

SENATE No. 2709

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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:

Paul R. Feeney

DISTRICT/ADDRESS:

Bristol and Norfolk

SENATE No. 2709

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 2709) (subject to Joint Rule 12) of Paul R. Feeney for legislation for safe, healthy and inclusive elections. 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:

1 SECTION 1. Section 47C of chapter 51 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by adding the following paragraph:-

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

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

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

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

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

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

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

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

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

53 General State Election. Any form of written communication evidencing a desire to have an early
54 voting ballot be sent for use for voting at an election shall be given the same effect as an
55 application made in the form prescribed by the state secretary. No application for an early voting
56 ballot for the 2020 State Primary and/or General State Election shall be deemed to be seasonably
57 filed unless it is received in the office of the city or town clerk or registrars of voters before
58 12:00PM on August 31, 2020 for the State Primary Election and before 12:00PM on November
59 2, 2020 for the State General Election. If the voter is registered as unenrolled or in a political
60 designation, the applicant must include the name of the party whose primary ballot the voter is
61 requesting for the State Primary Election.

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

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

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

77 (i) The designation of an early voting site for the 2020 State Primary and/or General State
78 Election shall be made no later than July 27, 2020 for the State Primary Election and September
79 28, 2020 for the State General Election. No later than July 27, 2020 for the State Primary
80 Election and September 28, 2020 for the State General Election, the registrars for each city or
81 town shall post the location of the early voting sites as well as the applicable dates and hours.
82 Notice shall be conspicuously posted in the office of the city clerk or on the principal official
83 bulletin board of each city or town, on any other public building considered necessary, on the
84 city or town's website, if any, and on the website of the state secretary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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