

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 129 (Senator Kagan)
 Education, Energy, and the Environment

Election Law - Election Costs and Administration

This emergency bill makes changes to State election law relating to (1) the allocation of specified election costs; (2) election judge compensation; (3) stipends provided to members of the State Board of Elections (SBE); (4) disclosure and voting requirements prior to requests for proposals, invitations for bids, and procurement contracts; and (5) security measures for ballot drop boxes.

Fiscal Summary

State Effect: General fund expenditures increase by \$4.3 million annually beginning in FY 2024, increasing to \$4.4 million by FY 2029. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	4,299,000	4,307,000	4,324,000	4,335,000	4,346,000
Net Effect	(\$4,299,000)	(\$4,307,000)	(\$4,324,000)	(\$4,335,000)	(\$4,346,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government expenditures decrease by \$4.3 million annually beginning in FY 2024. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Election Costs

The bill establishes that SBE must pay 100% of the cost of:

- acquiring and operating (1) the election management system and (2) ballot drop boxes; and
- developing (1) the marketing campaign to recruit individuals to serve as election judges (required under Chapter 157 of 2023) and (2) a statewide get-out-the-vote campaign.

Each county must appropriate funds to enable the local board of elections to pay 100% of the cost of:

- printing and mailing specimen ballots;
- maintaining the statewide voter registration list; and
- disseminating the marketing campaign to recruit election judges (developed by SBE).

The bill clarifies existing law that requires each county to pay for its share of 50% of the State's cost of acquiring and operating the uniform statewide voting systems for voting in polling places and for absentee voting. The bill clarifies that the cost of the voting systems that must be shared includes the cost of (1) programming ballots; (2) electronic poll books; (3) voting machines; and (4) ballot marking devices.

An invoice for payment sent to a local board by SBE must itemize the goods and services and cost of each item for which SBE is requesting payment. Interest rates for payments of goods and services may not exceed the current maximum federal funds interest rate set by the Federal Open Market Committee. On issuance of an invoice for payment by SBE, a local board must submit payment within 90 days after receipt of the invoice.

Election Judge Compensation

The bill alters existing provisions governing the compensation provided to election judges by authorizing SBE to adopt regulations to set the amount of election judge compensation for individuals who have not previously served as an election judge (those individuals are paid at least \$250 per day under current law, with \$100 extra compensation paid to returning election judges).

Beginning January 31, 2025, SBE may adopt regulations setting the compensation of individuals who have not previously served as an election judge at an amount that is more than \$250. If SBE adopts regulations, SBE must reevaluate the amount of the stipend at least every two years.

The bill repeals a requirement that SBE reimburse each local board for \$50 of the minimum \$100 extra compensation required to be paid to each returning election judge. Instead, SBE must reimburse each local board for 50% of the minimum compensation paid to each election judge (under the bill, the current \$250 minimum compensation or the amount set by SBE in regulations).

State Board of Elections Stipend

The bill requires that each member of the State board receive, in addition to existing *per diem* compensation and expense reimbursement, a stipend as provided in the State budget. The amount of the stipend must equal (1) the average salary for all members of local boards of elections or (2) if SBE adopts regulations setting the amount, the amount set in regulations.

Beginning January 31, 2025, SBE may adopt regulations setting the stipend at an amount that is more than the average salary for all members of the local boards. If SBE adopts regulations setting the stipend amount, SBE must reevaluate the amount of the stipend at least every two years.

Requests for Proposals, Invitations for Bids, and Procurement Contracts

Disclosure Requirements

Before issuing a request for proposals or an invitation for bids, the State Administrator or the procurement officer for SBE must disclose the request for proposals or invitation for bids to SBE. Before executing a procurement contract, the State Administrator or the procurement officer for SBE must disclose the proposed procurement contract to SBE.

Voting Requirements

If a planned request for proposals or an invitation for bids related to a contract is reasonably expected to exceed \$200,000, SBE must vote to approve or reject the planned request for proposals or invitation for bids before the State Administrator or procurement officer for SBE may issue the request for proposals or invitation for bids. If a proposed procurement contract has a value greater than \$200,000, SBE must vote to approve or reject the proposed procurement contract before the State Administrator or procurement officer for SBE may

submit the proposed procurement contract to the Board of Public Works (BPW) for approval.

The above requirements do not apply to a procurement made (1) less than 45 days before the date of a primary election or general election and (2) using emergency procurement procedures provided under § 13-108 of the State Finance and Procurement Article.

Security Measures for Ballot Drop Boxes

The bill requires that a local board (1) determine the location of a security camera that must be in place, under existing law, to monitor a ballot drop box and (2) install the security camera. SBE must adopt regulations governing the local boards' use of the security cameras.

A local board must share a recording made by a security camera monitoring a ballot drop box (1) with SBE and (2) on receipt of a subpoena or court order, with law enforcement. A recording from a security camera monitoring a ballot drop box is confidential and exempt from disclosure under the Public Information Act. If SBE makes a finding that a recording it receives shows a violation of a provision of the Election Law Article relating to ballot drop boxes, SBE must forward to the State Prosecutor a copy of the recording.

Current Law:

Election Costs

Each county must pay for its share of 50% of the State's cost of acquiring and operating the uniform statewide voting systems for voting in polling places and for absentee voting, including the cost of maintenance, storage, printing of ballots, technical support and programming, related supplies and materials, and software licensing fees. A county's share of the cost of acquiring and operating the uniform statewide voting systems must be based on the county's voting age population.

Each county must appropriate the funds essential for the operations of its local board to enable the local board to pay the reasonable expenses incurred by the local board to exercise the powers and perform the duties prescribed for it by law, including (1) personnel expenses and (2) subject to the voting system cost sharing requirement (above), polling place operation expenses and expenses of supplies and equipment necessary for the proper and efficient conduct of voter registration and election.

Election Judge Compensation

The compensation for each election judge who has not previously served as an election judge must be at least \$250 per day for each Election Day and each early voting day actually served. For each election judge who has previously served as an election judge, the compensation for each Election Day and each early voting day actually served must be at least \$100 more per day than the compensation provided to an election judge who has not previously served as an election judge. SBE must reimburse each local board for \$50 of the extra compensation that is paid to each returning election judge (who has previously served as an election judge).

State Board of Elections Compensation

The State board consists of five members. Each member must receive (1) *per diem* compensation for each day that they are actually engaged in the discharge of official duties, as authorized by the State board and in accordance with the State budget and (2) reimbursement for all necessary and proper expenses, as provided in the State budget.

Contracts and Procurement

Except for procurements for roads, bridges, or highways, and certain cybersecurity infrastructure modernization, BPW controls procurement by State agencies and may delegate that authority to other agencies. As such, authority over contracts for construction, commodities, services, and more for most Executive Branch agencies is delegated to the Department of General Services (DGS); the Office of State Procurement within DGS carries out the delegated authority. However, most contracts valued at more than \$200,000 must still be approved by BPW.

SBE may not approve a contract with an election service provider (any person providing, supporting, or maintaining an election system on behalf of SBE) unless the contract includes a clause requiring the election service provider to provide SBE notice of:

- any ownership of or investment in the election service provider or control of the election service provider by a foreign national at the time of the award of the contract; and
- any material change in any ownership of or investment in the election service provider or control of the election service provider by a foreign national at any time for the duration of the contract.

Security Measures for Ballot Drop Boxes

A local board of elections must ensure the security of ballot drop boxes including through the use of (1) monitoring by security cameras at all times and (2) periodic in-person visits by appropriate personnel. The local board must have immediate access or access within a reasonable amount of time to a security camera used for monitoring a ballot drop box.

Except as otherwise provided by law, a local board must remove the election-related materials from each ballot drop box at least once each day that the ballot drop box is open in accordance with chain of custody procedures, established by SBE, governing removal of election-related materials from drop boxes and the return of the materials to the local board.

State Fiscal Effect: State expenditures increase and local expenditures decrease, as shown in **Exhibit 1**. State general fund expenditures increase by \$4.3 million annually beginning in fiscal 2024, increasing to \$4.4 million by fiscal 2029. Local government expenditures decrease by \$4.3 million annually beginning in fiscal 2024. This estimate assumes that (1) the bill takes effect by May 1, 2024, prior to the 2024 statewide primary election and (2) the shifting of costs (from the local boards to SBE), that results from the bill, and is described below, occurs in full in fiscal 2024 due to the fact that the bill is assumed to take effect before the 2024 statewide primary election and the shifted costs are costs related to that election. The magnitude of the effect in fiscal 2024, however, may be less to the extent that the amount of costs that are shifted in fiscal 2024 is prorated, due to the bill not being in effect for the full fiscal year.

As summarized in Exhibit 1, the bill has the following effects on State and local expenditures:

- ***Election Judge Compensation*** – As mentioned above, the bill repeals a requirement that SBE reimburse each local board of elections for \$50 of the minimum \$100 extra compensation paid to returning election judges and instead SBE must reimburse each local board for 50% of the minimum compensation paid to each election judge. The net effect of these changes shifts an estimated \$3.7 million in election judge compensation costs from the local boards of elections to SBE annually, beginning in fiscal 2024. This estimate does not account for any increases in minimum election judge compensation that may be implemented by SBE regulations pursuant to the bill. If such increases are implemented by SBE, State and local expenditures increase as a result if any local boards' election judge compensation rates are otherwise below those established by SBE.
- ***Get-out-the-vote Campaign*** – The bill requires SBE to pay for 100% of the costs for a statewide get-out-the-vote campaign. It is not clear whether this provision is referring to a new voter outreach campaign or the existing statewide voter outreach

conducted by SBE (or some portion of it that can be considered intended to increase voter turnout), the cost of which is shared by SBE and the local boards. This estimate assumes that this requirement results in at least \$250,000 of existing statewide voter outreach costs being shifted from the local boards to SBE (based on an assumption that at least \$500,000 of existing voter outreach, shared 50/50 by SBE and the local boards, is considered intended to increase voter turnout). For context, the fiscal 2025 budget as introduced includes \$1.0 million for voter outreach, shared 50/50 by SBE and the local boards.

- ***Election Management System*** – The bill requires SBE to pay 100% of the cost of acquiring and operating the election management system. SBE currently pays 90% of the costs, which equals \$1.7 million in the fiscal 2025 budget as introduced. Therefore, requiring SBE to pay 100% of the costs shifts \$185,000 in election management system costs from the local boards of elections to SBE in fiscal 2024, increasing to \$192,000 by fiscal 2029.
- ***Ballot Drop Boxes*** – The bill requires SBE to also pay 100% of the cost of acquiring and operating ballot drop boxes. This analysis assumes that this requirement at least results in shifting 50% of the costs of transporting existing ballot drop boxes to and from their locations (the cost of which is currently shared by the local boards and SBE), so that SBE pays for 100% of the costs. This results in an estimated \$176,000 in transportation costs being shifted from the local boards to SBE in fiscal 2024, increasing to \$185,000 by fiscal 2029. SBE costs further increase to the extent additional ballot drop boxes are acquired in the future, or existing drop boxes are replaced, assuming the cost of acquiring or replacing ballot drop boxes is shared 50/50 in the absence of the bill. The Department of Legislative Services notes it is unclear whether the bill’s requirement that SBE pay 100% of the cost of operating the ballot drop boxes costs requires SBE to pay for (1) costs associated with security of ballot drop boxes (including security cameras) and/or (1) local board costs of daily retrieval of mail-in ballots and other election-related materials from the ballot drop boxes. To the extent that is required, costs further shift from the local boards to SBE.
- ***State Board Member Stipends*** – State general fund expenditures increase by \$7,000 in fiscal 2025, increasing to \$35,000 by fiscal 2028 to pay for the State board member stipends required by the bill. This estimate assumes (1) the stipend is \$7,000, based on an average of local board member compensation for a small number of local boards that provided compensation information, and (2) assumes a gradual phase in of payment of the stipends due to limitations in the Maryland Constitution that prohibit the salary or compensation of any public officer from being increased or diminished during the officer’s term of office.

Exhibit 1
State and Local Expenditures

	<u>Cost Category</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	
State (General Funds)	Election judge compensation	\$3,688,000	\$3,688,000	\$3,688,000	\$3,688,000	\$3,688,000	\$3,688,000	
	Get-out-the-vote campaign	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	
	Election management system	185,000	185,000	186,000	188,000	190,000	192,000	
	Ballot drop boxes	176,000	177,000	179,000	181,000	183,000	185,000	
	State board member stipends		7,000	21,000	28,000	35,000	35,000	
	Total		\$4,299,000	\$4,307,000	\$4,324,000	\$4,335,000	\$4,346,000	\$4,350,000
Local	Election judge compensation	(\$3,688,000)	(\$3,688,000)	(\$3,688,000)	(\$3,688,000)	(\$3,688,000)	(\$3,688,000)	
	Get-out-the-vote campaign	(\$250,000)	(\$250,000)	(\$250,000)	(\$250,000)	(\$250,000)	(\$250,000)	
	Election management system	(185,000)	(185,000)	(186,000)	(188,000)	(190,000)	(192,000)	
	Ballot drop boxes	(176,000)	(177,000)	(179,000)	(181,000)	(183,000)	(185,000)	
	Total		(\$4,299,000)	(\$4,300,000)	(\$4,303,000)	(\$4,307,000)	(\$4,311,000)	(\$4,315,000)

Source: Department of Legislative Services

Other provisions of the bill not discussed above are either considered to be codifying current practice or are not expected to have a material effect on State or local finances.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Carroll, Charles, Frederick, Prince George's, St. Mary's, and Washington counties; Board of Public Works; Maryland State Board of Elections; Department of Legislative Services

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Analysis by: Arnold H. Adja

Direct Inquiries to:
(410) 946-5510
(301) 970-5510