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TO: The Honorable Anne R. Kaiser
Chair, Ways and Means Committee

FROM: Office of the Attorney General

RE: HB 1145 – Election Law; Absentee Ballots; Requests and Signature Verification –
Oppose

The Office of Attorney General (the “OAG”) urges this Committee to unfavorably report HB 1145.

House Bill 1145 would purport to add two significant requirements to the mail-in or absentee voting process in Maryland: First, it would require voters who apply for an absentee ballot to present a proof of identification consistent with the federal REAL ID Act and sign an affidavit attesting to their U.S. citizenship; and second, it would require the voter’s signature on the oath accompanying the returned absentee ballot to be verified by comparing it to both the signature on the voter’s absentee ballot application and the signature associated with the voter’s registration record before the voter’s absentee ballot can be counted. These additional requirements appear to be intended to combat voter fraud – specifically, the fraud that could arise from someone applying for, and casting, an absentee ballot in another voter’s name. But in fact, they are far more likely to result in the exclusion of validly cast ballots than in the prevention of fraudulently cast ballots.

For one, there is no evidence that absentee ballot fraud by voter impersonation occurs on any sort of level that would justify imposing the requirements of HB 1145. We just completed statewide primary and general election in Maryland in which approximately 97%, and 50% of the ballots, respectively, were cast by mail. And yet we did not see complaints of voter impersonation via the absentee ballot process to the Office of the Attorney General. This is evidence that the State Board of Elections’ current practices already sufficiently prevent such fraud from taking place.

On the other hand, the imposition of REAL ID requirements for obtaining an absentee ballot will operate to foreclose absentee voting to the many eligible Maryland voters who lack such identification. These are voters who have already established that they are eligible by registering to vote, yet HB 1145 would deny these voters the opportunity to vote by absentee ballot that is enjoyed by all other Maryland voters. And for those voters who do possess the required identification, signature verification poses a serious threat that valid ballots will be rejected for some number of them. For example, some voters' signature exemplar in their voter registration record may be decades old; many of these voters' signatures may have changed over time. Other voters only have digital signatures entered at MVA kiosks as the exemplar in their voter registration record; how can such signatures be meaningfully compared to "wet" signatures on ballot return envelopes? Still other voters may not even have signatures on file with the board elections. Without question, signature verification requirements will result in the rejection of validly cast ballots. In the absence of meaningful evidence of voter impersonation fraud in connection with the casting of absentee ballots, HB 1145 is unnecessary and would deny Marylanders access to the ballot.

For the foregoing reasons, the Office of the Attorney General urges an unfavorable report on House Bill 1145.

cc: Members of the Ways and Means Committee