

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 594  
Ways and Means

(Delegate Fair)

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**Election Law – Ascertainment of Results – Process**

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This bill requires the Governor – when ascertaining and enumerating the number of votes cast for candidates in an election, for the purpose of declaring presidential electors or congressional candidates to be elected – to ascertain and enumerate the number of votes cast for each candidate consistent with the returns of the election received by the Governor in accordance with provisions requiring the State Board of Elections to certify, deliver, and publish election results. After ascertaining and enumerating the number of votes for candidates, in addition to signing, issuing, and publishing a proclamation, the Governor must issue and transmit a certificate of ascertainment of electors under 3 U.S.C. § 5. **The bill takes effect July 1, 2023.**

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**Fiscal Summary**

**State Effect:** The bill does not affect State finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*State Law*

The Governor must, on receipt of the returns of an election for electors to choose a President and Vice President of the United States or of an election to choose a member of

Congress (1) ascertain and enumerate the number of votes cast for each candidate for President and Vice President of the United States and declare elected the presidential electors of the candidates who receive the highest number of votes and (2) in each contest, ascertain and enumerate the number of votes cast for each candidate voted for as a member of Congress and declare elected the candidate who receives the highest number of votes.

After ascertaining and enumerating the number of votes for candidates, the Governor must sign and issue a proclamation declaring the name of each candidate who is elected and cause the proclamation to be published in newspapers.

### *Federal Law*

Under 3 U.S.C § 5, as amended by the Electoral Count Reform Act of 2022 (ECRA), not later than six days before the time fixed for the meeting of presidential electors, the executive of each state must issue a certificate of ascertainment of appointment of electors, pursuant to applicable laws of the state enacted prior to election day. The executive of each state must transmit the certificate to the Archivist of the United States immediately after its issuance and by the most expeditious method available.

Under 3 U.S.C § 7, as amended by ECRA, the electors must meet and give their votes on the first Tuesday after the second Wednesday in December following their appointment.

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## **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Governor's Office; Secretary of State; Maryland State Board of Elections; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2023  
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