

Offered by City Councilor Ricardo Arroyo, Breadon, Flynn, Bok, Essaibi-George, Mejia, Wu, O'Malley and Campbell



## CITY OF BOSTON IN CITY COUNCIL

IN THE YEAR TWO THOUSAND TWENTY ONE

### HOME RULE PETITION

*WHEREAS:* The ongoing COVID-19 pandemic poses a serious health risk to residents in the City of Boston and requiring Boston residents to vote in-person during the 2021 municipal elections and in the midst of a global pandemic puts their lives at risk; *and*

*WHEREAS:* The COVID-19 pandemic has highlighted the need for expanded early voting and no-excuse voting by mail; *and*

*WHEREAS:* In 2020, the state legislature passed a series of laws to protect voters during the elections including expanded early voting and no-excuse voting by mail; *and*

*WHEREAS:* On March 17, 2021, Governor Baker signed a bill extending mail-in and early voting options through the end of June 2021 in Massachusetts; *and*

*WHEREAS:* There are currently multiple bills moving through the state legislature to allow for the extension and permanent introduction of the expanded early voting options that were in place for elections last year; *and*

*WHEREAS:* Expanded early voting and no-excuse voting by mail eliminate barriers to accessibility, raise voter turnout, and alleviate burdens on traditionally disenfranchised communities, such as immigrants, low-income, disabled, Black, Latinx, and Asian communities; *and*

*WHEREAS:* The City of Boston should make any and all efforts to reduce the transmission of COVID-19 during the 2021 elections, but also to permanently ensure that these proven measures protect Boston residents and strengthen our democracy in every subsequent election; *NOW THEREFORE BE IT*

*ORDERED,* That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause 1 of Section 8 of Article II, as amended, of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

**PETITION FOR A SPECIAL LAW RE:  
AN ACT RELATIVE TO EARLY VOTING OPTIONS FOR CITY OF BOSTON  
MUNICIPAL ELECTIONS**

Section 1.

The following words shall, unless the context clearly requires otherwise, have the following meanings:

“Application”, an application to vote early by mail.

“Central registry”, the central registry of voters established pursuant to section 47C of chapter 51 of the General Laws.

“Qualified voter” or “voter”, a voter qualified pursuant to section 1 of chapter 51 of the General Laws.

“State secretary,” the secretary of the commonwealth.

Section 2.

- A. For any annual or special municipal election held in the City of Boston, any person taking precautions related to COVID-19 in response to a declared state of emergency or guidance from a medical professional, local or state health official or any civil authority shall be deemed to be unable to cast their vote in person at a polling location by reason of physical disability.
- B. Notwithstanding any general or special law to the contrary, subsection (c) of section 91B of chapter 54 of the Massachusetts General Laws shall apply to voters who have been instructed by a medical professional or a local or state health official to self-quarantine in their home beginning after noon on the seventh day before any annual or special municipal election held in the City of Boston and such voters may designate their home address for delivery of the ballot.
- C. Notwithstanding section 25B of said chapter 54 of the Massachusetts General Laws or any other general or special law to the contrary, any eligible voter may vote early by mail or as prescribed herein for any annual or special municipal election held in the City of Boston.
- D. Any qualified voter wanting to early vote by mail may file with the Boston Election Department an application for an early voting ballot. 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. The Boston Election Department shall send early voting by mail ballots to those who have applied as soon as ballots are available. All applications must be received by the Boston Election Department before 5 P.M. on the fourth business day before the date on which the election is held.

- E. The City of Boston Elections Department may substitute absentee ballots for early voting ballots for those voters requesting to vote early by mail in municipal elections. An early voting ballot or absentee ballot substituted for an early voting ballot, along with an envelope bearing an affidavit as set forth in said section 25B of said chapter 54 of the Massachusetts General Laws, shall be provided to each qualified voter who participates in early voting by mail.
- F. The City of Boston Elections Department 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.
- G. A voter in receipt of an early voting ballot for any election pursuant to this act may complete and return the ballot by: (i) delivering it in person to the office of the Boston Elections Department ; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the City of Boston Elections Department. All early voting ballots submitted by mail, delivered in person to the office of the Elections Department or returned to a secured municipal drop box as provided by this act shall be received by the City of Boston Elections Department before 8PM on the day of the election.
- H. The absentee or early ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote by reason by death after casting the ballot. For the purposes of this section, the term “cast” shall mean that the voter has: (i) deposited the absentee or early ballot in the mail for ballots mailed; (ii) returned the absentee or early ballot to the appropriate election official either by hand or by depositing in the municipal drop box, where available; or (iii) completed voting in person at the clerk’s office or an early voting location. Section 100 of chapter 54 of the General Laws shall not apply to any annual or special municipal election held in the City of Boston.
- I. Notwithstanding section 24 of said chapter 54 of the Massachusetts General Laws or any other general or special law to the contrary, the Board of Election Commissioners may, by recorded and public vote, change any polling place to be used at the election not less than 20 days prior to the date of the election if it is determined that the public

convenience or public health would be better served. The Boston Elections Department may designate polling places in non-adjacent precincts if they determine the public convenience or public health would be better served. In making a decision to change a polling place, the Board of Election Commissioners shall evaluate and report on whether such change would have a disparate, adverse impact on access to the polls on the basis of race, religion, gender, national origin, disability, income or age and, not later than 3 days prior to changing a polling place, shall make publicly available on its website and at the office of the town or city clerk a report on its evaluation. When the polling places have been designated pursuant to this act, the City of Boston shall post on its municipal website and at other such places as it may determine, a description of the polling places and shall notify voters by using an electronic means, to the extent available, such as via email or reverse 911 call.

- J. Notwithstanding section 29 of chapter 53 of the Massachusetts General Laws and sections 11, 11B, and 13 of said chapter 54 of the Massachusetts General Laws or any other general or special law to the contrary, if the City of Boston Elections Department determines in writing that there is a deficiency in the number of required election officers, then the Elections Department may appoint election officers without regard to political party membership, voter status, residence in the City of Boston or inclusion on a list filed by a political party committee pursuant to said sections 11B of said chapter 54. If the position of the warden, clerk or inspector or the deputy of any such officer, if any, is vacant within the 3 weeks preceding the election, the Board of Election Commissioners may fill the vacancy by appointing a competent person willing to serve, without regard to political party membership, voter status, or inclusion on a list filed by a political party committee pursuant to said sections 11B of said chapter 54.
- K. Notwithstanding section 67 and section 83 of said chapter 54 of the Massachusetts General Laws or any other general or special law to the contrary, the City of Boston Elections Department may eliminate the requirement that a voter provide their name or residence to an election officer at the ballot box and that the election officer mark the name off a voting list before the voter may deposit the ballot in the ballot box.
- L. Notwithstanding section 25B of chapter 54 of the Massachusetts General Laws or any other general or special law or municipal ordinance to the contrary, upon a recorded and public vote by the City of Boston Election Commissioners, any eligible voter of such municipality may vote early in-person for any annual or special municipal election held in the City of Boston. Such vote occurs not less than 5 business days prior to the proposed beginning of early voting and that the vote complies with the following:

1. The vote must include the dates and hours for early voting, which may begin no sooner than 10 days before the election and end no later than the business day preceding the business day before the election.
2. The City of Boston Election Commissioners shall establish at least one early voting site that is centrally located, suitable and in a convenient public building and may designate additional locations as deemed appropriate. Notice of the early voting location, dates and hours must be posted on the City's website at least 48 weekday hours before the early voting period begins.
3. A qualified voter voting early in person shall be provided with a ballot and an envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter. A qualified voter voting early in person shall complete an affidavit under the regulations promulgated by the state secretary for the administration of early voting and appearing at 950 CMR 47.00, as applicable, which shall include a notice of penalties under section 26 of chapter 56 of the Massachusetts General Laws

Section 3.

Notwithstanding any general or special law to the contrary, the City of Boston Election Department may deposit any absent ballot cast pursuant to section 86 of chapter 54 of the Massachusetts General Laws or any early voting ballot cast pursuant to this act into a tabulator in advance of the date of the preliminary or general election. All absentee and early ballots received by the Boston Election Department pursuant to this act may be opened in advance of the date of the preliminary or general election, in accordance with the procedures set forth below:

- A. Advance Removal of Ballots from Envelopes: The Boston Election Department may open early voting envelopes prior to election day and separate the ballots from the envelopes. Advance removal of ballots may begin as early as nine (9) days prior to election day and can continue until the day before the election.
  1. The Boston Election Department shall open each outer mailing envelope purporting to contain an official early voting ballot as soon as possible after receiving it, in the view of any persons who may be present and shall remove therefrom the outer mailing envelope without opening the inner affidavit envelope, and examine the affidavit on each such envelope. If the Boston Election Department finds that such affidavit has been improperly executed, or is incomplete, the Department shall mark across the face thereof "Rejected as defective," and shall place on the early voting disposition list required by 950

CMR 47.08, as the case may be, opposite the name of the voter the capital letter R.

2. The Boston Election Department shall notify, as soon as possible, each voter whose early voting ballot was rejected. Unless the Department determines that there is clearly insufficient time for the voter to return another ballot, the Department shall then proceed as if the voter had requested a substitute ballot. If the Department received the original ballot by mail, the Department shall enclose the substitute ballot and other papers described in 950 CMR 47.06 with the mailed notice of rejection. If the Department timely receives an affidavit envelope purporting to contain such a substitute ballot, and the substitute ballot is accepted, the Department shall strike the letter R from any list on which it has been placed under the preceding paragraph.
3. If the affidavit on the affidavit envelope appears to be complete, the Boston Election Department shall mark the early voting list that the early voting ballot has been received and accepted and is eligible for advance removal from the inner envelope.
4. Notice of advance removal of ballots must be posted on the municipal website at least three (3) days before each day of advance removal. Notice must include the date, time and location of advance removal. The advance removal process shall be open for public observation.
5. Before any ballots can be separated from the inner envelope, they must be recorded on the early voting list with the date and time being processed. The Boston Election Department must read the name and address of the voter from the affidavit envelope and record it on the voting list, which should have the letters EV already printed next to it. The election officer shall place a mark beside the name of the voter to indicate that the early voting ballot vote has been received and opened.
  - i. Ballots can be advance removed on the day following receipt at the earliest and only after being recorded as received. No ballot can be advance removed on the same day it is received.
  - ii. Ballots must be transported to the advance removal facility in a sealed container if located in a separate building. Before the opening of the advance removal facility, a list containing the names of all voters whose early voting ballots will be advance-removed shall be delivered.
    - a) The election officers assigned to the advance removal facility, shall, as soon as early voting ballots are delivered, record the total number of ballots received, by precinct.
  - iii. There shall be no lead pencils or blue or black pens at any table where election officials are advance removing ballots. The only writing devices

that are permitted at the table are those with a distinctive marking color that is not commonly used by voters on ballots such as red or green.

- iv. Ballots may only be advance removed by precinct. All early voting ballots from one precinct shall be processed before another precinct can be processed during a scheduled session.
- v. Election officers shall open the ballot envelope carefully so as not to deface, mark or tear the ballot or the ballot envelope. The election officers shall then remove the ballot from the inner envelope without examining it and in a manner that will ensure the privacy of the voter. Election officers shall place the ballot envelopes in the proper container.
- vi. The ballot envelope must not contain more than one ballot. If more than one ballot is in the envelope, neither ballot shall be counted and those ballots shall be placed in the ballot envelope which shall be marked "Rejected as Defective" and placed in the proper container.
- vii. Unless the ballots will be deposited in accordance this section, the ballots and inner envelopes must be sealed by precinct, with the date of the opening recorded with the seal numbers, which must be securely stored until election day.

6. If an early voting ballot is challenged when opened at the advanced processing facility, the name and address of the early voter shall be written on the ballot by the local election official. The challenger's name and address shall be recorded and the event shall be noted in the local election official's Election Record, and the letters CV shall be placed on the voting list next to the name of the challenged voter. After this, the ballot shall be placed in the proper container.

7. Ballots that have been removed from their envelopes may be advance deposited in accordance with this section or deposited into a tabulator or ballot box on election day at either the precinct polling place or at a duly designated central tabulation facility.

- i. Ballots must remain sealed from the advance removal until received at the precinct polling place or duly designated central tabulation facility
- ii. Ballots being deposited into a tabulator or ballot box on election day at either a precinct polling place or at a duly designated central tabulation facility must be accompanied by a list of the early voters whose ballots are being deposited.

B. Advance Depositing of Ballots into Tabulator: The Boston Election Department may deposit early voting ballots into a tabulator or ballot box prior to election day and in accordance with the following provisions. Advance depositing of ballots into a tabulator or ballot box may began as early as nine (9) days prior to election day and can continue

until the day before the election. No results of votes from any precinct shall be made public until after 8 pm Election Day.

1. The provisions of the previous section must first be followed before any ballot can be deposited into a tabulator or ballot box.
2. Notice of advance depositing ballots must be posted on the municipal website at least three (3) days before each day of advance depositing. Notice must include the date, time and location of advance depositing. The advance depositing process shall be open for public observation.
  - i. If advance depositing into a tabulator, the vote tabulator must be tested in accordance with 950 CMR 54.02 at least four (4) days before the first date of advance depositing. Separate media cards must be used for advance depositing and for election day tabulation at a polling place.
  - ii. Ballots can be advance-deposited on the day following receipt at the earliest and only after being recorded as received. No ballot can be advance deposited on the same day it is received.
  - iii. Ballots must be transported to the advance deposit facility in a sealed container if located in a separate building. Before the opening of the advance depositing facility, a list containing the names of all voters whose early voting ballots will be advance-deposited shall be delivered.
    - a) The election officers assigned to the advance deposit facility, shall, as soon as early voting ballots are delivered, record the total number of ballots received, by precinct.
    - b) A record of the number on the public counter shall be made before and after processing of each precinct on each day advance processing is conducted.
  - iv. There shall be no lead pencils or blue or black pens at any table where election officials are advance depositing ballots. The only writing devices that are permitted at the table are those with a distinctive marking color that is not commonly used by voters on ballots such as red or green.
  - v. Ballots may only be advance-deposited by precinct. All early voting ballots from one precinct shall be processed before another precinct can be processed during a scheduled session.
    - a) Any ballot that cannot be read or is rejected by the vote tabulator must be set aside and hand-counted in accordance with 950 CMR 54.06(9) after all ballots for that precinct have been deposited and before the close of advance depositing for that session.
    - b) Any ballots containing a write-in vote shall be hand-counted in accordance with 950 CMR 54.06(9) after all ballots for that precinct have been deposited and before the close of advance depositing for that session.

- c) Tally sheets for hand-counted ballots shall be signed by the election officials and sealed with the session date and precinct, but separately from the ballots themselves.
  - vi. For each day of advance processing, after the advance depositing is complete, the ballots must be sealed and stored by precinct and by party in a primary. Ballots must be stored in secure sealed containers in a locked secure ballot storage room. The early voting lists shall also be sealed in separate envelopes for transport and transmitted to the Boston Election Department.
  - vii. No results shall be determined or announced until after the time the polls close on the date of the primary or the general election. The results from advance processing must be added to the election day results and posted in a public place.
- C. A full record of advance processing and advance depositing shall be kept. The record shall be kept by precinct and shall include:
- 1. The number of ballot envelopes being processed for each precinct;
  - 2. The number of ballot envelopes accepted; and
  - 3. The number of ballot envelopes rejected.
- D. Any ballots advance processed shall be kept secured, locked and unexamined, and no results shall be determined or announced until after the time polls close on the date of the preliminary or the general election. Disclosing any such result before such time shall be punished as a violation of section 14 of chapter 56 of the Massachusetts General Laws.

Section 4.

If any portion or provision of this act is declared invalid or unenforceable by a court of competent jurisdiction or by the Office of the Attorney General, the remaining provisions shall continue in full force and effect.

Section 5.

The provisions of this act shall take effect immediately upon passage.

Filed in Council: April 28, 2021