

HOUSE No. 4602

Substituted by the House, on motion of Mr. Speliotis of Danvers, for a bill with the same title (House, No. 3640). September 1, 2016.

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. Any holder of an elected office in the town of Bolton may be recalled from
2 the office by registered voters of the town as provided in this act. No recall petition shall be filed
3 against any officer within 6 months after he or she takes office, nor, in the case of an officer
4 subjected to, but not recalled by, a recall election, until at least 6 months after the election at
5 which the recall petition was submitted to the voters.

6 SECTION 2. Any 30 registered voters of the town of Bolton may initiate a recall petition
7 by filing an affidavit with the town clerk. The affidavit shall contain the name of the officer
8 sought to be recalled and a statement of the grounds of recall. The town clerk shall provide a
9 sufficient number of copies of blank petition forms, which the clerk shall maintain, to the voters
10 who filed the affidavit. The petition forms shall: be issued by the town clerk and bear the clerk's
11 signature and official seal; be dated and addressed to the board of selectmen; contain the names
12 of all persons to whom the forms were provided, the number of forms so issued, the name of the
13 person sought to be recalled, a statement of the grounds of recall as stated in the affidavit, and a

14 statement demanding the election of a successor to such office. Such forms shall be provided
15 within 5 business days of filing the petition, during regular business hours. Said recall petition
16 shall be returned and filed with the town clerk on the twenty-eighth day after the filing of the
17 affidavit. In the event that the town hall is not open on the twenty-eighth day, the petition may be
18 filed during normal business hours on the next day on which town hall is open for business. The
19 petition, before being returned and filed, shall be signed by qualified voters of the town, equal in
20 number to at least 20 per cent of the qualified voters of the town as of the date the affidavit was
21 filed with the town clerk. Every signature must be accompanied by the signer's place of
22 residence, giving the street and number. The registrars of voters of the town shall forthwith
23 certify the number of signatures.

24 SECTION 3. The reasons for which a recall may be initiated pursuant to this act shall
25 include, but not be limited to:

26 (i) Lack of fitness, which shall mean insobriety while performing official functions,
27 involuntary commitment to a mental health facility or being placed under guardianship or
28 conservatorship by a probate court.

29 (ii) Corruption, which shall mean a conviction of a felony involving moral turpitude,
30 conviction of bribery, or extortion.

31 (iii) Neglect of Duties, which shall mean repeated absences from meetings without just
32 cause. Just cause shall include, but not be limited to, illness or regular vacation periods.

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

36 SECTION 4. If the petition filed pursuant to section 3 shall be found and certified by the
37 registrars of voters to be sufficient, the town clerk shall forthwith submit it, with the certificate,
38 to the board of selectmen. The board of Selectmen shall forthwith give written notice to said
39 officer of the receipt of said certificate and, if the officer sought to be removed does not resign
40 within 7 calendar days, shall order an election to be held on a day fixed by the board of
41 selectmen not less than 64 days nor more than 90 days after the date the board of selectmen calls
42 the election. If any other town election is to occur within 90 days after the date of said
43 certificate, the board of selectmen may postpone the holding of the recall election to the date of
44 such other election. If a vacancy occurs in said office after a recall election has been so ordered,
45 the election shall nevertheless proceed as provided in this section.

46 SECTION 5. An officer who is subject to a recall election pursuant to this act may not be
47 a candidate to succeed himself or herself. The nomination of other candidates, the publication of
48 the warrant for the recall election, and the conduct of the recall election shall all be carried out in
49 accordance with the provisions of law relating to elections, unless otherwise provided by this act.

50 SECTION 6. An officer who is subject to a recall election pursuant to this section shall
51 continue to perform the duties of his or her office until the recall election. If the officer is not
52 recalled, he or she shall continue in the office for the remainder of his or her unexpired term,
53 subject to recall as before, except as provided in this act. If the officer is recalled in the recall
54 election, he or she shall be deemed removed upon the election of a successor, who shall hold
55 office during the unexpired term. If the successor fails to take office within 5 days after
56 receiving notification of his or her election, the incumbent shall thereupon be deemed removed
57 and the office vacant.

58 SECTION 7. Ballots used in a recall election conducted pursuant to this act shall contain
59 the following propositions in the order indicated:

60 For the recall of (name of officer).

61 Against the recall of (name of officer).

62 Immediately at the right of each proposition, there shall be an oval above which reads
63 “vote for one”. The voter, by filling in said oval, may vote for either of such propositions.

64 Under the propositions shall appear the word "Candidates," and the direction “vote for one”,
65 under which shall appear the names of candidates nominated as provided in this act. In case of
66 other forms of balloting, appropriate provision shall be made to allow the same intent of the
67 voter.

68 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 recall election to fill the vacancy shall
70 be elected. If a majority of votes on the question is in the negative, the ballot for candidates need
71 not be counted.

72 SECTION 8. No person who has been removed from an office pursuant to this act or who
73 has resigned from office while recall proceedings were pending against him or her shall be
74 appointed to any town office within 2 years after such removal or such resignation.

75 SECTION 9. This act shall take effect upon its passage.