

WRITTEN STATEMENT BY JIM SHALLECK AND DAVID NAIMON
Montgomery County Board of Elections
in favor of HB 555 (with amendment)
BEFORE THE HOUSE WAYS AND MEANS COMMITTEE
February 11, 2020

Chairman Kaiser and Members of the Ways and Means Committee:

We write to you as the President and the Secretary of the Montgomery County Board of Elections, on behalf of all of our Board colleagues of both political parties. As you know, our Board members disagree about many subjects, but all of us agree about this legislation.

As we stated in our letter of October 21, 2019, the Montgomery County Board of Elections is unanimously opposed to the implementation of a wireless network of e-poll books in Maryland's six largest counties. We also are concerned about reports of problems with the wireless networking during Tuesday's special election in Maryland's 7th Congressional District, and urge that the network be more fully tested before it is required to be used in *any* Maryland jurisdiction. We appreciate that the State Board announced late last week that the six largest jurisdictions will no longer be required by the State to use the wireless network, and Montgomery County has opted not to use the wireless network. The stated business need for the wireless network is to identify any absentee ballots that have been submitted by voters who also have submitted a provisional ballot in time of the absentee ballot canvass. Our Board of Elections does not need this wireless network to obtain this information in time for the start of the absentee ballot canvass.

We support this legislation because, by allowing the canvass in every local jurisdiction to commence slightly later, the counties would have more time for the preparatory work required before the canvass, eliminating the need for the proposed wireless networking of Election Day precincts – currently only for some of the six most populous jurisdictions. We do not believe it is advisable to have such a system for only six or fewer counties and this legislation could ensure that all counties, uniformly, would not be wirelessly networking the e-poll books on Election Day.

We support HB 555, Del. Mosby's bill, in concept, with an amendment. We recommend that 11-302 (b)(1), Time for opening absentee ballots, be deleted in its entirety and replaced with the following: "A local board may commence the canvass no earlier than 10 a.m. on the Thursday after the election and no later than 10 a.m. on the Friday after the election." This amendment would give local boards the authority to schedule the start of the absentee canvass within a 24-hour period based on local needs, rather than on our being required to commence at 10am on the Thursday after the election, as currently required by COMAR 33.11.04.03. By allowing the Board to commence later, this could give more time for the preparatory work required before the canvass for those who need it, and eliminate the need for the proposed wireless networking of Election Day precincts – only in some of the six most populous jurisdictions – because of the change in the start time.

In addition, this amendment would address an inconsistency in the current language contained in section 11-101(c)(1)(2) and section 11-302(b)(1). According to our Board attorney, section 11-302(b)(1), as currently written, is of no legal effect and is in fact inconsistent with other sections within the Election Law Article. Specifically, while section 11-302(b)(1) currently states that ballots may be opened no earlier than 8 a.m. on the Wednesday after the election, sections 11-101 (C)(1) and (2), Definitions, provide as follows: (C)(1) “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” and (C)(2) reads as follows: “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” (emphasis added). COMAR 33.11.04.03 A(1) currently provides that the absentee canvass “shall start” at 10 a.m. on the Thursday after the election.

Because 11-101 (C)(2) specifically states that the canvass includes opening envelopes, section 11-302(b)(1) has no meaning because the local board cannot open envelopes until the canvass commences. Therefore, we recommend that the current language in 11-302(b)(1) be removed because, when read in context with other statutory sections, it has no meaning. We recommend replacing it with “A local board may commence the canvass no earlier than 10 a.m. on the Thursday after the election and no later than 10 a.m. on the Friday after the election.”

Thank you for your attention to this important issue.