

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1345 (Delegate Kaiser)  
 Ways and Means

Mail-In Voting - Certification of Assistance, Design of Materials, and Ballot  
 Curing

This bill requires the State Board of Elections (SBE) to establish (1) specified consistent designs for absentee voting materials that must be used by local boards of elections and (2) specified procedures for a voter to correct a problem with an absentee ballot. **The bill takes effect June 1, 2021.**

Fiscal Summary

**State Effect:** General fund expenditures increase by at least \$100,700 in FY 2022, and by ongoing amounts in future years, as discussed below. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	100,700	91,100	93,900	97,300	100,700
Net Effect	(\$100,700)	(\$91,100)	(\$93,900)	(\$97,300)	(\$100,700)

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

**Local Effect:** Local government expenditures may increase, as discussed below. Revenues are not affected.

**Small Business Effect:** None.

## Analysis

### Bill Summary:

#### *Consistent Designs for Absentee Voting Materials*

The bill requires SBE to establish consistent designs for absentee voting materials that must be used by all the local boards of elections. The designs must:

- implement best practices for the use of plain language;
- be updated before each election as appropriate;
- include samples of all absentee voting materials;
- include an envelope template that (1) provides for general consistency in envelopes while allowing for some variation due to different printing and mailing requirements and (2) incorporates the certification of an individual rendering assistance to a voter on the ballot envelope or ballot/return envelope (mentioned below);
- include envelope layout options in which the voter's signature on the ballot envelope or ballot/return envelope is (1) visible on the outside and (2) hidden from view; and
- include bilingual envelope layouts for use by a local board that provides absentee voting materials in a language other than English.

The bill modifies a requirement that an individual who renders assistance to a voter in casting an absentee ballot execute a certification, by requiring that the certification be on the ballot envelope or ballot/return envelope.

#### *Correction of a Problem with an Absentee Ballot*

The bill modifies a requirement that an absentee ballot be rejected if the voter failed to sign the oath on the ballot envelope, so that it instead requires that the ballot be rejected if the voter failed to sign the oath on the ballot envelope or ballot/return envelope *and failed to correct the omission before the conclusion of the canvass.*

The bill requires SBE to adopt regulations requiring a local board to (1) notify a voter of a problem with the voter's absentee ballot that would cause the ballot to be rejected but which is capable of being corrected by the voter and (2) provide the voter an opportunity to correct the problem and have the ballot counted.

The regulations must allow a voter to (1) supply a signature if the voter failed to sign the oath on the ballot envelope or ballot/return envelope and (2) choose among multiple methods of communicating with the local board to correct a problem with the voter's

absentee ballot, including a text message, an online portal, a mailed form, and an in-person visit to the local board office.

### **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.

A local board of elections may not reject an absentee ballot except by unanimous vote and in accordance with SBE regulations. A local board must reject an absentee ballot if the voter failed to sign the oath on the ballot envelope.

#### *Absentee Ballot Envelopes and Instructions*

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. An absentee ballot must be accompanied by instructions, prescribed by SBE, for marking and returning the ballot. When voted and returned to the local board of elections, an absentee ballot must be enclosed in a ballot envelope or ballot/return envelope, on which has been printed an oath prescribed by SBE. If an absentee ballot is sent by the Internet or facsimile transmission, the local board must provide the voter with an envelope template, the oath prescribed by SBE, and instructions for marking and returning the absentee ballot.

### **State Fiscal Effect:**

#### *Information Technology Position*

General fund expenditures increase by \$100,734 in fiscal 2022, which accounts for a 30-day start-up delay. This estimate reflects the cost of hiring an information technology (IT) programmer within SBE to assist in the development and maintenance of a system that will meet the bill’s requirements for a voter’s ability to correct a problem with the voter’s mail-in ballot through text messaging and an online portal. While the system is used by the

local boards of elections to communicate with voters, this estimate assumes a centralized system is developed by SBE. The additional IT development and maintenance 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.

Position	1
Salary and Fringe Benefits	\$94,989
Operating Expenses	<u>5,745</u>
<b>Total FY 2022 State Expenditures</b>	<b>\$100,734</b>

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

*Mail-in Ballot Envelopes*

General fund expenditures may increase annually, beginning in fiscal 2022, to the extent the bill’s requirements regarding SBE’s designs for mail-in voting materials result in a need to use larger envelopes, which may increase costs for the envelopes and for postage. Costs of sending mail-in ballots to voters, and return postage, are shared by SBE and the local boards of elections. The extent of any increase cannot be reliably estimated at this time.

For context, making certain assumptions, including that 20% of voter turnout in the 2022 elections is by mail, total costs for printing and mailing of mail-in ballots, including return postage, for the 2022 primary and general elections, are estimated to be \$235,000 and \$625,000, respectively (split between the State and the local boards). Presumably any increase in mail-in ballot costs resulting from this bill would be equivalent to a relatively small fraction of those total amounts.

**Local Fiscal Effect:** Local government expenditures may increase by an indeterminate amount, to the extent the bill’s requirements result in a need to use larger envelopes for mail-in ballots, as discussed above. Local boards share the costs of sending mail-in ballots to voters, and return postage, with SBE.

The bill’s requirement that SBE adopt regulations requiring a local board to notify voters of problems with their mail-in ballots that are capable of being corrected is not expected to materially affect local government finances, assuming a centralized system for communications by text message and an online portal is developed by SBE, as discussed above. SBE required local boards, during the 2020 general election, to attempt to contact voters whose mail-in ballot envelopes were not signed, to the extent practicable, and has indicated an intent to require local boards to contact voters about unsigned oaths in future elections, even in the absence of this bill.

## **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Allegany, Anne Arundel, Harford, Montgomery, and Wicomico counties; State Board of Elections; Department of Legislative Services

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