

HOUSE No. 5184

Section 99 contained in the engrossed Bill making appropriations for the fiscal year 2021 for the maintenance of the departments, boards, commissions, institutions and certain activities of the commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5164), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment H of House, No. 5190).
December 14, 2020.

The Commonwealth of Massachusetts

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

An Act providing for early voting by mail.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for early voting by mail, 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:

1 (a) For any annual or special municipal or state primary or election held on or before
2 March 31, 2021, any person taking precautions related to COVID-19 in response to a declared
3 state of emergency or guidance from a medical professional, local or state health official or any
4 civil authority shall be deemed to be unable to cast their vote in person at a polling location by
5 reason of physical disability.

6 (b) Notwithstanding any general or special law to the contrary, subsection (c) of section
7 91B of chapter 54 of the General Laws shall apply to voters who have been instructed by a
8 medical professional or a local or state health official to self-quarantine in their home beginning

9 after noon on the seventh day before any annual or special municipal or state primary or election
10 held on or before March 31, 2021 and such voters may designate their home address for delivery
11 of the ballot.

12 (c) Notwithstanding section 25B of said chapter 54 or any other general or special law to
13 the contrary, any eligible voter may vote early by mail or as prescribed herein for any annual or
14 special municipal or state primary or election held on or before March 31, 2021.

15 (d) Any qualified voter wanting to early vote by mail may file with their local election
16 official an application for an early voting ballot. Any form of written communication evidencing
17 a desire to have an early voting ballot be sent for use for voting at an election shall be given the
18 same effect as an application made in the form prescribed by the state secretary. Local election
19 officials shall send early voting by mail ballots to those who have applied as soon as ballots are
20 available. No application shall be deemed to be seasonably filed unless it is received in the office
21 of the local election official before 5 P.M. on the fourth business day before the date on which
22 the election is held.

23 (e) Local election officials may substitute absentee ballots for early voting ballots for
24 those voters requesting to vote early by mail in municipal elections. An early voting ballot or
25 absentee ballot substituted for an early voting ballot, along with an envelope bearing an affidavit
26 as set forth in said section 25B of said chapter 54, shall be provided to each qualified voter who
27 participates in early voting by mail.

28 (f) The local election officials shall cause to be placed on the voting lists opposite the
29 name of a qualified voter who participates in early voting the letters "EV" designating an early
30 voter.

31 (g) The counting of early voting ballots shall be consistent with said section 25B of said
32 chapter 54 and related regulations to the extent practicable. All envelopes referred to in this act
33 shall be retained with the ballots cast at the election and shall be preserved and destroyed in the
34 manner provided by law for the retention, preservation or destruction of official ballots.

35 (h)(1) A voter in receipt of an early voting ballot for any election pursuant to this act
36 may complete and return the ballot by: (i) delivering it in person to the office of the appropriate
37 city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the
38 appropriate city or town clerk.

39 (2) All early voting ballots submitted by mail, delivered in person to the office of the city
40 or town clerk or returned to a secured municipal drop box as provided by this act shall be
41 received by the city or town clerk before the hour fixed for closing the polls on the day of the
42 election.

43 (i) Notwithstanding section 24 of said chapter 54 or any other general or special law to
44 the contrary, the select board, board of selectmen, town council or city council may, by recorded
45 and public vote, change any polling place to be used at the election not less than 20 days prior to
46 the date of the election if it is determined that the public convenience or public health would be
47 better served. If the select board, board of selectmen or town council determines that the public
48 convenience or public health would be better served, they may house all polling places in a
49 single building within the municipality if such building is suitably equipped; provided, however,
50 that alcoholic beverages shall not be served or consumed in that portion of a building used as a
51 polling place, during voting hours or while ballots are being counted therein. In cities, the city
52 council may designate polling places in non-adjacent precincts if they determine the public

53 convenience or public health would be better served. In making a decision to change a polling
54 place, the select board, board of selectmen, town council or city council shall evaluate and report
55 on whether such change would have a disparate, adverse impact on access to the polls on the
56 basis of race, national origin, disability, income or age and, not later than 3 days prior to
57 changing a polling place, shall make publicly available on its website and at the office of the
58 town or city clerk a report on its evaluation. When the polling places have been designated
59 pursuant to this act, the board of registrars shall post on the municipal website and at other such
60 places as it may determine, a description of the polling places and shall notify voters by using an
61 electronic means, to the extent available, such as via email or reverse 911 call.

62 (j) Notwithstanding section 29 of chapter 53 of the General Laws, sections 11, 11B, 12
63 and 13 of said chapter 54 or any other general or special law to the contrary, if the city or town
64 clerk determines in writing that there is a deficiency in the number of required election officers,
65 then the appointing authority may appoint election officers without regard to political party
66 membership, voter status, residence in the city or town or inclusion on a list filed by a political
67 party committee pursuant to said sections 11B and 12 of said chapter 54. If the position of the
68 warden, clerk or inspector or the deputy of any such officer, if any, is vacant within the 3 weeks
69 preceding the election, the city or town clerk may fill the vacancy by appointing a competent
70 person willing to serve, without regard to political party membership, voter status, residence in
71 the city or town or inclusion on a list filed by a political party committee pursuant to said
72 sections 11B and 12 of said chapter 54.

73 (k) Notwithstanding sections 67 and 83 of said chapter 54 or any other general or special
74 law to the contrary, the city or town clerk may eliminate the requirement that a voter provide

- 75 their name or residence to an election officer at the ballot box and that the election officer mark
- 76 the name off a voting list before the voter may deposit the ballot in the ballot box.