



# Maryland Association of Election Officials

Representing the Local Election Boards of the State of Maryland

March 18, 2022

Delegate Vanessa Atterbeary, Chair  
Maryland House Ways and Means Committee  
Room 131, House Office Building  
Annapolis, MD 21401-1991

RE: SB163 - Support

Chair Atterbeary, Vice Chair Washington and Committee Members:

My name is Katherine Berry. I am the Election Director in Carroll County and the chair of the Maryland Association of Election Officials (MAEO) Legislative Committee. MAEO represents the local boards of elections throughout the State of Maryland. I am here today representing myself and MAEO in support of SB163 - Election Law - Ballots - Processing and Reporting Procedures.

As you may recall, the General Assembly passed a law in 2021 that required all registered voters be sent a mail-in ballot application in preparation for the 2022 election cycle. The State Board of Elections (SBE) has sent applications to all registered majority party voters. All remaining voters will be sent applications in a few weeks. As of March 16, the LBEs have received over **256,000** mail in ballot applications. In addition, many voters are requesting to be part of the permanent mail in ballot list, which was also passed by the General Assembly in 2021.

Vote By Mail Statistics from past elections:

- 2020 - 1.6 million MIB requests, 1.5 million MIB voted returned
- 2018 - 120,240 MIB voted returned
- 2016 - 175,374 MIB voted returned
- 2014 - 54,628 MIB voted returned
- 2012 - 150,013 MIB voted returned
- 2010 - 87,813 MIB voted returned

Historically, the gubernatorial primary election averages a 30% voter turnout. The General Assembly expanded early voting in 2021 by adding early voting centers and expanding the hours of operation for early voting. By doing this and sending mail in ballot applications to all registered voters, it gives voters the ability to choose how, when and where they vote. We expect a higher voter turnout during early voting and we have already experienced a higher than average voter request of mail in ballots. We believe expanding pre-election day voting will result in fewer voters who cast a ballot on election day.

Recognizing these changes to the Maryland election process, MAEO would like this committee to consider providing us with the tools to provide notification to the voters that their ballot was counted prior to election day and candidates with election results in a more timely manner. Maryland's election calendar is unique when compared to other states who conduct primarily vote by mail elections because we allow for ballots to be returned up to 10 days after election day. We also are the only state that is forbidden to begin canvassing ballots until after election

day. Allowing for ballots to be tallied maximizes the public's confidence in the process because an auditable paper trail is created to be able to compare the results tapes to the voted ballots without any time between the two processes. If ballots were allowed to be opened, but not scanned, the LBE must secure ballots and envelopes separately creating a physical space concern and public confidence concern.

Today, I would like to outline the canvass process so that all members of the committee may understand the meticulous nature of mail in ballot canvass.

**Before Canvass:**

1. Voted ballot received via mail, drop box or in person
2. LBE staff timestamp ballot envelopes as received
3. LBE staff put ballots into packs of 25 or 50 to make batches
4. LBE staff use the barcode on the outer envelope to give voter credit for voting in statewide registration database
  - For ballots that were sent “web delivery”, LBE staff must review each person's voter registration record to locate ballot tracking number so that they can be given credit for voting if the voter didn't follow instructions and write the ballot tracking number on their envelope.
5. LBE staff visually look to make sure there is a signature on the oath of the outer envelope
  - For ballots that were sent “web delivery”, it will not be known if the oath is included until the canvass when the envelopes can be opened. (Voters must print the oath and include it in their envelope with the voted ballot.
  - If there is no signature or the signature does not match the preprinted name on the envelope, the curing process will occur.
6. Batches are placed into bins that are secured at the LBE until canvass begins. Each batch includes a voter registration database generated header sheet that includes all of the names of the voters who are included and the total number of ballots in the batch.
  - Batches are manually sorted by legislative district and precinct (and by party for primary elections). This assists in maintaining organization and preparation for if a recount were to occur.
  - Some LBEs use a “Canvass Header Sheet” and other mechanisms to help maintain organization and accounting during the canvassing process.

**Canvass Process - open to public observation:**

1. LBE staff/election judges/volunteers hired by the LBE take an oath of office if they haven't already done so for the election cycle
2. Each LBE staff/election judges/volunteers is given a batch to begin separating the ballots from the envelopes.
  - Some LBEs have automatic envelope slicers and other LBEs require the person to open the envelopes manually.
  - Regarding organization of teams during canvass, refer to COMAR 33.08.04.02: A. Appointment; Composition.
    - (1) The local board shall:
      - (a) Appoint special teams to perform various functions during the

- canvass; and
- (b) Assign an identification number to each team.
- (2) To the extent practicable, the teams shall be bipartisan.
- B. Types. The special teams shall include, but not be limited to, one or more:
- (1) Ballot reception teams;
  - (2) Ballot inspection teams;
  - (3) Ballot duplicating teams; and
  - (4) Ballot verification teams.
- C. Responsibilities. The local board shall develop and, with the approval of the State Board, adopt:
- (1) Written procedures on the responsibilities of each special team; and
  - (2) Specific instructions on how to carry out those responsibilities.
3. LBE staff/election judges/volunteers count the amount of envelopes they are given to confirm the number that is pre-filled on the batch header sheet.
  4. LBE staff/election judges/volunteers confirm that there are signed oaths and that the signature matches the name preprinted on the envelope.
    - Any problem with this step will require LBE staff to be alerted so that it can be investigated further by LBE staff and the Board.
  5. LBE staff/election judges/volunteers separate the envelope from the ballot so that two separate piles are made.
    - If the envelope is “web delivery”, they will confirm that there is an oath enclosed. If there is no oath enclosed, they alert LBE staff so that the curing process can occur.
  6. Ballots are flattened and reviewed to ensure there are no “identifying marks” or other problems
  7. LBE staff/election judges/volunteers count ballots and envelopes separately to ensure that the numbers equal
  8. LBE staff/election judges/volunteers alert canvass LBE staff that they have completed the separation.
  9. LBE staff collect the envelopes and ballots.
    - The envelopes are placed in a tray/bin to go back to LBE office
    - Ballots that were mailed to voters are taken to a designated scanning unit so that they can be scanned (vote tallying)
    - Ballots that were “web delivered” must be duplicated before going to the scanning unit.
  10. For ballots that must be duplicated, a bi-partisan team of LBE staff/election judges/volunteers will be assigned a team number and they will be given official blank ballots to begin copying the web delivered ballots onto ballot paper.
    - Example: Team 1 will place “100-O” on the web delivered ballot and “100-D” on the ballot that the web delivered ballot was duplicated to for scanning. If there is ever a challenge or question regarding the duplication process, they can be reviewed together again.
    - Some LBEs manually duplicate the original ballot on a new blank paper ballot, some LBEs use a Ballot Marking Device to duplicate the original ballot.
    - The original ballots are collected and remain at the LBE in a secure location and the duplicated ballots go to the scanning unit for scanning.

11. At the scanning unit, LBE staff/election judges/volunteers scan in the ballots ensuring that each ballot is tallied in the machine by watching the ballot counter on the scanning unit's screen.
  - Large jurisdictions have high speed scanners that are able to scan more ballots than the DS200s in less time.
12. After each day of canvass, LBE staff "close the election" on the scanning unit so that the memory stick can be pulled and secured. A results tape is generated and secured with the memory stick with the election director. No results or tapes are shared with anyone.
  - a. LBE Staff/Election Judges/Volunteers are required to sign a Confidentiality Agreement prior to the start of canvass.
13. Scanning units/high speed scanners are prepared with a new memory stick for the next day of canvass.

### **Maryland State Board of Elections Procedures that LBEs Follow**

The LBEs utilize the SBE processes and procedures as it pertains to the certified voting equipment that they procured. This includes all memory sticks and memory sizes for the scanning units. MAEO supports pre-election canvass to function and follow all procedures written by the SBE in 2020 which includes tabulating and embargoing the results. It is important to point out that in Maryland, election officials in 20 counties are employees of the State and 4 counties are employees of their county government. They are not elected to this position, nor do they have to campaign for the position of running elections like other states such as Colorado, Nevada, Michigan, Georgia and Arizona. We are employees who took an oath to follow all laws and regulations to ensure all ballots are counted and the election is run in a secure manner and to embargo data when required.

If the SBE determines that there is another way to secure election results before election day, it may require LBEs to procure more voting equipment. There are other states that secure election results in a different manner than how Maryland did in 2020, but it would require memory sticks to remain in the tallying equipment until the election can be "closed" on the scanning unit. This process is similar to pulling a memory stick without properly ejecting it in a regular computer and the stick could be damaged. If this were the method that Maryland passed for pre-election canvass, the amount of voting equipment required may exceed what is already in the state's inventory. Voting equipment is assigned to an election day precinct, early voting center, mail in canvass or provisional canvass months in advance of the election and it is more difficult to reassign the voting equipment near the end of the election. Ordering additional voting equipment to assist with a larger expected mail in election must be done about a year in advance of its desired use. Funding by a local board of election budget must be available to place the order. Physical space to store new equipment must be considered. Many LBEs do not have enough space for current amounts of equipment, staff, storage, election judge training, etc.

### **Number of Days to Canvass**

MAEO recognizes that this request creates a new way of thinking and strategizing on voter outreach, campaigning and communicating with the voters. MAEO supports beginning this process 8 business days prior to the beginning of early voting. This allows for local board staff to

focus on one election process at a time because many people who help manage early voting centers also assist or serve on the canvass teams. Not canvassing during early voting allows for each process to be managed independently of one another and assists with *easily* ensuring voters are not casting more than one ballot. It also allows candidates to be able to plan for campaign activities at early voting only instead of planning for observers at canvass concurrently.

MAEO **does not** encourage canvass to be allowed *only* during the 4 days between early voting and election day because local staff must prepare the electronic pollbooks for election day and, depending upon the size of LBE, there aren't enough staff to be able to do both processes concurrently. Local staff are executing transportation plans and supply pick up by election judges for election day, and assisting election judges to set up polling places the day before the election. The days in between encourage database security and assurance that voter data is as accurate as possible on election day in the pollbooks.

In 2020, LBEs were able to begin canvass 10 days prior to the start of early voting. During each of those 10 days, counties created their own canvass schedules and conducted canvass throughout the period. One of the biggest advantages to beginning this process was providing voters with notification that their ballot had been counted. Voters are notified of the status of their mail in ballots, which helps to instill confidence in the voting experience. In 2020, the staff encountered voters who contacted the local office because they didn't understand why their mail-in ballot hadn't been counted yet and some were extremely confused when they were told that their ballot couldn't be counted until the 2nd or 10th day after election day. Allowing for as many voter's ballots to be counted and included in election night results will provide more confidence in how Maryland conducts its elections.

#### **County Canvass Before Early Voting in 2020**

October 12, 2020 - 6 counties  
October 13, 2020 - 7 counties  
October 14, 2020 - 6 counties  
October 15, 2020 - 9 counties  
October 16, 2020 - 7 counties  
Saturday, October 17, 2020 - 5 counties  
Sunday, October 18, 2020 - 3 counties  
October 19, 2020 - 11 counties  
October 20, 2020 - 9 counties  
October 21, 2020 - 11 counties

Many ballots were returned prior to the start of early voting, so these days were beneficial. Below is a sampling of approximate numbers of ballots received before early voting began and after early voting began in 2020.

	<b>Total Ballots Received Before EV</b>	<b>Total Ballots REceived After EV</b>
Allegany	over 6,000	over 2,900
Anne Arundel	over 83,000	over 56,000
Balt Co	over 92,000	over 104,000
Calvert	over 12,000	over 8,800
Caroline	over 1,400	over 2,200
Carroll	over 21,000	over 13,000
Cecil	over 7,800	over 6,400
Charles	over 22,000	over 18,000
Dorchester	over 2,700	over 2,200
Harford	over 28,500	over 20,900
Kent	over 2,800	over 1,000
Montgomery	over 178,000	over 169,000
St. Mary's	over 8,000	over 14,900
Talbot	over 3,600	over 5,000
Washington	over 12,000	over 8,600

**Provisional Ballots and Receiving 2 Voted Ballots**

MAEO would like to recognize and thank Delegate Feldmark for the bill she submitted in 2021 and this year regarding counting and rejecting cases where two ballots arrive for the same voter. We would like to recommend that the committee amend this bill with Delegate Feldmark’s HB862 language to clarify this process. We support the ability to count one of the ballots instead of rejecting both ballots. Delegate Feldmark’s testimony on HB862 outlined all of the concerns and addressed how the process would be handled.

Additionally, as a point of information, when a voter is given an application for a provisional ballot, they are given a 2-page document of instructions and information about provisional ballots. Included are instructions for finding out if their provisional ballot was counted or rejected. Local boards do not notify voters of the status of their provisional ballots because the instructions guide the voter on how they can get this information.

### **Signature Curing and Verification**

The LBEs had great success managing the signature curing aspect of the onslaught of mail in ballots in 2020. Voters were given the opportunity to provide their signature no later than 10 days after election day. In many instances, staff were calling and emailing voters on a daily basis and mailing copies of the oath on the voter's envelope for them to sign. This bill would codify this practice. On behalf of the SBE, we would like to ask that text messaging and online portal capabilities not be considered for this emergency legislation because technology is not in place to enact these advancements. This may be considered during a future General Assembly session.

Local board staff, the canvass teams and board members take time to review the signature on the envelope to ensure it matches the pre printed name on the ballot envelope oath. If there are any questionable signature situations, the Governor appointed Board members will discuss and take appropriate board action in deciding whether to accept or reject the ballot.

### **Precinct-Level Results**

MAEO's first encounter with precinct-level ballots occurred in 2020. The only way that we are able to produce results by precinct is to create a unique set of ballot styles for each precinct in the state. Since the voting system requires voting on paper ballots, the only way of ensuring voters get the right ballots during an election is to have these unique ballots all printed and labeled by precinct making them available in paper form. Some counties will experience near or over 1,000 versions of ballots at their early voting centers. Carroll County, a medium size county will have around 150 versions of ballots. This volume of ballots may result in a reduction of usable space in early voting centers due to ballot carts, a longer ballot delivery time per voter at the ballot issuance station, and possibly longer lines. Ensuring the voters receive the correct ballot is going to be critical. An increased number of election judges to manage such tasks may be required while being mindful of social distancing.

### **Post-Election Timeline**

In previous elections, candidates have come to expect early voting and election day results to be released on election night. This had always been the highest vote totals, so it provided a general idea of winner status while recognizing there were still a small percentage of ballots left to count - mail-in and provisional ballots. Beginning in 2022, in some counties, we may experience a higher percentage of mail in ballots than in-person voting. If mail in ballots cannot be canvassed until after election day, election night results may not provide as clear of an outcome as with previous elections. Voters may also express frustration with the process when they realize their ballot won't be counted until after election day.

As it pertains to the election calendar which is dictated through the law, it should be noted that a larger number of mail in ballots will result in more days of canvass or longer days of canvass. There are other pieces of pending legislation including changes to post-election audits that could create additional challenges for ensuring that our local candidates are sworn into office by December 1, 2022. We also have to take into consideration if a recount were to be needed and the process and canvass of provisional ballots.

MAEO strongly urges this committee to support SB163 to provide the LBEs the ability to begin the planning and implementation phase of mail in voting for the citizens of Maryland. We recognize that this election year is turning out to be quite unique and with many challenges, but we are hopeful that the General Assembly will stand behind election officials to provide the tools that we need to continue having successful elections. We would like to thank the committee for their time and encourage that if you have questions to reach out to Katherine Berry at [katherine.berry@maryland.gov](mailto:katherine.berry@maryland.gov) or (410)386-2958.