

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 329 (Delegate Moon)
 Ways and Means

Election Law - Ballots - Processing and Reporting Procedures

This emergency bill makes changes to State election law relating to (1) the start of absentee ballot processing during an election; (2) a voter’s ability to correct a problem on an absentee ballot envelope; and (3) instances where a local board of elections receives more than one absentee ballot from the same individual or receives an absentee ballot and a provisional ballot from the same individual.

Fiscal Summary

State Effect: General fund expenditures increase by \$29,800 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	29,800	90,500	94,200	96,900	99,400
Net Effect	(\$29,800)	(\$90,500)	(\$94,200)	(\$96,900)	(\$99,400)

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

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

Small Business Effect: None.

Analysis

Bill Summary:

Start of Absentee Ballot Processing

The bill replaces a provision that prohibits a local board of elections from opening any envelope of an absentee ballot prior to 8:00 a.m. on the Wednesday following Election Day with a provision that instead prohibits a local board from accepting, rejecting, opening, or processing any envelope of an absentee ballot before 8:00 a.m. on the day that is eight business days before the first day of the early voting period. The bill also prohibits a local board from canvassing absentee ballots during the early voting period. The bill clarifies that an existing requirement – that a local board prepare and release a report of the unofficial results of the absentee vote tabulation at the end of each day of canvassing – applies after the polls close on Election Day.

Correction of a Problem on an Absentee Ballot Envelope

The bill replaces a requirement that a local board reject an absentee ballot if the voter failed to sign the oath on the ballot envelope with a requirement that the local board reject an absentee ballot if the voter both failed to sign the oath on the ballot envelope *and* failed to correct the omission before 10:00 a.m. on the day that is 10 days after Election Day. The bill also requires a local board – after the commencement of the canvass of absentee ballots – to review the ballot envelope or ballot/return envelope for any omission by the voter.

The State Board of Elections (SBE) must adopt regulations requiring a local board to, as soon as practicable after the date on which it was determined that there is a problem on the ballot envelope, notify the voter of the problem and 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 to the local board 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, including text message, email, an accessible online portal, a mailed form, and an in-person visit to the local board office.

Multiple Ballots Received from the Same Individual

With regard to instances where a local board receives more than one legally sufficient absentee ballot in separate envelopes from the same individual, the bill replaces a requirement that the local board count only the ballot with the latest properly signed oath with a requirement that the local board count only the ballot with the *first* properly signed oath.

The bill requires a local board to count an absentee ballot and reject a provisional ballot cast by the same individual if the local board (1) received the absentee ballot before the commencement of the canvass of provisional ballots and (2) the absentee ballot was legally sufficient when received or the absentee ballot was legally insufficient, and the voter corrected the problem.

A local board must count a provisional ballot and reject an absentee ballot cast by the same individual if the local board received the absentee ballot after the commencement of the canvass of provisional ballots and the provisional ballot is legally sufficient.

Current Law:

Absentee (Mail-in) Ballot Processing/Canvassing

Following an election, each local board of elections must meet at its designated counting center to canvass absentee (mail-in) ballots cast in that election in accordance with the regulations and guidelines established by SBE. “Canvass” means the entire process of vote tallying, vote tabulation, and vote verification or audit, culminating in the production and certification of the official election results. For absentee ballots, the “canvass” includes the opening of any envelope accompanying an absentee ballot and the assembly and review of absentee ballots in preparation for vote tallying.

A local board of elections may not open any envelope of an absentee ballot prior to 8:00 a.m. on the Wednesday following Election Day.

SBE regulations require that local boards of elections start to canvass absentee ballots at 10:00 a.m. on the Thursday after the election and start the second absentee ballot canvass at 10:00 a.m. on the second Friday after an election.

Failure to Sign the Oath on an Absentee Ballot Envelope

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.

SBE regulations require an election director – if an absentee ballot is timely received but the voter did not sign the required oath – to promptly notify the voter and explain how the voter can provide a signed oath and when it must be received in order for the voter’s ballot to be accepted. The election director must notify the voter using the voter’s preferred method of communication indicated on the voter’s form requesting the ballot.

Multiple Ballots Received from the Same Individual

State law requires a local board of elections to reject a provisional ballot if the individual cast more than one ballot for the same election. Under provisions governing canvassing of absentee ballots, State law requires a local board of elections – if the local board receives more than one legally sufficient ballot, in separate envelopes, from the same individual – to count only the ballot with the latest properly signed oath and reject any other ballot.

Pursuant to SBE regulations, if an absentee ballot and provisional ballot are received from the same individual, a local board of elections must reject both ballots.

State Fiscal Effect: General fund expenditures increase by \$29,810 in fiscal 2022. This estimate reflects the cost of hiring an information technology (IT) programmer within SBE (with an assumed start date of April 1, 2022) 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 on the voter’s mail-in ballot envelope through text messaging and an accessible 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 operating expenses. A significant portion of the costs associated with hiring the programmer will be incurred in later fiscal years when the programmer is paid a full year’s salary. For example, in fiscal 2023, general fund expenditures increase by \$90,529.

Position	1
Salary and Fringe Benefits	\$22,997
Operating Expenses	<u>6,813</u>
Total FY 2022 State Expenditures	\$29,810

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

Local Fiscal Effect: While the bill does not require counties to begin processing mail-in ballot envelopes eight business days before early voting, to the extent the bill leads to an expectation that processing of the ballot envelopes will begin at or around that time, in order to have partial mail-in voting results available on or soon after Election Day, expenditures may increase in some counties. For similar legislation, of a small number of counties contacted, Washington County expected its costs to increase by \$10,300 each election, while Baltimore, Carroll, Montgomery, Prince George’s, and St. Mary’s counties did not expect the earlier start of processing of mail-in ballot envelopes to have a material effect on overall costs of processing the ballots.

The bill's other provisions are not expected to materially affect local government finances, assuming a centralized system for communications with voters about a problem on a ballot envelope, by text messaging and an accessible online portal, is developed by SBE.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Baltimore, Carroll, Frederick, Montgomery, Prince George's, St. Mary's, and Washington counties; Department of Legislative Services

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km/hlb

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