

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 233
(Senator Simonaire)
Education, Health, and Environmental Affairs

**Election Law - Absentee Ballots - Envelope Prohibitions, Ballot Status
Information, and Signature Verification**

This bill requires the State Board of Elections (SBE) to take specified actions to provide for voter access to information concerning the status of the voter's absentee ballot or absentee ballot application, including implementation of an absentee ballot tracking system. The bill also prohibits the identification of party affiliation on an absentee ballot envelope and requires SBE to study and make recommendations for verifying signatures on absentee ballots. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$115,700 in FY 2022, with ongoing costs in future years. Additional costs, that have not been quantified, are expected to be incurred, as discussed below. Revenues are not affected.

Local Effect: Local government expenditures are expected to increase, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary:

Absentee Ballot Application and Absentee Ballot Status Information

The bill requires that guidelines established by SBE for the administration of absentee voting by the local boards of elections provide for voter access to information concerning the status of the voter's absentee ballot or absentee ballot application. The bill also requires SBE to implement an absentee ballot tracking system that is integrated with the selected postal service to allow a voter to access information regarding:

- the date and time the voter's absentee ballot application was received by the local board of elections;
- the date and time the local board sent a blank absentee ballot to the voter;
- the progress of the voter's blank or completed absentee ballot through the selected postal service, including evidence of the date and time that (1) the blank absentee ballot was accepted for mailing by the selected postal service; (2) if applicable, the blank absentee ballot was handled by an intermediate facility between the local board and the voter; (3) the blank absentee ballot was delivered to the voter; (4) the voter's completed absentee ballot was accepted for mailing by the selected postal service; and (5) if applicable, the voter's completed absentee ballot was handled by an intermediate facility between the voter and the local board;
- the date and time the voter's completed absentee ballot was received by the local board;
- whether the voter's absentee ballot was counted; and
- if the voter's absentee ballot was not counted, the reason it was not counted.

The bill establishes that a voter may access the information concerning the status of the voter's absentee ballot or absentee ballot application (1) through SBE's website; (2) through a third-party website approved by SBE; or (3) if requested, by receiving a postcard, an e-mail message, or a text message from SBE or a third-party website.

SBE must (1) make available the information required for a voter to request to receive the notification information from a third-party website; (2) provide updated information concerning the status of a voter's absentee ballot or absentee ballot application to the voter in a timely manner; and (3) ensure the security, confidentiality, and integrity of the information provided to a voter. Access to information regarding the content of an individual absentee ballot or absentee ballot application must be restricted to the individual who requests or casts the ballot.

Prohibition on Party Affiliation Being Identified on Absentee Ballot Envelopes

The bill establishes that language or information that visibly identifies the party affiliation of a voter may not be included on an outgoing absentee ballot envelope, an absentee ballot return envelope, or an absentee ballot return envelope template provided by a local board of elections to a voter who is sent an absentee ballot through the Internet or by facsimile transmission.

Study and Recommendations on Signature Verification

By December 1, 2021, SBE must (1) by reviewing similar practices in other states, study and make recommendations for verifying signatures on absentee ballots and (2) report to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means on the recommendations.

Current Law:

Absentee (Mail-in) Voting

An individual may vote by absentee (mail-in) 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 or (2) delivering it in person to an early voting center or to the local board of elections or an election day polling place by the close of polls on election day.

SBE Guidelines

SBE must establish guidelines for the administration of absentee voting by the local boards of elections. The guidelines must provide for (1) the application process; (2) late application for absentee ballots; (3) ballot security, including storage of returned ballots; (4) determining timeliness of receipt of applications and ballots, including applications and ballots for overseas voters; (5) the canvass process; (6) notice of the canvass to candidates, political parties, campaign organizations, new media, and the general public; (7) observers of the process; (8) review of the voted ballots and envelopes for compliance with the law and for machine tabulation acceptability; (9) standards for disallowance of ballots during the canvass; and (10) storage and retention of ballots following canvass and certification.

Maintenance of Absentee Voting Records

Each local board of elections must maintain a full record of absentee voting in the county, including, for each absentee voter, (1) the date and time of the board's receipt of an application for an absentee ballot; (2) the action taken with regard to the application; (3) the appropriate ballot style; (4) the date of issuance of a ballot; (5) if mailed, the address to which the ballot is sent; (6) the date and time of the receipt of the voted absentee ballot; and (7) any other information specified by SBE.

Free Access System

SBE regulations require the board to establish a free access system that any voter who submits an absentee ballot application may access to determine whether the local board of elections received and accepted the voter's absentee ballot application and received and counted the voter's absentee ballot. Each local election director must use the statewide voter registration system to process all absentee ballot applications and returned ballots, and SBE must use the absentee voting information in the statewide voter registration system for the free access system. The free access system must be accessible online through SBE's website and by calling SBE's toll-free telephone number. An absentee voter must be required to provide that absentee voter's name and date of birth to access the information about the voter's ballot.

Absentee Ballot Envelopes

An absentee ballot sent by mail must be enclosed in specially printed envelopes, the form and content of which must be prescribed by SBE. A local board of elections may use either two envelopes ("outgoing envelope" and "ballot/return envelope") or three envelopes ("outgoing envelope," "return envelope," and "ballot envelope"). The ballot/return envelope or the return envelope must include prepaid postage.

If an absentee ballot is sent by the Internet or facsimile transmission, the local board must provide the voter with an envelope template.

State Fiscal Effect:

Information Technology Position and Study Consultant

General fund expenditures increase by at least \$115,734 in fiscal 2022, which accounts for the bill's July 1, 2021 effective date. This estimate reflects the cost of (1) hiring an information technology (IT) programmer within SBE to assist in the development and maintenance of the ballot tracking system and (2) a professional services contract for a consultant to assist SBE in conducting the study required under the bill. This additional

work is not expected to be able to be absorbed by existing SBE staff. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing expenses. The estimate does not account for certain costs that have not been fully quantified at this time (described below).

Position	1
Salaries and Fringe Benefits	\$94,989
Professional Services Contract	15,000
Operating Expenses	5,745
Total FY 2022 Minimum State Expenditures	\$115,734

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Cost of Contractual Services for Programming and/or Third-party Service

In addition to the need for an IT position (mentioned above) to assist in developing and maintaining the ballot tracking system required by the bill, additional costs may be incurred for (1) programming of the statewide voter registration system to allow for all of the required information to be recorded in the system by local boards of elections and (2) for integration with U.S. Postal Service information and/or a third-party service. The extent of these costs is not known at this time. It is assumed, for the purposes of this fiscal and policy note, that SBE may incur at least a portion of these costs, with the remainder incurred by the local boards of elections.

Reconfiguration of Ballot Style Identification

General fund expenditures may increase by up to \$16,000 in fiscal 2022 only, for programming of SBE's election systems to reconfigure the way that ballot styles are identified, so that they do not include an indication of party affiliation. A "ballot style" is a specific configuration of contests and questions on a ballot that is for specific voters based on where they live (what jurisdiction, district, and precinct they live in) and, in a primary election, their party affiliation. The ballot style identifying information is used to ensure the right ballot is given to a voter at an in-person voting location and is included on the outgoing envelope for a voter being sent a mail-in ballot so that the correct ballot can be paired with the envelope.

The extent of programming needed to reconfigure the way that ballot styles are identified is not known at this time, but other recent ballot style-related programming – changes made to SBE's election systems in 2020 to allow for precinct-specific ballot styles (in order to produce precinct-based election results for all votes) – cost approximately \$240,000, with \$16,000 being a State general fund cost and \$224,000 a local government cost allocated

among the local boards of elections. Costs of programming to reconfigure the way that ballot styles are identified is not expected to be more than that amount.

Local Fiscal Effect:

Local Board of Elections Resources for Processing and Data Entry

Local boards of elections do not currently record all of the information required in the bill (date and time of (1) receipt of an application, (2) sending of a blank ballot, and (3) receipt of a completed ballot) in the statewide voter registration system, which likely would be used to manage the data needed for the ballot tracking system. At least some local boards may need additional resources for additional processing and data entry work to provide timely and complete information in the ballot tracking system. Frederick County, for example, indicates that an additional election assistant may be needed at a cost of approximately \$50,000 annually. Montgomery County indicates that its costs may increase more significantly for mail-sorting technology to automate the processing of, and data entry related to, received mail-in ballot applications and mail-in ballots.

Cost of Contractual Services for Programming and/or Third-party Service

Local government expenditures may increase for programming of the statewide voter registration system to allow for all of the required ballot tracking system information to be recorded in the voter registration system by local boards of elections and for integration with U.S. Postal Service information and/or a third-party service, as described above. It is assumed, for the purposes of this fiscal and policy note, that local boards of elections incur at least a portion of these costs, with any remainder incurred by SBE.

Reconfiguration of Ballot Style Identification

Local government expenditures may also increase, collectively, by up to \$224,000 in fiscal 2022 only, for the local share of costs for programming of SBE's election systems to reconfigure the way that ballot styles are identified, so that they do not include an indication of party affiliation, as described above.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Department of Information Technology; Anne Arundel, Charles, Frederick, and Montgomery counties; Maryland Association of Counties; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2021

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