HOUSE DOCKET, NO. 2303 FILED ON: 1/17/2013

HOUSE . . . . . No. 556

The Commonwealth of Massachusetts

PRESENTED BY:

Denise Andrews

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to recall elections in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Denise Andrews	*2nd Franklin*

HOUSE DOCKET, NO. 2303 FILED ON: 1/17/2013

HOUSE . . . . . No. 556

By Ms. Andrews of Orange, a petition (accompanied by bill, House, No. 556) of Denise Andrews relative to recall elections in the Commonwealth. Election Laws.

The Commonwealth of Massachusetts

An Act relative to recall elections in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 50 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following section:-

Section 9. Any holder of an elective office in the commonwealth may be recalled and removed therefrom by the registered voters of political subdivision as herein provided, for the reason of lack of fitness, incompetence, neglect of duties, corruption, malfeasance, or violation of oath. A number equal to at least 25 per cent of the registered voters who cast ballots in the last preceding election for the office of governor may initiate a recall petition by filing with the secretary of the commonwealth an affidavit containing the name of the officer and the office held whose recall is sought and a statement of the grounds of the recall. Upon certification by the secretary of the commonwealth, the secretary of the commonwealth shall, within two business days, deliver to the voter first named on such affidavit, petition blanks demanding such recall containing space for the signatures of at least 5 times the number of signatures required below, and may, but need not, provide additional blanks upon request.

Petitioners may make exact copies of the petitions, provided that the petitioner shall bear the risk that if any such copies are not exact copies, that the signatures affixed thereto shall not be counted towards the total number of signatures required. The blanks shall be issued by the secretary of the commonwealth with the secretary's signature and official seal attached thereto. The petition shall contain the name of the person whose recall is sought, the office from which recall is sought, the grounds for recall as stated in the affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the secretary of the commonwealth.

The recall petition shall be returned and filed with the secretary of the commonwealth within 20 days following the date of issuance of said petition. Said recall petition shall be signed by a

number equal to at least 25 per cent of the registered voters in said political subdivision having cast ballots in the last preceding election for the office of governor, and to every signature shall be added the place of residence of the signer, giving the street and number. The secretary of the commonwealth shall, within 2 business days following the date of such filing, submit the recall petition to the board of registrars of voters, who shall within 5 business day after the day of receipt, certify in writing thereon the number of signatures which are names of voters in said political subdivision as of the date such affidavit was filed with the secretary of the commonwealth. The board of registrars shall, upon completion of its certification, return the petition to the secretary of the commonwealth.

If the petition shall be found and certified by the secretary of the commonwealth to be sufficient, the secretary shall submit the same with the secretary's certificate thereon to said elected officer whose recall is being sought, written notice of the receipt of said certificate and shall, if the officer sought to be removed does not resign within 5 days thereafter, thereupon order a recall election to be held not less than 64 nor more than 90 days after the date the election is called. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as herein provided.

Any officer sought to be recalled may be a candidate to succeed herself or himself, and unless the officer requests otherwise in writing, said town clerk shall place the officer's name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of law relating to election, unless otherwise provided in this act.

The incumbent shall continue to perform the duties of the office until the recall election. If the recall fails, or if the incumbent is re-elected, the incumbent shall continue in the office for the remainder of the unexpired term. If not re-elected in the recall election, the incumbent shall be deemed removed upon the qualification of the incumbent's successor, who shall hold office during the unexpired term. If the successor fails to qualify within 5 days after receiving notification of his election, the incumbent shall thereupon continue in the office for the remainder of the incumbent's unexpired term.

Ballots used in a recall election in said political subdivision shall submit the following propositions in the order indicated:

For the recall of (name of officer) (office held)

Against the recall of (name of officer) (office held)

There shall be an appropriate place for the voters to vote for either such propositions, and

above said propositions, there shall appear the direction “Vote for one.” Under the propositions shall appear the word “Candidates” and the direction “Vote for one” and beneath this the names of candidates nominated as hereinbefore provided.

If a majority of the votes cast on the recall question is in the affirmative, then the candidate who received the highest number of votes shall be elected. If a majority of the votes cast on the recall question is in the negative, the votes cast, for candidates to fill the potential vacancy shall not be counted.

No recall petition shall be filed against an officer of said town within 1 year after the officer takes office, nor in the case of an officer subjected to recall election and not removed thereby.

SECTION 2. This act shall take effect upon its passage.