

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 333

(Senator Simonaire, *et al.*)

Education, Health, and Environmental Affairs

Ways and Means

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Election Law - Voting - Ballot Request and Canvassing Procedures

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This bill establishes procedures and required actions of a local board of elections in the event a provisional ballot and an absentee ballot, or two provisional ballots, are cast in the name of the same individual for the same election. In addition, the bill effectively eliminates a requirement for a local board to reject a provisional ballot in the event a regular ballot and a provisional ballot are cast by an individual. The bill also (1) makes specified identification requirements applicable to any absentee ballot request using the State Board of Elections' (SBE) online absentee ballot application and any absentee ballot request to receive an absentee ballot through the Internet and (2) makes a modification to the identification requirements for a voter with a disability. **The bill's provisions related to canvassing of provisional ballots take effect June 1, 2018, and the provisions related to absentee ballot requests take effect July 1, 2018.**

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Fiscal Summary

**State Effect:** The bill does not affect State finances.

**Local Effect:** Local government expenditures may increase in certain jurisdictions. For example, Montgomery County expenditures increase by \$24,100 in FY 2019 and by \$18,000 annually thereafter. Local revenues are not affected.

**Small Business Effect:** None.

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## Analysis

### **Bill Summary:**

#### *Canvassing of Provisional Ballots*

The bill requires a local board of elections, if a provisional ballot and an absentee ballot, or two provisional ballots, are cast in the name of the same individual for the same election, to review all documents relating to the individual to verify the ballots. If the local board determines that only one of the ballots was cast by the voter, the local board must count the verified ballot and reject the unverified ballot. If the local board determines that both of the ballots were cast by the voter, the local board must reject both ballots.

A requirement that a local board of elections reject a provisional ballot if the individual cast more than one ballot for the same election is repealed and replaced by the provisions above, with respect to instances where a provisional ballot and an absentee ballot, or two provisional ballots, are cast in the name of the same individual. However, instances where a regular ballot and a provisional ballot are cast in the name of the same individual are not addressed by new statutory language, effectively eliminating a statutory requirement that a local board of elections reject a provisional ballot if an individual cast a regular ballot and a provisional ballot for the same election.

#### *Identification Requirements for Absentee Ballot Requests Involving the Internet*

The bill makes specified identification requirements, which are currently applicable to use of SBE's online absentee ballot application, applicable to (1) use of the online absentee ballot application to request that an absentee ballot be sent by any method and (2) use of any method to request to receive a blank absentee ballot through the Internet. The bill also modifies the identification requirements to allow a voter with a disability, who does not have a Maryland driver's license or Maryland identification card, to provide a Social Security number.

### **Current Law:**

#### *Canvassing of Provisional Ballots*

State law requires a local board of elections to reject a provisional ballot if the individual cast more than one ballot for the same election. If an absentee ballot and provisional ballot are received from the same individual, or two provisional ballots are received from the same individual, SBE regulations require a local board to reject both ballots. The regulations also require a local board to reject a provisional ballot received from an individual who cast a ballot in a polling place on election day.

## *Identification Requirements for Online Absentee Ballot Requests*

SBE's online absentee ballot application must require the applicant to provide (1) a Maryland driver's license number or a Maryland identification card number, the last four digits of the applicant's Social Security number, and other information identified by SBE that is not generally available to the public but is readily available to the applicant; or (2) if the applicant is an absent uniformed services voter or overseas voter as defined under the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number.

**Background:** A 2017 audit of SBE by the Office of Legislative Audits (OLA) raised concern about certain methods of requesting an absentee ballot that only required limited, publicly available, identifying information from an individual. OLA indicated that this created a risk that an individual or group could submit fraudulent absentee ballots and/or could cause legitimate voters to have to vote by provisional ballot on Election Day (and cause those voters' provisional ballots to be invalidated because an absentee ballot also had been cast).

**Local Fiscal Effect:** Certain jurisdictions which have to process significant amounts of provisional ballots after an election may require additional temporary personnel to finish processing provisional ballots earlier in order to ensure that, in cases where both an absentee ballot and a provisional ballot are cast in the name of the same individual, the procedures and required actions established by the bill can be carried out. Montgomery County indicates it will need four additional temporary personnel to assist with the provisional canvass, at a cost of \$24,100 in fiscal 2019 (which includes one-time set-up costs) and \$18,000 annually thereafter.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Dorchester, Garrett, and Montgomery counties; Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2018  
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