HOUSE DOCKET, NO. 5066 FILED ON: 5/1/2020

HOUSE . . . . . No. 4721

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey N. Roy and Jon Santiago

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 for safe, healthy and inclusive elections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Jeffrey N. Roy	*10th Norfolk*	*5/1/2020*
Jon Santiago	*9th Suffolk*	*5/1/2020*
Nika C. Elugardo	*15th Suffolk*	*5/6/2020*

HOUSE DOCKET, NO. 5066 FILED ON: 5/1/2020

HOUSE . . . . . No. 4721

By Messrs. Roy of Franklin and Santiago of Boston, a petition (subject to Joint Rule 12) of Jeffrey N. Roy, Jon Santiago and Nika C. Elugardo relative to elections and voting. Election Laws.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act for safe, healthy and inclusive elections.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure forthwith that the commonwealth's democratic processes remain fair, honest and orderly and to forthwith provide for an early voting program for the September 1, 2020 State Primary Election and the November 3, 2020 General Election, in order to promote political participation and protect voters health, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety, health and convenience.

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. Section 47C of chapter 51 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following paragraph:-

The central registry shall be digitally maintained using the most advanced applicable technology reasonably available to the secretary. The secretary shall provide to the election officials at each polling place in the commonwealth, digital access to the central registry sufficient to allow for designated election officials to conduct real-time searches of the registry and to modify a voter's registration information upon presentation by the voter of appropriate documentation to justify the modification.

SECTION 2. Chapter 54 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following section:-

Section 163. (a) This section shall be known and may be cited as the 2020 Vote By Mail Act.

(b) Notwithstanding the provisions of section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, an early voting ballot cast by mail under this section shall be timely cast if: (i) in a state primary election, the ballot is received by the city or town clerk at or before the hour fixed for closing the polls; and (ii) in a state general election, the ballot is postmarked no later than election day and received by the city or town clerk no later than 5 days following election day.

(c) Notwithstanding the provisions of said section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, the secretary of the commonwealth shall, not less than 40 days in advance of a scheduled state primary election, and not less than 40 days in advance of a scheduled state election, the secretary shall cause to be delivered to every registered voter at the address listed in the central registry a package for early voting by mail a package to facilitate early voting. The package shall include: (i) an application for an early vote by mail ballot; (ii) a postage prepaid return envelope, addressed to the clerk of the city or town in which the voter is registered, (iii) instructions, printed in English, Spanish, Portuguese, Chinese, and Haitian, for properly completing and mailing the application to ensure every registered voter has clear guidance and the greatest opportunity to vote by mail. Provided further, the secretary shall implement a system for receiving requests both electronically via web portal and in hard copy via postal mail. A voter who does not receive a vote by mail ballot package may notify the

secretary of the commonwealth and request a replacement ballot. The secretary shall issue replacement ballots within 48 hours after receiving a request therefor.

(d) Notwithstanding the provisions of section 25B of chapter 54 of the General Laws or any general or special law to the contrary, there shall be early voting for the September 1, 2020 State Primary Election. The election officers and registrars of every city or town shall allow any qualified voter, as defined in section 1 of chapter 51 of the General Laws, to cast a ballot for the September 1, 2020 State Primary Election during the early voting period, which shall begin on Monday, August 3, 2020 and end at noon on Monday August 31, 2020. Early voting shall also apply to any city or town election held at the same time as the State Primary Election. A voter who makes a mistake in marking their ballot may return the ballot to the secretary of the commonwealth and request a new ballot. Voters shall be allowed up to a total of three ballots.

(e) Notwithstanding the provisions of section 25B of chapter 54 of the General Laws or any general or special law to the contrary, there shall be early voting for the November 3, 2020 General Election. The election officers and registrars of every city or town shall allow any qualified voter, as defined in section 1 of chapter 51 of the General Laws, to cast a ballot for the November 3, 2020 General Election during the early voting period, which shall begin on Monday, October 5, 2020 and end at noon on Monday, November 2, 2020. Early voting shall also apply to any city or town election held at the same time as the State General Election. A voter who makes a mistake in marking their ballot may return the ballot to the secretary of the commonwealth and request a new ballot. Voters shall be allowed up to a total of three ballots.

(f) Any qualified voter wanting to early vote by mail may file with the voter's local election official an application for an early voting ballot for the 2020 State Primary and / or

General State Election. Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. No application for an early voting ballot for the 2020 State Primary and/or General State Election shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before 12:00PM on August 31, 2020 for the State Primary Election and before 12:00PM on November 2, 2020 for the State General Election. If the voter is registered as unenrolled or in a political designation, the applicant must include the name of the party whose primary ballot the voter is requesting for the State Primary Election.

(g) Early voting for the 2020 State Primary and / or General State Election shall be conducted during the usual business hours of each city or town clerk. Provided further that at least one day a week early voting shall be conducted from 5pm to 8pm. Provided further that early voting shall be conducted on Saturday, August 29, 2020 and Saturday, October 31, 2020 from 9am to 5pm. Any city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this subsection during the early voting period.

(h) Each city and town shall establish an early voting site for the 2020 State Primary and/or General State Election that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting, the registrars of each such city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within each such city or town as an early voting site. Any City with a population of 30,000 or more shall designate one site per ward that will conduct early voting one day per week during the early voting period. Any city or town

may also provide for additional early voting sites at the discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities.

(i) The designation of an early voting site for the 2020 State Primary and/or General State Election shall be made no later than July 27, 2020 for the State Primary Election and September 28, 2020 for the State General Election. No later than July 27, 2020 for the State Primary Election and September 28, 2020 for the State General Election, the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted in the office of the city clerk or on the principal official bulletin board of each city or town, on any other public building considered necessary, on the city or town's website, if any, and on the website of the state secretary.

(j) No later than July 20 2020 for the State Primary Election and September 21, 2020 for the State General Election, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (1) official early voting ballots for the 2020 State Primary and State General Election, similar to the official ballot to be used at the State Primary and / State General Election; and (2) envelopes of sufficient size to contain the ballots specified in clause (1) bearing on their reverse the voter’s affidavit in compliance with the requirements of subsection (l).

(k) An early voting ballot along with an envelope shall be provided to each qualified voter who participates in early voting for the 2020 State Primary and State General Election. A voter who makes a mistake in marking their ballot may return the ballot to the secretary of the commonwealth and request a new ballot. Voters shall be allowed up to a total of three ballots.

(l) A qualified voter casting a ballot at an early voting site shall complete an affidavit under the regulations promulgated pursuant to chapter 54 of the General Laws, which shall include a notice of penalties under section 26 of chapter 56 of the General Laws.

(m) Prior to the beginning of early voting for the 2020 State Primary and State General Election,, the registrars for each city or town shall prepare a list for the early voting sites, containing the names and residences of all persons qualified to vote at each voting site, as the names and residences appear upon the annual register, and shall reasonably transmit the applicable list to the election officers at each early voting site designated by the registrars.

(n) The registrar or presiding official at the early voting site shall cause to be placed on the voting lists opposite the name of a qualified voter who participates in early voting the letters "EV" designating an early voter.

(o) The registrars shall prepare lists of all voters casting ballots during the early voting period and update the voter list in a manner prescribed by the state secretary.

(p) The provisions of sections 37 and 38 of chapter 53 of the General Laws shall apply to unenrolled voters and voters enrolled in political designations who are voting in the 2020 State Primary Election. The registrar or presiding official at the early voting site shall cause the name of the party of the ballot being voted to be recorded on the voting list.

(q) The counting of early voting ballots including, but not limited to, informing election officers and any challengers present under section 85A of chapter 54 of the General Laws shall be set by 950 C.M.R. § 47.00 so far as applicable. All envelopes referred to in this section shall be retained with the ballots cast at the 2020 State Primary and State General Election, and shall

be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(r) The provisions of 950 C.M.R. § 47.00 shall apply to early voting at the 2020 State Primary and State General Election, to the extent feasible, but the secretary shall update the rules to accommodate the dates set forth herein.

(s) A city or town may opt to detail a sufficient number of police officers or constables for each early voting site for the 2020 State Primary and State General Election, at the expense of the city or town to preserve order, protect the election officers and supervisors from any interference with their duties and aid in enforcing the laws relating to elections.

(t) No early voting ballot cast under this section shall be counted if the officer charged with the duty of counting the ballot is cognizant of the fact that the voter has died prior to the opening of the polls on the day of the 2020 State Primary and State General Election,.

(u) The secretary of the commonwealth shall procure, implement, and give all city and town clerks access to ballot tracking software to permit the tracking of all ballots issued and cast pursuant to the 2020 Vote By Mail Act.

(v) Notwithstanding the provisions of chapter 54 of the General Laws or any other general or special law to the contrary, city and town clerks may, with the approval of the secretary of the commonwealth or his designee and in consultation with the commissioner of the department of public health, reasonably reduce the number of poll workers required at a polling place to protect public health.

(w) If the state of emergency declared by the Governor on March 10, 2020 is still in effect on the date of a state election, or as may be required due to the outbreak of the 2019 novel coronavirus, known as COVID-19, the secretary of the commonwealth shall provide personal protective equipment for all poll workers.

(x) The secretary of the commonwealth shall conduct a public awareness campaign to inform voters throughout the commonwealth about this 2020 Vote By Mail Act and the attendant procedures and requirements for voting by mail.

(y) Nothing contained herein shall prohibit any voter who does not return a valid ballot by mail from voting in person on the election day applicable to the unreturned ballot.

(z) This section shall expire on December 31, 2020.

SECTION 3.Chapter 54 of the General Laws is hereby amended by striking Section 86 and replacing it with the following:

Section 86. Any qualified voter wanting to vote absentee by mail may file with his or her local election official an application for an absentee ballot. Any form of written communication evidencing a desire to have an absentee voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. No application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before noon on the day before the election. for which such absentee ballot is requested Any voter whose application for an official absent voting ballot has been filed with the city or town clerk as provided in section eighty-nine, and certified under section ninety-one, may vote in accordance with sections eighty-seven to one hundred and three, inclusive. A voter who will be unable by reason of permanent physical disability to cast his

vote in person at the polling place may file once with the city or town clerk a certificate executed by a registered physician who is personally acquainted with the voter and aware of his permanent physical disability, stating that it is reasonably certain because of permanent physical disability that the voter will be unable to cast his vote in person at the polling place on the day of the election. The city or town clerk shall maintain a list of such permanently disabled voters and such voters shall not be required to file any such certification thereafter with their applications for an absent voting ballot. Not later than twenty-eight days before every primary, preliminary election or election, the city or town clerk shall send to each voter whose name appears on the permanently disabled voters' list an application for an absent voting ballot, which application said clerk shall complete so far as possible except for the voter's signature.

SECTION 4. Section 42 G 1/2 of chapter 51 of the General Laws is amended in the first sentence by adding after the words “Health Insurance Connector Authority”, the words “, Department of Unemployment Assistance”.

SECTION 5. Section 26 of chapter 51 of the General Laws is amended the second sentence by striking the word “twentieth” and inserting the word “fifth”.

SECTION 6. The secretary of the commonwealth shall use funds provided to the state pursuant to the Help America Vote Act of 2002, 52 U.S.C. § 20901 et seq., known as HAVA, to cover all costs associated with the implementation of this act, unless said costs are expressly prohibited expenditures pursuant to HAVA.

SECTION 7. There shall be a 2020 Vote By Mail Fund that shall be administered by the secretary of the commonwealth, for the purpose of administering the provisions of this Act. The fund shall be supplemental to the HAVA funds accessible to the secretary, and shall be credited

with such additional appropriations as may be authorized or transferred by the general court and specifically designated to be credited to the fund; provided, however, that any costs of implementation must be paid first using funds made available to the state pursuant to HAVA, unless said costs are expressly prohibited expenditures pursuant to HAVA, or until such funds have been depleted.

SECTION 8. Notwithstanding any general or special law to the contrary, the first Tuesday of November in even-numbered years shall be considered a “legal holiday” as defined in the Eighteenth clause of section 7 of chapter 4 of the General Laws, to be observed in the same manner as other legal holidays in the commonwealth; provided, however, that holiday observance shall not apply public employees whose jobs pertain to the operation and administration of elections.