

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 859
Ways and Means

(Delegate Washington, *et al.*)

Election Law - Absentee Ballot Requests, Delivery, and Marking

This bill requires additional identification information to be provided on the absentee ballot application approved by the State Board of Elections (SBE). The bill also limits the methods by which an absentee ballot may be received by a voter (to only by mail or by hand during an in-person transaction). Exceptions are made for specified uniformed services or overseas voters, voters with a disability, and any other voters who would be unable to vote if they could not receive an absentee ballot electronically, in that these individuals still may receive their absentee ballot by the Internet and use the online ballot marking tool to mark their absentee ballot. **The bill takes effect June 1, 2020.**

Fiscal Summary

State Effect: The bill can be implemented with existing resources.

Local Effect: The bill is not expected to materially affect local government finances in most counties, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary:

Identification Information Required on an Absentee Ballot Application

The bill requires a voter who uses the absentee ballot application approved by SBE to provide the same identification information currently required of a voter using the online

absentee ballot application or using any method to request to receive a blank absentee ballot through the Internet, specifically:

- a Maryland driver's license number or Maryland identification card number, the last four digits of the applicant's Social Security number, and other information identified by SBE that is not generally available to the public but is readily available to the applicant; or
- if the applicant is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) or a voter with a disability and does not have a Maryland driver's license or Maryland identification card, the last four digits of the applicant's Social Security number.

Limitation on Methods of Receiving and Marking an Absentee Ballot

The bill limits the methods by which an applicant for an absentee ballot, who qualifies to vote by absentee ballot, may be provided the ballot to (1) by mail or (2) by hand during an in-person transaction (eliminating options of receiving a ballot by facsimile transmission or the Internet). However, if a voter is an absent uniformed services voter or overseas voter as defined in UOCAVA, a voter with a disability as defined in the Americans with Disabilities Act (ADA) who is unable to mark a ballot independently by hand, or any other voter who would be unable to vote if the voter could not receive an absentee ballot electronically, the voter also has the option of receiving the ballot through the Internet.

The bill correspondingly also limits the availability of the online ballot marking tool (used by a voter who requested to have an absentee ballot sent through the Internet) to an absent uniformed services voter or overseas voter as defined in UOCAVA, a voter with a disability as defined in ADA who is unable to mark a ballot independently by hand, or any other voter who would be unable to vote if the voter could not receive an absentee ballot electronically.

Current Law:

Applying for an Absentee Ballot

A voter may request an absentee ballot by completing and submitting:

- the SBE-approved absentee ballot application;
- a form provided under federal law;
- a written request that includes (1) the voter's name, residence address, and signature and (2) the address to which the ballot is to be mailed, if different from the residence address; or
- the accessible, online absentee ballot application provided by SBE.

A voter who uses the online absentee ballot application to request that an absentee ballot be sent by any method or who uses any method to request to receive a blank absentee ballot through the Internet must provide:

- a Maryland driver's license number or Maryland identification card number, the last four digits of the applicant's Social Security number, and other information identified by SBE that is not generally available to the public but is readily available to the applicant; or
- if the applicant is an absent uniformed services voter or overseas voter as defined in UOCAVA or a voter with a disability and does not have a Maryland driver's license or Maryland identification card, the last four digits of the applicant's Social Security number.

Methods of Receiving and Marking an Absentee Ballot

Promptly after receipt of an absentee ballot application, an election director must review the application and determine whether the applicant qualifies to vote by absentee ballot. If the applicant qualifies to vote by absentee ballot, the local board of elections must provide the ballot to the voter by one of the following methods requested by the voter: (1) mail; (2) facsimile transmission; (3) the Internet; or (4) by hand during an in-person transaction.

SBE is authorized to provide an accessible optional online ballot marking tool for use by a voter who requested to have the absentee ballot sent through the Internet. "Online ballot marking tool" is defined to include a system that allows a voter to (1) access a blank ballot through the Internet; (2) electronically mark the ballot with the voter's selections; and (3) print a paper copy of the marked ballot for mailing to a local board of elections. It does not include a system that is capable of storing, tabulating, or transmitting votes or voted ballots by electronic or electromagnetic means through the Internet.

Background: A 2017 audit of SBE by the Office of Legislative Audits (OLA) raised concern about certain methods of requesting an absentee ballot that only required limited, publicly available, identifying information (name, date of birth, and address) from an individual. OLA indicated that this created a risk that an individual or group could submit fraudulent absentee ballots and/or could cause legitimate voters to have to vote by provisional ballot on Election Day (and cause those voters' provisional ballots to be invalidated because an absentee ballot also had been cast).

Local Fiscal Effect: The bill is expected to result in the offsetting expenditure impacts of (1) cost increases to mail additional absentee ballots to voters and (2) reductions in costs associated with canvassing absentee ballots that were sent to voters through the Internet. Canvassing of absentee ballots which voters received through the Internet involves duplicating the ballots received from those voters (printed on regular paper) onto an official

ballot that can be read by the ballot scanner/tabulator, which adds time and associated personnel costs to the canvass. The offsetting cost increases and cost reductions are comparable enough that reasonable differences in assumptions used to estimate the impact can result in net expenditure increases or decreases. However, in either case (net costs or savings), the average annual expenditure impact on individual local boards of elections does not appear to be significant.

Some counties may incur costs in fiscal 2020 to contact voters who have requested absentee ballots for the 2020 general election prior to the bill's effective date and (1) have requested those absentee ballots without providing the identification information required under the bill or (2) have requested that an absentee ballot be sent by a method not available to the voter under the bill. SBE's absentee ballot application allows for a voter to request an absentee ballot for both the primary and general election with a single application and SBE indicates that voters who request an absentee ballot for the primary election customarily do request an absentee ballot for both the primary and general election on the same application. In Montgomery County, whose numbers of absentee voters far exceed those in other counties (representing almost 30% of absentee voters statewide in the last presidential general election), expenditures increase by approximately \$13,000 for temporary clerical staff and mailing costs. A small number of other counties have indicated that contacting absentee voters in their counties could be handled with relatively minimal or no additional costs.

Additional Information

Prior Introductions: HB 706 of 2019 received a hearing in the House Ways and Means Committee, but no further action was taken. Its cross file, SB 919, was referred to the Senate Rules Committee, but no further action was taken. HB 1658 of 2018 received a hearing in the House Ways and Means Committee, but no further action was taken. SB 1126 of 2018 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): State Board of Elections; Anne Arundel, Caroline, Carroll, Frederick, Howard, Washington, and Wicomico counties; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2020
an/hlb

Analysis by: Scott D. Kennedy

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