

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 555
Ways and Means

(Delegates Mosby and Cain)

Education, Health, and Environmental Affairs

**Election Administration – Absentee Ballot Canvass and Moratorium on Use of
Wireless Network**

This emergency bill changes the time when absentee ballot envelopes can first be opened by a local board of elections following Election Day. The time is changed from 8 a.m. on the Wednesday following Election Day to 9 a.m. on the Friday following Election Day. The bill also prohibits the use of a wireless wide area network or a Long Term Evolution cellular network to transmit data from the electronic poll books used in precinct polling places on Election Day to the State Board of Elections (SBE) or the local boards of elections during an election that is held before January 1, 2021.

Fiscal Summary

State Effect: The bill is not expected to affect State finances, as discussed below. Revenues are not affected.

Local Effect: Local government expenditures may be affected, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: Following an election, 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 the State Board of Elections (SBE). “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. 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.

A local board of elections may not open any envelope of an absentee ballot prior to 8 a.m. on the Wednesday following Election Day.

SBE regulations require that local boards of elections start to canvass absentee ballots at 10 a.m. on the Thursday after the election and start the second absentee ballot canvass at 10 a.m. on the second Friday after an election.

Background: Prior to the 7th Congressional District special primary election on February 4, 2020, SBE had planned to establish a wide area network (WAN) at polling places in the State’s six largest jurisdictions (Baltimore City and Anne Arundel, Baltimore, Howard, Montgomery, and Prince George’s counties) for the 2020 elections, including the 7th Congressional District special primary election on February 4 and the April 28 regular primary election (since postponed to June 2). The WAN would connect the electronic pollbooks at the polling places to SBE’s server. The primary reason for the WAN was to allow for pollbook information to be transmitted to SBE in real time during Election Day to allow for more time to complete administrative processes that need to occur prior to the start of the absentee ballot canvass on the Thursday after Election Day.

However, during the February 4 special primary election, toward the end of the day, a small number of voters encountered delays as a result of electronic pollbooks slowing down. The delays were determined to be associated with the WAN and the network was subsequently shut down for the rest of the day. In materials prepared for SBE’s February 27, 2020 meeting, SBE staff indicated that the cause of the delay had been identified and a fix for it was being tested. However, SBE staff indicated that did not alter their decision, that was made soon after the February 4 election (as a result of the delays that were encountered), to not require the six jurisdictions to use the WAN for the 2020 regular primary or general elections, in order to ensure voter confidence. The local boards of elections in those jurisdictions, however, can choose to use the WAN and connect to SBE’s server in some or all polling places. In polling places that do not connect to SBE’s server, the routers purchased for the WAN will be used to create a wired connection between the electronic pollbooks within each polling place.

State Fiscal Effect: While the bill eliminates the primary reason for the WAN (by delaying the start of the absentee ballot canvass) and establishes a moratorium on the use of the WAN for the 2020 elections, it does not appear that those changes will result in savings at the State level. The routers associated with the WAN are in the possession of the local boards of elections and/or SBE and have gone through acceptance testing. In addition, a number of the routers have been used, in the 7th Congressional District special

primary election on February 4, 2020. SBE staff has also indicated, as mentioned above, that the routers that are not used for the WAN during the 2020 elections will be used to create a wired connection between the electronic pollbooks within each polling place. Therefore, it appears likely that the cost of the routers will be incurred regardless of whether or not the bill is enacted.

The cost of the routers associated with the WAN for Election Day polling places is \$1.81 million. The Governor's proposed fiscal 2021 budget initially included \$1.95 million in special funds (local board of elections payments) to cover the cost of routers both for Election Day polling places and for early voting centers. The Governor's Supplemental Budget No. 1, however, replaced the \$1.95 million in special funds with \$1.95 million in federal election security funding, to cover the cost of the routers.

Local Fiscal Effect: Local government expenditures may decrease in fiscal 2020 and 2021 in certain counties to the extent, in the absence of the bill, one or more of the six jurisdictions that have the Election Day polling place routers choose to use the WAN and connect some or all polling places in the jurisdiction to SBE's server, requiring payment of service provider fees. Under the moratorium, those service provider fees are not incurred in fiscal 2020 and 2021. The service provider fees are expected to be at most approximately \$135 per polling place, per primary or general election.

Some local boards of elections may incur additional overtime costs if starting the absentee ballot canvass on Friday instead of Thursday causes a local board of elections' to incur additional overtime costs associated with completing the canvass during weekend hours. Howard County, for example, indicates its costs may increase by up to \$3,000 per election for overtime, while other counties (Anne Arundel and Montgomery) do not expect their canvassing costs to be materially affected.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 362 (Senator Kagan) - Education, Health, and Environmental Affairs.

Information Source(s): State Board of Elections; Anne Arundel, Baltimore, Garrett, Howard, Montgomery, and Prince George's counties; Department of Legislative Services

Fiscal Note History:
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