



The Commonwealth of Massachusetts
MASSACHUSETTS SENATE

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Chair
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AND REGIONAL GOVERNMENT

Vice Chair
COMMITTEE ON ELDER AFFAIRS

May 15, 2020

VIA EMAIL ONLY

Senator Barry Finegold, Chair, Joint Committee on Election Laws
Massachusetts State House, Room 507
24 Beacon Street
Boston, MA 02133

Representative John Lawn, Chair, Joint Committee on Election Laws
Massachusetts State House, Room 445
24 Beacon Street
Boston, MA 02133

Re: Testimony in support of S. 2654, The 2020 Vote by Mail Act

Dear Chair Finegold, Chair Lawn, and distinguished members of the Committee:

Thank you for the opportunity to testify before the Committee in support of my bill, S.2654, the 2020 Vote by Mail Act, co-filed in the House by Representative Adrian Madaro. I also wish to thank your staff for making yesterday's productive and informative hearing happen.

Universal, automatic vote by mail is the simplest, most sensible, and safest option we have to preserve and protect our democracy by ensuring free, fair, and safely accessible elections. The 2020 Vote by Mail Act is the only bill that would provide universal mail voting for both 2020 statewide elections. Other critical components of the bill include polling place protections for maintained in-person voting, funding direction, technology upgrades and access, and making November Election Day a holiday. I urge the Committee to swiftly issue a favorable report.

(1) Automatic Ballot Delivery for the 2020 Primary and General Election

The 2020 Vote by Mail Act would require the Secretary of the Commonwealth to send every registered voter a mail-in ballot at the address on file in the central registry, without forcing voters to jump over the unnecessary hurdles of finding, completing, and submitting a request or application just to receive their ballots. For the primary election, every voter registered with a political party would receive their party's primary ballot. Unenrolled voters could request the primary ballot of their choice via web portal, centrally maintained by the Secretary of the Commonwealth, or change their party status to register with the political party whose primary ballot they intend to pull, which is relatively easy to do through existing systems.¹ Voters in both the primary and general elections would receive postage pre-paid return envelopes, eliminating barriers to voter access. The bill permits the Secretary to issue the ballots centrally or work with clerks to issue the ballots, but the cost should be borne by the state, not the municipalities.

This automatic, universal distribution of ballots to eligible voters is the simplest, most straightforward, and safest solution. Perhaps most importantly, for voters, automatic ballot distribution simplifies and streamlines the mail-in voting process. All a voter needs to do is keep an eye out for the ballot to show up in the mail, fill it out, and mail it back. It's as easy as that. This also serves to lift up voters who have been disenfranchised for centuries. For clerks and other elections officials on the administrative side of our elections, issuing ballots to voters means one straightforward mail process per election. For voters and elections officials alike, opt-out vote by mail is safer. We know physical distancing is critical to reducing community transmission of COVID-19. An opt-out system, which flips the default mode of voting from in-person to mail, should lead to the lowest levels of in-person voting by nudging voters to make the safe choice and vote from home. This is true for the general election, and it's true for the primary as well.

Notably, this opt-out method of vote by mail also avoids significant possible elections access pitfalls for voters who require assistance, including seniors in nursing homes and other elder care facilities. Our nursing home and congregant elder care staff are managing unprecedented challenges in keeping residents safe. How will these dedicated staff members, who usually assist residents in requesting absentee ballots, have the capacity to do so this year? People who care for family members with disabilities at home similarly face unprecedented

¹ It is not feasible to send all of the various primary ballots to unenrolled voters. Comprehensive packets of multiple primary ballots would need to be prepared, fastened together, and issued, along with instructions to complete just one of those ballots and return the entire packet, still fastened, to ensure no one votes more than once. This would be notably more expensive and notably more difficult for the clerks, who would have to separate all of those packets and feed only the completed ballot through the tallying machines. It also creates significant waste. Our open primaries should not preclude the automatic issuance of primary ballots to party-affiliated voters, especially when unenrolled voters can easily change their party affiliation. I support exploring additional ways to conduct outreach to unenrolled voters about the ballot request process and the ability to change their party registration online.

stress and difficulty in caring for loved ones during a pandemic. What happens to these voters when they and the people who care for them realize, close to election day, that they've missed the window for submitting a ballot request or application? Will they be forced to risk their health, and possibly their lives, to exercise their constitutional right to vote and show up in person at the polls? The 2020 Vote by Mail Act avoids these unnecessary dangers for both the primary and the general.

Where opt-out, automatic vote by mail yields the greatest possible voter access and reduces the administrative workload, opt-in or by-request-only vote by mail systems create unnecessary burdens for both voters and local clerks. We know those burdens can lead to systemic failure – just look at the recent botched election in Wisconsin, where some [9,000 requested ballots](#) were never sent, and thousands more were sent to voters too late for the voters to complete and submit them in time to be counted. Moreover, in any opt-in system, fewer voters will vote by mail, which means more people will crowd into their polling places. That's the exact thing we're trying to avoid. In short, opt-in vote by mail is insufficient to meet the moment.

A modified opt-in system that would entail mailing voters ballot applications, rather than the ballots themselves, is similarly inadequate; it's also burdensome and overly costly, without any of the upsides of sending the actual ballots. The 2020 Vote by Mail Act served as the template for multiple other bills before the Committee, including H.4699, H.4721, and SD.2936. These bills incorporate wholesale sections of my bill verbatim, up to and including section 2, entitling the “2020 Vote by Mail Act.” H.4699 is almost an exact duplicate, and the other versions also include sections of legislation filed or proposed by others). They say imitation is the sincerest form of flattery; unfortunately, the changes in the latest proposals gut the most important provision of the bill. Where I propose issuing ballots, these other versions propose issuing applications, and that's not just for the primary – that's for both the primary and the general. Mailing ballot applications would entail the same costs and complexities of sending out ballots, while simultaneously imposing (and possibly exacerbating) all the downsides of an opt-in system, including the administrative burdens on voters and clerks to submit, process, and respond to ballot requests. Plus, the state would be on the hook not only for the initial mailing of the applications, and those postage-prepaid return envelopes, but also for the subsequent costs of mailing the ballots and another set of postage-prepaid return envelopes.

(2) Polling Place Protection

The 2020 Vote by Mail Act maintains in-person voting at polling places on election day to support greater voting access, while making a few changes to ensure the safety of voters and poll workers. Our election workers in particular may be more vulnerable to coronavirus as many are over age 65. In Wisconsin, where numerous problems with their opt-in vote by mail system prevented voters from safely voting from home, [over 50 election workers and voters](#) who were physically at the polls during the April election contracted COVID-19. No one should be forced to risk their health or their life in order to vote or perform the important civic role of working at

the polls. Again, the best way to keep voters and poll workers safe is by reducing the number of people who go to the polls on election day, by automatically mailing every voter a ballot. Moreover, the 2020 Vote by Mail Act requires that the state provide adequate personal protective equipment (PPE) to all election workers, for their safety and everyone else's. I also support providing cleaning supplies to polling places.

(3) Funding Direction

We all acknowledge that there will be a monetary cost for expanding vote by mail. A [recent study](#) by The Center for State Policy Analysis at Tufts University found that voting by mail in November may cost up to \$30 million. Fortunately, Massachusetts already has at its disposal tens of millions of dollars of federal funds through the Help America Vote Act of 2002. The Commonwealth can use these dollars for technology upgrades to support and implement voting by mail, including ballot tracking software to ensure votes are secure. The 2020 Vote by Mail Act was the first legislation to direct the expenditure of these funds, and I'm glad that many of our colleagues have followed my lead in their proposals. In addition, the majority of our Congressional delegation and both of our U.S. Senators support legislation to grant additional federal funding for 2020 elections due to the COVID-19 pandemic, which may reduce the ultimate financial burden on the Commonwealth.

It's a fact: guaranteeing ballot access through prepaid postage envelopes to all eligible voters will cost money. But our democracy is a necessary and invaluable investment. Every constituent's right to cast their vote is worth the price of a fifty-cent stamp.

(4) Technology Upgrades and Access

It's no secret that Massachusetts' election infrastructure needs to be modernized.² Further, an effective vote by mail system that preserves voter confidence in the integrity of election results will require ballot tracking software. That's why the 2020 Vote by Mail Act directs the Secretary to make overdue upgrades to the functionality of the central registry of voters, and requires the procurement and implementation of ballot tracking software.³

The 2020 Vote by Mail Act also solves a long-standing technology access problem for our clerks, created by existing law. As the Massachusetts Town Clerks Association testified

² Just last month, the Supreme Judicial Court noted that the Secretary's "failure to be able to solve manageable technological problems on the eve of an election is confounding and distressing." *Goldstein v. Galvin*, S.J. 2020-0150 (Apr. 17, 2020) (slip op.). In his concurring opinion, Justice Kafker emphasized "that those responsible for our election process must have the necessary tools to quickly adapt to the current pandemic and the future crises to follow. Absent such technological adaptability, our elections will be imperiled and our election laws may themselves have to be rewritten in the midst of a crisis, as was done here."

³ Ballot tracking software also addresses some of the (relatively unfounded) concerns expressed by committee members about election security. Multiple elections experts testified to the fact that voter fraud and election security violations are extremely rare.

yesterday, clerks need to be able to scan and process mailed ballots as they are received, rather than waiting to process all of those ballots until election day. Tabulations cannot be processed until election day is over and all the ballots are fed through the tallying machines, so it is impossible for any poll worker to illegally access the results prior to the close of polls. Indeed, I included this provision in the bill after personal conversations with several clerks. Our clerks are essential public servants and our foremost elections officials: we must leverage their expertise and experience as we refine our legislative response.

In this same spirit of improving ballot access and management procedures, the 2020 Vote by Mail Act goes as far as possible to allow clerks to process mail-in ballots that are received after polls close. For the general election, ballots postmarked by Election Day and received up to five days later would all be counted. Unfortunately, this approach is not possible for primary ballots -- there's just too tight a window of a time between the primary election day and the deadline for printing general ballots. This is another of the many unfortunate consequences of our current late primary election date, which I once again urge the Committee to reconsider in the future.

(5) Election Day as a Holiday

Finally, the 2020 Vote by Mail Act establishes November Election Day as a new state holiday. Many people already have a tough time making it to the polls in person, and often vote at the same times, especially before and after nine-to-five work hours. During a pandemic, it is critical to reduce large clusters of people showing up at the polls simultaneously to protect personal and public health. Making Election Day a holiday gives voters the broadest flexibility and helps to avoid non-election foot traffic at schools or town offices serving as polling places on election day.

We received plenty of support for the 2020 Vote by Mail Act's provisions from fellow elected officials and from advocacy organizations. More importantly, we received strong support from the people who matter most: Massachusetts voters. Attached for inclusion in the record is a list of over 200 Massachusetts residents who support the 2020 Vote by Mail Act, including Mayor Dan Rivera.

Universal, automatic vote by mail is a tried, tested, and realistic approach. Five other states have made it a reality. Here in our Commonwealth, it's just as vital to have universal, automatic vote by mail for the primary as it is for the general election. We already see, readily, the tragic consequences of delay, indecision, and half-measured responses to this pandemic. Let's not make the same mistakes when it comes to our elections.

Thank you for your dedication to this critical issue, and for your engaging questions at yesterday's hearing. I welcome the opportunity to answer any further questions you may have. I respectfully request that the Committee expediently issue a favorable report on the 2020 Vote by Mail Act.

Yours in service,

A handwritten signature in blue ink, appearing to read 'Becca Rausch', with a long horizontal line extending to the right.

Senator Becca Rausch
Norfolk, Bristol and Middlesex District