

Substituted by the House, on motion of Mr. Businger of Brookline, for a Bill providing for recall and removal elections in the town of Ware (Senate, No. 1721). May 7.

The Commonwealth of Massachusetts

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

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

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 elective office in the town of
2 Ware may be recalled and removed therefrom by the qualified
3 voters of the town as herein provided.

1 SECTION 2. Any qualified voter of the town may make and
2 file with the town clerk an affidavit containing the name of the
3 officer sought to be removed and a statement of the grounds of
4 removal. The town clerk shall thereupon deliver to the voter
5 making such affidavit a sufficient number of copies of petition
6 blanks for such recall and removal. Said blanks shall be issued
7 by the town clerk with his signature and official seal attached
8 thereto; and shall be dated and addressed to the selectmen. Said
9 blanks shall contain the name of the person to whom issued, the
10 number of blanks so issued, the name of the person sought to be
11 removed, the office from which removal is sought, the grounds
12 of removal as stated in said affidavit, and shall demand the
13 election of a successor to such office. A copy of the petition shall
14 be entered in a record book to be kept in the office of the town
15 clerk. Said recall petition shall be returned and filed with the town
16 clerk within fourteen days after the filing of the affidavit. Said
17 petition before being returned and filed shall be signed by qualified
18 voters of the town, equal in number to at least fifteen percent of
19 the qualified voters of the town as of the date such affidavit was
20 filed with the town clerk. To every signature shall be added the

21 place of residence of the signer, giving the street and number. The
22 said recall petition shall be submitted, at or before five o'clock
23 in the afternoon of the Monday preceding the day on which it
24 must be filed, to the registrars of voters in said town, and the
25 registrars shall forthwith certify thereon the number of signatures
26 which are names of voters in said town.

1 SECTION 3. If the petition shall be found and certified by the
2 town clerk to be sufficient, he shall submit the same with his
3 certificate to the selectmen without delay, and the selectmen shall
4 forthwith give written notice to said officer of the receipt of said
5 certificate and shall, if the officer sought to be removed does not
6 resign within five days thereafter, thereupon order a removal
7 election to be held on a day fixed by them not less than thirty-
8 five nor more than sixty-five days after the date of the town clerk's
9 certificate that a sufficient petition is filed; provided, however, that
10 if any other town election is to occur within sixty days after the
11 date of said certificate, the selectmen may, in their discretion,
12 postpone the holding of the removal election to the date of such
13 other election. If a vacancy occurs in said office after a removal
14 election has been so ordered, the election shall nevertheless
15 proceed as provided in this section.

1 SECTION 4. Any officer who has been removed by a vote at
2 the removal election may be a candidate to succeed himself in an
3 election to be held to fill such vacancy. The nomination of all
4 candidates, the publication of the warrant for the removal election
5 and any election to fill a vacancy caused by a removal election,
6 and the conduct of the same, shall all be in accordance with the
7 provisions of law relating to elections, unless otherwise provided
8 in this act. A majority of those voting at the removal election shall
9 be sufficient to recall such elected officer.

1 SECTION 5. The incumbent shall continue to perform the
2 duties of his office until the removal election. If said incumbent
3 is not removed, he shall continue in office for the remainder of
4 his unexpired term, subject to recall as before. If not re-elected
5 in the recall election, he shall be deemed removed upon the
6 qualification of his successor, who shall hold office during the

7 unexpired term. If the successor fails to qualify within five days
8 after receiving notification of his election, the incumbent shall
9 thereupon be deemed removed and the office vacant.

1 SECTION 6. Ballots used in a recall election in said town shall
2 submit the following propositions in the order indicated:

3 For the recall of (name of officer).

4 Against the recall of (name of officer).

5 Immediately at the right of each proposition there shall be a
6 square in which the voter by making a cross mark (X) may vote
7 for either of such propositions. Under the proposition shall appear
8 the word "Candidates" and the direction "Vote for One" and
9 beneath this the names of candidates nominated as hereinbefore
10 provided. In case of machine voting, or punch card balloting, or
11 other forms of balloting, appropriate provision shall be made to
12 allow the same intent of the voter.

13 If a majority of the votes cast on the recall question is in the
14 affirmative, then the candidate that received the highest number
15 of votes in the special election to fill the vacancy shall be elected.
16 If a majority of the votes on the question is in the negative, the
17 ballots for candidates to fill the potential vacancy need not be
18 counted, or take any action relative thereto.

1 SECTION 7. No recall petition shall be filed against an officer
2 of said town within six months after he takes office, nor in the
3 case of an officer subject to a recall election and not removed
4 thereby, until at least six months after that election.

1 SECTION 8. No person who has been recalled from an office
2 in said town, or who has resigned from office while recall
3 proceedings were pending against him, shall be appointed to any
4 town office within two years after such removal by recall or
5 resignation.

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