

HOUSE No. 5111

The Commonwealth of Massachusetts



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LIEUTENANT GOVERNOR

November 24, 2020

To the Honorable Senate and House of Representatives,

Pursuant to the provisions of Article II, Section 8, Paragraph 1, Clause (2) of the Amendments to the Constitution, as appearing in Article LXXXIX of said Amendments, I am filing for your consideration the attached legislation entitled “An Act Relative to Voting Options for the City of Newton in Response to COVID-19.”

I am filing this special legislation at the request of the Mayor and City Council of Newton.

The legislation will permit the City to employ mail-in voting and expanded absentee voting for a special City election to be held in January or February of 2021. The special election is necessary to fill two current vacancies on the Newton City Council. The bill effectively extends the same special voting provisions that applied to this month’s statewide election to the Newton special election and, in doing so, permits Newton voters to avoid the risks of COVID-19 transmission that could be associated with in-person voting.

I urge your prompt consideration of this bill.

Respectfully submitted

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

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

An Act relative to voting options for the city of Newton in response to COVID-19.

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) Notwithstanding section 25B of chapter 54 of the General Laws or any
2 other general or special law or any municipal ordinance to the contrary, any eligible voter may
3 vote early by mail for any special municipal election held on or after January 1, 2021 and before
4 March 31, 2021 in the city of Newton.

5 (b) Any qualified voter wanting to early vote by mail may file with the city clerk an
6 application for an early voting ballot. Any form of written communication evidencing a desire to
7 have an early voting ballot be sent for use for voting at an election shall be given the same effect
8 as an application made in the form prescribed by the state secretary. The city clerk shall send
9 early voting by mail ballots to those who have applied as soon as ballots are available. No
10 application shall be deemed to be seasonably filed unless it is received in the office of the city
11 clerk before noon on the fourth business day preceding the election.

12 (c) The city clerk may substitute absentee ballots for early voting ballots for those voters
13 requesting to vote early by mail in municipal elections. An early voting ballot or absentee ballot
14 substituted for an early voting ballot, along with an envelope bearing an affidavit as set forth in

15 section 25B of chapter 54 of the General Laws, shall be provided to each qualified voter who
16 participates in early voting by mail.

17 (d) The city clerk shall cause to be placed on the voting lists opposite the name of a
18 qualified voter who participates in early voting the letters “EV” designating an early voter.

19 (e) The counting of early voting ballots shall be consistent with section 25B of chapter 54
20 of the General Laws and regulations promulgated by the state secretary and appearing at 950
21 CMR 47.00, as applicable. All envelopes referred to in this section shall be retained with the
22 ballots cast at the election and shall be preserved and destroyed in the manner provided by law
23 for the retention, preservation or destruction of official ballots.

24 (f) All early voting ballots voted by mail shall be received by the city clerk before the
25 hour fixed for closing the polls on the date on which the special election is held. Early voting
26 ballots cast under the authority of this section shall be processed at the polls in a manner
27 consistent with that set forth in said section 25B of said chapter 54.

28 SECTION 2. For any special municipal election held on or after January 1, 2021, and
29 before March 31, 2021 in the city of Newton, any person taking precaution related to COVID-19
30 in response to a declared state of emergency or from guidance from a medical professional, local
31 or state health official, or any civil authority shall be deemed to be unable by reason of physical
32 disability to cast their vote in person at a polling location.

33 SECTION 3. Notwithstanding section 24 of chapter 54 of the General Laws or any other
34 general or special law or any municipal ordinance to the contrary, the Newton City Council may,
35 by recorded and public vote, change any polling place to be used at a special municipal election
36 held on or after January 1, 2021 and before March 31, 2021, at least 20 days prior to the date of

37 the special election if it is determined that the public convenience or public health would be
38 better served. If the city council determines that the public convenience or public health would
39 be better served, they may house all polling places in a single building within the municipality, if
40 such building is suitably equipped; provided, however, that alcoholic beverages shall not be
41 served or consumed in that portion of a building used as a polling place, during voting hours or
42 while ballots are being counted therein. The city council may designate polling places in non-
43 adjacent precincts if they determine the public convenience or public health would be better
44 served. In making a decision to change a polling place, the city council shall evaluate and report
45 on whether such change would have a disparate adverse impact on access to the polls on the
46 basis of race, national origin, disability, income or age, and not later than 3 days prior to
47 changing a polling place, shall make publicly available on its website and at the office of the city
48 clerk a report on its evaluation. When the polling places have been designated pursuant to this
49 section, the board of registrars shall post on the municipal website and at other such places as it
50 may determine, a description of the polling places and shall notify voters by using an electronic
51 means, to the extent available, such as via email or reverse 911 call.

52 SECTION 4. (a) Notwithstanding section 25B of chapter 54 of the General Laws or any
53 other general or special law or municipal ordinance to the contrary, any eligible voter may vote
54 early in-person for any special municipal election held on or after January 1, 2021 and before
55 March 31, 2021 in the city of Newton.

56 (b) The voting period for in person early voting shall run from the sixth business day
57 preceding the special election until the close of business on the business day preceding the
58 business day before the election; provided, however, that if the sixth business day before the

59 election falls on a legal holiday the early voting period shall begin on the first business day prior
60 to the legal holiday.

61 (c) Early voting shall be conducted during the usual business hours of the city clerk.

62 (d) The city clerk shall establish an early voting site that is centrally located, suitable and
63 in a convenient public building. Notice of the early voting location, dates and hours will be
64 posted before the early voting period begins.

65 (e) A qualified voter voting early in person shall be provided with a ballot and an
66 envelope where the ballot is placed after voting which contains an affidavit of compliance to be
67 filled out by the voter. A qualified voter voting early in person shall complete an affidavit under
68 the regulations promulgated by the state secretary for the administration of early voting and
69 appearing at 950 CMR 47.00, as applicable, which shall include a notice of penalties under
70 section 26 of chapter 56 of the General Laws.

71 SECTION 5. This act shall take effect upon its passage.