HOUSE DOCKET, NO. 4820 FILED ON: 5/16/2018

HOUSE . . . . . No. 4533

The Commonwealth of Massachusetts

PRESENTED BY:

David Paul Linsky and Richard J. Ross

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 removal of elected financial officials for the town of Sherborn.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
David Paul Linsky	*5th Middlesex*	*5/16/2018*
Richard J. Ross	*Norfolk, Bristol and Middlesex*	*5/16/2018*

HOUSE DOCKET, NO. 4820 FILED ON: 5/16/2018

HOUSE . . . . . No. 4533

By Representative Linsky of Natick and Senator Ross, a joint petition (accompanied by bill, House, No. 4533) of David Paul Linsky and Richard J. Ross (by vote of the town) relative to the removal of elected financial officials in the town of Sherborn. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

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

An Act removal of elected financial officials for the town of Sherborn.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

The Board of Selectmen wish to reaffirm its commitment regarding the passage of the petition to the General Court to enact the following Home Rule Article which was so voted at the Sherborn Annual Town meeting on April 24, 2018, precisely as provided below, provided the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve the amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen be authorized to approve amendments which are within the scope of the general public objectives of the petition.

Section 1

In the event that an elected Treasurer, Collector, or member of the Board of Assessors (hereinafter referred to as "Financial Official"), in the course of performing the duties required by the office and the laws that govern it, is demonstrating a pattern of errors, omissions,

negligence and/or dishonesty, or commits an act so egregious that it could put the Town's financial well-being at great risk, the Financial Official may be removed from office in accordance with the procedures set forth in this Act.

Section 2

The Town Administrator shall receive and document any written and signed reports of alleged transgressions submitted by any and all individuals whose relationship in doing the Town's business could legitimately make them aware of irregularities. Those individuals would include but not be limited to members of the finance departments (including the other finance officials) auditors, banks, town officials, and members of the various town committees. If the Town Administrator determines that the severity, frequency and/or urgency of the complaint or complaints warrants invoking this special act, the Town Administrator shall inform the Moderator, who shall convene and preside over a meeting of the Chair of the Board of Selectmen, the Chair of the Personnel Committee, the Chair of the Advisory Committee, the Chair of the Board of Assessors (if not the subject of the complaint), an elected Financial Official (if not the subject of the complaint) appointed by the Moderator, plus the Moderator (a voting member), (hereinafter referred to as the Review Committee). If the Chair of the Board of Assessors is the subject of the complaint, the Moderator shall appoint another member of the Board of Assessors in his/her place. A minimum of four members of the Review Committee must be present to constitute a meeting. Counsel for the Town shall also be present to advise the Review Committee. Any of the eligible members of the Review Committee unable to attend should so state in writing, to be entered into the record at the meeting. The meeting shall be held in accordance with all of the procedures set forth in M.G.L. Chapter 30A, Section 21(a)(1).

The Financial Official shall receive at least 48 hours prior, written notice of the impending meeting as provided in M.G.L. Chapter 30A, Section 21(a)(1), with relevant information relating to the issues to be addressed at the meeting, an invitation to attend and submit testimony in defense of the actions in question, and affirmation of the right to bring legal counsel, all in accordance with said Section 21(a)(1). This notice shall be prepared by the Town Administrator or his designee.

Section 3

The Review Committee shall review the alleged complaints to determine if they constitute cause for removal from office pursuant to this act. The Town Administrator will present all the facts, including any testimony, before the Review Committee, but will not participate in the vote.

The meeting will stay in session (or be continued if necessary) until all relevant information is heard, the Financial Official has had all the time necessary to present the defense and rebut the charges. After all evidence has been received, the Review Committee will vote to excuse, censure, or remove the Financial Official. A vote to remove must be for malfeasance or nonfeasance in office. The Review Committee should regard this process very seriously, with Town Counsel input, as an unjust vote puts the Town at risk for legal consequences.

If the vote is to remove, the Financial Official will be given the choice to resign and if so chooses should be allowed to proffer a letter of resignation, in a form used by the town, to sign and be witnessed by the Moderator. If not, the Financial Official should be handed a letter prepared prior to the end of the meeting and signed at the meeting by each of the participating Review Committee members, stating the result of the vote and the fact that going forward from

that moment there will be allowed no unsupervised access to Town funds or records. All keys should be collected and passwords changed. A summary of the meeting with the resulting vote should be reviewed before the meeting adjourns and shall become a public record immediately.

The vacated position will be filled in accordance with the provisions of the Massachusetts General Laws.

Section 4

This Act shall take effect upon passage.