

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

House Bill 1048  
 Ways and Means

(Delegate Wilkins)

Education, Health, and Environmental Affairs

Election Law - Voting - Permanent Absentee Ballot List, Ballot Drop Boxes, and Reports

This bill allows for a voter to request permanent absentee ballot status and be placed on a permanent absentee ballot list. A local board of elections must send an absentee ballot to each voter on the permanent absentee ballot list each time there is an election. Among other provisions, the bill also (1) requires that an absentee ballot application be sent to each eligible voter (with the exception of voters with permanent absentee ballot status) before the statewide primary election in 2022 and 2024; (2) establishes provisions governing ballot drop boxes; and (3) requires specified reports. **The bill takes effect June 1, 2021.**

Fiscal Summary

**State Effect:** Under one set of assumptions, general fund expenditures increase by \$294,000 in FY 2022 and by additional amounts in future years. In-person voting costs may decrease in future years as discussed below. Revenues are not materially affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	294,000	239,000	423,000	369,000	217,000
Net Effect	(\$294,000)	(\$239,000)	(\$423,000)	(\$369,000)	(\$217,000)

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

**Local Effect:** Local government expenditures increase by a significant amount. In-person voting costs may decrease in future years as discussed below. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

## Analysis

### Bill Summary:

#### *Permanent Absentee Ballot List*

##### *Request for Permanent Absentee Ballot Status*

The bill establishes that all voters are eligible for permanent absentee ballot status. To request permanent absentee ballot status a voter must complete and submit (1) the State Board of Elections (SBE)-approved absentee ballot application and indicate on the form that the voter wishes to have permanent absentee ballot status; (2) a written request that includes the voter's name, residence address, and signature; or (3) the online absentee ballot application provided by SBE and indicate on the form that the voter wishes to have permanent absentee ballot status. A voter may apply for permanent absentee ballot status at any time; however, a voter who requests permanent absentee ballot status may not receive an absentee ballot for the next election if the request is made after the applicable absentee ballot application deadline for that election.

A voter must specify in an absentee ballot application in which the voter requests permanent absentee ballot status (1) the method by which the voter chooses to receive an absentee ballot (mail, facsimile transmission, or the Internet) and (2) the method by which the voter chooses to be contacted by SBE before each election (nonforwardable mail, email, or text message), as discussed below.

A voter who uses the online absentee ballot application to request permanent absentee ballot status or who uses any method to request to receive a blank absentee ballot through the Internet must provide specified identifying information.

##### *Addition to Permanent Absentee Ballot List*

A voter who submits a proper request for permanent absentee ballot status must be placed on the permanent absentee ballot list, and a local board of elections must send an absentee ballot to each voter on the permanent absentee ballot list each time there is an election.

##### *Communication before Each Election*

Not less than 75 days before the day on which a local board of elections begins to send absentee ballots to voters, SBE must send a written communication to each voter who is on the permanent absentee ballot list as of a date that is at least 90 days before the upcoming election, using the method chosen by the voter on their absentee ballot application. The communication must include (1) confirmation that the voter is included on the permanent

absentee ballot list; (2) the address of the voter; (3) the method by which the voter has chosen to receive an absentee ballot; and (4) a statement that the voter must notify the local board if anything should be changed. If SBE is unable to contact a voter using the method of communication chosen by the voter, SBE must send the written communication using another method if the board has other contact information for the voter. If the communication is sent by mail, the envelope must include a statement, prominently placed, requesting that the recipient return the communication to SBE if the intended recipient no longer lives at that address.

#### *Removal from Permanent Absentee Ballot List*

A voter who has permanent absentee ballot status must be removed from the permanent absentee ballot list if (1) the voter requests to be removed; (2) the voter is removed from the statewide voter registration list; (3) the voter fails to return an absentee ballot for two consecutive statewide general elections; or (4) any mail sent to the voter by SBE or a local board is returned undeliverable.

#### *Changes in a Voter's Address or Method of Receipt of an Absentee Ballot*

A voter who has permanent absentee ballot status must notify the local board if (1) the voter no longer wishes to have permanent absentee ballot status; (2) the address to which the voter's absentee ballot should be sent has changed; or (3) the voter wishes to receive an absentee ballot by a different method from the method previously indicated by the voter.

If the voter registration address of a voter who has permanent absentee ballot status changes, the local board of elections must enclose with the confirmation notice sent to the voter a notification that (1) the voter remains included on the permanent absentee ballot list and (2) the voter's absentee ballot will be sent to the voter's new address.

#### *State Board of Elections Guidelines*

The bill requires that guidelines established by SBE for the administration of absentee voting by the local boards of elections provide for the permanent absentee ballot list.

#### *Statement Included on Absentee Ballot Application*

The bill requires that the State-approved absentee ballot application include a statement explaining the process for returning a completed absentee ballot if the voter chooses to receive an absentee ballot by facsimile transmission or the Internet.

### *Statement Included on Outgoing Absentee Ballot Envelope*

The bill requires that the outgoing envelope of an absentee ballot sent by mail include a statement, prominently placed, requesting that the recipient return the absentee ballot to the local board if the intended recipient no longer lives at that address.

### *Absentee Ballot Application Sent to Each Eligible Voter*

The bill requires a local board of elections to send the SBE-approved absentee ballot application to each eligible voter, with the exception of voters who have permanent absentee ballot status, at least 60 days before the statewide primary election in 2022 and 2024.

### *Ballot Drop Boxes*

“Ballot drop box” means a secure, durable, and weatherproof container that is officially designated by a local board or SBE exclusively for voters to deposit election-related materials in person, including absentee ballots, absentee ballot applications, and voter registration applications.

#### *Locations*

The bill requires a local board to consider the following factors when determining the location of a ballot drop box:

- the accessibility of the ballot drop box to historically disenfranchised communities, including voters with disabilities, cultural groups, ethnic groups, and minority groups;
- proximity of the ballot drop box to dense concentrations of voters;
- accessibility of the ballot drop box by public transportation;
- equitable distribution of ballot drop boxes throughout the county; and
- maximizing voter participation, including through placement of ballot drop boxes at community centers and public gathering places.

A local board must designate locations in the county at which a ballot drop box will be placed in accordance with those factors and must submit the proposed locations to the State Administrator of Elections for approval. The State Administrator must approve a ballot drop box location that meets the factors established above. If a proposed ballot drop box location does not meet the factors, the State Administrator must (1) require that the local board reconsider the proposed location for one or more ballot drop boxes and (2) provide to the local board a detailed explanation of why the proposed location does not meet the

factors. If the State Administrator finds that the proposed ballot drop box locations submitted to the State Administrator after reconsideration by the local board do not meet the factors, the State Administrator may add ballot drop box locations in the county.

### *Security*

A local board must ensure the security of ballot drop boxes, including through (1) monitoring by security cameras at all times and (2) periodic in-person visits by appropriate personnel. A local board must have immediate access, or access within a reasonable amount of time, to a security camera used for monitoring a ballot drop box.

### *Removal of Election-related Materials*

SBE must establish chain of custody procedures governing removal of election-related materials from ballot drop boxes and the return of the materials to the local board. Except as otherwise provided in law, a local board must remove the election-related materials from each ballot drop box at least once each day that the ballot drop box is open in accordance with the chain of custody procedures.

### *Canvassing, Electioneering, and Campaign Material*

The bill prohibits a person from (1) canvassing, electioneering, or posting any campaign material in a manner that obstructs access to a ballot drop box or (2) placing any campaign material or any other unauthorized material on a ballot drop box. A person who violates these prohibitions is guilty of a misdemeanor and subject to a fine of at least \$50 and up to \$500 and/or imprisonment for up to 60 days.

### *Usability Review of Mail-in Voting Materials and Forms*

By August 1, 2021, SBE must contract with a usability consultant to review all the public informational materials and forms related to mail-in voting produced by SBE. By December 1, 2021, the consultant must make specified recommendations to SBE regarding ways the materials and forms could be made more usable, especially by socioeconomically diverse communities. By February 1, 2022, SBE must submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means that includes the recommendations submitted by the consultant and the actions SBE has taken or plans to take to implement the recommendations.

### *Report on Voting in Precinct Polling Places*

By January 15, 2023, SBE must submit to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means a report on the number

of voters who voted in each precinct polling place in the State in the primary election and the general election in the years 2018, 2020, and 2022.

**Current Law:** 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 voter who uses the online absentee ballot application to request that an absentee ballot be sent by any method or who uses any method to request to receive a blank absentee ballot through the Internet must provide:

- a Maryland driver's license number or 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
- if the applicant is an absent uniformed services voter or overseas voter as defined in the Uniformed and Overseas Citizens Absentee Voting Act or a voter with a disability and does not have a Maryland driver's license or Maryland identification card, the last four digits of the applicant's Social Security number.

**State and Local Fiscal Effect:** State general fund expenditures and local government expenditures increase as shown in **Exhibit 1**, beginning in fiscal 2022, due to the costs of (1) sending mail-in ballot applications to each eligible voter prior to the statewide primary elections in 2022 and 2024; (2) a data processing center to assist local boards of elections in processing a higher volume of mail-in ballot applications before the statewide primary elections in 2022 and 2024; (3) increased mail-in voting; (4) sending a written communication to each voter on the permanent absentee ballot list before each election; (5) programming of the statewide voter registration system to incorporate changes needed to implement the permanent absentee ballot list; (6) hiring an additional staff person within SBE; and (7) the required usability review. Additional local costs, that have not been quantified statewide, are also incurred, as discussed below. The estimated costs in Exhibit 1 assume that:

- the number of voters on the permanent absentee ballot list is in the range of 250,000 after the 2022 primary election, but increases after subsequent elections, reaching just over 650,000 after the 2024 general election;

- of the voters on the permanent absentee ballot list, one-third choose to receive the written communication prior to each election by mail, one-third choose to receive it by email, and one-third choose to receive it by text message;
- sending mail-in ballot applications to all eligible voters prior to a primary election increases the percentage of voter turnout that is by mail in a primary election by 15% and those voters choose on their mail-in ballot application to receive a mail-in ballot by mail, and choose to receive a mail-in ballot for the general election as well (an existing option on the application) or request permanent absentee ballot status, also increasing voter turnout for the general election that is by mail;
- an additional staff person is hired within SBE to assist with the implementation of the bill's requirements regarding designation of ballot drop box locations, including the State Administrator's responsibility to approve ballot drop box locations that meet the factors established in the bill (SBE has indicated it will need additional resources for this purpose but cannot indicate at this time whether additional staff, or contractual services prior to each primary election, will be needed; it is assumed, for the purposes of this fiscal and policy note, that an additional staff person is hired);
- the cost of the usability review is similar to the cost of a past usability review; and
- costs of implementing the bill are allocated between SBE and the local boards, as shown in Exhibit 1, based on the text of the bill and/or current/past practice for those categories of costs.

**Exhibit 1**  
**Quantified Costs of the Bill**

<u>Category</u>	<u>State/ Local Cost</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Sending applications	Local	\$2,526,000		\$2,240,000		
Data processing center*	50/50	140,000		140,000		
Increased mail-in voting**	50/50	202,000	\$202,000	348,000	\$348,000	-
Written communications to permanent absentee ballot voters	State		50,000	88,000	101,000	\$120,000
Programming	Local	60,000				
SBE staff person	State	98,000	88,000	91,000	94,000	97,000
Usability review	State	25,000				
<b>Total</b>		<b>\$3,051,000</b>	<b>\$340,000</b>	<b>\$2,907,000</b>	<b>\$543,000</b>	<b>\$217,000</b>
<b>State Total</b>		<b>\$294,000</b>	<b>\$239,000</b>	<b>\$423,000</b>	<b>\$369,000</b>	<b>\$217,000</b>
<b>Local Total</b>		<b>\$2,757,000</b>	<b>\$101,000</b>	<b>\$2,484,000</b>	<b>\$174,000</b>	<b>-</b>

\* This represents a minimum cost, based on costs incurred for a data processing center used for the 2020 general election, which partially relied on assistance from other agencies that may not be available in the future.

\*\* These quantified costs in fiscal 2022-2025 only account for an assumed increase in mail-voting resulting from sending mail-in ballot applications to each eligible voter before the statewide primary elections in 2022 and 2024. The level of mail-in voting may also increase if voters request permanent absentee ballot status and then vote by mail in future elections as a result, when they otherwise may have voted in person or not voted. For context, for every 1% of overall voter turnout in the 2024 primary and general elections that is by mail (with ballots mailed to voters rather than sent through the Internet) instead of in person as a result of the permanent absentee ballot list, State general fund and local government expenditures each increase by approximately \$11,500 in fiscal 2024 (primary election) and \$23,500 in fiscal 2025 (general election) due to mailing and postage costs. The amount in fiscal 2026, above, is shown as indeterminate (“-”) to reflect the potential for such an increase in the level of mail-in voting, as a result of the permanent absentee ballot list, to also occur for the 2026 and future elections.

*Other Local Impacts*

Local boards of elections are expected to experience other fiscal impacts beyond those accounted for above, including increased personnel, office/sorting equipment or supplies, and building space costs, to manage increased processing/canvassing of mail-in ballot applications and mail-in ballots, and communication with voters, based on information

provided by a number of local boards of elections. These costs have not been fully quantified, but may be significant, especially in larger jurisdictions. A number of small- to medium-sized counties have indicated they expect to incur additional costs, for personnel alone (not accounting for equipment, supplies, or space), ranging from \$11,000 to \$52,500 per year.

Local boards of elections may also incur additional costs to meet the bill's security requirements for ballot drop boxes, including costs to purchase and install security cameras, if security for any ballot drop boxes would not otherwise meet those requirements. For other legislation, Montgomery and Calvert counties provided estimated costs of \$5,800 and \$2,300, respectively, to purchase and install a security camera to monitor a ballot drop box.

### *Offsetting Savings in In-person Voting Costs*

Depending on the extent to which mail-in voting increases under the bill, costs associated with in-person voting, such as voting system costs and election judge costs, may decrease in future years because of a lower level of in-person voting and/or any consolidation of polling places. However, it is unclear whether, or to what extent, such decreases in costs will occur. *For illustrative purposes only*, a 5% decrease in voting system and election judge costs results in an estimated decrease in State general fund expenditures of approximately \$265,000 annually (reflecting a decrease in SBE's share of voting system costs) and an estimated decrease in local government expenditures of approximately \$765,000 annually (reflecting a decrease in the local boards' share of voting system costs and the local boards' election judge costs).

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## **Additional Information**

**Prior Introductions:** SB 333 of 2019 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. HB 119 of 2019 received a hearing in the House Ways and Means Committee, but no further action was taken. Similar legislation was also introduced in the 2010 and 2011 sessions.

**Designated Cross File:** None.

**Information Source(s):** State Board of Elections; Allegany, Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Frederick, Harford, Kent, Montgomery, Prince George's, Somerset, Talbot, Washington, and Worcester counties; Department of Legislative Services

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