

HOUSE No. 826

The Commonwealth of Massachusetts

PRESENTED BY:

Smitty Pignatelli and Adam G. Hinds

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 adoption of the accompanying bill:

An Act establishing recall elections in the town of Otis.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|--------------------------|---|------------------|
| <i>Smitty Pignatelli</i> | <i>4th Berkshire</i> | <i>2/17/2021</i> |
| <i>Adam G. Hinds</i> | <i>Berkshire, Hampshire, Franklin and Hampden</i> | <i>2/17/2021</i> |

HOUSE No. 826

By Representative Pignatelli of Lenox and Senator Hinds, a joint petition (accompanied by bill, House, No. 826) of Smitty Pignatelli and Adam G. Hinds (by vote of the town) that the town of Otis be authorized to establish recall elections in said town. Election Laws. [Local Approval Received.]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4065 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act establishing recall elections in the town of Otis.

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 elective office in the Town of Otis may be recalled by the
2 registered voters of Otis as herein provided.

3 SECTION 2. Any one hundred (100) registered voters of the Town may file an affidavit
4 with the Town Clerk containing the name of the officer sought to be recalled and a statement of
5 the grounds for the recall. The Town Clerk shall thereupon deliver to said voters a sufficient
6 number of copies of printed form petition blanks addressed to the Selectmen demanding such
7 recall. The blanks shall be issued under the signature and official seal of the Town Clerk. They
8 shall be dated and shall contain the names of all persons to whom they are issued. The name of
9 the person whose recall is sought, and the grounds for the recall as stated in the affidavit. In

10 addition, the petitions shall demand the election of a successor to said office. A copy of the
11 petition shall be entered in the record book to be kept in the office of the Town Clerk. The recall
12 petition shall be returned and filed with the Town Clerk on or before the first (1st) work day
13 following twenty (20) days after the filing of the affidavit. Said petition, before being returned
14 and filed with the Town Clerk shall be signed by a least thirty (30%) percent of the registered
15 voters of the town, who shall add to their signatures the street and number, if any, of their
16 residences. Within twenty- four (24) hours of receipt of the petition the Town Clerk shall submit
17 the petition to the registrars of voters in the town and the registrars shall within fourteen (14)
18 days certify thereon the number of signatures which are names of registered voters of the Town.
19 If their certification shows the petition to be insufficient, the Town Clerk shall return the petition
20 to the voters seeking the recall, without prejudice, however, to the filing of a new affidavit for
21 the same purpose.

22 SECTION 3. If the petition shall be found and certified by the Town Clerk, to be
23 sufficient, he shall submit the same with this certification to the Board of Selectmen within
24 seven (7) days and the Board shall within seven days give written notice of the receipt of the
25 certificate to the officer sought to be recalled, and shall, if the officer does not resign within
26 seven (7) days thereafter, order an election to be held on a date to be fixed by them not less than
27 sixty (60) nor more than ninety (90) days after the date of the Town Clerk's certification that a
28 sufficient petition has been filed, provided, however, that if any other town election is scheduled
29 to occur within one-hundred (100) days of said certificate, the Board of Selectmen may, in its
30 discretion, postpone the holding of the recall election to the date of such other election. If a
31 vacancy occurs in said office after a recall election has been ordered, the elections shall
32 nevertheless proceed as provided herein.

33 SECTION 4. Any officer sought to be recalled may be a candidate to succeed himself
34 and, unless he specifically request otherwise in writing, the Town Clerk shall place his name on
35 the official ballot without nomination. The nomination of other candidates, the publication of the
36 warrant for the recall election, and the conduct of same shall be in accordance with the
37 provisions of law relating to elections unless otherwise provided in this act.

38 SECTION 5. The incumbent shall continue to perform the duties of his office until the
39 recall election. If then re-elected he shall continue in the office for the remainder of his
40 unexpired term, subject to recall as before, except as provided in section 7. If not re-elected in
41 the recall election, he shall be deemed removed from office upon the qualification of his
42 successor, who shall hold office during the unexpired term. If the successor fails to qualify
43 within seven (7) days after receiving written certified notification of his election, the incumbent
44 shall thereupon be deemed recalled and the office vacant.

45 SECTION 6. Ballots used in a recall election shall submit the following propositions in
46 order indicated:-

47 For the recall of (Name Officer)

48 Against the recall of (Name of Officer)

49 Immediately at the right of each proposition there shall be a square in which the voter, by
50 making a cross mark (X), may vote for either of such propositions. Under the proposition shall
51 appear the word "candidates", the direction to voters required by MGL Chapter 54, Section 42,
52 and beneath this the names of candidates nominated as herein before provided.

53 If a two-thirds majority of the votes cast upon the question of recall is in the affirmative,
54 the candidate receiving the highest number of votes shall be deemed elected. If a majority of
55 votes on the question is in the negative, the ballot for the candidates need not be counted.

56 SECTION 7. No recall petition shall be filed against an officer of the Town within six (6)
57 months after he takes office, nor in the case of an officer subjected to a recall election and not
58 recalled thereby, until at least twelve (12) months after that election.

59 SECTION 8. No person who has been recalled from an office or who has resigned from
60 office while recall proceedings were pending against him shall be appointed to any town office
61 within one (1) year after such recall or such resignation.