

HOUSE No. 3746

The Commonwealth of Massachusetts

PRESENTED BY:

Bradford Hill and 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 relative to recall of elected officers in the town of Wenham.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>5/6/2021</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>5/6/2021</i>

HOUSE No. 3746

By Representative Hill of Ipswich and Senator Tarr, a joint petition (accompanied by bill, House, No. 3746) of Bradford Hill and Bruce E. Tarr (by vote of the town) relative to recall of elected officers in the town of Wenham. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

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

An Act relative to recall of elected officers in the town of Wenham.

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 Wenham may be
2 recalled and removed therefrom by the qualified voters of said town as herein provided.

3 SECTION 2. No fewer than 50 registered voters of Wenham may initiate recall by filing
4 with the town clerk an affidavit of intent to recall, signed under the penalties of perjury,
5 containing the name of the officer and the office held whose recall is sought and a statement of
6 the grounds of recall; provided however, that the vote of an elected official on a matter, other
7 than in connection with a conflict-of-interest violation, shall not constitute valid grounds for
8 recall; the voters themselves shall individually determine whether any other grounds listed for
9 recall are sufficient. The town clerk shall, within 2 business days of receipt of an affidavit of
10 intent, certify, in accordance with the standards established by section 7 of chapter 53 of the
11 General Laws, the names of voters of the town who signed the affidavit of intent.

12 SECTION 3. Upon certification by the town clerk of a sufficient number of signatures,
13 the town clerk shall, within 3 business days, notify the primary petitioner, the voter first named
14 on such notice of intent, that copies of such petition blanks are available at the office of the town
15 clerk. The blanks shall be issued by the town clerk with the town clerk's signature and official
16 seal attached thereto; they shall be dated and addressed to the select board/board of selectmen
17 and shall contain the name of the person whose recall is sought, the office from which recall is
18 sought, the grounds for recall as stated in the affidavit, and shall demand the election of a
19 successor to such office. The names of the first ten signers of the affidavit of intent shall be listed
20 above the voter signature lines and any instructions to signers. A copy of the petition shall be
21 entered in a record book to be kept in the office of the town clerk.

22 SECTION 4. The recall petition shall be returned and filed with the town clerk and board
23 of registrars no later than 5:00 p.m. 21 calendar days following the date the clerk notifies the
24 primary petitioner of the availability of the petition, or the next business day if the 21st day falls
25 on a Saturday, Sunday or legal holiday. The clerk shall notify the primary petitioner of the final
26 date and hour for filing. Said recall petition shall be signed by at least 10 percent of the
27 registered voters of Wenham as of the last annual town election, and to every signature shall be
28 added the place of residence of the signer, giving the street and number. The town clerk and
29 board of registrars shall, within 5 business days following the date of such filing, certify in
30 writing thereon the number of signatures which are names of registered voters in said town as of
31 the date such affidavit was filed with the town clerk.

32 SECTION 5. If the petition shall be found and certified by said town clerk to be
33 sufficient, the town clerk shall submit the certified petition to said select board/board of
34 selectmen within 2 business days from certification of sufficient signatures and said select

35 board/board of selectmen shall forthwith, and in no more than 5 business days, give written
36 notice of the receipt of said certificate to said elected officer whose recall is being sought. If the
37 officer sought to be removed does not resign within 3 business days thereafter, said select
38 board/board of selectmen shall within 5 business days order a recall election to be held not less
39 than 64 nor more than 90 calendar days from the date of the vote scheduling the election;
40 provided however, that if any other town election is to occur within 100 calendar days after the
41 date of the vote, the select board/board of selectmen may, in its discretion, place the question of
42 recall on the ballot at such other election. If a vacancy occurs in said office after a recall election
43 has been ordered, but not yet been conducted, the election shall nevertheless proceed as herein
44 provided.

45 SECTION 6. The nomination of all candidates, including the incumbent, the publication
46 of the warrant for the recall election, and the conduct of the same, shall all be in accordance with
47 the provisions of law relating to elections, unless otherwise provided in this act.

48 SECTION 7. The incumbent shall continue to perform the duties of the office until the
49 recall election unless the elected official resigns. If the incumbent is not recalled that person shall
50 remain in office for the remainder of the incumbent's unexpired term, subject to recall as before.
51 If recalled in the recall election, the incumbent shall be considered removed. The successor,
52 upon qualification, shall hold office during the unexpired term; provided, however, that if such
53 person is not qualified within 10 business days of said election, the position shall be deemed
54 vacant and may be filled in accordance with applicable law.

55 SECTION 8. Ballots used in a recall election in said town shall submit the following
56 proposition in the order indicated:

57 FOR THE RECALL OF THE [NAME OF OFFICER] (OFFICE HELD)

58 AGAINST THE RECALL OF THE [NAME OF OFFICER] (OFFICE HELD)

59 Immediately at the right of each proposition there shall be a designated space for voters
60 to vote for either of the propositions. Just above said space, there shall appear the direction "Vote
61 for one".

62 Under the proposition shall appear the word "CANDIDATES" and the direction "Vote
63 for one" and beneath this, listed alphabetically, the names of candidates nominated as
64 hereinbefore provided.

65 If a majority of the votes cast on the recall question is in favor of the recall, the elected
66 official shall be recalled and the ballots for the candidates shall be counted. The candidate who
67 received the highest number of votes of the special election to the vacancy shall be elected.

68 If a majority of the votes cast on the recall question is in the negative, the votes for
69 candidates to fill the potential vacancy need not be counted unless a vacancy exists at the time of
70 the election.

71 SECTION 9. A recall petition shall not be filed against an elected official within three
72 months after the official has taken office. An elected official shall not be subject to a subsequent
73 recall effort for the same specific grounds listed in the notice of intent filed for any prior recall
74 effort.

75 A person who has been recalled from office, or who has resigned from office after the
76 recall petition has been filed with the board of registrars of voters, shall not be appointed to any
77 town office, board or committee within 3 years after the recall or resignation.

SECTION 10. This act shall take effect upon its passage.