

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1038 (Delegate Palakovich Carr)
 Ways and Means

State Board of Elections – Membership, Contract Management, Ballot Drop Boxes, and Voting System Financing

This bill modifies the composition of the State Board of Elections (SBE) and requires board approval of contracts, contract renewals, and change orders. The bill also establishes the State’s and counties’ responsibilities to fund certain election costs. In addition, the bill establishes a requirement and a prohibition related to ballot drop boxes. **The bill takes effect June 1, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$9.4 million annually, beginning in FY 2022. Revenues are not affected.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	9.4	9.4	9.4	9.4	9.4
Net Effect	(\$9.4)	(\$9.4)	(\$9.4)	(\$9.4)	(\$9.4)

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

Local Effect: Local government expenditures decrease by approximately \$9.4 million annually, beginning in FY 2022, not accounting for comparatively minimal added costs discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

State Board of Elections Membership

The bill increases the number of members of SBE from five members to seven voting members and one nonvoting member. The bill also establishes specified criteria for the composition of the voting members, so that the board consists of specified members from counties of a certain population size, members with expertise in procurement and cybersecurity, members with experience advocating for individuals with disabilities and in advancing diversity and inclusion in organizations, and a member of the general public. The President of the Maryland Association of Election Officials is the nonvoting, *ex officio* member of the board. The bill establishes provisions governing installment of the new voting members in a staggered manner, through 2024, as current members' terms end or vacancies occur.

Board Review and Approval of Contracts

The bill requires SBE to review and vote on each contract with a value of \$50,000 or more and to ensure the cost-effective use of federal, State, and county resources in administering elections. The State Administrator of Elections must report each proposed contract, contract renewal, and change order to SBE and include specified information on the purpose and funding of the proposed contract, contract renewal, or change order, including a list of any shared costs with local boards. A contract, contract renewal, or change order may only be finalized after an affirmative vote of SBE.

SBE must report similar information on a proposed contract, contract renewal, or change order to the Board of Public Works and may not itemize funding as "special funds."

Election Costs

Subject to specified reimbursement by the counties (below), the bill requires the State to pay the cost of:

- acquiring and operating the uniform statewide voting system for voting in polling places and, except as otherwise provided for in the Election Law Article, for absentee voting, including (1) printing of ballots and associated materials relating to voting; (2) maintenance of the voting system; and (3) technical support and programming for the voting system; and

- (1) statewide voter education campaigns; (2) statewide database management; (3) membership fees for national voter registration database services; and (4) software licensing fees.

Counties must reimburse SBE for 50% of the State's cost of acquiring and operating the uniform statewide voting system, including any supplies, equipment, or materials mandated by SBE to be used by local boards. A county's share of the cost required to be reimbursed must be based on the county's voting age population as determined by SBE on a date set in regulation. The bill may not be construed to prohibit SBE from facilitating the procurement of other or additional supplies, equipment, or materials at local expense, at the request of a local board.

The bill also repeals provisions of Chapter 564 of 2001 relating to funding of the State's voting system (discussed below under Current Law).

Ballot Drop Boxes

The bill establishes that a team of individuals authorized by a local board of elections must collect absentee ballots collected in a ballot drop box. The bill prohibits an individual, organization, association, political party, or any other person from collecting absentee ballots during an election in a container that is not a ballot drop box but is labeled, marked, or otherwise designated to appear to be an official or unofficial ballot drop box. "Ballot drop box" means a container provided or authorized by SBE or a local board to collect absentee ballots during an election that meets the security, monitoring, ballot removal, and other requirements established by SBE.

Current Law:

State Board of Elections

SBE consists of five members. Members serve staggered, four-year terms and may not serve more than three consecutive terms. Each member must (1) be appointed by the Governor, with the advice and consent of the Senate of Maryland; (2) be a registered voter in the State for the five years immediately preceding the appointment; (3) be eligible for reappointment, subject to the limit of three consecutive terms; (4) conform to restrictions on specified political activity; and (5) be subject to removal by the Governor for incompetence, misconduct, or other good cause.

Each member must be a member of one of the principal political parties, and a person may not be appointed if the appointment will result in the board having more than three or fewer than two members of the same principal political party. The Governor must appoint

as a member an individual whose name is submitted to the Governor by the State central committee of the principal political party entitled to the appointment.

Chapter 564 of 2001

Under Chapter 564 of 2001, which requires SBE to acquire uniform statewide voting systems for voting in polling places and for absentee voting, each county must pay its share of one-half of the State's cost of acquiring and operating the voting system(s), including the cost of maintenance, storage, printing of ballots, technical support and programming, related supplies and materials, and software licensing fees. Chapter 564 requires a county's share of the cost of acquiring and operating the uniform statewide voting system to be based on the county's voting age population.

Chapter 564 also included provisions allowing for delayed implementation and funding of the uniform statewide voting system by counties that had purchased a voting system within the previous 10 years. It also required that 50% of federal funds received for improvements in voting systems and equipment be distributed to the State and 50% be distributed to the counties that had implemented the uniform statewide voting system.

County Elections Funding

Each county must appropriate the funds essential for the operations of its local board of elections to enable the local board to pay the reasonable expenses incurred by the local board to exercise the powers and perform the duties prescribed for it by law, including:

- personnel expenses;
- polling place operation expenses; and
- supplies and equipment required pursuant to the local board's responsibility to maintain an office and be open for business as provided under the Election Law Article, and provide the supplies and equipment necessary for the proper and efficient conduct of voter registration and election, including (1) supplies and equipment required by SBE and (2) office and polling place equipment expenses.

State and Local Fiscal Effect: State general fund expenditures increase by approximately \$9.4 million annually, beginning in fiscal 2022, and local government expenditures correspondingly decrease, collectively, by approximately \$9.4 million annually. This reflects a shift of \$9.4 million in election costs from the local boards of elections to SBE as a result of the bill's requirement that the State pay the cost of (1) statewide voter education campaigns; (2) statewide database management; and (3) software licensing fees (membership fees for national voter registration database services are already paid by the State). This estimate assumes that the amount of the shifted costs remains relatively consistent in future years. **Exhibit 1** shows the current allocation of funding between

general fund expenditures and local government expenditures, for those categories of costs, in the Governor’s proposed fiscal 2022 budget.

Exhibit 1
Election Costs Affected by the Bill
Governor’s Proposed FY 2022 Budget

	<u>State Funds</u>	<u>Local Funds</u>
Statewide voter education campaigns	\$250,000	\$250,000
Statewide database management	690,650	7,279,969
Software licensing fees	324,625	1,820,925
Total	\$1,265,275	\$9,350,894

Source: State Board of Elections

It is assumed, for the purposes of this fiscal and policy note, that the bill’s provisions relating to the costs of acquiring and operating the uniform statewide voting system continue the current policy under Chapter 564 of 2001 of voting system costs being split 50/50 between SBE and the local boards of elections, and do not materially affect State or local government finances.

Some local boards of elections may incur additional costs to have mail-in ballots be collected from a ballot drop box by a team of individuals rather than a single individual (pursuant to the bill’s requirement), to the extent ballots would not otherwise be collected by a team in a given county. These costs have not been quantified but are relatively minimal in comparison to the savings resulting from costs shifted under the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 747 (Senator Kagan) - Education, Health, and Environmental Affairs.

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

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