

By Ms. Stanley of West Newbury, petition of Harriett L. Stanley (by vote of the town) relative to providing recall elections in the town of Newbury. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

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

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 elected office in the town of
2 Newbury may be recalled therefrom by the qualified voters of said
3 town as provided in this act for any of the following reasons: lack
4 of fitness; neglect of duties; corruption; misfeasance or violation
5 of oath, exercising discretion in voting or acting on matters before
6 such office holder shall not constitute a reason for recall.

1 SECTION 2. Fifteen percent of the registered voters of the
2 town of Newbury may file with the town clerk an affidavit con-
3 taining the name of the officer sought to be recalled and a state-
4 ment of the grounds for such recall. At least 66 names of
5 registered voters shall be from each of the voting precincts into
6 which said town is divided. Upon certification of the require sig-
7 natures, said clerk shall thereupon deliver to the first named voter
8 on the affidavit copies of petition blanks addressed to the board of
9 selectmen demanding such recall, copies of which printed forms
10 he shall keep available, said blanks shall be issued by said clerk
11 with his signature and official seal attached thereto. They shall be
12 dated, shall contain the names of all persons to whom they are
13 issued, the name of the person whose recall is sought and the
14 grounds of recall as stated in the affidavit and shall demand the
15 election of a successor to such office. A copy or the petition shall
16 be entered in a record book to be kept in the office of said clerk.
17 The recall petition shall be returned and filed with said clerk

18 within 30 days after their filing of the affidavit and shall have
19 been signed by at least 25 percent of the registered voters of the
20 town as of the date such affidavit was filed with said clerk. To
21 every signature shall be added the place of residence of the signer,
22 giving the street and number, if any. Said clerk shall, within 72
23 hours of receipt thereof, submit the petition to the registrars of
24 voters in the town, and said registrars shall forthwith certify
25 thereon the number of signatures which are names of registered
26 voters of the 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 cer-
3 tificate to the board of selectmen without delay and said board
4 shall forthwith give written notice of the receipt of the certificate
5 to the officer sought, to be recalled. If such officer does not resign
6 within 5 days thereafter, said board shall order an election to be
7 held on a date fixed by them not less than 65 nor more than 90
8 days after the date of said clerk's certificate that a sufficient peti-
9 tion has been filed; provided, however, that if any other town elec-
10 tion is scheduled to occur within 120 days after the date of the
11 certificate, said board shall postpone the holding of the recall
12 election to the date of such other election. If a vacancy occurs in
13 said office after a recall election has been ordered, the election
14 shall nevertheless proceed as provided in this section.

1 SECTION 4. Any officer sought to be removed may be a candi-
2 date 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 nomination of other candidates, the publication
5 of the warrant for the recall election and the conduct of the same
6 shall all be in accordance with the provisions of law relating to
7 elections, unless otherwise provided in this act.

1 SECTION 5. The incumbent shall continue to perform the
2 duties of his office until the recall election. If he is not recalled, he
3 shall continue in office for the remainder of his unexpired term,
4 subject to recall as before, except as provided in section 7. If he is
5 recalled, he shall be deemed removed upon the qualifications of
6 his successor, who shall hold office during the unexpired term. If

7 the successor fails to qualify within 5 days after receiving notifi-
8 cation of his election, the incumbent shall thereupon be deemed
9 removed and the office vacant.

1 SECTION 6. Ballots used in a recall election shall submit the
2 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 fight 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 said propositions. Under the proposition shall appear
8 the word candidates and the directions to voters required by
9 section 42 of chapter 54, of the General Laws and, beneath this,
10 the names of candidates nominated as herein before provided. If
11 two-thirds of the votes cast upon the question of recall is in the
12 affirmative, then the candidate receiving the highest number of
13 votes shall be declared elected. If more than one-third of the votes
14 cast on the questions is in the negative, then the ballots for candi-
15 dates need not be counted. If fewer than 25 percent of the regis-
16 tered voters of the town participated in the election, no votes need
17 be counted and the election shall be deemed to have determined
18 that the incumbent should not be recalled.

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

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 2 years after such recall or resignation.

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

