters as a result of a
3 recall election shall not be appointed to fill the vacancy caused by that elected official's own
4 resignation or removal.

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

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

22 **SECTION 2.** Section 1 of this act becomes effective only if approved by the
23 registered voters of the Town of Oak Island in a referendum conducted by the Brunswick
24 County Board of Elections on November 8, 2011. The referendum shall be conducted in
25 accordance with the provisions of Chapter 163 of the General Statutes. The question on the
26 ballot shall be:

27 FOR AGAINST

28 Amending the Charter of the Town of Oak Island to allow for recall elections for the
29 Mayor or any member of the Town Council."

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

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