

HOUSE No. 3640

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan and Jennifer L. Flanagan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing for recall elections in the town of Bolton.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>6/24/2015</i>

HOUSE No. 3640

By Representative Hogan of Stow and Senator Flanagan, a joint petition (accompanied by bill, House, No. 3640) of Kate Hogan (by vote of the town) that the town of Bolton be authorized to recall certain elected officials. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act providing for recall elections in the town of Bolton.

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. Authority to recall and time restrictions.

2 Any holder of an elected office in the Town of Bolton may be recalled therefrom by
3 registered voters of the Town as hereinafter provided. No recall petition shall be filed against an
4 officer within six months after he/she takes office, nor, in the case of an officer subjected to a
5 recall election and not recalled thereby, until at least six months after the election at which
6 his/her recall was submitted to the voters.

7 Section 2. Initiation of recall petition.

8 Any 30 registered voters of the Town of Bolton may initiate a recall petition by filing an
9 affidavit with the Town Clerk. The affidavit shall contain the name of the officer sought to be
10 recalled and a statement of the grounds of recall. The Town Clerk shall provide a sufficient
11 number of copies of petition blanks demanding such recall (printed forms of which shall be kept
12 on hand) to the voters who made the affidavit. The blanks shall be issued by the Town Clerk and

13 bear the Clerk's signature and Official Seal; they shall be dated and addressed to the Selectmen
14 and shall contain the names of all persons to whom issued, the number of blanks so issued, the
15 names of all persons to whom issued, the name of the person sought to be recalled, the grounds
16 of recall as stated in the affidavit, and shall demand the election of a successor to such office.
17 Such blanks must be provided within five town hall business days during regular business hours.
18 Said recall petition shall be returned and filed with the Town Clerk on the 28th day after the
19 filing of the affidavit. In the event that the town hall is not open on the 28th day, the petition may
20 be filed during normal business hours on the next town hall business day The petition, before
21 being returned and filed, shall be signed by qualified voters of the town, equal in number to at
22 least 20 percent of the qualified voters of the town as of the date the affidavit was filed with the
23 Town Clerk. Every signature must be accompanied by the signer's place of residence, giving the
24 street and number. The Registrars of Voters shall forthwith certify the number of signatures.

25 Section 3. Statement of grounds.

26 The reasons for which a recall may be initiated include but are not limited to:

27 A. Lack of Fitness (insobriety while performing official functions, involuntary
28 commitment to a mental health facility, being placed under guardianship or conservatorship by a
29 probate court);

30 B. Corruption (conviction of a felony involving moral turpitude, conviction of
31 bribery, or extortion).

32 C. Neglect of Duties (repeated absences from meetings without just cause. Just cause
33 shall include but not be limited to illness or regular vacation periods).

34 D. Misfeasance (performance of official acts in an unlawful manner, or a willful
35 violation of the conflict of interest law, open meeting law or other ethical violations).

36 Section 4. Notice to officer, resignation or recall election to be ordered.

37 If the petition shall be found and certified by the Registrars of Voters to be sufficient, the
38 Town Clerk shall forthwith submit it with the certificate to the Selectmen. The Selectmen shall
39 forthwith give written notice to said officer of the receipt of said certificate and, if the officer
40 sought to be removed does not resign within seven calendar days, shall order an election to be
41 held on a day fixed by them not less than 45 days nor more than 60 days after the date of the
42 Town Clerk's certificate that a sufficient petition is filed. However, if any other Town election is
43 to occur within 90 days after the date of said certificate the Selectmen may, at their discretion,
44 postpone the holding of the recall election to the date of such other election. If a vacancy occurs
45 in said office after a recall election has been so ordered, the election shall nevertheless proceed
46 as in this section provided.

47 Section 5. Candidates to succeed officer.

48 Any officer sought to be recalled may not be a candidate to succeed himself/herself. The
49 nomination of other candidates, the publication of the warrant for the recall election, and the
50 conduct of the same shall all be in accordance with the provisions of law relating to elections,
51 unless otherwise provided by this act.

52 Section 6. Duties of incumbent.

53 The incumbent shall continue to perform the duties of his/her office until the recall
54 election. If the officer is not recalled, he/she shall continue in the office for the remainder of

55 his/her unexpired term, subject to recall as before, except as provided in this act. If the officer is
56 recalled in the recall election, he/she shall be deemed removed upon the election of his/her
57 successor, who shall hold office during the unexpired term. If the successor fails to take office
58 within five days after receiving notification of his/her election, the incumbent shall thereupon be
59 deemed removed and the office vacant.

60 Section 7. Ballots for recall election.

61 A. Ballots used in a recall election shall submit the following propositions in the
62 order indicated: For the recall of (name of officer). Against the recall of (name of officer).
63 Immediately at the right of each proposition, there shall be an oval above which reads “vote for
64 one”. The voter, by filling in said oval, may vote for either of such propositions. Under the
65 propositions shall appear the word "Candidates," and the direction “vote for one” and beneath
66 this the names of candidates nominated as hereinbefore provided. In case of other forms of
67 balloting, appropriate provision shall be made to allow the same intent of the voter.

68 B. If a majority of the votes cast on the recall question is in the affirmative, then the
69 candidate who received the highest number of votes in the special election to fill the vacancy
70 shall be elected. If a majority of votes on the question is in the negative, the ballot for candidates
71 need not be counted.

72 Section 8. Appointment of recalled or resigned official.

73 No person who has been removed from an office or who has resigned from office while
74 recall proceedings were pending against him/her shall be appointed to any Town office within
75 two years after such removal or such resignation.

Section 9. This act shall take effect upon its passage.