

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

Senate Bill 145 (Senator Hester)

Education, Health, and Environmental Affairs

Ways and Means

Election Law – Absentee Voting – References in Public Communications and
 Prepaid Postage for Return of Ballots

This emergency bill requires the State Board of Elections (SBE) and each local board of elections to refer to absentee ballots and absentee voting as “mail-in ballots” and “mail-in voting.” The bill also requires prepaid postage to be included on absentee ballot return envelopes, for absentee ballots sent to voters by mail.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$75,500 in FY 2021 and by varying amounts in future fiscal years. This estimate, as well as the estimate under “Local Effect,” does not account for the potential effect of Coronavirus Disease 2019 (COVID-19) on absentee voting in FY 2021 (the 2020 November general election), which is discussed further, below. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	75,500	20,500	54,000	32,000	80,500
Net Effect	(\$75,500)	(\$20,500)	(\$54,000)	(\$32,000)	(\$80,500)

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

Local Effect: Local government expenditures increase by at least \$75,500 in FY 2021 and by varying amounts in future fiscal years. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill requires SBE and each local board of elections to (1) refer to absentee ballots as “mail-in ballots” and absentee voting as “mail-in voting” in all communications with voters and the general public and (2) include in public communications regarding “mail-in voting” a statement that “mail-in voting” is referred to as absentee voting in the Maryland Constitution, the Annotated Code of Maryland, and the Code of Maryland Regulations.

The bill requires that absentee ballot materials sent to a voter by mail include prepaid postage on the envelope provided for the return of the ballot as well as instructions for postage of the return envelope. The instructions must include (1) a statement that the return envelope includes prepaid postage and may be mailed as is and (2) directions for how a voter may attach postage for the purpose of reducing the costs of the local board of elections. SBE must reimburse each local board of elections for 50% of the cost of prepaid postage on the return envelopes provided to voters voting by absentee ballot (and receiving their ballots by mail).

Current Law/Background: An individual may vote by absentee ballot except to the extent preempted by federal law. An absentee ballot may be requested in writing (there are State and federal forms that can be used) or online through the SBE website. The voter may choose to receive the ballot by mail, by fax, through the Internet, or by hand at a local board of elections office. The voter may return the ballot by (1) mailing it, postmarked on or before Election Day; (2) delivering it to the local board of elections in person by the close of polls on Election Day; or (3) pursuant to an SBE regulation change effective in January 2020, delivering it to an early voting center or to a polling place before the polls close at that polling place on Election Day. ([Modified absentee voting, or voting by mail, policies](#) apply, for at least the April 28, 2020, election if not also the June 2, 2020, election, pursuant to [executive actions](#) in response to the COVID-19 outbreak.)

For information on the level of use of absentee voting by voters in recent elections, see the **Appendix – Early and Absentee Voting**.

State and Local Fiscal Effect:

No Expected Impact in Fiscal 2020

While the bill is an emergency bill, it is not expected to affect State finances in fiscal 2020, despite ballots (with prepaid return postage) being mailed to all eligible voters for the April 28 special general election, due to circumstances resulting from the COVID-19 outbreak, and the same having been proposed by SBE to the Governor, in its comprehensive plan for the June 2 regular primary election. The prepaid return postage is

being included (or proposed to be included) with the mailed ballots due to the circumstances resulting from the COVID-19 outbreak, irrespective of this bill.

The bill's provisions requiring absentee ballots and absentee voting to be referred to as "mail-in" ballots and "mail-in" voting are not being implemented for the April 28 election and it appears, based on an indication in SBE's comprehensive plan for the June 2 election, that those provisions are not likely to be implemented for the June 2 election. Therefore, no costs to reprint materials with those modified references are expected to be incurred in fiscal 2020.

Impact in Fiscal 2021 and Future Years from Prepaid Return Postage

General fund and local government expenditures each increase by \$75,500 in fiscal 2021, by \$20,500 in fiscal 2022, by \$54,000 in fiscal 2023, by \$32,000 in fiscal 2024, by \$80,500 in fiscal 2025, and by ongoing amounts in future years. These amounts represent the State and local boards' 50% share of the cost of the prepaid postage included on absentee ballot return envelopes pursuant to the bill. This does not account for any increase in absentee voting during the 2020 November general election that might result from ongoing concern and/or policies related to COVID-19 (discussed further, below). The estimate is based on:

- the amounts of absentee ballots mailed to voters in the comparable 2016 and 2018 primary and general elections;
- an estimated proportional increase in the number of absentee ballots mailed to voters due to the increase in the number of registered voters since the previous comparable 2016 or 2018 elections (a 7% increase is assumed in the estimate);
- an assumed increase in the use of absentee voting in future elections due to a significant number of voters being exposed to casting a ballot by mail for the first time during the April 28 and June 2 elections in 2020, which may result in at least a small percentage of those voters choosing to cast a ballot by mail again in the future when they otherwise would have voted in person in future elections (a 50% increase in use of absentee voting is assumed in the estimate);
- postage rates applicable to a 3 oz. letter (which is expected to be the upper limit of the weight of a mail-in ballot envelope, which can vary, depending on the size of the ballot and the extent of other materials included in the envelope); and
- a calculation, by county, of the most inexpensive method of including prepaid postage on absentee ballot return envelopes, among different business reply mail and metered postage options, based on the estimated number of ballots mailed to voters in each county in each election.

Additional Costs in Fiscal 2021 to Change Absentee Voting References

General fund and/or local government expenditures may increase to reprint any materials referring to absentee ballots or absentee voting that have already been printed for the 2020 November general election, so that the materials refer to “mail-in” ballots and “mail-in” voting. The extent of any costs to reprint materials has not been quantified and may be relatively minimal.

Potential Effect of COVID-19 on Prepaid Return Postage Costs in Fiscal 2021

With respect to the fiscal impact stated above for fiscal 2021 resulting from providing prepaid postage on absentee ballot return envelopes, ongoing concern and/or policies related to COVID-19 at the time of the 2020 November general election may result in (1) the bill instead having no fiscal impact in fiscal 2021 or (2) the bill having a more significant fiscal impact than is stated above.

The bill may have no fiscal impact in fiscal 2021 if circumstances at the time of the November general election result in an emphasis on voting by mail and a similar policy being implemented for the November general election as is being implemented for the April 28 election, and has been proposed for the June 2 election, of providing prepaid postage on ballot return envelopes, irrespective of the bill.

On the other hand, if prepaid return postage would not be provided for absentee (or “mail-in”) ballots during the November general election, irrespective of the bill, but ongoing concern and/or policies related to COVID-19 cause significantly more voters to use absentee (or “mail-in”) voting in place of in-person voting than would otherwise, general fund and local government expenditures may each increase by a greater amount than \$75,500 in fiscal 2021. *For illustrative purposes*, the \$75,500 estimate is based on an estimated 205,344 absentee ballots being requested by, and mailed to, voters statewide. If 500,000 ballots are requested and mailed instead, general fund and local government expenditures each increase by \$178,000 in fiscal 2021. If 1,000,000 ballots are requested and mailed instead, general fund and local government expenditures each increase by \$347,000 in fiscal 2021.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 37 (Delegate Palakovich Carr) - Ways and Means.

Information Source(s): State Board of Elections; Baltimore City; Frederick, Harford, Montgomery, and Talbot counties; National Conference of State Legislatures; U.S. Postal Service; Department of Legislative Services

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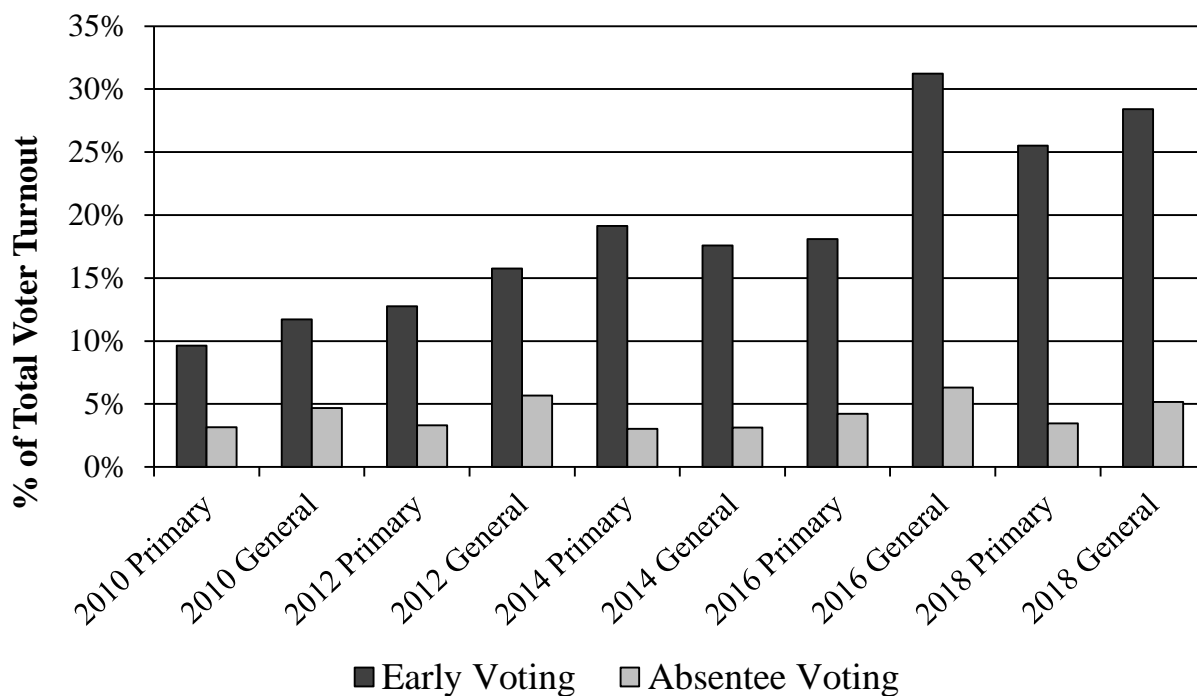
Appendix – Early and Absentee Voting

In Maryland

Maryland voters 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. 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.

Exhibit 1 shows that, as a percentage of overall turnout in the 2010 through 2018 elections, use of early voting has been generally increasing, surpassing 25% in recent elections, and use of absentee voting has been between 3% and 7%.

Exhibit 1
Maryland Early and Absentee Voting Turnout
2010-2018



Election (and Total Voter Turnout for that Election)

Source: State Board of Elections; Department of Legislative Services

Chapters 157 and 158 of 2013 increased the number of early voting centers and the length of the early voting period, and Chapter 288 of 2016 further increased the number of centers. **Exhibit 2** and **Exhibit 3** show the changes made by Chapters 157 and 158 and Chapter 288. The number of early voting centers in each county, for the 2018 general election, is shown in **Exhibit 4**. A voter may vote at any early voting center in the voter's county of residence. In addition, pursuant to Chapters 157 and 158, an individual has been able to both register to vote (or change his/her voter registration address) and vote at an early voting center since 2016.

Chapters 157 and 158 also expanded and clarified the methods by which a voter may request and receive an absentee ballot. An absentee ballot must be requested in writing (there are State and federal forms that can be used) or, pursuant to Chapters 157 and 158, a request can be submitted online through the State Board of Elections (SBE) website. The available methods for a voter to receive an absentee ballot are (1) by mail; (2) by facsimile transmission; (3) through the Internet; or (4) by hand during an in-person transaction. To return an absentee ballot, a voter may either (1) mail in the completed ballot, postmarked on or before Election Day; (2) deliver it to the local board of elections in person by the close of polls on Election Day; or (3) pursuant to an SBE regulation change effective in January 2020, deliver it to an early voting center or to a polling place before the polls close at that polling place on Election Day.

In Other States

Research by the National Conference of State Legislatures (NCSL) indicates that (1) in 2020, 40 states and the District of Columbia will offer some form of in-person early voting and (2) 33 states and the District of Columbia either permit no excuse absentee voting or, in some cases, conduct all elections by mail. Among those 33 states, Colorado, Hawaii, Oregon, Utah, and Washington conduct all elections by mail.

The timing and length of early voting periods varies among the early voting states. According to NCSL, the average starting time for early voting is 22 days before an election. NCSL indicates that the average length of early voting periods across the states is 19 days and early voting typically ends just a few days before Election Day.

Exhibit 2
Early Voting Centers

Prior to Chs. 157/158		Under Chs. 157/158		Under Ch. 288 (Current Law)	
Registered Voters in a County	Early Voting Centers	Registered Voters in a County	Early Voting Centers*	Registered Voters in a County	Early Voting Centers*
< 150,000	1	< 125,000	1	< 125,000	1
150,000-300,000	3	125,000-300,000	3	125,000-200,000	3
> 300,000	5	300,000-450,000	5	200,000-300,000	4
		> 450,000	8	300,000-450,000	7
				> 450,000	11

*In addition to these required centers, each county may establish one additional early voting center if the State Board of Elections, in collaboration with the local board of elections, and the governing body of the county agree to establish an additional center. Chapter 288 limited this option to apply only to counties with less than 200,000 registered voters, but Chapter 539 of 2019 removed that limitation.

Source: Department of Legislative Services

Exhibit 3
Early Voting Days and Hours

Prior to Chs. 157/158

2010 Elections

Days (6)

Second Friday before the election through Thursday before the election, excluding Sunday

Hours

10 a.m.-8 p.m. (each day)

2012 Elections

Days (6)

Second Saturday before the election through Thursday before the election

Hours

10 a.m.-8 p.m. (Saturday;
Monday-Thursday)
12 noon-6 p.m. (Sunday)

**Under Chs. 157/158 (Current Law;
no changes were made by Ch. 288)**

2014 and Future Elections

Days (8)

Second Thursday before the election through Thursday before the election

Hours

Presidential general election:
8 a.m.-8 p.m. (each day)

All other elections:
10 a.m.-8 p.m. (each day)

Source: Department of Legislative Services

Exhibit 4
Early Voting Centers in Each County

<u>Jurisdiction</u>	<u>Registered Voters (December 2018)</u>	<u>Early Voting Centers 2018 General Election</u>
Allegany	43,436	1
Anne Arundel	394,529	7
Baltimore City	393,029	7
Baltimore	561,443	11
Calvert	66,605	1
Caroline	20,495	1
Carroll	123,565	2
Cecil	66,398	1
Charles	114,818	2
Dorchester	21,611	1
Frederick	177,016	4
Garrett	20,006	2
Harford	183,711	4
Howard	220,609	4
Kent	13,232	1
Montgomery	670,134	11
Prince George's	589,433	11
Queen Anne's	36,364	2
St. Mary's	71,937	1
Somerset	13,307	1
Talbot	27,291	1
Washington	97,010	1
Wicomico	62,847	1
Worcester	39,280	1
Total	4,028,106	79

Source: State Board of Elections
