

**SENATE . . . . . No. 440**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Bruce E. Tarr*

*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 to recall elected officials in the town of Manchester-by-the-Sea.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Bruce E. Tarr*

*First Essex and Middlesex*

*Ann-Margaret Ferrante*

*5th Essex*

**SENATE . . . . . No. 440**

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By Mr. Tarr, a petition (accompanied by bill, Senate, No. 440) of Bruce E. Tarr and Ann-Margaret Ferrante (by vote of the town) for legislation to recall elected officials in the town of Manchester-by-the-Sea. Election Laws. [Local Approval Received.]

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 3154 OF 2021-2022.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

An Act to recall elected officials in the town of Manchester-by-the-Sea.

*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 office elected solely by the voters of the town of  
2           Manchester-by-the-sea may be recalled and removed from the office by the registered voters of  
3           the town herein provided, for reason of lack of fitness, incompetence, neglect of duties,  
4           corruption, malfeasance, misfeasance or violation of oath.

5           SECTION 2. Not less than 200 registered voters of the town of Manchester-by-the-Sea  
6           may initiate a recall by filing with the town clerk an affidavit of intent to recall, signed under the  
7           penalties of perjury, containing the name of the officer and the office held whose recall is sought  
8           and a statement of the grounds of recall including specific facts supporting one or more of the  
9           reasons in section 1. The town clerk shall immediately forward the recall affidavit to the board of  
10          registrars to verify the signatures.

11 SECTION 3. Within 14 calendar days of receipt of the initial recall affidavit, the board of  
12 registrars shall certify to the town clerk a sufficient number of signatures. The town clerk shall,  
13 within 3 business days thereafter, deliver to the first 10 signers of the affidavit a formal  
14 numbered printed recall petition sheet with the town clerk's signature and official seal attached  
15 thereto. The blanks shall be dated and addressed to the select board, shall contain the name of the  
16 person whose recall is sought, the office from which recall is sought and the grounds for recall as  
17 stated in the affidavit including specific facts supporting one or more of the reasons in section 1  
18 and shall demand the election of a successor to the office. The names of the first 10 signers of the  
19 initial recall affidavit shall be listed above the voter signature lines and any instructions to  
20 signers. A copy of the petition shall be entered in a record book to be kept in the office of the  
21 town clerk.

22 SECTION 4. The recall petition shall be returned and filed with the town clerk and board  
23 of registrars not later than 5:00pm. 30 calendar days from the date of delivery of the recall  
24 petition sheets, or the next business day if the thirtieth day falls on a Saturday, Sunday, or legal  
25 holiday. The clerk shall notify the first 10 signers of the final date and hour for filing. The recall  
26 petition shall be signed by not less than 20 percent of the registered voters of the town of  
27 Manchester-by-the-Sea as of the last annual town election and every signature shall include the  
28 place of residence of the signer with the street and number. Within 5 business days following the  
29 receipt of the signed petition, the town clerk shall submit the recall petition sheets to the board of  
30 registrars and the board of registrars shall certify in writing thereon the number of signatures that  
31 are names of registered voters in the town as of the date the petition sheet was filed with the  
32 town clerk.

33 SECTION 5. If the total recall petition sheets shall be found and certified by the board of  
34 registrars to be sufficient, the town clerk shall submit the certified petition to the select board  
35 within 2 business days. The select board shall immediately, and in not more than 5 business  
36 days, give written notice of the receipt of the certificate to the elected officer whose recall is  
37 being sought. If the officer sought to be removed does not resign within 3 business days  
38 thereafter, the select board shall, within 5 business days of the last day upon which the officer  
39 must resign under this Section, order a recall election to be held not less than 64 days nor more  
40 than 90 calendar days from the date of the vote scheduling the election; provided, however, that  
41 if any other town election is to occur within 100 calendar days after the date of the vote, the  
42 select board may, in its discretion, place the question of recall on the ballot at such other election.  
43 If a vacancy occurs in the office sought to be recalled after a recall election has been ordered, but  
44 not yet been conducted, the election shall nevertheless proceed as provided in this act.

45 SECTION 6. An officer sought to be removed may be a candidate to succeed himself in  
46 an election to be held to fill the vacancy. The nomination of all candidates, the publication of the  
47 warrant for the recall election, and the conduct of the same shall be in an accordance with the  
48 provisions of law relating to elections.

49 SECTION 7. The incumbent shall continue to perform the duties of the office until the  
50 recall election unless the incumbent resigns. If the incumbent is not recalled, the incumbent shall  
51 remain in office for the remainder of the incumbent's unexpired term, subject to recall as before.  
52 If recalled in the recall election, the incumbent shall be considered removed from office  
53 immediately. The Successor, upon qualification, shall hold office during the unexpired term;  
54 provided, however, that if such person is not qualified within 10 business days of the recall

55 election, the position shall be deemed vacant and may be filled in accordance with the applicable  
56 law.

57 SECTION 8. Ballots used in a recall election shall contain the following question: Shall  
58 (insert name and office) be recalled from office? Immediately at the right of the proposition,  
59 there shall be a designated place for the voters to vote for or against the question.

60 Under the proposition shall appear the word "CANDIDATES" with directions to the  
61 voters as required by section 42 of chapter 54 of the General Laws. Beneath this, listed  
62 alphabetically, shall appear the names of the candidates nominated as provided by law.

63 If a majority of the votes cast on the recall question is in favor of the recall, the elected  
64 official shall be recalled and the ballots for the candidate shall be counted. The candidate who  
65 received the higher number of votes shall be elected to the office. If a majority of the votes cast  
66 on the recall question is in the negative the votes for candidates to fill the potential vacancy need  
67 not be counted.

68 SECTION 9. An initial recall affidavit shall not be filed against an elected official within  
69 3 months after the official has taken office nor, in the case of an officer subjected to a recall  
70 election and not recalled thereby, until at least 3 months have elapsed after the election which the  
71 recall was submitted to the voters.

72 SECTION 10. A person who has been recalled from office, or who has resigned from  
73 office after the recall petition has been filed with the board of registrars shall not be appointed to  
74 any town office, board or committee within 3 years after the recall or resignation.

75 SECTION 11. This act shall take effect upon its passage.