

SENATE No. 2275

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 Westport.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Michael J. Rodrigues

First Bristol and Plymouth

Paul A. Schmid, III

8th Bristol

SENATE No. 2275

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 2275) of Michael J. Rodrigues and Paul A. Schmid, III (by vote of the town) for legislation to provide for recall elections in the town of Westport. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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

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. Notwithstanding any general or special law to the contrary, any holder of an
2 elected office in the town of Westport may be recalled by the registered voters of the town as
3 provided in this act.

4 SECTION 2. An initial recall affidavit may be filed with the town clerk signed under the
5 penalty of perjury by at least two hundred registered voters of the town with their names and
6 addresses, one of who shall be designated as the so-called lead petitioner for purposes of this act.
7 The initial recall affidavit shall contain the name of the officer sought to be recalled, appearing
8 as registered on the current voting list prepared under G.L. c.51, and 37A, the office from which
9 removal is sought, and a statement of the grounds for recall. Within 24 hours of receipt, the town
10 clerk shall submit the affidavit to the board of registrars of voters, which shall within seven
11 business days, certify thereon the number of signatures, which are names of registered voters of
12 the town.

13 SECTION 3. The town clerk shall, within 7 business days following said certification,
14 make available to the lead petitioner at the office of the town clerk petition blanks containing
15 lines for the number of signatures required below, multiplied by 5, demanding such recall. Such
16 blanks shall be issued by the town clerk with a facsimile of the signature of the town clerk and
17 official seal of the town attached thereto. The blanks shall be dated, be addressed to the board of
18 selectmen, contain the names of the 10 voters first named on the affidavit, the number of blanks
19 so issued, the name of the person whose recall is sought appearing as registered on the current
20 voter list, the office from which removal is sought, the grounds of recall as stated in the affidavit,
21 and demand the election of a successor to the office. Said recall petition shall be returned and
22 filed with the town clerk within 30 days from the date the recall petition sheets are made
23 available in accordance with this section, and shall have been signed by at least 10 per cent of the
24 registered voters of the town as of the date of the most recent annual town election, who shall
25 add to their signatures their place of residence, including their street and number, if any.

26 The town clerk shall within 1 business day of receipt submit the petition to the board of
27 registrars of voters, and the board of registrars shall within 7 business days certify thereon the
28 number of signatures which are names of registered voters of the town.

29 SECTION 4. If the total recall petition sheets shall be found and certified by the board of
30 registrars of voters to be sufficient, the certified petition shall be forthwith submitted with the
31 certificate of the town clerk to the board of selectmen. The board of selectmen shall within 5
32 business days give written notice to the officer sought to be recalled of receipt of the certified
33 petition and shall, if the officer does not resign within 5 business days thereafter, forthwith order
34 an election to be held on a date fixed by them not less than 64 nor more than 90 days from the
35 date the board of selectmen call for said election; provided, however, that if any other town

36 election is to occur within one 120 days of the date the board calls for the election, the board of
37 selectmen shall postpone the holding of the recall election to the date of such other election, and
38 the question of recall shall appear on the ballot at said election. If a vacancy occurs in the office
39 after a recall election has been ordered, the election shall nevertheless proceed as provided in this
40 act.

41 SECTION 5. An officer sought to be recalled may be a candidate in an election to be held
42 to fill the vacancy and unless the officer requests otherwise in writing, the town clerk shall place
43 the officer's name on the ballot without nomination. The nomination of other candidates, the
44 publication of the warrant for the recall election and the conduct of the nomination and
45 publication, shall all be in accordance with the law relating to elections, unless otherwise
46 provided in this act.

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

52 SECTION 7. Ballots used in a recall election shall contain the following propositions:

53 FOR THE RECALL OF (NAME), (OFFICE)

54 AGAINST THE RECALL OF (NAME), (OFFICE)

55 Adjacent to each proposition, there shall be a place to mark a vote. Following the
56 propositions shall appear the word "candidates" with directions to voters as required G.L. c.54,

57 §42. Beneath the word "candidates" shall appear the name of candidates nominated as provided
58 in this act.

59 If a majority of the votes cast upon the question of recall is in favor of recall, the officer
60 shall be recalled and the votes for the candidates shall be counted. In that instance, the candidate
61 receiving the highest number of votes shall be declared elected for the open office. If less than a
62 majority of the votes cast are in favor of recall, the votes for candidates shall not be counted.

63 SECTION 8. An initial recall affidavit shall not be filed against an officer within 3
64 months after the officer takes office or within the last 3 months of the term. In the case of an
65 officer subjected to a recall election and not recalled, a new recall affidavit shall not be filed
66 against that officer until at least 6 months have elapsed after the election at which the previous
67 recall was submitted to the voters of the town.

68 SECTION 9. No person who has been recalled from an office or who has resigned from
69 office after the filing of a recall petition under this act shall be appointed to any town office
70 within two years after such recall or such resignation.

71 SECTION 10. This act shall take effect upon its passage; and/or take any other action
72 relative thereto.