

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader - Revised

House Bill 153
 Ways and Means

(Delegates Ivey and Henson)

Election Law - Elections by Mail

This bill requires that a vote-by-mail ballot be mailed to each registered voter before each election held under State election law and establishes provisions governing the casting and counting of vote-by-mail ballots. The bill’s provisions replace existing provisions governing voting by mail in special elections. **The bill takes effect January 1, 2022.**

Fiscal Summary

State Effect: Under one set of assumptions, general fund expenditures increase by \$1.38 million in FY 2022 and \$1.49 million in FY 2023, with somewhat reduced impacts in subsequent years. Revenues are not affected.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1.38	1.49	1.06	1.19	1.11
Net Effect	(\$1.38)	(\$1.49)	(\$1.06)	(\$1.19)	(\$1.11)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government expenditures are affected, as discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Vote-by-mail Ballot Sent to Each Registered Voter

The bill requires each local board of elections to send, by nonforwardable mail, a vote-by-mail ballot to each individual who was registered to vote as of the 21st day before the day of each election. The ballots must be mailed between the 18th day and the 14th day before the day of the election, unless a local board determines that a voter does not receive daily mail service from the U.S. Postal Service, in which case a ballot must be mailed to the voter between the 20th day and the 18th day before the day of the election.

The bill includes a vote-by-mail ballot under the definition of “absentee ballot,” under State election law, making it subject to existing law governing absentee ballots.

Casting a Vote-by-mail Ballot

To vote a vote-by-mail ballot, a voter must mark the ballot, sign the return identification envelope supplied with the ballot, and comply with the instructions provided with the ballot, which must include a warning that a person who, by use of force or other means, unduly influences a voter to vote in any particular manner or to refrain from voting is guilty of a misdemeanor and subject to a fine, imprisonment, or both.

A voter may return a marked vote-by-mail ballot to a local board of elections by U.S. mail or by depositing the ballot at the local board office or a location designated by the local board. Each polling place and early voting center must serve as a location for the return of vote-by-mail ballots and a local board may designate additional locations. A sign stating that a location is an official vote-by-mail ballot return site must be prominently displayed at each location. The State Board of Elections (SBE) must adopt regulations specifying the dates and times when the return locations will be open (including a minimum of 13 hours, and until at least 8:00 p.m., on Election Day) and security requirements for the locations. A vote-by-mail ballot must be received by the local board of elections or deposited at a return location by the deadline established by SBE by regulation. A voter who is at a return location by 8:00 p.m. on Election Day must be allowed to deposit the ballot.

Requesting a Replacement Vote-by-mail Ballot

The bill establishes procedures for an individual to request a replacement vote-by-mail ballot if a ballot mailed to the individual was destroyed, spoiled, lost, or not received by the voter, including requirements that the local board (1) verify that a vote-by-mail ballot has not been returned by the voter; (2) note in the election registry that the voter has

requested a replacement ballot; and (3) mark the return identification envelope to identify it as a replacement ballot.

Counting of a Vote-by-mail Ballot

A vote-by-mail ballot is counted only if (1) the ballot is returned in the return identification envelope; (2) the return identification envelope is signed by the voter to whom the ballot was issued; and (3) the signature is verified by the local board by comparing it with the signature on the voter's registration record in accordance with regulations adopted by SBE.

State Board of Elections Regulations

The bill requires SBE to adopt regulations to carry out the bill's provisions.

Replacement of Voting by Mail in Special Elections

The bill's provisions replace existing provisions governing voting by mail in special elections, including provisions allowing for in-person voting to be limited (with a certain exception in Montgomery County) to as little as one voting center (but open for at least seven days) in a vote-by-mail special election.

Current Law: State law generally requires establishment and operation of polling places for elections. Maryland voters also have the option of voting at an early voting center prior to Election Day or by absentee (mail-in) ballot, as alternatives to voting at a polling place on Election Day. An individual must request an absentee ballot. In-person early voting at early voting centers was first implemented in 2010 and "no excuse" absentee voting (not requiring a reason that a voter cannot vote in person) was first allowed in 2006.

Chapter 677 of 2012 authorized county council special elections in Montgomery County to be conducted by mail, and Chapters 197 and 198 of 2013 expanded those provisions to apply to special elections to fill a vacancy in the office of representative in Congress, special elections to fill a vacancy in a county council, and other specified local special elections statewide. Pursuant to a constitutional amendment (Chapter 261 of 2014) adopted by the voters at the November 2014 general election, special elections for a county executive vacancy may also be conducted by mail.

In a special election conducted by mail, a vote-by-mail ballot is mailed to each registered voter who is eligible to vote in the special election. The completed ballot must be mailed by the voter on or before the day of the special election or returned to the local board of elections office in person by 8:00 p.m. on the day of the special election. At least one voting center is also made available, in a special election conducted by mail, for those who choose to vote in person.

State and Local Fiscal Effect:

Ballots, Voting System, and Pollbooks

Implementing the bill is expected to have various impacts on State and local election administration costs. **Exhibit 1** estimates some of the larger potential fiscal impacts of the bill: (1) mailing the vote-by-mail ballots to voters; (2) paying for return postage on those ballots returned through the mail; and (3) potentially reduced costs for the voting system and electronic pollbooks resulting from a decrease in in-person voting. The following assumptions were made in calculating the impacts shown in Exhibit 1:

- in the absence of the bill, mail-in voting consists of 20% of overall turnout in future elections;
- the per ballot costs to send vote-by-mail ballots to voters, under the bill, are similar to those paid for the 2020 general election;
- ballot drop boxes are used by voters to return vote-by-mail ballots at a similar rate as in the 2020 general election (reducing prepaid return postage paid by SBE and local boards of elections);
- a lower level of in-person voting and/or consolidation of polling places reduces the need for voting system equipment and electronic pollbooks, reducing the following contracts/purchases by the following percentages: (1) voting system lease – 12.5% (beginning in fiscal 2024, as mentioned below); (2) voting system staffing – 20%; (3) voting system transportation – 20%; and (4) an upcoming new electronic pollbooks purchase (over the course of fiscal 2022 to 2024) – 20%; and
- the ballot drop boxes purchased in 2020 are used in future elections even in the absence of the bill, and this bill does not require purchase of additional ballot drop boxes.

The estimate in Exhibit 1 assumes there is no significant decrease in voting system lease costs in fiscal 2022 and 2023 (roughly the period that coincides with the recently approved two-year renewal of the voting system lease), because of uncertainty of whether a reduction would be possible in those years.

The assumed percentage reductions in contract/purchase costs listed above are intended to reflect an approximately 25% decrease in the need for precinct voting system equipment and electronic pollbooks but reflect more conservative cost reduction assumptions in order to account for the possibility that costs do not decrease proportionally with the decrease in equipment, particularly in the case of the voting system lease, which consists of more than just the precinct voting equipment.

Exhibit 1
Ballots, Voting System, and Pollbooks
(\$ in Millions)

<u>Category</u>	<u>State/</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
	<u>Local Cost</u>					
Sending of Vote-by-mail Ballots	50/50	\$3.62	\$3.69	\$3.60	\$3.71	\$3.81
Prepaid Return Postage	50/50	0.11	0.27	0.20	0.35	0.11
Voting System Lease	50/50			(0.71)	(0.71)	(0.71)
Voting System Staffing	50/50	(0.64)	(0.64)	(0.64)	(0.64)	(0.64)
Voting System Transportation	50/50	(0.34)	(0.34)	(0.34)	(0.34)	(0.34)
New Pollbooks	Local	(1.95)	(1.49)	(1.13)		
Net Impact		\$0.81	\$1.49	\$0.98	\$2.38	\$2.23
Net General Fund Impact		1.38	1.49	1.06	1.19	1.11
Net Local Impact		(0.57)	0.00	(0.08)	1.19	1.11

Other Local Impacts

Local boards of elections are expected to experience other fiscal impacts beyond those accounted for above, including increased personnel and mailing costs to issue replacement ballots and to canvass the vote-by-mail ballots, as well as potential costs of equipment/technology (including for signature verification) and building space to manage the significant volume of vote-by-mail ballots. These costs could not be quantified on a statewide basis for this estimate. Offsetting savings may also be realized, from reduced in-person voting costs to the extent a lower volume of in-person voting or consolidation of polling places reduces election judge and other costs.

Of a small number of counties contacted, estimates of increased personnel costs from Allegany, Frederick, and Talbot counties ranged from \$5,000 to \$65,000 for a single election. Montgomery County indicated it would incur more significant costs. The county's costs for temporary staff and overtime in fiscal 2021 (for the 2020 general election) totaled almost \$800,000 more than budgeted. The county expects to incur a cost increase equal to at least some portion of that fiscal 2021 increase (likely several hundred thousand dollars) as a result of this bill, when compared to the level of mail-in voting expected in the absence of this bill, as well as increased postage costs associated with issuing replacement ballots.

The extent to which election judge costs and other in-person voting costs may decrease for jurisdictions under the bill is uncertain. Based on the responses of the counties contacted, in at least some counties, reductions in in-person voting costs may offset a significant portion of increased personnel and mailing costs associated with issuing replacement

ballots and canvassing the vote-by-mail ballots, but it is unclear how consistently that would occur across all counties.

Special Elections

Exhibit 1 and the discussion of other local impacts above do not account for any special elections that might occur in the future, but similar impacts as those discussed above would apply to special elections, of increased costs to send vote-by-mail ballots and pay for return postage, potentially offset by some decrease in in-person voting costs. The bill does also, by replacing the current “voting by mail in special elections” law, eliminate the option available under current law to hold a special election with very limited in-person voting (as little as a single voting center), which allows for a greater reduction in in-person voting costs to offset the increase in mail-in voting costs of a vote-by-mail election.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Allegany, Carroll, Frederick, Montgomery, Talbot, and Wicomico counties; Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2021
rh/hlb Revised - Correction - May 10, 2021

Analysis by: Scott D. Kennedy

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