

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 949 (Senator Kagan)
 Education, Energy, and the Environment

Election Law - Canvassing of Absentee Ballots - Preemption by Federal Judicial Action

This emergency bill – if (with regard to the 2026 and 2028 elections) there is federal judicial action regarding timely receipt of absentee ballots that preempts State Board of Elections (SBE) regulations – requires the State Administrator of Elections to establish a uniform tabulation policy for absentee ballots with federal contests to implement and comply with the federal action. The uniform tabulation policy must ensure that votes for nonfederal contests on absentee ballots mailed by Election Day and received in accordance with State regulations are canvassed in accordance with State law and regulations. If implementation of the tabulation policy is required, the State Administrator must notify voters of federal and State ballot receipt deadlines and encourage early ballot return through written notice, a social media campaign, and mass media communications.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$417,500 in FY 2026 and by \$182,000 annually from FY 2027 through 2029. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	417,500	182,000	182,000	182,000	0
Net Effect	(\$417,500)	(\$182,000)	(\$182,000)	(\$182,000)	\$0

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

Local Effect: Local government expenditures increase, collectively, by at least \$492,500 in FY 2026 and by \$182,000 annually from FY 2027 through 2029. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Uniform Tabulation Policy

The bill requires that – if there is an occurrence of federal judicial action regarding the timely receipt of absentee ballots with federal contests that preempts regulations adopted by SBE – the State Administrator of Elections must, for the primary election and general elections in 2026 and 2028, establish a uniform tabulation policy for absentee ballots with federal contests to implement and comply with the federal action.

The uniform tabulation policy must ensure that the votes for all other contests except federal contests on an absentee ballot – that was mailed by Election Day, as verified by the postmark, and received by a local board of elections office in accordance with SBE regulations – are canvassed in accordance with State law and regulations.

Notice Requirement

If a federal judicial action requires implementation of the tabulation policy, the bill requires the State Administrator to provide additional notice to voters in the State of the requirements (1) under federal law for the timely receipt of absentee ballots with federal contests and (2) under State law for the timely receipt of absentee ballots with State and local contests.

The notice must, at a minimum, encourage an early return of absentee ballots by urging voters to (1) mail the ballot at least one week before Election Day or (2) place the ballot in an official ballot drop box by Election Day. The State Administrator must use multiple methods to provide the notice, including written notice with instructions for sample ballots and ballots, a social media campaign, and mass media communications.

Current Law: Each local board of elections must meet at its designated counting center to canvass absentee ballots cast in that election in accordance with the regulations and guidelines established by SBE. Promptly after receipt of an absentee ballot, a local board must review the ballot envelope or ballot/return envelope for the omission of the voter's signature on the oath. A local board must record the receipt of an absentee ballot in the statewide voter registration system and make the information available through SBE's [free access system](#) as soon as practicable, but not later than two business days after receipt

of an absentee ballot provided by mail or four business days after receipt of an absentee ballot provided through the Internet or by facsimile transmission.

A local board must begin processing absentee ballots on the day that is eight business days before the first day of early voting. The State Administrator may grant a waiver from this requirement if a local board seeks a determination by the State Administrator that early canvassing is not (1) necessary due to the low number of absentee ballots received by the local board or (2) practicable due to limited resources or other constraints on the local board. A local board may not delay the commencement of the canvass to await the receipt of late-arriving, timely absentee ballots.

A local board may conduct vote tallying (recording of votes cast by individual voters on a certified voting system) when absentee ballots are processed; however, a local board or an employee of a local board is prohibited from conducting absentee ballot vote tabulation (aggregation of votes to produce vote totals) before the polls open on Election Day.

An absentee ballot must be deemed timely received if it is received in accordance with the regulations and guidelines established by SBE; however, an absentee ballot that is received after the deadline specified by the regulations and guidelines may not be counted.

Under SBE regulations, an absentee ballot is considered timely only if the ballot:

- is received by the local board office before the polls close on Election Day;
- is received by a polling place before the polls close at that polling place on Election Day;
- is deposited into a ballot drop box before the polls close on Election Day;
- (1) is received by the local board office from the United States Postal Service (USPS) or a private mail carrier on or before 10 a.m. on the second Friday after an election and (2) was mailed by Election Day, as verified by a postmark of USPS, an Army Post Office, a Fleet Post Office, or the postal service of any other country or by the voter's affidavit that the ballot was completed and mailed by Election Day, if the return envelope does not contain a postmark or the postmark is illegible; or
- is received by an early voting center before the polls close at that polling place on the last day of early voting.

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 (1) as soon as practicable but not later than

three business days after the election director determines that the voter failed to sign the oath, notify the voter that the voter did not sign the oath and (2) explain how the voter can provide a signed oath and when the signed oath must be received for the voter's ballot to be accepted. The regulations authorize a voter to provide a signature by email, SBE-approved text application, mail, in-person visit to the local board, or other means offered by SBE.

Beginning after the polls close on Election Day, at the end of each day of canvassing, a local board must prepare and release a report of the unofficial returns of the absentee ballot tabulation.

State Fiscal Effect: General fund expenditures are expected to increase by at least \$417,500 in fiscal 2026 and by \$182,000 from fiscal 2027 through 2029 for the following costs to implement the bill:

- *Additional Ballot Scanners* – SBE advises that additional scanners are needed to allow the tabulation of State or federal contests exclusively. Currently, scanners cannot be reused because they are pre-programmed and must undergo logic and accuracy testing. Newly acquired ballot scanners would be programmed separately to process only State contests on ballots received after the federal deadline. SBE estimates that one-time costs to acquire additional ballot scanners are expected to total at least \$270,000 in fiscal 2026, \$135,000 (50%) of which is paid for by the State, with the other 50% paid by the local boards.
- *Voter Outreach* – SBE indicates that costs to conduct a mass media and social media campaign designed to inform the public of ballot receipt deadline requirements under federal and State law are expected to total \$300,000 in fiscal 2026. Consistent with the State's cost-sharing with the local boards of elections, these costs are assumed to be shared 50/50 between the State and local boards. Similar outreach costs are anticipated in fiscal 2027 through fiscal 2029.
- *Written Notice* – For fiscal 2026, costs are incurred to mail notices to mail-in voters (\$132,500, representing the State's share), assuming a federal judicial action occurs relatively close to the 2026 primary election and written notice is not able to be provided with the mail-in ballots themselves and, for fiscal 2027 (covering the 2026 general election) through fiscal 2029 (covering the 2028 election cycle), costs are incurred to include an additional ballot card in each mail-in ballot packet sent to mail-in voters to provide notice to voters of ballot receipt deadlines (\$32,000, representing the State's share).

Local Fiscal Effect: Expenditures are expected to increase for local boards of elections by at least \$492,500, collectively, in fiscal 2026 and by \$182,000 annually from fiscal 2027 through fiscal 2029 for the following costs to implement the bill:

- *Additional Ballot Scanners* – As described under the State Fiscal Effect, local boards are responsible for 50% (\$135,000) of the one-time minimum cost of \$270,000 to acquire additional ballot scanners needed to process State contests exclusively.
- *Modification of the Statewide Voter Registration System* – SBE indicates that modifications will need to be made to the statewide voter registration system to create a new functionality to record when a voter’s ballot has been canvassed for State contests but not federal contests. One-time development costs are estimated at \$75,000 and are billed to the local boards by SBE in accordance with the cost-sharing structure.
- *Voter Outreach* – As described under the State Fiscal Effect, local board costs are assumed to increase, collectively, by \$150,000 in fiscal 2026 through 2029 for the local boards’ share of voter outreach costs.
- *Written Notice* – As described under the State Fiscal Effect, for fiscal 2026, costs are incurred to mail notices to mail-in voters (\$132,500, representing the local board’s share), assuming a federal judicial action occurs relatively close to the 2026 primary election and written notice is not able to be provided with the mail-in ballots themselves and, for fiscal 2027 (covering the 2026 general election) through fiscal 2029 (covering the 2028 election cycle), costs are incurred to include an additional ballot card in each mail-in ballot packet sent to mail-in voters to provide notice to voters of ballot receipt deadlines (\$32,000, representing the local board’s share).

Additional Information

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

Designated Cross File: HB 1069 (Delegate Fair) - Government, Labor, and Elections.

Information Source(s): Maryland State Board of Elections; Department of Legislative Services

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