

**Maryland General Assembly
Department of Legislative Services**

**Emergency Regulations
Board of Elections
(DLS Control No. 20-111)**

Overview and Legal and Fiscal Impact

These regulations alter the precincts selected by a local board for the purposes of post-election verification and auditing, alter the definition of “precinct” to include an “election day vote center,” and define “election day vote center.”

These regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Board of Elections:

Canvassing: Post Election Verification and Audit: COMAR 33.08.05.01 and .04

Legal Analysis

Background

In July 2020, the State Board of Elections (State board) voted to authorize the use of election day vote centers as the means to conduct the 2020 general election in person as required by Governor Larry Hogan’s executive order under the continuing state of emergency due to the coronavirus pandemic. The local boards informed the State Board that they were experiencing significant challenges recruiting enough volunteers to staff the normal number polling places during the pandemic, especially given that most election judges during a typical election year were older individuals. An election day vote center is a larger polling location that allows any voter in the county to vote at that location without being assigned to the location. An election day vote center model consolidates precincts into a small number of locations and decreases staffing needs.

Summary of Regulation

These regulations alter the precincts selected for the purposes of post-election verification and auditing, alter a certain term, and define a certain term. Regulation .04 repeals the option for a local board to select a certain number of specified precincts for post-election verification and auditing and instead requires a local board to select 5 percent of all precincts used in the election,

including a minimum of one election day vote center used on November 3, 2020. Regulation .01 alters the definition of the term “precinct” to include an election day vote center and alters the regulations to which the altered term applies to include the regulations regarding precincts to be audited in a specified manual audit. This regulation also defines the term “election day vote center.”

Legal Issues

These regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-102(b)(4), 2-202(b), 9-403, 11-201, and 11-309(f) of the Election Law Article as statutory authority for these regulations. The following sections cited are sufficient authority for these regulations.

Section 2-102(b)(4) is general authority for the State board to adopt regulations to implement its powers and duties under the Election Law Article. Section 2-202(b) requires a local board to exercise specified powers in accordance with the law and regulations adopted by the State board. Section 11-201 requires the State board to adopt regulations consistent with the provisions of law regarding the governing the canvass of the votes in an election. Section 11-309(f) requires the State board to adopt regulations regarding implementation of provisions of law regarding a postelection tabulation audit of the voting system’s tabulation of votes.

This authority is correct and complete and these regulations comply with the legislative intent of the law.

Emergency Status

The State board requests emergency status beginning October 1, 2020 and expiring March 3, 2021. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The State board indicates the emergency status is necessary to implement the necessary changes before the general election on November 3, 2020.

Technical Corrections and Special Notes

Initially, due to a clerical error the State board requested an emergency status beginning October 1, 2020 and expiring March 3, 2020. The State board has since revised its desired emergency period. This analysis reflects that revision.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The State board 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 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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