

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Elections
(DLS Control No. 15-271)**

Overview and Legal and Fiscal Impact

The regulations make changes to provisions regarding election day activities and add provisions governing nonvoting hours procedures.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Elections:

Election Day Activities: Late Ballot Changes: COMAR 33.07.01.01, .02

Order and Decorum: COMAR 33.07.04.02

Special Assistance: COMAR 33.07.05.02

Electioneering; Exit Polling: COMAR 33.07.09.06

Non-Voting Hours Procedures: COMAR 33.07.10.01, .02

Legal Analysis

Summary of Regulations

The regulations make various changes regarding election day activities. First, the regulations remove the requirement that a change to the ballot after the ballots have been printed be made through stickers affixed on the ballot or hand interlineation on the ballots if the voting system can accommodate it. Second, the regulations allow public notification of a ballot change to be made through information in the specimen ballot. Third, the regulations clarify that the exception for media representatives from the ban on the use of cameras in the polling place applies as long as the media representatives are recording polling place operations and not a screen or ballot. Finally, the regulations remove operation of a voting unit as an activity with which a voter may be assisted by another individual.

The regulations also add provisions regarding nonvoting hours procedures. The regulations require that any ballot box seal used by a local board be numbered and that sealed or locked ballot boxes from the polling places be received by a reception team. The regulations require the reception team to inspect each ballot box and its seal or lock and prepare and sign a certification of the box's condition. Additionally, the regulations require that the certification for

each box include the precinct number, the seal number if a seal is used, the condition of the seal or lock, and any defects observed. Finally, the regulations require that all voted ballots remain in a sealed or locked ballot box until they are authorized to be opened and removed for an audit, recount, judicial challenge, storage, or disposal and that all voted ballots be retained for at least 22 months after the election.

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), 2-202(b), 3-101, 9-208, 9-403, 9-406, and 10-310(c) of the Election Law Article as statutory authority for the regulations. More specifically, § 2-102(b)(4) requires the State board to adopt regulations to implement its powers and duties. Section 9-208 requires, if a change is needed after the ballots are printed, the local board to (1) reprint the ballot if there is sufficient time; (2) use stickers if there is insufficient time for reprinting and the voting system can accommodate it; or (3) notify voters of the change in accordance with the regulations if there is insufficient time for reprinting and the voting system cannot accommodate stickers. Section 9-403 requires the State board to establish guidelines for the administration of provisional ballot voting by the local boards. The guidelines must include ballot security, including storage of returned ballots and the storage and retention of ballots following canvass and certification. Section 10-310(c) governs the circumstances under which a voter may receive assistance in voting and the type of assistance that may be provided. The remaining cited authority is not relevant for the regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The State board was contacted regarding several issues with the regulations. Most of the issues were grammatical and technical errors. The State board will correct these errors. The State board was also asked about the change to the regulation governing changes to a ballot after the ballots had been printed. Section 9-208 of the Election Law Article requires that stickers be used if the voting system can accommodate them and the ballots cannot be reprinted; however, that provision is being taken out of the regulations. The State board confirmed that the new voting machines cannot accommodate stickers.

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.

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.

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