

**HOUSE . . . . . No. 641**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Todd M. Smola and Stephen M. Brewer***

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*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 Wales.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Todd M. Smola</i>	<i>1st Hampden</i>	
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/18/2013</i>

**HOUSE . . . . . No. 641**

By Mr. Smola of Palmer and Senator Brewer, a joint petition (accompanied by bill, House, No. 641) of Todd M. Smola and Stephen M. Brewer (by vote of the town) relative to recall elections in the town of Wales. Election Laws. [Local Approval Received.]

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4281 OF 2011-2012.]

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

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

*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 elective office in the town of Wales may be recalled and  
2 removed from that office by the qualified voters of the town as provided in this act.

3 Section 2. One hundred or more registered voters may initiate a recall petition by filing  
4 with the Town Clerk an affidavit containing the name of the officer and the office held whose  
5 recall is sought and a statement of the grounds for recall. Upon certification by the town clerk,  
6 the town clerk shall, within 2 business days, deliver to the voter first named on such affidavit, a  
7 sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued  
8 by the Town Clerk with the Town Clerk's signature and official seal attached thereto; they shall  
9 be dated and addressed to the Board of Selectmen; shall contain the name of the person whose  
10 recall is sought, the office from which recall is sought, the grounds for recall as stated in the  
11 affidavit, and shall demand the election of a successor to such office. A copy of the petition shall  
12 be entered in a record book to be kept in the office of the Town Clerk. The recall petition shall be  
13 returned and filed with the Town Clerk within t20 days following the date of issuance of said  
14 petition. Said recall petition shall be signed by at least 20 per cent of the registered voters in said  
15 town, and to every signature shall be added the place of residence of the signer, giving the street  
16 and number. The town clerk shall, within 2 business days following the date of such filing,  
17 submit the recall petition to the board of registrars of voters, who shall within 5 business days

18 after the day of receipt, certify in writing thereon the number of signatures which are names of  
19 voters in said town as of the date such affidavit was filed with the town clerk. The board of  
20 registrars shall, upon completion of its certification, return the petition to the town clerk.

21 Section 3. If the petition shall be found and certified by said Town Clerk to be sufficient,  
22 he or she shall submit the same with his or her certificate thereon to the selectmen without delay,  
23 and the selectmen shall forthwith give to the elected officer whose recall is being sought, written  
24 notice of the receipt of said certificate and shall, if the officer sought to be removed does not  
25 resign within 5 days thereafter, thereupon order a recall election to be held not less than 60 nor  
26 more than 90 days after the date of town clerk's certificate that a sufficient petition has been  
27 filed; provided however, that if any other town election is to occur within 100 days after the date  
28 of said certificate, the selectmen may, in their discretion postpone the holding of the removal  
29 election to the date of such other election. If a vacancy occurs in said office after a recall election  
30 has been ordered, the election shall nevertheless proceed as provided in this act.

31 Section 4. Any officer sought to be recalled may be a candidate to succeed himself or  
32 herself, and unless he or she requests otherwise in writing, the town clerk shall place his or her  
33 name on the official ballot without nomination. The nomination of other candidates, the  
34 publication of the warrant for the recall election, and the conduct of the same, shall be in  
35 accordance with the provisions of law relating to election, unless otherwise provided in this act.

36 Section 5. The incumbent shall continue to perform the duties of his or her office until the  
37 recall election. If the recall fails, or if the incumbent is re-elected, he/she shall continue in the  
38 office for the remainder of his or her unexpired term, subject to recall as before, except as  
39 provided in this act. If not re-elected in the recall election, he or she shall be deemed removed  
40 upon the qualification of his successor, who shall hold office during the unexpired term. If the  
41 successor fails to qualify within 5 business days after receiving notification of his or her election,  
42 the incumbent shall thereupon be deemed removed and the office vacant.

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

45 For the recall of (name of and title of officer whose recall is sought)

46 Against the recall of (name of and title of officer whose recall is sought)

47 Immediately at the right of each proposition there shall be a square in which the voter by  
48 making a cross mark (X) may vote for either of such propositions. Just above said squares, there  
49 shall appear the direction "Vote for one". Under the proposition shall appear the word  
50 "Candidates" and the direction "Vote for one" and beneath this the names of candidates  
51 nominated as herein before provided.

52           In case of machine voting or punch card balloting, or other forms of balloting,  
53 appropriate provisions shall be made to allow the same intent of the voter.

54           If the majority of the votes cast on the recall question are in the affirmative, then the  
55 candidate who received the highest number of votes of the special election to the vacancy shall  
56 be elected. If a majority of the votes cast on the recall question is in the negative, the ballot for  
57 candidates to fill the potential vacancy need not be counted.

58           Section 7. A recall petition shall not be filed against an officer of the town within 6  
59 months after he or she takes office, or, in the case of an officer subjected to recall election and  
60 not removed thereby, until at least 6months after the election at which his or her recall was  
61 submitted to the voters.

62           Section 8. A person who has been recalled from an office or who has resigned from  
63 office while recall proceedings were pending against that person shall not be appointed to any  
64 town office within 2 years after such removal by recall or resignation.

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