

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 782 (Senator Waldstreicher)
 Education, Health, and Environmental Affairs

Election Law - Early Voting - Reporting of Precinct Results

This bill requires local boards of elections, acting in their capacity as boards of canvassers, and the State Board of Elections (SBE), to include in the election results reported by precinct all votes cast by voters registered in each precinct who voted on an early voting day. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: General fund expenditures increase by \$340,000 in FY 2020 and by ongoing amounts annually thereafter. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	340,000	322,500	180,000	322,500	180,000
Net Effect	(\$340,000)	(\$322,500)	(\$180,000)	(\$322,500)	(\$180,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government expenditures increase significantly in FY 2020 and future years. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: Unless otherwise provided by the Maryland Constitution, each board of canvassers must prepare a statement of election results by precinct for each candidate or question voted on at an election and declare:

- who is elected or nominated for office (1) in county government or (2) for any other office voted for only within that county, if the certificate of candidacy for that office was issued by the local board of elections; and
- whether or not a question is adopted or approved.

The statement, however, may not report the absentee vote separately by precinct. Each local board of elections must publish a sufficient number of copies of the complete election results, tabulated by precinct, and make the copies available to the public at cost.

“Board of canvassers” means the local board of elections in a county after the local board organizes itself for the purpose of canvassing the vote after an election in that county.

SBE must also make available in an electronic format a report of election results for each candidate or question voted on at an election (1) by precinct; (2) by State legislative district, including any subdistrict; (3) by county legislative district; and (4) for each county as a whole. SBE may make the report available to the public at cost.

Background: SBE and the local boards of elections are currently able to tabulate Election Day results by precinct since those votes are tabulated on a specific machine or machines in the polling place for the precinct. Votes cast during early voting, however, are not tabulated on machines that are only tabulating votes from one specific precinct but are instead tabulated on machines along with ballots cast by voters from other precincts in the county.

State Fiscal Effect:

General Fund Impact

General fund expenditures increase by \$340,000 in fiscal 2020, and by ongoing amounts annually thereafter, reflecting the State’s share of election management system/software programming costs and ballot programming, proofing, and printing costs. Pursuant to Chapter 564 of 2001, the State shares voting system costs (50/50) with the local boards of elections.

This estimate (both the State and local fiscal effect) assumes that implementation of the bill for the 2020 elections is possible. However, it is unclear whether modifications that need to be made to the voting system election management software can feasibly be made in time for the 2020 elections.

Necessity of Precinct-specific Ballot Styles

SBE indicates that, in order to report early voting results by precinct, a unique ballot “style” for each of the State’s precincts must be created and managed for each election. Each ballot style is effectively a unique, different ballot recognized by the voting system. Currently, different ballot styles are created as necessary, to reflect the different combinations of races, candidates, and questions being voted on by voters in different parts of the State (or in a primary election, in different parties). SBE indicates that creating a ballot style for each precinct (and multiple styles per precinct in a primary election, reflecting the Democratic, Republican, and any nonpartisan ballots) would significantly increase the number of ballot styles.

The creation of ballot styles by precinct and the resulting significant increase in the number of ballot styles requires (1) modification of election systems; (2) an increase in the overall number of ballots printed, to ensure that the correct, precinct-specific ballot style is available to a voter at any early voting center in the voter’s county and at the voter’s polling place on Election Day; and (3) an increase in preparation costs of local boards of elections to verify the accuracy of all ballot styles, test ballot scanners (voting machines) with all of the ballot styles, and physically prepare and manage the increased number of ballot styles at early voting centers.

Cost Categories

The general fund expenditure increase of \$340,000 in fiscal 2020 reflects the State’s share (50%) of the following costs:

- voting system election management software modifications – \$245,000;
- SBE election management system modifications – \$75,000;
- ballot programming/proofing – \$70,000; and
- increased ballot printing - \$290,000 (assuming a roughly 50% increase in the number of ballots needing to be printed).

The voting system election management software and SBE election management system modifications are one-time costs, but the ballot programming, proofing, and printing costs are ongoing costs incurred for each election. Increased ballot printing costs are greater for general elections because of increased turnout and longer ballots.

Effect of Increased Use of Ballot Marking Devices for Early Voting

This estimate (both the State and local fiscal effect) assumes continued use of primarily hand-marked paper ballot voting at early voting centers. However, to the extent ballot

marking devices (which allow voters to use a touchscreen to produce a paper ballot containing the voter's choices) are used for all early voting in future elections, the impacts of the bill change to some extent, lessening the need for increased ballot printing and lessening or eliminating the need for physical preparation and management of an increased number of ballot styles at early voting centers.

The ballot marking devices can help in managing the need for various different ballot styles at an early voting center by eliminating the need to have sufficient numbers of preprinted ballots of each style available for voters who turn out for early voting. Concerns about the functionality of the ballot marking devices that arose prior to the 2016 elections, and have limited their use since then, are now on course to be resolved. However, it is not assured whether that will occur in time for the ballot marking devices to be used more widely in the 2020 elections.

Local Fiscal Effect: Local government expenditures increase significantly in fiscal 2020, but overall expenditure increases vary by county, consisting of the following major categories of costs:

- local boards of elections' collective share of above (under State Fiscal Effect) election management system/software and ballot programming, proofing, and printing costs – \$340,000;
- voter registration system and pollbook software modifications (costs billed entirely to local boards of elections by SBE) – \$160,000 (collective total for all local boards of elections);
- increased personnel costs prior to elections to verify the accuracy of all ballot styles, test early voting ballot scanners with all ballot styles, and physically prepare the increased number of ballot styles for use at early voting centers – varies by county (as examples, Howard, Montgomery, and Prince George's counties' personnel costs are estimated to increase by at least \$45,000, \$130,000, and \$220,000, respectively);
- increased election judges at early voting centers to manage distribution of the increased number of ballot styles to voters – varies by county (as examples, Montgomery and Prince George's counties' election judge costs for early voting are estimated to increase by \$120,000 and \$175,000, respectively);
- increased warehouse space and equipment to store and manage the increased number of ballots – varies by county.

The election management system/software, voter registration system, pollbook software, and ballot management equipment costs are one-time costs, but the ballot programming, proofing, and printing costs, the increased personnel and election judge costs, and increased warehouse space are ongoing costs.

As mentioned above under the State Fiscal Effect, to the extent ballot marking devices are used for all early voting in future elections, the impacts of the bill change to some extent, lessening the need for increased ballot printing and lessening or eliminating the need for physical preparation and management of an increased number of ballot styles at early voting centers.

Additional Information

Prior Introductions: None.

Cross File: HB 578 (Delegate Stein, *et al.*) - Ways and Means.

Information Source(s): State Board of Elections; Charles, Howard, Montgomery, and Prince George's counties; Election Systems & Software; Department of Legislative Services

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