

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
State Board of Elections**
(DLS Control No. 15-198)

Overview and Legal and Fiscal Impact

The regulation specifies the circumstances under which a local board of canvassers must accept a provisional ballot application from an individual who tried to register to vote or update an address during early voting at an early voting center.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Board of Elections:

Provisional Voting: Canvass of Ballots – Procedures: COMAR 33.16.05.03

Legal Analysis

Background

Voter registration is conducted continuously but is closed from 9 p.m. on the twenty-first day preceding an election until the eleventh day after that election. In general, a voter registration application that is mailed or submitted when registration is closed is accepted and retained but does not become effective until registration reopens. However, beginning in 2016 an individual will be able to register to vote, or change the voter's address on an existing registration, during early voting, and then vote at that early voting center, provided the person shows proof of residency.

Summary of Regulation

The regulation requires a local board of canvassers to accept a provisional ballot application from an individual who tried to register to vote or update an address during early voting if (1) the individual was not a pre-qualified voter during early voting but was later determined to be eligible to vote and the individual provided proof of residency or (2) the voter provided an address change at an early voting center during early voting and did not present proof of residency, but later provided the required proof before the start of the provisional canvass.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The State Board of Elections cites §§ 2-102(b)(4), 2-202(b), 3-305(e), 9-403, 9-406, and 11-303(c) of the Election Law Article as statutory authority for the regulation. Section 2-102(b)(4) grants the State board broad authority to adopt regulations to implement its powers and duties. Section 2-202(b) requires that each local board oversee and conduct elections in accordance with standards and practices established by the State board. Section 3-305(e) requires the State board to adopt regulations and procedures for the administration of voter registration during early voting for voters that apply to register to vote or change an address on an existing registration during early voting. Section 9-403 requires the State board to establish guidelines for the administration of provisional ballot voting by local boards.

The remaining cited authority is not relevant for this regulation.

The relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

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 regulation has no impact on State or local governments. The Department of Legislative Services concurs. The regulation (along with other proposed regulations) implements Chapters 157 and 158 of 2013. The fiscal and policy notes for Senate Bill 279 and House Bill 224 of 2013 (enacted as Chapters 157 and 158) included costs for additional election judges (borne by local governments) and for epollbook programming (assumed, in the fiscal and policy notes, to be shared by the State and local governments) to implement voter registration and voter registration address changes during early voting. This regulation should not have an 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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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