

**HOUSE . . . . . No. 4144**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Susannah M. Whipps*

*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 Erving.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>10/26/2017</i>

**HOUSE . . . . . No. 4144**

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By Ms. Whipps of Athol, a petition (accompanied by bill, House, No. 4144) of Susannah M. Whipps (by vote of the town) relative to providing for recall elections in the town of Erving. Election Laws. [Local Approval Received.]

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

An Act Providing for Recall Elections in the Town Of Erving.

*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 Erving may be recalled and  
2 removed therefrom by the qualified voters of the same as follows:

3           Section 2. One hundred or more registered voters may initiative 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 of recall. Upon certification by the town clerk, the  
6 town clerk shall, within seven 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 be  
9 dated and addressed to the board of selectmen; shall contain the name of the person whose recall  
10 is sought, the office from which the 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 twenty days following the date of insurance of said  
14 petition. Said recall petition shall be signed by at least twenty percent of the registered voters in  
15 said town, and to every signature shall be added the place of residence of the signer, giving the  
16 street and number. The town clerk shall, within seven business days following the date of such  
17 filing, submit the recall petition to the board of registrars of voters, who shall within five  
18 business days after the day of receipt, certify in writing thereon the number of signatures which  
19 are names of voters in said town as of the date such affidavit was filed with the town clerk. The  
20 board of 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 shall submit the same with his certificate therein to said selectman without delay, and said  
23 selectmen shall forthwith give to said elected officer whose recall is being sought, written notice  
24 of the receipt of said certificate and shall, if the officer sought to be removed does not resign  
25 within five days thereafter, thereupon order a recall election to be held not less than sixty nor  
26 more than ninety days after the date of the town clerks certificate that a sufficient petition has  
27 been filed; provided however, that if any other town election is to occur within one hundred days  
28 after the date of said certificate, the selectmen may, in their discretion postpone the holding of  
29 the removal election to that date of such other election. If a vacancy occurs in said office after a  
30 recall election has been order, the election shall nevertheless process as herein provided.

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

36 Section 5. The incumbent shall continue to perform the duties of his office until the recall  
37 election. If the recall fails, or if the incumbent is re-elected, he shall continue in the office for the  
38 remainder of his unexpired term, subject to the recall as before, except as provided in this act. If  
39 not re-elected in the recall election, he shall be deemed removed upon the qualification of his  
40 successor, who shall hold office during the unexpired term. If the successor fails to qualify  
41 within five days after receiving notification of his election, the incumbent shall thereupon be  
42 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: For the recall of (name of officer)(office held) against the  
45 recall of (name of officer)(office held) immediately at the right of each proposition there shall be  
46 a square in which the voter by making a cross mark (X) may vote for either such propositions.  
47 Just above said squares, there shall appear the direction "Vote for one". Under the proposition  
48 shall appear the word "Candidates" and the direction "Vote for one" and beneath this the names  
49 of candidates nominated as hereinbefore provided. In case of machine voting or punch card  
50 balloting, or other forms of balloting, appropriate provisions shall be made to allow the same  
51 intent of the voter. If a majority of votes cast on the recall question is in the affirmative, then the  
52 candidate who received the highest number of votes of the special election to the vacancy shall  
53 be elected. If a majority of votes cast on the recall question is in the negative, the ballot for the  
54 candidates to fill the potential vacancy need not be counted.

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

59           Section 8. No person who has been recalled from an office or who has resigned from  
60 office while recall proceedings were pending against that person, shall be appointed to any town  
61 office within two years after such removal by recall or resignation.

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