

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 936 (Senator Hayes, *et al.*)
Education, Health, and Environmental Affairs

Election Administration - Duties of State Administrator, Local Boards of
Elections, and Election Directors and Cybersecurity Requirements

This bill establishes requirements applicable to the State Administrator of Elections, local boards of elections, and local election directors relating to (1) State Administrator oversight of local election directors; (2) local board of elections cybersecurity measures; and (3) notification by local boards of elections of security violations or significant attempted security violations.

Fiscal Summary

State Effect: None. The bill does not directly affect State finances.

Local Effect: Local government expenditures may increase in certain jurisdictions to implement and maintain cybersecurity measures, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Oversight of Local Election Directors

The bill adds, to the State Administrator of Elections' statutory authority and responsibilities, a requirement that the State Administrator exercise disciplinary authority over the local election directors for noncompliance with State rules, regulations, and policies.

The bill also requires that an appointment of a local election director by a local board of elections, to manage the operations and supervise the staff of the local board, be made in consultation with the State Administrator.

The bill changes specified statutory *authority* of an election director to instead be statutory *responsibilities* and makes those responsibilities subject to the policies and guidance of the State Administrator in addition to those of the local board.

Local Board of Elections Cybersecurity Measures

The bill includes among the local boards of elections' statutory responsibilities a requirement that the local board provide cybersecurity measures required by the State Administrator. The bill requires the State Administrator to instruct the local boards on the cybersecurity measures and clearance required to have access to the statewide voter registration list. The bill requires an election director to ensure that the equipment used by the employees of the local board meets all applicable cybersecurity requirements.

Notification of Security Violations or Significant Attempted Security Violations

Under provisions requiring specified reporting/notification by the State Administrator and election service providers of security violations or significant attempted security violations, the bill requires a local board of elections – if it knows that a security violation or significant attempted security violation has occurred involving an election system owned, operated, or maintained by the local board – to notify the State Administrator in writing within 24 hours after becoming aware of the security violation or significant attempted security violation. The bill also requires the election director to ensure that the notice is given.

“Security violation” means the incident categories defined by the Department of Information Technology (DoIT) in the State information security policy. “Significant attempted security violation” means an attempt to commit a security violation that (1) is known to have been committed by a foreign government or agents of a foreign government or (2) the State Administrator considers to be of particular significance or concern.

Current Law:

State Administrator's Authority and Responsibilities

Among other statutory authority and responsibilities of the State Administrator, the State Administrator is the chief State election official and supervises the operations of the local boards of elections.

With respect to the statewide voter registration list, the State Administrator must, among other things, instruct the local boards on (1) processing voter registration applications and name and address changes; (2) entering voter registration information into the statewide voter registration list; and (3) removing from the statewide voter registration list information about voters who are no longer eligible to be registered voters.

Local Boards of Elections' Authority and Responsibilities

Among other statutory authority and responsibilities of the local boards of elections, a local board of elections must (1) appoint an election director to manage the operations and supervise the staff of the local board and (2) maintain an office and be open for business as provided under State election law, and provide the supplies and equipment necessary for the proper and efficient conduct of voter registration and election, including supplies and equipment required by the State Board of Elections (SBE) and office and polling place equipment expenses.

Specified Statutory Authority of Local Election Directors

Subject to requirements of the Election Law Article and the policies and guidance of the local board of elections, an election director may (1) appoint the employees of the local board; (2) train judges of election; (3) give notice of elections; (4) upon the request of an elderly or disabled voter whose polling place is not structurally barrier free, provide an alternate polling place to the voter; (5) issue voter notification cards; (6) receive certificates of candidacy; (7) verify petitions; (8) in consultation with the local board, conduct the canvass following an election; and (9) subject to specified statutory requirements, process and reject absentee ballot applications.

Notification of Security Violations or Significant Attempted Security Violations

Pursuant to Chapter 524 of 2018, the State Administrator must – within seven days after becoming aware of a security violation or significant attempted security violation – submit to DoIT and specified “appropriate persons” a report on each security violation and significant attempted security violation involving an election system (1) owned, operated, or maintained by SBE or a local board of elections or (2) provided, supported, or maintained by an election service provider. “Appropriate persons” are (1) SBE; (2) the Governor; (3) the President of the Senate of Maryland; (4) the Speaker of the House of Delegates; and (5) the Attorney General.

An election service provider (any person providing, supporting, or maintaining an election system on behalf of SBE or a local board of elections) must (1) notify the State Administrator if the election service provider knows that a security violation or significant attempted security violation has occurred involving an election system provided,

supported, or maintained by the election service provider and (2) cooperate with the State Administrator in reporting the violation or attempted violation to DoIT and the appropriate persons.

Local Fiscal Effect: Local government expenditures may increase in certain jurisdictions to implement and maintain cybersecurity measures required by the State Administrator. Local boards of elections with limited staff and resources, in particular, may need to hire information technology personnel to assist in implementing and maintaining the cybersecurity measures. In Kent County, for example, expenditures may increase by approximately \$63,000 on an annual basis, beginning in fiscal 2021, for the salary and fringe benefits of an election information technology specialist.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Baltimore City; Kent, Washington, and Worcester counties; Department of Legislative Services

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Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510