

Department of Legislative Services  
2013 Session

FISCAL AND POLICY NOTE

House Bill 974  
Ways and Means

(Delegate Kramer, *et al.*)

Education, Health, and Environmental Affairs

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Election Law - Subsequent Election Absentee Ballot List

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This bill establishes a subsequent election absentee ballot list, allowing a voter who receives an absentee ballot to request, in the written materials accompanying the absentee ballot, an absentee ballot for the next subsequent election, causing the voter to be placed on the list and to receive an absentee ballot for the regularly scheduled primary and general election immediately following the request and any intervening special elections. The bill also requires that absentee ballot applications include specified information and require that the applicant acknowledge receipt of the information and requires a court to report specified information regarding certain individuals under guardianship for mental disability to the State Administrator of Elections.

The bill takes effect July 1, 2013.

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Fiscal Summary

**State Effect:** General fund expenditures may increase, by not more than \$50,000 (a one-time cost), to incorporate the ability to track and report information regarding certain individuals under guardianship for mental disability, as specified in the bill, in the Judiciary's new case management system (expected to undergo a multi-year rollout beginning in FY 2014 and running into FY 2017). General fund expenditures may also increase minimally due to costs of additional absentee ballots.

**Local Effect:** Local government expenditures increase by a total of \$15,000, shared among the counties, for modification of the statewide voter registration database. Expenditures may also increase minimally due to the cost of additional absentee ballots and any mailings associated with voters that have moved.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The bill allows a voter who receives an absentee ballot to request, in the written materials accompanying the absentee ballot, an absentee ballot for the next subsequent election. A voter who makes such a request is placed on the subsequent election absentee ballot list and must be sent an absentee ballot for the regularly scheduled primary and general election immediately following the request and any intervening special elections. A voter is removed from the subsequent election absentee ballot list if the voter is removed from the statewide voter registry in accordance with State law, and a voter who requests an absentee ballot for the next subsequent election must notify the local board of elections if the ballot is to be sent to an address that is different from the address to which the voter's previous absentee ballot was sent.

The bill also requires that a written form produced by a local board of elections and supplied to a voter to apply for an absentee ballot must include information concerning (1) the criteria for determining a voter's qualifications to vote and a voter's eligibility to vote in an election and (2) the penalties provided under State and federal law for registering to vote or voting in violation of applicable law. Each form must also require that the voter requesting the absentee ballot acknowledge receipt of the information.

Lastly, the bill requires that a court report to the State Administrator of Elections the name and residence address of an individual under guardianship for mental disability if the court finds that the individual cannot communicate a desire to participate in the voting process. Under existing law, a person under guardianship for mental disability who a court has found cannot communicate a desire to participate in the voting process is not qualified to be a registered voter.

### **Current Law:**

#### *Absentee Voting*

An individual may vote by absentee ballot except to the extent preempted by federal law. An absentee ballot application generally must be received by a local board not later than the Tuesday prior to an election. Absentee ballots are sent to voters as soon as practicable after the receipt and review of an application. A registered voter or the voter's duly authorized agent can also apply for an absentee ballot in person at the local board office through the closing of the polls on election day.

#### *Absentee Ballot Applications*

An application for an absentee ballot, signed by the voter, may be made (1) on a form produced by a local board of elections and supplied to the voter; (2) on a form provided

under federal law; or (3) in a written request that includes the voter's name and residence address and the address to which the ballot is to be mailed, if different from the residence address. State Board of Elections (SBE) regulations require that a formal application for an absentee ballot be made to a local board only on a form prescribed by SBE or on a form provided under federal law. Local boards of elections and others may reproduce and distribute the form prescribed by SBE, but only if they do so without altering the form. The regulations also specify requirements for informal, written requests for absentee ballots, including the information that must be included in a request.

#### *Persons under Guardianship for Mental Disability*

A person is not qualified to be a registered voter if the individual is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process.

#### *Information Reported to the State Administrator of Elections*

Certain agencies are required to report information to the State Administrator of Elections as follows:

- Department of Health and Mental Hygiene – names and residence addresses (if known) of all individuals at least 16 years of age reported deceased within the State since the date of the last report;
- clerk of the circuit court for each county and administrative clerk for each District Court – names and addresses of all individuals convicted, in the respective court, of a felony since the date of the last report; and
- clerk of the circuit court for each county – former and present names and residence addresses (if known) of all individuals whose names have been changed by decree or order of the court since the date of the last report.

An election director may remove a voter from the statewide voter registration list based on information received regarding a felony conviction that causes the voter to not be qualified or a voter being deceased.

**Background:** The National Conference of State Legislatures (NCSL) indicates that absentee voting procedures vary among the states, with many, including Maryland, allowing for “no-excuse” absentee voting, where any registered voter can vote absentee, and other states allowing absentee voting only under certain circumstances. According to NCSL, Arizona, California, Colorado, Hawaii, Montana, New Jersey, Utah, and the District of Columbia allow *permanent* no-excuse absentee voting, allowing any voter to request to receive an absentee ballot automatically for all future elections. In addition, Oregon and Washington conduct all elections by mail.

SBE regulations specify that an absentee ballot application only applies to the elections specified by the voter and must be limited to the upcoming primary and general election and any special election within the calendar year in which the primary and general election occurs.

**State Fiscal Effect:** General fund expenditures may increase to incorporate the ability to track and report instances where a court has found that an individual under guardianship for mental disability cannot communicate a desire to participate in the voting process into the Judiciary's new case management system, Maryland Electronic Court (MDEC), in order to meet the bill's reporting requirement. Any increase in expenditures is not expected to be more than \$50,000 (a one-time cost). Full rollout of the system will begin in fiscal 2014 and run into fiscal 2017. It is assumed that the reporting requirement can be handled manually with existing resources until full rollout of MDEC.

General fund expenditures may also increase minimally to the extent the subsequent election absentee ballot list increases the number of absentee ballots sent to voters by local boards of elections. An absentee ballot preparation and delivery service was used for the 2012 general election, and SBE incurred, on average, \$.20 of the per ballot cost, with the remainder paid by the local boards of elections.

**Local Fiscal Effect:** Local boards of elections will incur a cost of modifying the statewide voter registration database to track voters that have requested an absentee ballot for the next subsequent election. The total cost, shared among the local boards is expected to be approximately \$15,000. These costs are billed to the local boards by SBE.

Local boards of elections may also incur additional costs to the extent the subsequent election absentee ballot list increases the number of absentee ballots sent to voters by local boards. For the absentee ballots mailed for the 2012 general election, local boards of elections paid, on average, \$1.20 of the per ballot cost. Additional mailing costs could also be incurred to either send a confirmation mailing to voters that have requested an absentee ballot for the next subsequent election prior to sending ballots, to ensure they have not moved, or to resend returned ballots due to a voter having moved.

Any additional costs for local boards to provide absentee voters the opportunity to make a subsequent election absentee ballot request in the written materials accompanying an absentee ballot are assumed to be minimal.

## **Additional Information**

**Prior Introductions:** HB 657 of 2012 passed the House and was referred to the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Judiciary (Administrative Office of the Courts); Baltimore, Dorchester, Garrett, Howard, and Montgomery counties; Department of Legislative Services

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