

SENATE No. 2322

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin B. Downing

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 providing for recall elections in the town of Hawley.

PETITION OF:

NAME:

Benjamin B. Downing

Paul W. Mark

DISTRICT/ADDRESS:

*Berkshire, Hampshire, Franklin and
Hampden*

2nd Berkshire

SENATE No. 2322

By Mr. Downing, a petition (accompanied by bill, Senate, No. 2322) of Benjamin B. Downing and Paul W. Mark (by vote of the town) for legislation to provide for recall elections in the town of Hawley. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act providing for recall elections in the town of Hawley.

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. A holder of an elected office in the town of Hawley may be recalled from
2 that office by the registered voters of the town for conduct that substantially damages the town,
3 its citizens, environment, or public image, following the procedures provided in this act.

4 SECTION 2. At least 20 registered voters of the town of Hawley may file with the town
5 clerk a recall affidavit, using either a blank recall affidavit as prepared by the town clerk or an
6 affidavit substantially similar to that, containing the name and position of the officer whose
7 recall is sought and a statement of the grounds for the recall. Upon certification of the required
8 signatures, a copy of the filed and certified affidavit shall be conveyed by the town clerk without
9 delay to the officer whose recall is being sought and, simultaneously, to the selectmen. The town
10 clerk shall also forthwith deliver to the first named voter on the affidavit petition forms,
11 addressed to the board of selectmen, demanding the recall, copies of which printed forms the
12 clerk shall keep available. The petition forms shall be issued by the clerk with the signature and

13 official seal of the clerk attached to them. They shall be dated, shall contain the names of the first
14 20 registered voters whose names appear on the recall affidavit, the name and position of the
15 person whose recall is sought, and the specific grounds of recall as stated on the affidavit, and
16 they shall demand the election of a successor to the office. A copy of the petition shall be entered
17 in a record book to be kept in the office of the clerk. The recall petition forms shall be returned
18 and filed with the clerk within 21 days after the delivery of the petition forms and shall have
19 been signed by at least 25 percent of the registered voters of the town. To every signature shall
20 be added the place of residence of the signer, giving the street and number, if any. The clerk
21 shall, within 72 hours of receipt of the signed petition forms, submit them to the registrars of
22 voters in the town, and the registrars shall certify on them the number of signatures which are the
23 names of registered voters of the town.

24 SECTION 3. If the petition shall be found and certified by the town clerk to be
25 sufficient, the clerk shall without delay submit the same, with the certificate to that effect, to the
26 board of selectmen. The board of selectmen shall forthwith give written notice of the receipt of
27 the certificate, either by hand or by certified mail, return receipt requested, to the officer whose
28 recall is being sought. If the officer does not resign within 5 days after receipt of the notice, the
29 board of selectmen shall forthwith order an election to be held on a date fixed by them, no less
30 than 64 days nor more than 90 days after the date on which they ordered the election; but, if any
31 other town election is scheduled to occur within 100 days of that date, the board shall postpone
32 the holding of the recall election to the date of the other election, if it is practically and legally
33 possible, and the question of the recall shall appear on the ballot of the other election. At the
34 request of the officer who recall is sought the selectmen shall call a special town meeting to take
35 place at least 21 days prior to the ordered recall election, for the sole purpose of discussing the

36 recall matter. Both the petitioners and the officer whose recall is being sought shall have the
37 opportunity to make a statement supporting or opposing the recall. If a vacancy occurs in the
38 office after a recall election has been ordered, the election shall proceed as provided in this act.
39 However, only the votes cast for candidates to replace the officer whose recall was sought shall
40 be counted.

41 SECTION 4. An officer whose recall is being sought may be a candidate to succeed
42 himself. The nomination of candidates, the publication of the warrant for the recall election, and
43 the conduct of the same shall be in accordance with the laws relating to elections.

44 SECTION 5. The incumbent shall continue to perform the duties of the office until the
45 recall election. If not recalled, the incumbent shall continue in office for the remainder of the
46 unexpired term, subject to recall as before, except as provided in this act. If recalled, the
47 incumbent shall be considered removed.

48 SECTION 6. Ballots used in a recall election shall submit the following propositions in
49 the order indicated:

50 For the recall of (name of officer), (office)

51 Against the recall of (name of officer), (office)

52 Immediately to the right of each proposition there shall be a square in which the voter, by
53 making an "x", may vote for either of the propositions. Under the propositions shall appear the
54 word "Candidates" and the directions to voters required by section 42 of chapter 54 of the
55 General Laws and, beneath this, the names of candidates nominated, as provided above in
56 section 4 of this act. If a majority of the votes cast upon the question of recall is in the

57 affirmative, the candidate receiving the highest number of votes shall be declared elected. If a
58 majority of votes cast upon the question of recall is in the negative, the ballots cast for candidates
59 to fill the potential vacancy shall not be counted.

60 SECTION 7. A recall petition shall not be filed against an officer within 6 months after
61 the officer takes office, nor in the last 6 months of the term, nor in the case of an officer
62 subjected to a recall election and not recalled thereby, until at least 6 months after the previous
63 recall election.

64 SECTION 8. No person who has been recalled from an office or who has resigned from
65 an office while proceedings were pending against him or her, shall be appointed to the same
66 office within 1 year after the recall or resignation.

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