

SENATE No. 3149

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

SENATE, December 8, 2022.

The committee on Bills in the Third Reading to whom was referred the House Bill establishing recall elections in the town of Otis (House, No. 826); reports, recommending that the same be amended as follows, and that, when so amended, it will be correctly drawn:-- by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 3149.

For the committee,
Sal N. DiDomenico

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

1 SECTION 1. Any holder of elective office in the town of Otis may be recalled by the
2 registered voters of the town as provided in this act.

3 SECTION 2. One hundred registered voters of the town of Otis may file an affidavit with
4 the town clerk containing the name of the officer sought to be recalled and a statement of the
5 grounds for the recall. After receipt of the affidavit, the town clerk shall submit the affidavit to
6 the board of registrars of voters and the board shall certify thereon the number of signatures that
7 are names of registered voters of the town. The town clerk shall, following certification by the
8 registrars of voters, deliver to the voters a sufficient number of copies of petition blanks
9 addressed to the board of selectmen demanding the recall. The petition blanks shall be issued
10 under the signature and official seal of the town clerk. The petition blanks shall be dated and
11 contain the names of all persons to whom they are issued, the name of the person whose recall is
12 sought and the grounds for the recall as stated in the affidavit and shall request the election of a
13 successor to the office. A copy of the petition shall be entered in the record book to be kept in the
14 office of the town clerk. The recall petition shall be returned and filed with the town clerk not
15 later than the first business day following 20 days after the filing of the affidavit. The petition,
16 before being returned and filed with the town clerk, shall be signed by not less than 30 per cent
17 of the registered voters of the town, who shall add to their signatures the street and number, if

18 any, of their residences. Within 24 hours after receipt of the petition, the town clerk shall submit
19 the petition to the board of registrars of voters, which shall, within 14 days, certify thereon the
20 number of signatures that are names of registered voters of the town.

21 SECTION 3. If the petition shall be found and certified by the board of registrars of
22 voters to be sufficient, the town clerk shall, within 7 days, submit the certified petition with the
23 certification to the board of selectmen. Within 7 days, the board of selectmen shall give written
24 notice to the officer sought to be recalled of the certified petition. If the officer does not resign
25 within 7 days thereafter, the board of selectmen shall order an election to be held on a date to be
26 fixed by the board not less than 64 days nor more than 90 days from the date the board of
27 selectmen call for said election ; provided, however, that if any other town election is scheduled
28 to occur not later than 100 days after the date of the certification, the board of selectmen may, in
29 the board's discretion, postpone the holding of the recall election to the date of such other
30 election. If a vacancy occurs in the office after a recall election has been ordered, the elections
31 shall nevertheless proceed as provided in this act.

32 SECTION 4. Any officer sought to be recalled may be a candidate to succeed themselves
33 and, unless the officer specifically requests otherwise in writing, the town clerk shall place the
34 officer's name on the official ballot without nomination. The nomination of other candidates, the
35 publication of the warrant for the recall election and the conduct of same shall be in accordance
36 with the provisions of law relating to elections unless otherwise provided in this act.

37 SECTION 5. The incumbent shall continue to perform the duties of the office until the
38 recall election. If the incumbent is not recalled, the incumbent shall continue in the office for the
39 remainder of the unexpired term, subject to recall as before, except as provided in section 7. If

40 recalled, the incumbent shall be deemed removed from office upon the qualification of their
41 successor, who shall hold office during the unexpired term. If the successor fails to qualify
42 within 7 days after receiving written certified notification of their election, the incumbent shall
43 thereupon be deemed recalled and the office vacant.

44 SECTION 6. Ballots used in a recall election shall contain the following propositions in
45 the order indicated below:

46 For the recall of (Name of Officer)

47 Against the recall of (Name of Officer)

48 Immediately to the right of each proposition, there shall be a square in which the voter,
49 by making a cross mark (X), may vote for either of such propositions. Following the proposition
50 shall appear the word "candidates" with directions to voters as required by section 42 of chapter
51 54 of the General Laws. Beneath the word "candidates", there shall appear the names of
52 candidates nominated as provided in this act.

53 If a two-thirds majority of the votes cast upon the question of recall is in the affirmative,
54 the officer shall be recalled and the votes for the candidates shall be counted. In that instance, the
55 candidate receiving the highest number of votes shall be deemed elected to the open office. If
56 less than a two-thirds majority of the votes cast upon the question of recall is in the affirmative,
57 the ballots for the candidates need not be counted.

58 SECTION 7. A recall petition shall not be filed against an officer of the town within 6
59 months after the officer takes office. In case of an officer subjected to a recall election and not

60 recalled by that election, a subsequent recall petition shall not be filed against the officer until
61 not later than 12 months after the date of the previous recall election.

62 SECTION 8. A person who has been recalled from an office or who has resigned from
63 office while recall proceedings were pending against the person shall not be appointed to any
64 town office within 1 year after such recall or resignation.

65 SECTION 9. This act shall be submitted for acceptance to the voters of the town of Otis
66 at an annual town meeting in the form of the following question, which shall be placed on the
67 ballot: "Shall an act passed by the general court in the year 2022, entitled 'An Act establishing
68 recall elections in the town of Otis' be accepted?"

69 Below the ballot question shall appear a fair and concise summary of the act prepared by
70 town counsel and approved by the select board. If a majority of the votes cast in answer to the
71 question is in the affirmative, then sections 1 to 8, inclusive, of this act shall be effective in the
72 town of Otis, but not otherwise.