

**Department of Legislative Services**  
Maryland General Assembly  
2015 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 5 (Senator Bates)

Education, Health, and Environmental Affairs

Ways and Means

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**Election Law - Canvass of Votes - Public Observation**

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This bill establishes that a board of canvassers and the staff of a local board of elections may be observed by authorized observers and any other individuals who wish to be present as they complete each part of the canvass, including the tabulation of votes cast during early voting. A candidate, political party, and any other group of voters supporting or opposing a candidate, principle, or proposition on the ballot have the right to designate a registered voter as an observer at each counting center. The State Board of Elections (SBE) may adopt regulations prohibiting public observation of a part of the canvass only if it is necessary to ensure the integrity or accuracy of the canvass or that the canvass process is not impeded. SBE must ensure that the requirements of the bill are implemented uniformly and consistently by each local board of elections. The bill's provisions replace an existing provision that requires a board of canvassers to provide for observation and understanding of the canvass by individuals in attendance when the board of canvassers meet, subject to specified SBE regulations.

The bill takes effect July 1, 2015.

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**Fiscal Summary**

**State Effect:** None. The bill's requirements can be handled with existing resources.

**Local Effect:** The bill does not materially impact local government finances.

**Small Business Effect:** None.

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## Analysis

**Current Law:** A board of canvassers is the local board of elections in a county after the local board organizes itself for the purpose of canvassing the vote after an election. A board of canvassers must meet only in public session and, subject to SBE regulations adopted to ensure the integrity of the electoral process and that the accuracy of the vote tabulation is not impeded or compromised, must provide for observation and understanding of the canvass by individuals in attendance. The “canvass” means the entire process of vote tallying, vote tabulation, and vote verification or audit, culminating in the production and certification of the official election results. SBE regulations require all sessions, deliberations, and proceedings, throughout the canvass, to be open to the public and the media. The regulations, among other things, allow observers and challengers to visually inspect ballots, provisional ballot applications, and absentee ballot envelopes, and the like, at a reasonable distance, but not touch them. In addition, the local boards must, with the approval of SBE, establish and enforce procedures and methods to maintain order throughout the canvass and safeguard all records and documents.

**Background:** SBE indicates that the public is able to observe the closing of polling places on election day, which includes the election judges printing out vote totals from the voting machines and securing the memory cards from the voting machines. The public is also able to observe the return of election supplies to local board of elections offices as well as the canvass of absentee and provisional ballots in the days following the election. The printing out of vote totals and securing of memory cards from voting machines used at early voting centers, which occurs at local boards of elections’ offices on election day before the election day polling places close, has not been made open to the public by all local boards of elections. The local boards of elections must keep the early voting results secret until the close of the polls on election day, but SBE has issued guidelines for the local boards to maintain the secrecy of the results while allowing public observation.

In the case of tabulation of all votes, whether early, election day, absentee, or provisional, loading of memory cards from the voting machines into the election management system server for overall tabulation at each local board of elections is not open to public observation due to SBE’s security requirements for the election management system.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Anne Arundel, Baltimore, Calvert, Caroline, Frederick, and Prince George's counties; Department of Legislative Services

**Fiscal Note History:** First Reader - January 28, 2015  
min/hlb Revised - Enrolled Bill - April 28, 2015

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