

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 760
Ways and Means

(Delegate Kaiser)

Election Law - Time for Processing Absentee Ballots

This bill replaces a limitation on when absentee ballots can first be opened by local boards of elections, with new provisions, which allow for local boards to take actions to prepare absentee ballots for tabulation beginning 14 days before Election Day.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: Local government expenditures increase in certain counties, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill repeals a prohibition against a local board of elections opening any envelope of an absentee ballot prior to 8:00 a.m. on the Wednesday following Election Day.

The bill establishes, instead, that during the period beginning 14 days before Election Day, through 8:00 p.m. on Election Day, a local board may take any action to prepare an absentee ballot for tabulation, including (1) removing absentee ballots from their envelopes; (2) reviewing absentee ballots for compliance with the law; and (3) duplicating absentee ballots that are not acceptable for machine tabulation. Under the bill, a local board may not tabulate absentee ballots before the later of (1) 8:00 p.m. on Election Day or (2) a time prescribed by the State Board of Elections (SBE) by regulation.

The bill clarifies that an existing requirement that a local board prepare and release a report of the unofficial results of the absentee vote tabulation at the end of each day of canvassing only applies from the time vote tabulation begins until the completion of the canvass.

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 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 8:00 a.m. on the Wednesday following Election Day.

SBE regulations require that local boards of elections start to canvass absentee ballots at 10:00 a.m. on the Thursday after the election and start the second absentee ballot canvass at 10:00 a.m. on the second Friday after an election. The regulations also establish that an envelope with an enclosed absentee ballot may not be opened until the start of the canvass, though if an oath on the return envelope is covered, a local board may remove the paper covering the oath before the start of the canvass.

Local Fiscal Effect: While the bill does not require counties to begin preparation of absentee ballots for tabulation during the 14 days prior to the election, to the extent the bill leads to an expectation that preparation of absentee ballots for tabulation will begin during that time, in order to have partial mail-in voting results available on or soon after Election Day, certain counties’ expenditures increase. An increase in expenditures occurs if a county would otherwise have regular, full-time staff assisting with the mail-in ballot canvass after the election, but prior to the election those staff are occupied with supporting early voting and other election administration activities and cannot assist with the pre-election day preparation of absentee ballots for tabulation.

Information provided by Caroline County (for similar legislation) and by Worcester County (for this bill) indicates that beginning preparation of absentee ballots for tabulation during the 14 days prior to Election Day will not have a material fiscal impact on those counties. Washington County, however, indicates that its costs increase by \$10,300 each election. Prince George’s County indicates that if the level of mail-in voting remains relatively high in the county, its costs could increase by \$63,800 each election for additional temporary staff (based on an assumption of 150,000 mail-in ballots canvassed). If mail-in voting levels are closer to pre-2020 mail-in voting levels, however, the county indicates the impact may be minimal. Baltimore City expects costs to increase by not more than \$25,000 each election if mail-in voting levels are closer to pre-2020 mail-in voting levels.

Montgomery County expects costs to increase more significantly. The extent to which the county's costs increase is unclear (and dependent in part on the level of mail-in voting) but appears likely to be upward of \$100,000 each election.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Baltimore City; Caroline, Montgomery, Prince George's, Washington, and Worcester counties; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2021
rh/hlb

Analysis by: Scott D. Kennedy

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