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Maryland General Assembly  
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FISCAL AND POLICY NOTE  
Revised

House Bill 804  
Ways and Means

(Prince George's County Delegation)  
Education, Health, and Environmental Affairs

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Prince George's County - Special Elections - Voting by Mail  
PG 404-12

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This bill allows for a special election to fill a vacancy in the Prince George's County Council or Board of Education, that is not held concurrently with a regularly scheduled election, to be conducted largely by mail. All registered voters eligible to vote in an election will be sent a vote-by-mail ballot. The bill establishes various related requirements, including deadlines for mailing of ballots to voters and the return of ballots and a requirement that at least three voting centers be established for the use of any eligible voter who chooses to cast a ballot in person.

The bill takes effect June 1, 2012.

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**Fiscal Summary**

**State Effect:** General fund expenditures are expected to be affected if a county council or board of education special election in Prince George's County is conducted largely by mail pursuant to the bill, with certain costs decreasing and others increasing. Under one set of assumptions, general fund expenditures increase by \$1,500 for a county council special primary and general election.

**Local Effect:** Prince George's County expenditures are expected to decrease if a county council or board of education special election is conducted largely by mail. Under one set of assumptions, county expenditures decrease by approximately \$95,000 for a county council special primary and general election.

**Small Business Effect:** Potential minimal.

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## Analysis

### **Bill Summary:**

#### *Utilization of Voting by Mail*

The bill allows for voting by mail to be utilized in a special election for the Prince George's County Council or Board of Education that is not held concurrently with a regularly scheduled primary or general election if the county council directs that the election be conducted by mail. At least 14 days before the day of a special election, ballots must be mailed to each registered voter eligible to vote in the election, unless a voter has requested that the ballot be transmitted by other means. Voters do not need to submit an application to receive a ballot.

A ballot generally must be sent to the voter's address on file in the statewide voter registration list. However, a registered voter may request to receive a ballot at another address, if the voter is temporarily absent from the address on file or has changed residence, up until the Tuesday preceding the day of a special election. A replacement ballot must be issued to a voter if the Prince George's County Board of Elections has reasonable grounds to believe the voter's previously issued vote-by-mail ballot has been lost, destroyed, spoiled, or not received.

A voter may return a vote-by-mail ballot by mail, in person, or through a duly authorized agent in accordance with specified requirements applicable to use of an agent to return an absentee ballot. A vote-by-mail ballot is considered timely and may be counted if the ballot (1) is returned in person to the office of the Prince George's County Board of Elections no later than 8 p.m. on the day of a special election; or (2) is received by mail by the board of elections no later than 10 a.m. on the second Friday after a special election and was mailed on or before election day.

The State Board of Elections (SBE) may adopt regulations as necessary to implement the bill. Except as otherwise stated in the bill, State election laws relating to absentee voting apply to voting by mail; county laws relating to the conduct of a county council special election apply to a special election utilizing voting by mail; and State election laws relating to the conduct of elections apply to a special election utilizing voting by mail unless a law specifically relevant to a special election applies.

#### *Voting Centers*

The Prince George's County Board of Elections must establish at least three voting centers for the use of any eligible voter who chooses to cast a ballot in person in a special election utilizing voting by mail. A voting center must (1) be located in the applicable

county council or board of education district; (2) provide access to a voting system that is accessible to voters with disabilities in accordance with specified federal law; (3) provide for provisional voting; (4) satisfy State law requirements applicable to polling places; and (5) be open for voting during the days and hours that the county council directs. Except as otherwise provided in the bill, any provision of the Election Law Article that applies to voting at a polling place on election day applies to voting at a voting center.

**Current Law:** The Maryland Constitution allows for the county council of a charter county, as expressly authorized by statute, to provide for the filling of a vacancy in the county council by special election. (*See* Md. Const. Article XI-A, § 3.) Charter counties are authorized in State statute to provide for the conduct of a special election to fill a vacancy in the county council. (*See* Article 25A § 5(Q).) The Prince George's County Code requires a vacancy in the office of a council member that occurs during the first three years of a term to be filled by a special election. The special election is conducted among the registered voters of the council district represented by the previous member. (*See* Prince George's County Code § 2-104.) Under § 3-1002 of the Education Article of the Maryland Code, a vacancy in a board of education seat that occurs more than 180 days before the end of the member's term of office is filled at a special election held in the school board district where the vacancy occurs. In both the cases of a county council and a board of education special election, a special election cannot be held within 30 calendar days prior to a regularly scheduled election.

Subject to certain exceptions, the Prince George's County Code specifies that election law provisions of the Maryland Code, and the county charter and county code, apply to county council special elections. (*See* Prince George's County Code § 2-104.) Board of education special elections are generally governed by election law provisions of the Maryland Code. (*See* Election Law Article §8-801.) State law provides for elections, whether regular or special elections, to be conducted through both in-person and absentee voting. (*See* Election Law Article §§ 9-301, *et seq.*, 10-301 *et seq.*)

**Background:** Oregon and Washington conduct all elections by mail and according to the National Conference of State Legislatures, 17 additional states allow certain elections to be held by mail: Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, and North Dakota.

Multiple special elections have been held in Prince George's County in recent years. A county council special election was held in October 2011 for the 6<sup>th</sup> County Council District; and in May 2008 for the 5<sup>th</sup> County Council District. In addition a special election was held in the 4<sup>th</sup> Congressional District (parts of Montgomery and Prince George's counties) in June 2008.

**State Fiscal Effect:** General fund expenditures are expected to be affected if a county council or board of education special election in Prince George's County is conducted largely by mail since SBE shares certain voting system-related costs with the local boards of elections. Voting system-related costs associated with conducting in-person voting would decrease and printing costs for ballots (considered a voting system-related cost) would increase.

It appears that the costs that would be shared by the State and Prince George's County for a special election, whether conducted largely at polling places (under current law) or largely by mail (pursuant to the authorization in the bill), would be voting equipment delivery costs and printing costs associated with absentee and provisional ballots. Under one set of assumptions, general fund expenditures increase by \$1,500 for a county council special primary and general election. This is based on a relatively conservative assumption of the State's share of ballot-related costs, however, and if the State's share of those costs were larger, the increase in the State's ballot-related costs could outweigh the decrease in voting equipment delivery costs by a greater amount, resulting in a more significant net increase in general fund expenditures.

If the State acquires and implements an optical scan, paper ballot-based voting system (in accordance with Chapters 547 and 548 of 2007 and Chapter 428 of 2009) to replace the current touchscreen voting system, the cost difference between conducting a special election at polling places and by mail would be affected. In that case, a significant number of paper ballots would need to be printed for a special election conducted at polling places, which would lessen the increase in paper ballot costs to conduct a vote-by-mail election instead of an election at polling places.

**Local Fiscal Effect:** Prince George's County expenditures are expected to decrease in the event a special election to fill a county council or board of education vacancy is conducted largely by mail instead of at polling places. Under one set of assumptions, county expenditures decrease by approximately \$95,000 for a county council special primary and general election. This is based on a relatively conservative assumption of the State's share of ballot-related costs, however, and if the State's share of those costs were larger, county expenditures could decrease by a greater amount.

The overall decrease in expenditures accounts for reductions in election judge and voting equipment delivery costs, among others, partially offset by an increase in paper ballot printing and mailing costs. The estimate assumes that the minimum amount of three voting centers would be established for just one day per primary or general election and that, while not required by the bill, the Prince George's County Board of Elections would pay for return postage.

As mentioned above with respect to the State fiscal effect, the type of voting system used to conduct voting at polling places will also affect the cost difference between conducting a special election at polling places and by mail.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections, Prince George's County, Department of Legislative Services

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