

# HOUSE . . . . . No. 5571

By Mr. Walsh of Agawam, petition of Michael P. Walsh (by vote of the town) for legislation to establish recall elections in the town of Southwick. Election Laws. [Local Approval Received.]

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

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

*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 may be recalled  
2 therefrom by the registered voters of the town as herein provided.

1 SECTION 2. One hundred or more qualified voters may make  
2 and file with the town clerk an affidavit containing the name of  
3 the officer sought to be recalled and a statement of the grounds  
4 for recall. The town clerk shall thereupon deliver to the ten persons  
5 first named on such affidavit a sufficient number of petition blanks  
6 demanding such recall, copies of which printed forms he shall keep  
7 available. Said petition blanks may be completed by printing or  
8 typewriter and they shall contain the names of the ten persons  
9 to whom they are issued, the name of the person sought to be  
10 recalled, the office from which recall is sought, and the grounds  
11 for recall as stated in the affidavit. They shall demand the election  
12 of a successor to the office and they shall be dated, signed and  
13 sealed by the town clerk. Said recall petition shall be returned to  
14 the office of the town clerk not later than three o'clock in the  
15 afternoon on or before the first work day following twenty days  
16 after the date they are issued, signed by at least twenty-five percent  
17 of the total number of qualified persons registered to vote in the  
18 town as of the date such affidavit was filed with the Town Clerk.  
19 To every signature shall be added the place of residence of the  
20 signer, giving the street and number, if any. One of the ten persons  
21 to whom the recall petition forms is issued shall make an affidavit  
22 on each page that statements therein contained are true, and that

23 each signature appended to the petition is the genuine signature  
24 of the person whose name it purports to be.

25 The town clerk shall, within seventy-two hours following the  
26 day of such filing with the office of the town clerk, submit the  
27 recall petition forms to the board of registrars of voters which  
28 shall, within five work days after the day of receipt, certify in  
29 writing thereon the number of signatures which are those of  
30 qualified persons registered to vote in the Town as of the date  
31 such affidavit was filed with the town clerk, The board of registrars  
32 of voters, upon the completion of their certification, shall return  
33 the recall petition forms to the town clerk.

1 SECTION 3. If said recall petition forms shall be certified by  
2 the board of registrars of voters to contain at least twenty-five  
3 percent of the qualified persons registered to vote, and if the  
4 petition shall be found and certified by the town clerk to be  
5 sufficient, the town clerk shall give notice without delay, in  
6 writing, to the elected officer whose recall is sought by sending  
7 to said officer a copy of the affidavit and the recall petition form  
8 together with notice of the number of qualified voters certified  
9 by the board of registrars of voters who signed the recall petition  
10 forms and the total number of qualified voters in the town as of  
11 the most recent town election.

12 If the officer to whom notice is directed by the town clerk does  
13 not resign the office within five days following receipt of the  
14 aforesaid notice from the town clerk, the town clerk shall give  
15 notice in writing to the board of selectmen not later than one work  
16 day following the expiration of the foregoing five days. The board  
17 of selectmen shall order a special election to be held not less than  
18 sixty nor more than ninety days after the receipt of notice from  
19 the town clerk as aforesaid. If, however, any other town election  
20 is to be held within one hundred days of receipt by the board of  
21 selectmen of notice from the town clerk, the recall election shall  
22 be postponed and shall be held at such time and in conjunction  
23 with such other election. If a vacancy occurs in the office for any  
24 reason after a recall election has been ordered by the board of  
25 selectmen, the recall election shall nevertheless proceed as  
26 provided for herein.

1 SECTION 4. Any officer sought to be removed may be a  
2 candidate to succeed himself, and unless he requests otherwise in  
3 writing, the town clerk shall place his name on the ballot without  
4 nomination. The number of signatures of qualified voters required  
5 to place the name of a candidate on the official ballot for use at  
6 a recall election shall not be less than twenty-five. The publication  
7 of the warrant for the recall election and the conduct of the recall  
8 election shall be in accordance with the General Laws regulating  
9 elections, unless otherwise provided in this act.

1 SECTION 5. The incumbent shall continue to perform the  
2 duties of this office until the recall election. If then reelected, he  
3 shall continue in office for the remainder of his unexpired term  
4 subject to recall as before, except as provided in this section. If  
5 not reelected in the recall election, he shall be deemed removed  
6 upon the qualification of his successor, who shall hold office  
7 during the unexpired term. If the successor fails to qualify within  
8 five days after receiving notification of his election, the incumbent  
9 shall thereupon be deemed removed and the office vacant.

1 SECTION 6. The ballots used at the recall election shall  
2 submit the following proposition 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 propositions shall  
8 appear the word "Candidates" and the directions for the voters  
9 required by law, and beneath the word "Candidates" shall be the  
10 names of candidates nominated as hereinabove provided.

11 If a majority of the votes cast is against the recall, the votes  
12 for the candidates need not be counted. If a majority of the votes  
13 cast is in favor of the recall, the officer shall be deemed to be  
14 recalled and the ballots for candidates shall then be counted. The  
15 candidate receiving the highest number of votes shall be declared  
16 elected. If the officer is recalled, he shall be deemed removed upon

17 certification of the election results by the town clerk. The  
18 candidate receiving the highest vote and therefore elected, shall  
19 serve for the balance of the unexpired term of the officer removed.

1 SECTION 7. No recall petition shall be filed against an  
2 officer within six months after he takes office, nor, in the case  
3 of an officer elected in a recall election, until six months after that  
4 election. No recall shall be filed against an officer subjected to  
5 a recall election, and not recalled thereby, until at least six months  
6 after the election at which his recall was submitted to the voters.

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

1 SECTION 9. This act shall take effect upon its passage.