

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulation  
Board of Elections  
(DLS Control No. 15-266)**

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**Overview and Legal and Fiscal Impact**

The regulation alters the definition of “election director.”

The regulation presents no legal issues of concern. However, additional comments have been included in the *Technical Corrections and Special Notes* section below for the consideration of the Joint Committee on Administrative, Executive, and Legislative Review.

There is no fiscal impact on State or local agencies.

**Regulation of COMAR Affected**

**Board of Elections:**

Definitions; General Provisions: Definitions: COMAR 33.01.01.01

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**Legal Analysis**

**Background**

The federal Uniformed and Overseas Civilians Absentee Voting Act requires states to allow absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot for all elections for federal office. The Act includes various other requirements relating to voter registration and absentee voting by those individuals.

**Summary of Regulation**

The regulation alters the definition of “election director” to include, for the purposes of processing voter registration and absentee voting forms for voters authorized to register and voted under the federal Uniformed and Overseas Civilians Absentee Voting Act, a representative of the State Board of Elections.

**Legal Issues**

The regulation presents no legal issues of concern. However, additional comments have been included in the *Technical Corrections and Special Notes* section below for the consideration of the committee.

## **Statutory Authority and Legislative Intent**

The State board cites §§ 1-101, 2-102(b)(4), and 3-101 of the Election Law Article, § 15-715(g) of the State Government Article, and 52 U.S.C. §§ 203 and 21083 as legal authority for the regulation. More specifically, § 2-102(b)(4) of the Election Law Article requires the State board to adopt regulations to implement its powers and duties. The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. Except as noted in the *Technical Corrections and Special Notes* section below, the regulation complies with the legislative intent of the law.

## **Technical Corrections and Special Notes**

The State board was contacted two issues regarding cited legal authority. First, § 15-715(g) of the State Government was recodified in Chapter 94 of 2014 to be § 5-716 of the General Provisions Article. The State board will be correcting this references in the final publication of the regulation. Second, the State board will correct the reference to 52 U.S.C. § 20301, which governs only the federal government's responsibilities under the federal Uniformed and Overseas Civilians Absentee Voting Act, to instead refer to the entirety of 52 U.S.C. § 203.

The State board also was contacted regarding whether the regulation complied with legislative intent of the law and whether statutory changes needed to be made to allow for the change. The regulation would allow a representative of the State board to handle voter registration and absentee ballot transactions for absent uniformed services voters and overseas voters. There are, however, certain provisions of the Election Law Article that require the local boards of elections to be involved in those transactions. For example, § 9-305 of the Election Law Article provides that an application for an absentee ballot must be received by a local board of elections. When asked, the State board responded that the general duties of the State board that are listed in § 2-102 of the Election Law Article would allow the State board to take on this role. Specifically, § 2-102(b)(2) requires the State board to support the activities of each local board. The State board believes that taking on these duties for the local boards would be supporting the local boards. However, that section specifies that the State board is given those duties listed "in order to ensure compliance" with the article and with federal law. Assumption by the State board of duties that are statutorily assigned to the local boards goes beyond "ensur[ing] compliance" with the Election Law Article. It can be argued, however, that the change is in line with the intent of the U.S. Congress in passing the federal Uniformed and Overseas Civilians Absentee Voting Act and, therefore, it ensures compliance with federal law. While 52 U.S.C. § 20302, which governs states' responsibilities under the Uniformed and Overseas Civilians Absentee Voting Act, does not require that one state entity handle all of the transactions, it does require that one state entity be responsible for disseminating information regarding the federal law and then provides that Congress recommends that that entity also handle all voting-related transactions. The change in the regulation does comport with that recommendation.

## **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.

### **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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