

**HOUSE . . . . . No. 4064**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul W. Mark and Benjamin B. Downing***

*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 Hinsdale.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>3/26/2014</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>3/26/2014</i>

**HOUSE . . . . . No. 4064**

By Representative Mark of Peru and Senator Downing, a joint petition (accompanied by bill, House, No. 4064) of Paul W. Mark and Benjamin B. Downing (by vote of the town) for legislation to provide for recall elections in the town Hinsdale. Election Laws. [Local Approval Received.]

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Fourteen**

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

*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 elective office in the Town of Hinsdale may be recalled and  
2 removed there from by the registered voters of said town as herein provided, for the reason of  
3 lack of fitness, incompetence, neglect of duties, corruption, malfeasance, or violation of oath.

4 Section 2. One hundred or more registered voters may initiate a recall petition by filing  
5 with the town clerk an affidavit containing the name of the officer and the office held whose  
6 recall is sought and a statement of the grounds of recall. Upon certification by the board of  
7 registrars, the town clerk shall, within two business days, deliver to the voter first named on such  
8 affidavit, petition blanks demanding such recall containing space for the signatures of at least  
9 five times the number of signatures required below, and may, but need not, provide additional  
10 blanks upon request. Petitioners may make exact copies of the petitions, provided that the  
11 petitioner shall bear the risk that if any such copies are not exact copies that the signatures  
12 affixed thereto shall not be counted towards the total number of signatures required. The blanks  
13 shall be issued by the town clerk with the town clerk's signature and official seal attached  
14 thereto; they shall be dated and addressed to the Board of Selectmen; shall contain the name of  
15 the person whose recall is sought, the office from which recall is sought, the grounds for recall as  
16 stated in the affidavit, and shall demand the election of a successor to such office. A copy of the  
17 petition shall be entered in a record book to be kept in the office of the town clerk. The recall  
18 petition shall be returned and filed with the town clerk within twenty days following the date of  
19 issuance of said petition. Said recall petition shall be signed by at least twenty percent of the  
20 registered voters in said town, and to every signature shall be added the place of residence of the  
21 signer, giving the street and number. The town clerk shall, within two business days following

22 the date such filing, submit the recall petition to the board of registrars of voters, who shall  
23 within five business days after the day of receipt, certify in writing thereon the number of  
24 signatures which are names of voters in said town as of the date such affidavit was filed with the  
25 town clerk. The board of registrars shall, upon completion of its certification, return the petition  
26 to the town clerk.

27 Section 3. If the petition shall be found and certified by said town clerk to be sufficient,  
28 he shall submit the same with his certificate thereon to said Selectmen without delay, and said  
29 Selectmen shall forthwith give to said elected officer whose recall is being sought, written notice  
30 of the receipt of said certificate and shall, if the officer sought to be removed does not resign  
31 within five days thereafter, thereupon order a recall election to be held not less than sixty-four  
32 nor more than ninety days after the date the election is called; provided however, that if town  
33 election is to occur within one hundred days after the date of said certificate, the Selectmen may,  
34 in their discretion postpone the holding of the removal election to the date of such other election.  
35 If a vacancy occurs in said office after a recall election has been ordered, the election shall  
36 nevertheless proceed as herein provided.

37 Section 4. Any officer sought to be recalled may be a candidate to succeed himself, and  
38 unless he requests otherwise in writing, said town clerk shall place his name on the official ballot  
39 without nomination. The nomination of other candidates, the publication of the warrant for the  
40 recall election, and the conduct of the same, shall all be in accordance with the provisions of law  
41 relating to election, unless otherwise provided in this act.

42 Section 5. The incumbent shall continue to perform the duties of his office until the recall  
43 election. If the recall fails, or if the incumbent is re-elected, he shall continue in the office for the  
44 remainder of his unexpired term, subject to recall as before, except as provided in this act. If not  
45 re-elected in the recall election, he shall be deemed removed upon the qualification of his  
46 successor, who shall hold office during the unexpired term. If the successor fails to qualify  
47 within five days after receiving notification of his election, the incumbent shall thereupon be  
48 deemed removed and the office vacant.

49 Section 6. Ballots used in a recall election in said town shall submit the following  
50 proposition in the order indicated:

51 For the recall of (name of officer) (office held)

52 Against the recall of (name of officer) (office held)

53 There shall be an appropriate place for the voters to vote for either such propositions, and  
54 above said propositions, there shall appear the direction "Vote for one" and beneath this the  
55 names of candidates nominated as hereinbefore provided. If a majority of the votes cast on the  
56 recall question is in the affirmative, then the candidate who received the highest number of votes

57 shall be elected. If a majority of the votes cast on the recall question is in the negative, the votes  
58 cast, for candidates to fill the potential vacancy shall not be counted.

59           Section 7. No recall petition shall be filed against an officer of said town within six  
60 months after he takes office, nor, in the case of an officer subjected to recall election and not  
61 removed thereby, until at least six months after the election at which his recall was submitted to  
62 the voters.

63           Section 8. No person who has been recalled from an office or who has resigned from  
64 office after a recall petition has been filed, shall be appointed to any town office within two years  
65 after removal by recall or resignation.

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