

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 901 (Senators Dyson and Conway)
Education, Health, and Environmental Affairs

Election Law - Elections by Mail

This bill requires all elections to be conducted by mail, establishes related requirements and procedures, and repeals provisions relating to voting in person at polling places and early voting centers.

Fiscal Summary

State Effect: General fund expenditures may decrease significantly in future years, but any decrease cannot be reliably estimated. In FY 2014 and 2015, any reduction in general fund expenditures may be less significant, given the possibility of greater initial costs to transition to an election by mail system for the 2014 elections.

Local Effect: Local government expenditures may also decrease significantly in future years. Revenues are not affected.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: Local boards of elections must send, by nonforwardable mail, a ballot to each voter registered to vote as of the twenty-first day before the day of the election within specified time periods in advance of the day of the election. A voter also may request a ballot if the voter updates the voter's registration after the twenty-first day before the day of the election. A voter marks the ballot and signs the return identification envelope supplied with the ballot and may return the marked ballot to the local board of elections by U.S. mail, by depositing the ballot at the office of the local board, or by depositing the ballot at a location designated by the local board. At each location at

which a ballot may be returned, the local board must prominently display a sign stating that the location is an official ballot drop site and provide at least three suitable surfaces at which a voter may mark the voter's ballot in secrecy. A voter must pay for any return postage.

The State Board of Elections (SBE) must adopt regulations to carry out the bill and the regulations must specify the dates and times that the locations where a voter may deposit a ballot are to be open, provide security requirements for such locations, and require the locations to be open on the day of the election a minimum of eight hours and until at least 8 p.m.

An individual may request a replacement ballot under specified circumstances, including if the voter's ballot was destroyed, spoiled, lost, or not received by the voter. A local board of elections, however, may not be required to mail a replacement ballot if a request is made later than five days before the day of the election. Specified procedures apply to the issuance and voting of a replacement ballot.

Each ballot must contain a warning that “[a]ny person who, by use of force or other means, unduly influences a voter to vote in any particular manner or to refrain from voting is guilty of a misdemeanor and on conviction is subject to a fine, imprisonment, or both.”

A ballot must be received by the local board of elections or deposited at a drop site by the deadline established by the State Administrator of Elections by regulation. A ballot is counted only if returned in the return identification envelope, the envelope is signed by the voter to whom the ballot was issued, and the signature is verified by comparing the signature with the signature on the voter's registration card. If a local board determines that a voter to whom a replacement ballot was issued voted more than once, only one ballot cast by the voter is counted.

SBE, in consultation with the local boards, must select a voting system for tabulating ballots or votes cast in an election by mail and, by regulation, establish procedures for selecting and using the voting system.

The bill specifies procedures to be followed in the event of an “emergency,” allowing for the Governor to extend the deadline for returning ballots by up to seven calendar days after the date of the election. “Emergency” is defined as a human-created or natural event or circumstance that causes or threatens widespread loss of life, injury to individuals, damage to property, human suffering, or financial loss.

Current Law: With the exception of special elections for the Montgomery County Council, State law provides for elections, whether regular or special elections, to be

conducted through both in-person and absentee voting. Pursuant to Chapter 677 of 2012 (HB 725), special elections for the Montgomery County Council may be conducted by mail.

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.

Oregon's vote by mail system is similar to the system established by the bill. The state had 2.2 million registered voters for the 2012 general election and spent \$4.1 million to conduct the election.

State Fiscal Effect: General fund expenditures may decrease significantly in future years as a result of conducting elections by mail rather than in-person at polling places and early voting centers. This accounts for:

- overall voting system operations and maintenance costs identified in a recent study of Maryland's voting system by RTI International (with the State's share of costs totaling over \$3 million for years in which an election is conducted, for the State's current touchscreen voting system, and over \$2.5 million for years in which an election is conducted, for an optical scan voting system, which SBE is planning to transition to for the 2016 elections);
- costs of an absentee ballot preparation and delivery service SBE contracted for in 2012 (SBE's portion of which was \$.20 on average, which when extrapolated to the 3.8 million registered voters in the State totals approximately \$750,000; this may be an overstatement of the cost if a discount for the volume of ballots would apply); and
- the over \$30 million cost (estimated by RTI International) of an optical scan voting system for use in polling places and early voting centers (a cost shared by SBE with the local boards of elections), which SBE is planning to transition to in fiscal 2016.

Presumably the operations and maintenance costs of a voting system needed only for tabulation of mail ballots at election offices will be considerably less than the costs associated with a touchscreen or optical scan voting system needed for vote casting in polling places and early voting centers across the State, potentially resulting in a reduction in voting systems operations and maintenance costs that will be greater than SBE's portion of costs associated with ballots mailed to each registered voter.

When accounting for the likelihood that the capital costs of a new voting system for tabulating mailed ballots will be significantly less than the costs of a new voting system for use in polling places and early voting centers, due to the fewer number of machines required, the likelihood of a significant decrease in general fund expenditures resulting from holding elections by mail appears even greater.

SBE bears half of the cost of the voting system pursuant to Chapter 564 of 2001 (HB 1457), including operations and maintenance costs and capital costs, with the local boards of election bearing the other half. For the absentee ballot preparation and delivery service used for the 2012 general election, however, SBE only paid for what was determined to be half of the cost of the ballots (a voting system cost), exclusive of costs such as labor and postage.

In fiscal 2014 and 2015, any reduction in general fund expenditures may be less significant, given the possibility of greater initial costs to transition to an election by mail system for the 2014 elections, such as costs of leasing, or financing the purchase of, needed vote tabulation equipment (in the absence of the bill, the State is not planning to transition to a new voting system until the 2016 elections) or voter outreach costs.

Local Fiscal Effect: Local government expenditures may also decrease significantly in future years. Similar to SBE, local governments would benefit from any decrease in voting system operations and maintenance costs and capital costs of a new voting system. Local governments would bear a larger portion of the cost of sending ballots to voters by mail, including half of the cost of the ballot, labor, and postage. For the absentee ballots mailed for the 2012 elections, local boards of elections paid, on average, \$1.20 per ballot. When extrapolated to the 3.8 million registered voters in the State, the overall local government cost is \$4.5 million, not taking into account any discount that might apply for the volume of ballots. This cost, however, should be outweighed by the elimination of the approximately \$4 million local boards of elections pay election judges for training and election day work across the State, the approximately \$1.5 million spent by local boards of elections for early voting prior to each election, and other costs such as polling place rental and supplies costs that will be eliminated.

Other additional costs could be incurred for elections by mail, such as additional staffing costs to process ballots received by local boards of elections and any costs associated with establishing ballot drop sites, but do not appear likely to outweigh savings realized from no longer holding elections at polling places and early voting centers in future years. As mentioned above, however, in fiscal 2014 and 2015, any reduction in local government expenditures may be less significant, given the possibility of greater initial costs to transition to an election by mail system for the 2014 elections.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; Frederick, Harford, and Montgomery counties; Baltimore City; RTI International, *Maryland Voting Systems Study* (2010); Oregon Secretary of State (Elections Division); National Conference of State Legislatures; Department of Legislative Services

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