



Montgomery County

Office of Intergovernmental Relations

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SB 163

DATE: January 26, 2022

SPONSOR: Senator Kagan

ASSIGNED TO: Education, Health, and Environmental Affairs

CONTACT PERSON: Kathleen Boucher (kathleen.boucher@montgomerycountymd.gov)

POSITION: Support with Amendments

Election Law – Ballots – Processing and Reporting Procedures

Under current State law (§ 11-302 of the Elections Article), a local board of elections is prohibited from starting to canvass (i.e., “open”) any absentee ballot envelope before 8:00 a.m. on Wednesday following Election Day. This bill modifies current law to allow the canvassing of absentee ballots to begin 20 days before Election Day. Specifically, the bill provides that a local board may not “accept, reject, open, or process” an absentee ballot until 8:00 a.m. on the day that is 8 days before the first day of Early Voting. The bill prohibits the “tabulation” of absentee ballot results before Election Day.

The bill adds language to current law regarding the ability of a voter to “cure” a mistake in failing to sign the oath on a ballot envelope to: (1) allow a voter to correct the omission before 10:00 a.m. on the 10th day following Election Day; (2) require a local board, within three days after determining that there was a failure to sign the oath, to notify a voter and provide an opportunity to correct the omission; and (3) outline the methods that may be used by a voter to communicate with a local board to correct the failure. The bill also adds language that outlines procedures to be used in counting absentee ballots and provisional ballots cast by the same individual.

According to the Executive Director of Montgomery County’s Board of Elections, there is confusion among local boards of elections throughout the State as to the meaning of the term “tabulate” and the specific point at which permissible steps in the ballot canvassing process would become part of the impermissible tabulation process. The County is aware that the Maryland Association of Elections Officers and Maryland Association of Counties are working together to develop clarifying amendments regarding this part of the bill and to develop amendments to adjust the timeline and process for curing a mistake in failing to sign the oath on a ballot envelope to make it more practicable for boards to implement.

The County believes that it serves the public interest to allow canvassing of absentee ballots as soon as possible but also believes that the bill needs to be amended as discussed above to avoid unnecessary confusion and allow for smooth implementation of the bill. The County respectfully requests that the Education, Health, and Environmental Affairs Committee vote favorable on the bill with amendments that address these outstanding issues.