

HOUSE No. 3784

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer E. Benson and James B. Eldridge

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 Shirley.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Jennifer E. Benson

37th Middlesex

James B. Eldridge

Middlesex and Worcester

HOUSE No. 3784

By Representative Benson of Lunenburg and Senator Eldridge, a joint petition (accompanied by bill, House, No. 3784) of Jennifer E. Benson and James B. Eldridge (by vote of the town) that the town of Shirley be authorized to conduct recall elections. 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 Shirley.

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 Shirley may be recalled
2 from office for any reason by the registered voters of the town as provided in this act.

3 SECTION 2. An initial recall affidavit signed by at least 50 registered voters of the town
4 containing their names and addresses may be filed with the town clerk. That initial recall
5 affidavit shall contain the name of the officer, the office sought to be recalled and a statement of
6 the grounds for recall. The town clerk shall immediately forward the recall affidavit to the board
7 of registrars for verification of signatures.

8 SECTION 3. Within 14 calendar days of receipt of the initial recall affidavit, the board of
9 registrars of voters shall (1) verify the signatures on the initial recall affidavit and if found to
10 contain a sufficient number of signatures, (2) the town clerk shall thereupon deliver the first 10
11 signers of the affidavit a formal numbered printed recall petition sheet with the town clerk's

12 official seal, and addressed to the board of selectmen demanding the recall. The town clerk shall
13 fill out the top portion of each recall petition sheet naming the elected official, the grounds for
14 recall stated in the petition, the names of the first 10 voters signing the affidavit, and shall
15 demand the election of a successor to the office. A copy of the recall petition shall be entered in a
16 record book to be kept in the office of the town clerk.

17 The town's registered voters making the initial affidavit shall then have 30 days from the
18 date of delivery of the recall petition sheets in which to file their signed recall petition sheets
19 with the town clerk.

20 To proceed with the recall election, the town clerk shall receive by said 30-day deadline,
21 the required number of signed recall petition sheets containing the signatures, names and street
22 addresses of at least ten percent (10%) of the registered voters of the town as of the date the
23 signed recall petition sheets are delivered to the town clerk.

24 Within 5 working days of receipt, the town clerk shall submit the recall petition sheets to
25 the board of registrars of voters and the board of registrars of voters shall forthwith certify
26 thereon the number of signatures which are names of registered voters of the town.

27 SECTION 4. If the total recall petition sheets shall be found and certified by the board of
28 registrars of voters to be sufficient, it shall be submitted with the certificate of the town clerk to
29 the Board of Selectmen without delay. The Board of Selectmen shall forthwith give written
30 notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not
31 resign within 5 calendar days of the date notice is given from the selectmen, then the Board of
32 Selectmen shall promptly order an election to be held on a date fixed by them not less than 64
33 nor more than 90 days after the date the election is called after receipt of the certificate; but, if

34 any other town election is scheduled to occur within 90 days after the date of said certificate, the
35 Board of Selectmen may postpone the holding of the recall election to the date of such other
36 election and may include the question of recall on the ballot for such other election. If a vacancy
37 occurs in the office after a recall election has been ordered, the election shall nevertheless
38 proceed as provided in this act.

39 SECTION 5. An officer sought to be removed may be a candidate to succeed himself in
40 an election to be held to fill the vacancy. Unless the officer requests otherwise in writing, the
41 town clerk shall place his or her name on the ballot without nomination. The nomination of other
42 candidates, the publication of the warrant for the recall election and the conduct of the same,
43 shall all be in accordance with the law relating to elections, unless otherwise provided in this act.

44 SECTION 6. The incumbent shall continue to perform the duties of the office until the
45 recall election. If the incumbent is not recalled, he shall continue in office for the remainder of
46 the unexpired term, subject to recall as before, except as provided in this act. If not re-elected in
47 the recall election, he shall be considered removed from office immediately and the office
48 vacant.

49 SECTION 7. Ballots used in a recall election shall contain the following question: shall
50 (insert name and office) be recalled from office? Immediately at the right of the proposition,
51 there shall be a designated place for voters to vote for or against the proposition.

52 Following the proposition shall appear the word "Candidates" with directions to voters as
53 required by section 42 of chapter 54 of the General Laws. Beneath the word "Candidates"
54 appears the names of candidates nominated as hereinbefore provided.

55 If a majority of the votes cast upon the question of recall are in favor of recall, the officer
56 shall be recalled and the votes for the candidates shall be counted. In such an instance, the
57 candidate receiving the highest number of votes shall be declared elected for the open office. If
58 less than a majority of the votes cast are in favor of recall, the votes for candidates need not be
59 counted.

60 SECTION 8. An initial recall affidavit shall not be filed against an officer within 3
61 months after the officer takes office or within the last 3 months of the term; nor, in the case of an
62 officer subjected to a recall election and not recalled thereby, until at least 3 months have elapsed
63 after the election at which the recall was submitted to the voters of the town.

64 SECTION 9. A person who has been recalled from an office or who has resigned from
65 office while a recall petition was pending against him shall not be appointed to any town office
66 within 2 years after the recall or resignation.