

HOUSE No. 5760

By Mr. Lawrence of New Bedford (by request), petition of Ronald A. J. DeMello for legislation to provide for uniform standards for recall elections in towns. Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT ESTABLISHING UNIFORM STANDARDS FOR RECALL ELECTIONS IN TOWNS.

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. The General Laws are hereby amended by insert-
2 ing the following new chapter after chapter 53.

3 Chapter 53A

4 *Section 1.* Any town establishing recall elections shall do so in
5 accordance with the provisions of the chapter.

6 *Section 2.* Any holder of an elective office may be recalled
7 therefrom by the registered voters of the town as herein provided.

8 *Section 3.* Any twenty-five (25) registered voters of the town
9 may file with the town clerk an affidavit containing the name of the
10 officer sought to be recalled and a statement of the grounds for
11 recall. The town clerk shall thereupon deliver to said voters making
12 the affidavit copies of petition blanks demanding such recall,
13 copies of which printed forms he shall keep available. The blanks
14 shall be issued by the town clerk with his signature and official seal
15 attached thereto. They shall be dated, shall be addressed to the
16 selectmen and shall contain the names of all persons to whom they
17 are issued, the name of the person whose recall is sought, the
18 grounds of recall as stated in the affidavit, and shall demand the

19 election of a successor in the said office. A copy of the petition shall
20 be entered in a record book to be kept in the office of town clerk.
21 The recall petition shall be returned and filed with the town clerk
22 within twenty (20) days after the filing of the affidavit, and shall
23 have been signed by at least twenty (20) percent of the registered
24 voters of the town, who shall add to their signatures the street and
25 number, if any, of their residences.

26 The town clerk shall within twenty-four (24) hours of receipt
27 submit the petition to the registrars of voters in the town, and the
28 registrars shall forthwith certify thereon the number of signatures
29 which are names of registered voters of the town.

30 *Section 4.* If the petition shall be found and certified by the
31 town clerk to be sufficient he shall submit the same with his
32 certificate to the selectmen without delay, and the selectmen shall
33 forthwith give written notice of the receipt of the certificate to the
34 officer sought to be recalled and shall, if the officer does not resign
35 within five (5) days thereafter, order an election to be held on a date
36 fixed by them not less than twenty-five (25) nor more than thirty-
37 five (35) days after the date of the town clerk's certificate that a
38 sufficient petition has been filed; provided, however, that if any
39 other town election is to occur within sixty (60) days after the date
40 of the certificate, the selectmen shall postpone the holding of the
41 recall election to the date of such other election. If a vacancy occurs
42 in said office after a recall election has been ordered, the election
43 shall nevertheless proceed as provided in this section.

44 *Section 5.* Any officer sought to be removed may be a candidate
45 to succeed himself; and unless he requests otherwise in writing, the
46 town clerk shall place his name on the ballot without nomination.
47 The nomination of other candidates, the publication of the warrant
48 for the removal election, and the conduct of the same, shall all be in
49 accordance with the provisions of law relating to elections, unless
50 otherwise provided in this section.

51 *Section 6.* The incumbent shall continue to perform the duties
52 of his office until the recall election. If then reelected, he shall
53 continue in office for the remainder of his unexpired term, subject
54 to recall as before, except as provided in this section. If not reelect-
55 ed in the recall election, he shall be deemed removed upon the
56 qualification of his successor, who shall hold office during the

57 unexpired term. If the successor fails to qualify within five (5) days
58 after receiving notification of his election, the incumbent shall
59 thereupon be deemed removed and the office vacant.

60 *Section 7.* Ballots used in a recall election shall submit the
61 following propositions in the order indicated:

62 For the recall of (name of officer)

63 Against the recall of (name of officer)

64 Immediately at the right of each proposition there shall be a
65 square in which the voter, by making a cross mark (X), may vote
66 for either of the said propositions. Under the proposition shall
67 appear the word "Candidates", the directions to voters required by
68 section 42 of chapter 54 of the General Laws, and beneath this the
69 names of candidates nominated as hereinbefore provided. If a
70 majority of the votes cast upon the question of recall is in the
71 affirmative, the candidate receiving the highest number of votes
72 shall be declared elected. If a majority of votes on the question is in
73 the negative the ballots for candidates need not be counted.

74 *Section 8.* No recall petition shall be filed against an officer
75 within three (3) months after he takes office, nor, in the case of an
76 officer subjected to a recall election and not recalled thereby, until
77 at least three (3) months after the election at which his recall was
78 submitted to the voters of the town has elapsed.

79 *Section 9.* No person who has been recalled from an office, or
80 who has resigned from office while recall proceedings were pending
81 against him, shall be appointed to any town office within two (2)
82 years after such recall or such resignation.

1 SECTION 2. All towns establishing recall elections after the
2 effective date of this bill, shall do so by adapting the provisions of
3 chapter 53A.

