

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 1004

(Senators Pinsky and Jennings)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Election Calendar and Processes - Revisions

This bill changes various election-related filing and other deadlines (generally making them earlier), as well as other provisions governing mostly administrative and judicial processes, leading up to primary and general elections. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: The bill is not expected to have a direct, material impact on State finances.

Local Effect: The bill is not expected to have a direct, material impact on local government finances.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Filing and other candidate deadlines

Determination of candidates for presidential nomination

The deadline by which the Secretary of State must certify to the State Board of Elections (SBE) the names of candidates for nomination by a principal political party for President of the United States is changed to no later than 113 days before the primary election, instead of no later than 90 days before the primary election. In addition, a candidate for president who seeks to be placed on the ballot by petition must file the petition on the 95th day before the day of the election, instead of the Wednesday that is 83 days before the day of the election.

Filing of a certificate of candidacy in a presidential election year

The deadline by which a certificate of candidacy must be filed by a candidate seeking nomination in the primary election, in a presidential election year, is changed to no later than 9 p.m. on the 95th day before the day on which the primary election will be held, instead of no later than 9 p.m. on the Wednesday that is 83 days before the day on which the primary election will be held.

Filing of a certificate of withdrawal

The deadline by which an individual may withdraw their candidacy by filing a certificate of withdrawal is changed to within 10 days after the certificate of candidacy filing deadline, instead of within 2 days after the certificate of candidacy filing deadline.

Filing of a certificate of declination

The deadline by which a nominee who wishes to decline a nomination must file a certificate of declination is changed to the first Tuesday in August immediately preceding the general election, instead of the 70th day preceding the general election.

Notice of judges who must stand for continuance in office

The deadline by which the Clerk of the Court of Appeals and the Clerk of the Court of Special Appeals must provide written notice to SBE of the names of the judges that must be placed on the ballot to stand for continuance in office is changed to the first Monday in August, instead of August 31.

Repeal of obsolete notice requirement

The bill repeals an obsolete requirement that the Anne Arundel County Board of Education provide notice to SBE of members of the Anne Arundel County Board of Education whose names must be placed on the ballot to stand for continuance in office.

Required appearance of candidate names on ballots

Under existing law, with the exception of the offices of Governor and Lieutenant Governor, the name of any individual who files a certificate of candidacy and does not withdraw must appear on the primary election ballot unless, by the 10th day after the certificate of candidacy filing deadline, the individual's death or disqualification is known to the applicable board with which the certificate of candidacy was filed. The bill establishes that the name of each individual who does not decline a nomination must appear on the general election ballot unless, by the 85th day preceding the general election, the individual's death or disqualification is known to the board with which the certificate of candidacy was filed.

Challenging a candidate's residency

The deadline by which a petition to challenge a candidate's residency must be filed is changed to 15 days after the certificate of candidacy filing deadline, instead of 9 days after the certificate of candidacy filing deadline.

Filling of vacancies

Filling of vacancies in candidacy occurring before a primary election

The bill makes provisions that are applicable to filling a vacancy in candidacy (other than for Governor and Lieutenant Governor) for a primary election resulting from no candidate for the political party filing a certificate of candidacy for the election also applicable to a vacancy resulting from the death, disqualification, or withdrawal of an unopposed candidate.

The method of proportionally allocating the vote among county central committees to fill a vacancy in a legislative district or delegate district comprising more than one county is modified to be based on the share of total registered voters of the district in each county as opposed to population of the district in each county.

In the case of a withdrawal of an unopposed candidate or no filed candidate, the vacancy must be filled within four days after the deadline to file a certificate of withdrawal. In the case of a death or disqualification of an unopposed candidate, the vacancy must be filled within four days after the death or disqualification becomes known to the board with which the certificate of candidacy was filed.

Filling of vacancies in nomination

The deadline by which a vacancy in nomination (other than for Governor or Lieutenant Governor) must be filled, in cases where the nominee declines the nomination (or, for an office entirely in one county, gains a tie vote with another candidate), is changed to the 88th day before the general election, instead of the 60th day before the general election. The deadline by which a vacancy in nomination must be filled, in cases where the nominee dies or is disqualified, is changed to the 81st day before the general election, instead of the 60th day before the general election. The method of proportionally allocating the vote among county central committees to fill a vacancy in a congressional, legislative, or delegate district that includes more than one county is modified to be based on the share of total registered voters of the district in each county as opposed to population of the district in each county.

Filing, certification, and judicial review of petitions

The deadline for a petition relating to a charter-related ballot question to be filed is changed to the 99th day before the general election, instead of the second Monday in August.

The deadline for certification of a petition is changed to 1 business day after completion of verification and counting processes (completed within 20 days after the petition is filed) or 1 business day after a final judicial decision if judicial review is pending, instead of 2 business days in each case.

Under existing law, the deadline to seek judicial review of a determination related to a petition is the 10th day following the determination. However, if the petition seeks to place the name of an individual or a question on the ballot at any election, except a presidential primary election, judicial review must be sought by the 10th day following the determination or the 63rd day preceding the election, whichever day is earlier. The bill replaces “63rd day” with “69th day.”

Preparation and certification of ballot questions

The bill changes the deadlines for:

- the Secretary of State to prepare and certify to SBE ballot question information for all statewide ballot questions and all questions relating to an enactment of the General Assembly which is petitioned to referendum (changed to the 95th day before the general election, instead of the third Monday in August);
- SBE to prepare and certify to the appropriate local board of elections ballot question information for all questions referred to the voters of one county or part of one county pursuant to an enactment of the General Assembly (changed to the 105th day before the general election, instead of the second Monday in August);
- the county attorney of the appropriate county to prepare and certify to SBE (in place of the local board of elections, under existing law) ballot question information for each question to be voted on in a single county or part of a county other than those prepared and certified by the Secretary of State and SBE (changed to the 95th day before the general election, instead of the third Monday in August);
- the clerk of the circuit court of a jurisdiction to prepare and certify the ballot question information required to be prepared and certified by the county attorney, if the information is not timely certified (changed to the first Friday in August, instead of the fourth Monday in August);

- the municipal attorney of the appropriate municipal corporation to prepare and certify to SBE ballot question information for any other question to be voted on in the municipal corporation (changed to the 95th day before the general election, instead of the third Monday in August); and
- the clerk of the circuit court, for the county in which a municipal corporation is located, to prepare and certify the ballot question information required to be prepared and certified by the municipal attorney, if the information is not timely certified (changed to the first Friday in August, instead of the fourth Monday in August).

The bill also allows ballot question information for a question that is being placed on the ballot by petition to be prepared before the petition is certified.

Ballot Preparation

Certification, public display, and printing of ballots

The deadline for SBE to certify the content and arrangement of each ballot is changed to 64 days before a regular primary or general election, instead of 55 days. That deadline is also made applicable to both certification and public display on SBE's website of the content and arrangement of each ballot, replacing a requirement that the content and arrangement of each certified ballot be publicly displayed within 24 hours after certification. The bill also authorizes SBE to begin printing ballots after certification of the ballots and 3 days of public display, in place of an authorization to begin printing ballots after 2 days of public display.

Judicial review of the content and arrangement of ballots

The bill modifies judicial review provisions relating to the content and arrangement of ballots so that they authorize judicial review to correct any *administrative* error, instead of any *other* error. Judicial review, in circumstances where an error is not corrected, is limited to review of an administrative error discovered after ballots have been publicly displayed, and must be sought by a registered voter not later than the 62nd day preceding an election. This replaces an authorization for a registered voter to seek judicial review, if an error is discovered after the ballots have been printed and the error is not corrected, not later than the second Monday preceding an election.

Changes in ballots for filled vacancies

The bill repeals provisions addressing whether ballots are changed for properly and timely filled vacancies. The repealed provisions require ballots to be changed if it is determined there is sufficient time, but if there is not sufficient time, the local board of elections must

take appropriate measures to notify voters of (1) the change in candidacy; (2) the procedure to be used by the voter to record the voter's vote; and (3) the procedure to be used by the local board of elections to conduct the canvass.

Error or change in circumstances after ballot printing

The bill replaces existing provisions governing how an error or change in circumstances after ballots have been printed is handled (which include reprinting of ballots if there is sufficient time). The new provisions establish that after the printing of ballots has begun and if an error or a change in circumstances affecting the ballots requires SBE to implement a change in how a voter may cast a valid ballot, the State Administrator must determine what measures a local board of elections may take to notify voters of the error or change in circumstances and the manner in which the voters may cast valid ballots for that election. The State Administrator must immediately take all reasonable steps to notify all candidates on the ballot and any other persons considered appropriate (1) on discovery of any change or correction affecting the ballots after the printing of ballots has begun or (2) when the State Administrator implements a change in how a voter may cast a valid ballot.

Procedures and requirements for judicial review

The bill establishes procedures and requirements applicable to various circumstances for judicial review: (1) review of a challenge to a candidate's residency; (2) review of a petition determination; and (3) review of the content and arrangement of ballots. Under the established procedures and requirements, a judicial proceeding must be conducted in accordance with the Maryland Rules, except that (1) the case must be heard and decided without a jury and as expeditiously as the circumstances require and (2) an appeal must be taken directly to the Court of Appeals within five days after the date of the decision of the circuit court. The Court of Appeals must give priority to hear and decide an appeal as expeditiously as the circumstances require.

Background: A federal requirement that States send absentee ballots to uniformed and overseas voters at least 45 days before federal elections, and the State's transition to use of a paper ballot-based voting system in 2016 (which adds to the time required to prepare ballots for an election), have increased the difficulty of preparing for elections within the timeline of the existing election calendar, which is defined by various statutory filing and other deadlines leading up to elections. The difficulty of preparing for elections within the existing election calendar was highlighted in 2018 by requests to modify ballots that were made past statutory and logistical deadlines and had to be denied by SBE, subsequently resulting in court action. The bill moves various deadlines relating to, or that affect, ballot content and preparation, to be earlier, among other changes. SBE indicates that the bill is expected to improve the election calendar for ballot development and preparation and better define when ballots are finalized.

For additional background information, see [*Issue Papers, 2019 Legislative Session*](#), Department of Legislative Services, pgs. 215-218 (“Preparation of Primary Election Ballots”) (November 2018).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; Anne Arundel, Charles, and Frederick counties; Department of Legislative Services

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