

HOUSE No. 04281

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Todd M. Smola and Stephen M. Brewer

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 passage of the accompanying bill:

AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF WALES.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire, Franklin</i>

HOUSE No. 04281

By Representative Smola of Palmer and Senator Brewer, a joint petition (accompanied by bill, House, No. 4281) of Todd M. Smola and Stephen M. Brewer (by vote of the town) relative to recall elections in the town of Wales. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF WALES.

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 elective office in the town of Wales may be recalled and removed from
2 that office by the qualified voters of the town as provided in this act.
- 3 Section 2. One hundred or more registered voters may initiate a recall petition by filing with the
4 Town Clerk an affidavit containing the name of the officer and the office held whose recall is
5 sought and a statement of the grounds for recall. Upon certification by the town clerk, the town
6 clerk shall, within 2 business days, deliver to the voter first named on such affidavit, a sufficient
7 number of copies of petition blanks demanding such recall. The blanks shall be issued by the
8 Town Clerk with the Town Clerk's signature and official seal attached thereto; they shall be
9 dated and addressed to the Board of Selectmen; shall contain the name of the person whose recall
10 is sought, the office from which recall is sought, the grounds for recall as stated in the affidavit,
11 and shall demand the election of a successor to such office. A copy of the petition shall be

12 entered in a record book to be kept in the office of the Town Clerk. The recall petition shall be
13 returned and filed with the Town Clerk within t20 days following the date of issuance of said
14 petition. Said recall petition shall be signed by at least 20 per cent of the registered voters in said
15 town, and to every signature shall be added the place of residence of the signer, giving the street
16 and number. The town clerk shall, within 2 business days following the date of such filing,
17 submit the recall petition to the board of registrars of voters, who shall within 5 business days
18 after the day of receipt, certify in writing thereon the number of signatures which are names of
19 voters in said town as of the date such affidavit was filed with the town clerk. The board of
20 registrars shall, upon completion of its certification, return the petition to the town clerk.

21 Section 3. If the petition shall be found and certified by said Town Clerk to be sufficient, he or
22 she shall submit the same with his or her certificate thereon to the selectmen without delay, and
23 the selectmen shall forthwith give to the elected officer whose recall is being sought, written
24 notice of the receipt of said certificate and shall, if the officer sought to be removed does not
25 resign within 5 days thereafter, thereupon order a recall election to be held not less than 60 nor
26 more than 90 days after the date of town clerk's certificate that a sufficient petition has been
27 filed; provided however, that if any other town election is to occur within 100 days after the date
28 of said certificate, the selectmen may, in their discretion postpone the holding of the removal
29 election to the date of such other election. If a vacancy occurs in said office after a recall election
30 has been ordered, the election shall nevertheless proceed as provided in this act.

31 Section 4. Any officer sought to be recalled may be a candidate to succeed himself or herself,
32 and unless he or she requests otherwise in writing, the town clerk shall place his or her name on
33 the official ballot without nomination. The nomination of other candidates, the publication of the

34 warrant for the recall election, and the conduct of the same, shall be in accordance with the
35 provisions of law relating to election, unless otherwise provided in this act.

36 Section 5. The incumbent shall continue to perform the duties of his or her office until the recall
37 election. If the recall fails, or if the incumbent is re-elected, he/she shall continue in the office for
38 the remainder of his or her unexpired term, subject to recall as before, except as provided in this
39 act. If not re-elected in the recall election, he or she shall be deemed removed upon the
40 qualification of his successor, who shall hold office during the unexpired term. If the successor
41 fails to qualify within 5 business days after receiving notification of his or her election, the
42 incumbent shall thereupon be deemed removed and the office vacant.

43 Section 6. Ballots used in a recall election in said town shall submit the following proposition in
44 the order indicated:

45 For the recall of (name of and title of officer whose recall is sought)

46 Against the recall of (name of and title of officer whose recall is sought)

47 Immediately at the right of each proposition there shall be a square in which the voter by making
48 a cross mark (X) may vote for either of such propositions. Just above said squares, there shall
49 appear the direction "Vote for one". Under the proposition shall appear the word "Candidates"
50 and the direction "Vote for one" and beneath this the names of candidates nominated as herein
51 before provided.

52 In case of machine voting or punch card balloting, or other forms of balloting, appropriate
53 provisions shall be made to allow the same intent of the voter.

54 If the majority of the votes cast on the recall question are in the affirmative, then the candidate
55 who received the highest number of votes of the special election to the vacancy shall be elected.
56 If a majority of the votes cast on the recall question is in the negative, the ballot for candidates to
57 fill the potential vacancy need not be counted.

58 Section 7. A recall petition shall not be filed against an officer of the town within 6 months after
59 he or she takes office, or, in the case of an officer subjected to recall election and not removed
60 thereby, until at least 6 months after the election at which his or her recall was submitted to the
61 voters.

62 Section 8. A person who has been recalled from an office or who has resigned from office while
63 recall proceedings were pending against that person shall not be appointed to any town office
64 within 2 years after such removal by recall or resignation.

65 Section 9. This act shall take effect upon its passage.