HOUSE . . . . . No. 3526

By Mr. McDonough of Boston, petition of John E. McDonough, Stanley C. Rosenberg, Warren E. Tolman and Harold M. Lane, Jr., for legislation to provide for recall elections. Election Laws.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING FOR RECALL ELECTIONS IN CITIES AND 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 Chapter 43 of the Massachusetts General Laws is hereby
2 amended by adding after the last section the following sec-
3 tion 21:—
4 Notwithstanding any general or special law to the contrary, any
5 holder of elected office of every city or town which accepts this
6 section by vote of its city council, subject to the provisions of its
7 charter, or by a vote of its annual town meeting, subject to the
8 provisions of chapter 39, or by a vote of the town, may be recalled
9 therefrom by the registered voters of the town as herein provided.
10 (a) Any twenty-five registered voters of the city/town may ini-
11 tiate a recall petition after filing with the city/town clerk an affi-
12 davit containing the name of the officer sought to be recalled and
13 a statement of the grounds for recall: Lack of fitness; corruption;
14 incompetence; neglect of duties; malfeasance or violation of oath.
15 The city/town clerk shall thereupon deliver to said voters petition
16 blanks demanding said recall, printed forms of which the clerk
17 shall keep available. Such blanks shall be issued by the city/town
18 clerk, and official seal attached thereto. They shall be dated, shall
19 be addressed to the selectman/council and shall contain the recall
20 as stated in the affidavit, and shall demand the election of a suc-
21 cessor in the said office. A copy of the petition shall be entered in
22 a record book to be kept in the office of the city/town clerk. Said
23 recall petition shall be returned and filed with the city/town clerk
24 within twenty days after the filing of the affidavit and shall have

been signed by at least twenty-five percent of the registered voters of the town, as of the date of the most recent town election, who shall add to their signatures the street and number, if any, of their residences. The city/town clerk shall forthwith submit the petition to the registrar of voters in the city/town, and the registrars shall within five working days certify thereon the number of signatures which are names of registered voters of the town.

(b) If the petition shall be found and certified by the city/town clerk to be sufficient he shall forthwith submit the same with his certificate to the selectmen/council and the selectmen/council shall within five working days give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order and election to be held on a date fixed by them not less than seventy and no more than ninety days after the date of the order of the election; provided, however that if any city/town election is to occur within one hundred days after the date of the order of the election, the selectmen/city council shall postpone the holding of the recall election to the date of such other election.

No candidate shall be subject to recall if he is a candidate for reelection within 100 days of the date of the certificate. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(c) Any officer sought to be removed may not be a candidate to succeed himself if the recall is successful. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall be in accordance with the provisions of the law relating to elections, unless otherwise provided in this section.

(d) The incumbent shall continue to perform the duties of his office until the recall election. If the recall succeeds he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

(e) Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of the said propositions. Under the propositions shall appear the word "Candidates", the directions to the voters required by section forty-two of chapter fifty-four of the General Laws, and beneath this the names of candidates nominated in accordance with the provisions of law relating to elections. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes be declared elected. If more than one-half of the votes on the question are in the negative, the ballots for candidates need not be counted.

(f) No recall petition shall be filed against an officer within ninety days after he takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least ninety days after the election at which his recall was submitted to the voters of the town.