

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader - Revised

Senate Bill 29 (Senator Kramer)
 Education, Health, and Environmental Affairs

Election Law - Voting - Elections by Mail, Polling Places, and Early Voting Centers

This bill requires that a vote-by-mail ballot be mailed to each registered voter before each election held under State election law and establishes provisions governing the casting and counting of vote-by-mail ballots. The bill’s provisions replace existing provisions governing voting by mail in special elections. The bill also modifies provisions governing the establishment and operation of polling places and early voting centers. **The bill takes effect June 1, 2021.**

Fiscal Summary

State Effect: Under one set of assumptions, general fund expenditures increase by \$1.39 million in FY 2022 and \$1.50 million in FY 2023, with lesser impacts in subsequent years. Revenues are not affected.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1.39	1.50	0.71	0.84	0.77
Net Effect	(\$1.39)	(\$1.50)	(\$0.71)	(\$0.84)	(\$0.77)

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

Local Effect: Local government expenditures are affected, as discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Vote-by-mail Ballot Sent to Each Registered Voter

The bill requires each local board of elections to send, by nonforwardable mail, a vote-by-mail ballot to each individual who was registered to vote as of the 21st day before the day of each election. The State Board of Elections (SBE) must establish a date, which ensures maximum participation in the election by voters in the State, by which vote-by-mail ballots must be mailed to voters.

The bill includes a vote-by-mail ballot under the definition of “absentee ballot,” under State election law, making it subject to existing law governing absentee ballots.

Casting a Vote-by-mail Ballot

To vote a vote-by-mail ballot, a voter must (1) mark the ballot; (2) sign the return identification envelope supplied with the ballot; (3) if the ballot is a replacement ballot (discussed below), complete, sign, and include the replacement vote-by-mail ballot request form with the returned ballot; and (4) comply with the instructions provided with the ballot, which must include a warning that a person who, by use of force or other means, unduly influences a voter to vote in any particular manner or to refrain from voting is guilty of a misdemeanor and subject to a fine, imprisonment, or both.

A voter may return a marked vote-by-mail ballot to a local board of elections by U.S. mail or by depositing the ballot at the local board office or a location designated by the local board. SBE must (1) in consultation with the local boards of elections, designate locations at which voters may return vote-by mail ballots, and (2) provide local boards with a sufficient number of ballot drop boxes to conveniently serve the voters of the county. Each ballot drop box must be a secure, durable, outdoor container that is used exclusively for voters to deposit completed vote-by-mail ballots in person. A sign stating that a location is an official vote-by-mail ballot return site must be prominently displayed at each location. SBE must adopt regulations specifying the dates and times when the return locations will be open (including a minimum of 13 hours, and until at least 8 p.m., on Election Day) and security requirements for the locations. A vote-by-mail ballot must be received by the local board of elections or deposited at a return location by the deadline established by SBE by regulation. A voter who is at a return location by 8 p.m. on Election Day must be allowed to deposit the ballot. A vote-by-mail ballot that is postmarked on or before Election Day must be considered timely. In accordance with existing provisions applicable to absentee ballots, a duly authorized agent may pick up and deliver an individual’s vote-by-mail ballot.

Requesting a Replacement Vote-by-mail Ballot

The bill establishes procedures for an individual to request a replacement vote-by-mail ballot if a ballot mailed to the individual was destroyed, spoiled, lost, or not received by the voter, including requirements that the local board (1) verify that a vote-by-mail ballot has not been returned by the voter; (2) note in the election registry that the voter has requested a replacement ballot; (3) mark the return identification envelope to identify it as a replacement ballot; and (4) issue the replacement vote-by-mail ballot and a replacement vote-by-mail ballot request form.

Counting of a Vote-by-mail Ballot

A vote-by-mail ballot is counted only if (1) the ballot is returned in the return identification envelope; (2) the return identification envelope is signed by the voter to whom the ballot was issued; and (3) if the ballot is a replacement ballot, the replacement vote-by-mail ballot request form was completed, signed, and included with the returned replacement ballot.

SBE must adopt regulations authorizing a local board of elections to begin tabulating vote-by-mail ballots before Election Day. The bill also authorizes SBE to adopt regulations requiring a local board to verify the signature of a voter on the return identification envelope by comparing the signature with the signature on the voter's registration record.

State Board of Elections Regulations

The bill requires SBE to adopt regulations to carry out the bill's vote-by-mail provisions. The regulations must include best practices for the administrative, technological, legal, security, and fiscal requirements of conducting elections by mail.

Polling Place Requirements

The bill modifies existing requirements applicable to polling places and early voting centers by eliminating requirements that a polling place (1) be located as conveniently as practicable for the majority of registered voters assigned to the polling place, and (2) be in the precinct that the polling place serves unless no suitable location for a polling place can be found within that precinct, in which case the polling place can be established in an adjacent precinct. In place of those requirements, under provisions that early voting centers must also comply with, the bill establishes that polling places must (1) be geographically dispersed throughout the county to ensure convenient access for the voters of the county, and (2) allow any registered voter in the county to cast a regular ballot. The bill repeals a requirement that each local board designate a polling place for each precinct in the county, and instead requires each local board to designate a number of polling places not less than the number of polling places established in the county in the 2020 general election, but

subject to that limitation, review and make a determination of the appropriate number of polling places before each Statewide election.

Applicability

The bill's provisions apply to the statewide primary election held in 2022 and each election thereafter.

Replacement of Voting by Mail in Special Elections

The bill's provisions replace existing provisions governing voting by mail in special elections, including provisions allowing for in-person voting to be limited (with a certain exception in Montgomery County) to as little as one voting center (but open for at least seven days) in a vote-by-mail special election.

Report on Implementation

SBE must report to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means by December 1, 2021, on the implementation of the bill.

Current Law:

Elections, in General

State law generally requires establishment and operation of polling places for elections. Maryland voters also have the option of voting at an early voting center prior to Election Day or by absentee (mail-in) ballot, as alternatives to voting at a polling place on Election Day. An individual must request an absentee ballot. 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.

Voting by Mail in Special Elections

Chapter 677 of 2012 authorized county council special elections in Montgomery County to be conducted by mail, and Chapters 197 and 198 of 2013 expanded those provisions to apply to special elections to fill a vacancy in the office of representative in Congress, special elections to fill a vacancy in a county council, and other specified local special elections statewide. Pursuant to a constitutional amendment (Chapter 261 of 2014) adopted by the voters at the November 2014 general election, special elections for a county executive vacancy may also be conducted by mail.

In a special election conducted by mail, a vote by mail ballot is mailed to each registered voter who is eligible to vote in the special election. The completed ballot must be mailed by the voter on or before the day of the special election or returned to the local board of elections office in person by 8 p.m. on the day of the special election. At least one voting center is also made available, in a special election conducted by mail, for those who choose to vote in person.

Polling Places

Subject to certain limitations, State law authorizes local boards of elections to (1) create and alter the boundaries for precincts in the county; (2) designate the location for polling places in any election district, ward, or precinct in the county; and (3) combine or abolish precincts. Each local board must designate a polling place for each precinct in the county. Among other requirements, each polling place must (1) be located as conveniently as practicable for the majority of registered voters assigned to the polling place and (2) be in the precinct that it serves unless no suitable location for a polling place can be found within the precinct, in which case the polling place can be established in an adjacent precinct.

State and Local Fiscal Effect:

Ballots, Voting System, and Pollbooks

Implementing the bill is expected to have various impacts on State and local election administration costs. **Exhibit 1** estimates some of the larger potential fiscal impacts of the bill: (1) mailing the vote-by-mail ballots to voters; (2) paying for return postage on those ballots returned through the mail; (3) reduced costs for the voting system and electronic pollbooks resulting from a decrease in in-person voting; and (4) increases in in-person ballot costs due to conducting in-person Election Day voting through polling places which serve any voter in the county rather than only a smaller number of voters assigned to the polling place. The following assumptions were made in calculating the impacts shown in Exhibit 1:

- in the absence of the bill, mail-in voting consists of 20% of overall turnout in future elections;
- the per ballot costs to send vote-by-mail ballots to voters, under the bill, are similar to those paid for the 2020 general election;
- ballot drop boxes are used by voters to return vote-by-mail ballots at a similar rate as in the 2020 general election (reducing prepaid return postage paid by SBE and local boards of elections); and
- a lower level of in-person voting and/or consolidation of polling places reduces the need for voting system equipment and electronic pollbooks, reducing the following

contracts/purchases by the following percentages: (1) voting system lease – 25% (beginning in fiscal 2024, as mentioned below); (2) voting system staffing – 40%; (3) voting system transportation – 40%; and (4) an upcoming new electronic pollbooks purchase (over the course of fiscal 2022 to 2024) – 40%;

- the number of ballot cards (individual ballots may have two cards) that need to be purchased for in-person voting increases by at least 5 million for each election (at a cost of \$0.20 per ballot card); this assumes that individual ballot styles are created for each precinct (to allow for results to be reported by precinct), similar to the 2020 general election, and each polling place, under the bill, will need to stock all ballots styles in the county to be able to provide ballots to voters from any precinct in the county; and
- the ballot drop boxes purchased in 2020 are used in future elections even in the absence of the bill and this bill does not explicitly require purchase of additional ballot drop boxes.

The estimate in Exhibit 1 assumes there is no significant decrease in voting system lease costs in fiscal 2022 and 2023 (roughly the period that coincides with the recently approved two-year renewal of the voting system lease), because of uncertainty of whether a reduction would be possible in those years.

The assumed percentage reductions in contract/purchase costs listed above are intended to reflect an approximately 50% decrease in the need for precinct voting system equipment and electronic pollbooks (similar to the decrease for the 2020 general election), but reflect more conservative cost reduction assumptions to account for the possibility that costs do not decrease proportionally with the decrease in equipment, particularly in the case of the voting system lease, which consists of more than just the precinct voting equipment.

Exhibit 1
Ballots, Voting System, and Pollbooks
(\$ in Millions)

<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 of Vote-by-mail Ballots	50/50	\$3.62	\$3.69	\$3.60	\$3.71	\$3.81
Prepaid Return Postage	50/50	0.11	0.27	0.20	0.35	0.11
Voting System Lease	50/50			(1.43)	(1.43)	(1.43)
Voting System Staffing	50/50	(1.27)	(1.27)	(1.27)	(1.27)	(1.27)
Voting System Transportation	50/50	(0.68)	(0.68)	(0.68)	(0.68)	(0.68)
New Pollbooks	Local	(3.89)	(2.99)	(2.27)		
In-person Ballots	50/50	1.00	1.00	1.00	1.00	1.00
Net Impact		(\$1.12)	\$0.02	(\$0.84)	\$1.69	\$1.54
Net General Fund Impact		\$1.39	\$1.50	\$0.71	\$0.84	\$0.77
Net Local Impact		(2.51)	(1.48)	(1.55)	0.84	0.77

Other Local Impacts

Local boards of elections are expected to experience other fiscal impacts beyond those accounted for above, including increased personnel and mailing costs to issue replacement ballots and to canvass the vote-by-mail ballots, as well as potential costs of equipment/technology (including for signature verification) and building space to manage the significant volume of vote-by-mail ballots. These costs could not be quantified on a statewide basis for this estimate. Offsetting savings are also expected to be realized, from reduced in-person voting costs (election judge and other costs) to operate a smaller number of polling places.

Of a small number of counties contacted, estimates of increased personnel costs from Allegany, Frederick, and Talbot counties ranged from \$5,000 to \$65,000 for a single election. Montgomery County indicated it would incur more significant costs. The county's costs for temporary staff and overtime in fiscal 2021 (for the 2020 general election) totaled almost \$800,000 more than budgeted. The county expects to incur a cost increase equal to at least some portion of that fiscal 2021 increase (likely several hundred thousand dollars) as a result of this bill, when compared to the level of mail-in voting expected in the absence of this bill, as well as increased postage costs associated with issuing replacement ballots.

The extent to which election judge costs and other in-person voting costs may decrease for jurisdictions under the bill is uncertain. Based on the responses of the counties contacted,

in at least some counties, reductions in in-person voting costs may offset a significant portion of, or outweigh, increased personnel and mailing costs associated with issuing replacement ballots and canvassing the vote-by-mail ballots, but it is unclear how consistently that would occur across all counties.

Special Elections

Exhibit 1 and the discussion of other local impacts above do not account for any special elections that might occur in the future, but similar impacts as those discussed above would apply to special elections, of increased costs to send vote-by-mail ballots and pay for return postage, at least partially offset by a decrease in in-person voting costs. The bill does also, by replacing the current “voting by mail in special elections” law, eliminate the option available under current law to hold a special election with very limited in-person voting (as little as a single voting center), which allows for a greater reduction in in-person voting costs to offset the increase in mail-in voting costs of a vote-by-mail election.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Allegany, Carroll, Frederick, Montgomery, Talbot, and Wicomico counties; Department of Legislative Services

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