

SENATE No. 1801

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 providing for the recall of elected officials in the town of Ipswich.

PETITION OF:

NAME:

Bruce E. Tarr

DISTRICT/ADDRESS:

First Essex and Middlesex

SENATE No. 1801

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act providing for the recall of elected officials in the town of Ipswich.

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. The charter of the town of Ipswich, as appearing in sections 1 through 32 of
2 chapter 620 of the acts of 1966, as amended by the said town under the provisions of section 10A
3 of chapter 43B of the General Laws, is hereby further amended by inserting the following section
4 33:

5 33. Recall of Elected Officials

6 (a) Any holder of an elected office in the town of Ipswich who has held an elected
7 townwide office and whose term of office extends beyond the next annual town election, may be
8 recalled therefrom by the registered voters of the Town as herein provided, for reasons of: (1)
9 conviction of a felony or conviction of the following misdemeanors as defined by Massachusetts
10 General Laws: domestic violence, driving under the influence of alcohol or drugs, the illegal
11 manufacture, distribution or dispensing of controlled substances, assault or criminal harassment,
12 while presently in office; or (2) admission to facts, while presently in office, sufficient to be
13 convicted of a felony or sufficient to be convicted of the following misdemeanors as defined in
14 Massachusetts General Laws: domestic violence, driving under the influence of alcohol or drugs,
15 the illegal manufacture, distribution or dispensing of controlled substances, assault or criminal
16 harassment; or (3) was found in violation of the conflict of interest law (M.G.L. c 268A), while
17 presently in office, as determined by the State Ethics Commission or the Attorney General; or (4)
18 attended less than fifty (50%) percent of the posted public meetings of the board or office of
19 which the official was an elected member or to which he/she has been elected or appointed as
20 part of his/her elected position during the previous twelve (12) months. The elected official's

21 vote on a matter (other than in connection with a conflict of interest violation referenced above)
22 shall not be grounds for a recall petition.

23 (b) Ten (10) or more registered voters of the Town of Ipswich may make and file a
24 Notice of Intent with the Town Clerk bearing the name of the elected official sought to be
25 recalled, and a statement of the specific grounds for the recall as established by Section (a)
26 above, with information sufficient to support the specific grounds for recall, at least one hundred
27 seventy (170) days before the next annual town election. Upon certification of the required
28 signatures by the Registrar of Voters and a determination that the Notice of Intent contains
29 information sufficient to support the specific reason(s) and events for the recall as confirmed by
30 Town Counsel, within five (5) business days, the Clerk shall forthwith deliver to the first named
31 voter on the Notice of Intent, the petition forms, addressed to the Board of Selectman requesting
32 a recall. The petition forms shall be issued under the signature and official seal of the Town
33 Clerk. They shall be dated and shall contain the names of the first ten (10) registered voters
34 whose names appear on the grounds for the recall as stated in the Notice of Intent to recall. In
35 addition, the petition shall request the election of a successor to the office. A copy of the petition
36 form shall be entered in a record book to be kept in the office of the Town Clerk. The recall
37 petition forms shall be returned and filed with the Town Clerk within sixty (60) days after the
38 receipt of the signed petition forms or the next business day after the 60th day if said day falls on
39 a Saturday, Sunday or legal holiday, with signatures, names and street Precincts. The Town
40 Clerk shall, within three (3) business days following the day of the filing with the office of the
41 Town Clerk, submit the recall petition forms to the Registrar of Voters. The Registrars shall,
42 within fifteen (15) business days after the date of receipt, certify in writing to the Town Clerk
43 thereon, the number of signatures which are names of registered voters in Ipswich.

44 (c) If the recall forms shall be certified by the Registrar of Voters to contain at least 1500
45 registered voters including at least 200 registered voters from each Precinct, the petition shall be
46 filed by the Town Clerk with the Board of Selectmen within two (2) business days. The
47 selectmen shall give notice following their next scheduled meeting, in writing, to the elected
48 official whose recall is sought by sending that elected official a copy of the certified recall
49 petition.

50 If the elected official to whom there recall is directed by the Board of Selectmen does not
51 resign the office within five (5) business days from the date of notice, the Board of Selectmen
52 shall forthwith order an election to be held on the date of the next town election. If a vacancy
53 occurs in the office after a recall election has been ordered the election shall nevertheless
54 proceed as provided in this Act, but only ballots for the new candidates shall be counted.

55 (d) An elected official whose recall is sought may not be a candidate to succeed him or
56 herself in the recall election. The nomination of candidates, the publication of the warrant for the
57 recall election and the conduct of the election shall be in accordance with the state and local laws
58 relative to elections, unless otherwise provided in this Act.

59 (e) The incumbent shall continue to perform the duties of his/her office until the recall
60 election, unless the elected official resigns his/her position. If the incumbent is not recalled,
61 he/she shall remain in office for the remainder of his/her unexpired term, subject to recall as
62 before, except as provided by this Act. If recalled in the recall election, he/she shall be
63 considered removed upon the qualification of the successor, who shall hold office during the
64 unexpired term.

65 (f) Ballots used in a recall petition shall contain the following propositions in the order
66 indicated:

67 For the recall of (name of elected official) who holds the position of (elected office)

68 Against the recall of (name of official) who holds the position of (elected office)

69 Immediately at the right of each proposition there shall be a designated space for voters
70 to vote for either of the propositions. Under the propositions shall appear the word "Candidates
71 and directions to voters required by Section 42 of Chapter 54 of the General Laws, and beneath
72 this, the names of the candidates nominated listed alphabetically as herein provided. If a majority
73 of the votes cast upon the question of the recall is in favor of the recall, the elected official shall
74 be recalled and the ballots for candidates shall be counted. The candidate receiving the highest
75 number of votes shall be declared elected. If the majority of the votes cast is in the negative, the
76 ballots for candidates need not be counted unless the incumbent official has resigned previously
77 or a vacancy occurs in the office after a recall election has been ordered pursuant to Section (c),
78 above has resigned previously or a vacancy occurs in the office after a recall election has been
79 ordered pursuant to Section (c), above.

80 (g) A recall petition shall not be filed against an elected official within six (6) months
81 after she/he has taken office, unless the elected official has been re-elected to another
82 consecutive term in office, then a recall petition may be filed within three (3) months after taking
83 office on the re-election vote; nor, in the case of an elected official subjected to a recall election
84 and not recalled thereby until at least six (6) months have elapsed after the election at which the
85 recall was submitted to the voters of the Town and further provided that an elected official
86 cannot be subject to a subsequent recall petition for the same specific reason(s) and events that
87 were the basis of any prior recall petition.

88 (h) A person who has been recalled from office, or who has resigned from office after the
89 recall petition has been certified by the Registrar of Voters, shall not be appointed to any town
90 office, board or committee within two (2) years after the recall or resignation.

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