

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Board of Elections  
(DLS Control No. 15-093)**

---

**Overview and Legal and Fiscal Impact**

These regulations establish and clarify the circumstances and manner in which a voter may request a vote-by-mail ballot.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Board of Elections:**

Special Elections by Mail: Request for Vote-by-Mail Ballot:  
COMAR 33.21.02.01, .02

---

**Legal Analysis**

**Background**

Under Chapters 197 and 198 of 2013, provisions of the Election Law Article authorizing Montgomery County to conduct special elections by mail for vacancies in certain county offices were expanded to allow special elections by mail in all counties throughout the State. Under Chapters 197 and 198, vote-by-mail may be used for a special election to fill a vacancy in the office of representative in the United States Congress or to fill a vacancy for specified local offices if the local special election is not held concurrently with a regularly scheduled primary or general election.

**Summary of Regulation**

The regulations establish chapter .02 Request for Vote-by-Mail Ballot under the new subtitle .21 Special Elections by Mail. More specifically, the regulations establish (1) the circumstances under which a voter is not required to submit a request for a vote-by-mail ballot; (2) the circumstances under which a voter must submit a request for a vote-by-mail ballot; (3) the methods by which a voter may submit a request for a vote-by-mail ballot; and (4) the deadlines by which a voter must submit a request for a vote-by-mail ballot.

## **Legal Issue**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The State Board of Elections cites §§ 2-102(b)(4), 9-501, 9-502, and 9-506 of the Election Law Article as authority for the regulations. Section 2-102(b)(4) grants the State board broad authority to adopt regulations to implement its powers and duties. Section 9-501 authorizes counties throughout the State to conduct local special elections by mail to fill a vacancy in the office of representative in the United States Congress or to fill a vacancy in specified local offices in the respective county. Section 9-502 establishes requirements and parameters for the mailing of a vote-by-mail ballot by a local board of elections to registered voters who are eligible to vote in a special election. Section 9-506 grants the State board the authority to adopt regulations as necessary to implement the provisions of law governing the conduct of special elections by mail.

The State board should also cite § 2-102 of the Election Law Article generally instead of subsection (b)(4) specifically. Section 2-102 contains several other provisions beyond subsection (b)(4) that are applicable to the regulations, including requirements that the State board (1) manage and supervise elections in the State; (2) supervise the conduct of elections in the State; (3) direct, support, monitor, and evaluate the activities of each local board; (4) maximize the use of technology in election administration; and (5) serve as the official designated office in accordance with the Uniformed and Overseas Citizens Absentee Voting Act.

With the addition of § 2-102, the authority cited is correct and complete. The regulations comply with the legislative intent of the law.

## **Technical Corrections and Special Notes**

Please note that the State board was contacted regarding the addition of § 2-102 of the Election Law Article to the citation of statutory authority. The State board advises that it will correct the citation and submit replacement pages to the Division of State Documents.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The State Board of Elections advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs. The regulations implement State law governing the use of voting by mail in special elections that was enacted under Chapter 677 of 2012 (applicable only to Montgomery County Council special elections) and modified and expanded to apply statewide under Chapters 197 and 198 of 2013. The fiscal and policy notes for HB 725 of 2012 and SB 171 and HB 196 of 2013 (enacted as Chapter 677 of 2012 and Chapters 197 and 198 of 2013) indicated that State and local expenditures were expected to

decrease in most, if not all, cases as a result of using voting by mail in a special election. These regulations should not have any independent fiscal impact.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

The State Board of Elections advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

### **Contact Information**

**Legal Analysis:** Theodore E. King, Jr. – (410) 946/(301) 970-5350

**Fiscal Analysis:** Scott D. Kennedy – (410) 946/(301) 970-5510