

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
State Board of Elections**
(DLS Control No. 15-278)

Overview and Legal and Fiscal Impact

This regulation broadens the type of locations where a local board of elections may securely store voting equipment that is used during early voting by authorizing a local board to return equipment used during early voting to a local board “facility” (rather than “office”). In accordance with Chapter 318 of 2015, the regulation also provides for public observation of the local boards of canvassers printing and aggregating early voting results on election day.

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:

Early Voting: Non-Voting Hours Procedures: COMAR 33.17.07.04

Legal Analysis

Background

Chapter 318 of 2015 requires that the canvass of votes cast during early voting be open to public observation and provides that a board of canvassers and the staff of a local board of elections may be observed as they complete each part of the canvass by certain authorized observers and any other individuals who wish to be present. Under the enactment, the State Board of Elections must ensure that the requirements under the enactment are implemented uniformly and consistently by each local board.

Summary of Regulation

The regulation broadens the type of locations where a local board of elections may securely store voting equipment that is used during early voting. Currently, under COMAR 33.17.07.04, a local board may return equipment used during early voting to the local board “office”; the regulation repeals the reference to “office” and instead allows the equipment to be stored at a local board “facility”. The regulation also explicitly provides that a local board is not required to allow for observation if limiting public observation is necessary to ensure (1) the integrity or accuracy of the canvass or (2) that the canvass is not impeded.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-102(b)(4), 2-202(b), 10-301.1, and 11-301 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)(10) requires each local board, in accordance with provisions of the Election Law Article and regulations adopted by the State board, to administer the elections in that county. Section 10-301.1 requires the State board to adopt regulations and guidelines for the conduct of early voting in accordance with the requirements of law. Section 11-301 establishes standards and procedures for the organization of local boards of canvassers and requires the local boards of canvassers to operate in accordance with regulations adopted by the State Board.

This 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 regulations implement Chapter 318 of 2015. The fiscal and policy note for Senate Bill 5 of 2015 (enacted as Chapter 318) indicated that the bill's requirements could be handled with existing resources by the State Board of Elections and would not materially impact local government finances. This regulation 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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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