

APPENDIX B

**THE COMMONWEALTH OF MASSACHUSETTS
ACTS AND RESOLVES OF 1992**

**Chapter 335 AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF
MILLBURY**

Be it enacted, etc., as follows:

SECTION 1. Any person who holds an elected town office with more than six months remaining of the term of office at the time of filing of an affidavit, may be recalled from the office by registered voters of the town of Millbury in the manner as herein provided by this act.

SECTION 2. (a) A recall affidavit, signed by at least fifty voters in each of the precincts into which the town is divided may be filed with the town clerk containing the name of the officer whose recall is sought and a statement of the grounds for recall. The board of registrars shall certify such affidavits with regard to the sufficiency and validity of the signatures of voters and within five working days following such filing the town clerk shall deliver to the ten persons first named on such affidavit, petition blanks demanding said recall, printed forms of which the town clerk shall keep available. The blanks may be completed by printing or typewriting: they shall be addressed to the board of selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the town clerk. A copy of the petition shall be entered into the record book to be kept in the office of the town clerk.

(b) Such recall petitions shall be returned to the town clerk within twenty days following the date they were issued, signed by at least fifty percent of the total number of persons who voted at the most recent annual town election.

(c) The town clerk shall within one day, excluding Saturdays, Sundays and holidays, following such filing, submit the petitions to the board of registrars which shall within five days thereafter certify the number of signatures which are the names of voters.

(d) If the petitions shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same with a certificate to the board of selectmen. Upon its receipt of the certified petition the board of selectmen shall forthwith give notice, in writing of said petition to the officer whose recall is sought. If said officer does not resign from office within five days following delivery of the said notice, the board of selectmen shall order a special election to be held not less than sixty-five nor more than ninety days after the date of certification of the town clerk that the petition is sufficient; provided, however, that if a regular annual town election is to be held within ninety days following said certificate the recall election shall be held in conjunction therewith and not at a special election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballot for candidates need be counted.

SECTION 3. An officer sought to be recalled may be a candidate to succeed to the same office and, unless the officer requests otherwise, in writing, the town clerk shall place the name of the officer on the 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 conformity with the provisions of law relating to town elections generally, unless otherwise provided in this section.

SECTION 4. Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition shall be a place to vote either of the propositions. After the said proposition shall appear the word “candidate” and the names of candidates arranged by a lottery drawn by the town clerk. If a majority of the voters cast is in favor of the recall and provided at least twenty-five percent of the total number of voters as of the date of the most recent town election have participated at such recall election, the officer shall be deemed to be recalled and the ballot for candidates shall then be counted and the candidate receiving the highest number of votes shall be declared elected.

SECTION 5. (a) The incumbent shall continue to hold office and perform the duties until the recall election. If not then recalled, the officer shall continue in office for the remainder of the unexpired term, subject to recall as provided in section six.

(b) If the officer is recalled, the office shall be deemed vacant upon certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

SECTION 6. No recall shall be filed against an officer within six months after taking office, or in the case of an officer subjected to recall election and not recalled thereby, until at least six months after the election at which the recall was submitted to the voters.

SECTION 7. This act shall be submitted for acceptance to the voters of the town of Millbury at the next annual town election, in the form of the following question, which should be placed upon the official ballot to be used for the election of town officers at said election: “Shall an act passed by the general court in the year nineteen hundred and ninety-two, entitled ‘An Act providing for recall elections in the town of Millbury,’ be accepted?” If a majority of the votes cast in answer to said question is in the affirmative, then this act shall take full effect, but not otherwise.

SECTION 8. The town of Millbury may revoke by majority vote its acceptance of this act by a majority vote at an annual town election.

Approved January 7, 1993.