

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 711 (Senator 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 decrease by \$1.9 million annually beginning in FY 2020, assuming the new elections by mail system can be implemented in time for the 2020 elections. This only reflects the impact of the bill on ongoing elections costs and does not account for limited-duration implementation costs (*e.g.*, voter outreach) for the new system.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	(1,900,000)	(1,900,000)	(1,900,000)
Net Effect	\$0	\$0	\$1,900,000	\$1,900,000	\$1,900,000

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

Local Effect: Local government expenditures decrease by \$2.6 million annually beginning in FY 2020, reflecting only the impact of the bill on ongoing elections costs.

Small Business Effect: 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 and 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: State law generally requires establishment and operation of polling places for elections. Maryland voters also have the option of voting at an early voting center prior to Election Day or by absentee ballot, as alternatives to voting at a polling place on Election Day. An individual must request an absentee ballot. In-person early voting at early voting centers was first implemented in 2010 and “no excuse” absentee voting (not requiring a reason that a voter cannot vote in person) was first allowed in 2006.

Chapter 677 of 2012 authorized county council special elections in Montgomery County to be conducted by mail, and Chapters 197 and 198 of 2013 expanded those provisions to apply to special elections to fill a vacancy in the office of representative in Congress, special elections to fill a vacancy in a county council, and other specified local special elections statewide. Pursuant to a constitutional amendment (Chapter 261 of 2014) adopted by the voters at the November 2014 general election, special elections for a county executive vacancy may also be conducted by mail.

In a special election conducted by mail, a vote by mail ballot is mailed to each registered voter who is eligible to vote in the special election. The completed ballot must be mailed by the voter on or before the day of the special election or returned to the local board of elections office in person by 8 p.m. on the day of the special election. At least one voting center is also made available, in a special election conducted by mail, for those who choose to vote in person.

Background: The National Conference of State Legislatures indicates that three states – Oregon, Washington, and Colorado – conduct all elections by mail, in place of traditional in-person voting precincts, and California will begin holding all-mail elections in 2018. Eighteen other states, including Maryland, allow certain elections to be held by mail.

State and Local Fiscal Effect: State (general fund) and local expenditures for ongoing elections costs are expected to decrease under an elections by mail system when it is fully implemented. Despite the bill’s October 1, 2017 effective date, the elections by mail system may not be able to be implemented until the 2020 elections at the earliest, assuming it would take more time to implement a new system than is available prior to the 2018 elections. Under one set of assumptions, when an elections by mail system is fully implemented, combined State and local ongoing costs to run elections decrease by \$4.5 million annually. Broken down between State and local savings (discussed further below), State general fund expenditures decrease by \$1.9 million and local expenditures decrease by \$2.6 million.

This estimate is based on the following assumptions:

- Current costs for the voting system (approximately \$4.7 million per fiscal year), related vendor-provided voting system staffing services (approximately \$1.7 million per fiscal year), and voting system transportation services (approximately \$1.3 million per fiscal year) each decrease by at least 50%, reflecting the elimination of two out of the three significant hardware components of the voting system (precinct scanners and ballot marking devices used at early voting centers and polling places), with the third significant, and most expensive, hardware component – high-speed scanners at local boards of elections offices – remaining and likely increasing in number.
- Mailing costs increase by approximately \$4.3 million each fiscal year (with some fluctuation between primary and general elections, which have differing levels of eligible voters), based on an assumed cost for vendor-provided mailing services and postage of \$1.09 per ballot (not including the cost associated with printing the ballots, which is assumed to not change significantly between the current paper-based system and the elections by mail system).
- Election judge costs (approximately \$6 million each fiscal year) decrease by 83% (five-sixths), which assumes the number of ballot return location workers is approximately equivalent to the current number of chief election judges employed under the current system at each election over the course of early voting and election day.

This estimate assumes that certain costs remain roughly the same or are replaced by roughly equivalent costs, which may or may not end up being the case. For example, the estimate assumes that local boards of elections temporary staff and overtime costs are roughly equivalent under the two systems. If those costs were to change under the elections by mail system, for context, local boards of elections temporary office staff and overtime costs totaled \$3.4 million under an analysis conducted by the Department of Legislative Services of fiscal 2014 election costs. The bill also eliminates the use of specimen (sample) ballots mailed to voters as a method of providing notice to voters of an election, leaving only mass (newspaper) publication to provide required notice of elections. This estimate assumes that costs for mass publication of election notice are roughly comparable to the costs of mailing specimen ballots, the predominant way that local boards of elections currently provide notice of elections.

The estimate of the impact on ongoing elections costs does not account for limited-duration implementation costs such as voter outreach costs in the initial years of implementation of the elections by mail system. A contract proposed by SBE but ultimately not approved by the Board of Public Works for a voter outreach campaign for the implementation of the State's new, paper-based voting system implemented in the 2016 elections would have cost approximately \$900,000 per primary or general election. Similar costs for implementation

of an elections by mail system presumably may be partially or fully offset by the sale of a portion of, if not all, elections equipment used for voting in polling places, that is owned by the State and/or local boards of elections, such as the E-poll books currently used to check voters in at polling places and early voting centers. Much of the voting and ballot tabulation equipment, including the scanners and ballot marking devices, is leased, not owned.

The breakdown of costs savings shown above, between SBE and the local boards of elections, assumes that the current division of responsibility for different categories of election costs between SBE and the local boards of elections is continued under the new system (with SBE and the local boards sharing voting system costs and local boards being responsible for most other costs). However, it appears that Chapter 564 of 2001, which requires the State and counties to share the costs of the voting system, may no longer apply, since that requirement refers to the voting system(s) for voting in polling places and for absentee voting provided for under that law.

Additional Information

Prior Introductions: SB 901 of 2013, a similar bill, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Cross File: None.

Information Source(s): State Board of Elections; Board of Public Works; Baltimore City; Montgomery County; National Conference of State Legislatures; Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2017
mm/hlb

Analysis by: Scott D. Kennedy

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