

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 423 (Delegate Feldmark)
 Ways and Means

Election Law - Voting Systems - Accessibility for Voters With Disabilities

This bill establishes certain voting requirements to ensure that voters with disabilities are provided specified access to voting that is equivalent to access afforded voters without disabilities. Each voter is required to use a ballot marking device that is accessible to voters with disabilities to vote at an early voting center or an Election Day polling place. In addition, a ballot cast by a voter with a disability may not be set apart or distinguishable, in size and form, from a ballot cast by a voter without a disability. These requirements apply to all elections beginning with the 2022 statewide primary election.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$5.4 million in FY 2022, by at least \$5.2 million in FY 2023 and 2024, and by at least \$4.8 million annually thereafter. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	5,400,000	5,200,000	5,200,000	4,800,000	4,800,000
Net Effect	(\$5,400,000)	(\$5,200,000)	(\$5,200,000)	(\$4,800,000)	(\$4,800,000)

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

Local Effect: Local government expenditures increase, collectively, by at least \$5.4 million in FY 2022, by at least \$5.2 million in FY 2023 and 2024, and by at least \$4.8 million annually thereafter. Additional costs, varying by county, are also incurred. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: State law requires the State's voting system to (1) provide access to voters with disabilities that is equivalent to access afforded voters without disabilities without creating a segregated ballot for voters with disabilities; (2) ensure independent, private casting, inspection, verification, and correction of secret ballots by voters with disabilities in an accessible media by both visual and nonvisual means, including synchronized audio output and enhanced visual display; and (3) comply with the Americans with Disabilities Act and the Help America Vote Act. At least one voting system in each polling place on Election Day must provide access for voters with disabilities in compliance with the above requirements.

State Fiscal Effect: General fund expenditures increase by at least \$5.4 million in fiscal 2022, by at least \$5.2 million in fiscal 2023 and 2024, and by at least \$4.8 million annually thereafter, reflecting:

- the State's share of costs to (1) lease sufficient numbers of ballot marking devices (approximately 18,000 more than are currently leased) for all voters to cast ballots on in the 2022 and future elections (\$4.8 million annually); (2) increased costs for transporting voting equipment to and from voting locations (\$0.7 million annually); (3) the cost of equipment carts in which to transport the additional ballot marking devices (\$0.4 million annually for three years, financed); and (4) acceptance testing of the additional ballot marking devices (\$0.1 million in fiscal 2022 only); and
- the State's share of an estimated decrease in ballot costs resulting from using the ballot cards associated with ballot marking devices (which are smaller and not pre-printed) in place of the paper ballots that are marked by hand (a \$0.7 million average annual decrease in expenditures).

The State Board of Elections (SBE) shares voting system costs with the local boards of elections pursuant to Chapter 564 of 2001.

The estimate of the cost of the ballot marking devices is based on the cost of the devices under the State's current voting system, the contract for which currently extends through the 2022 elections. Actual voting system costs associated with this bill may vary from this estimate depending on how costs of the statewide voting system change for the 2024 and future elections.

The estimate does not account for certain costs identified in filings in *NFB v. Lamone*, a lawsuit in the U.S. District Court for the District of Maryland filed in August 2019 against the State Administrator of Elections and members of SBE seeking to require SBE, in all future elections, to offer ballot marking devices to every in-person voter as the default method of voting, with paper ballots offered only to those voters who affirmatively opt out

of using the ballot marking device or in cases where there are long lines of people waiting to vote. The cost of providing ballot marking devices for all voters to vote on was focused on in the consideration of a motion for a preliminary injunction in the case. SBE identified additional costs such as (1) printers that print the ballot access card used in a ballot marking device and (2) tables or stands for the ballot marking devices to rest on while voters vote. Those costs have not been quantified in this estimate due to uncertainty about their magnitude and about whether those costs may be mitigated to at least some extent by vendor discounts resulting from the large volume of ballot marking devices the State would be acquiring. In an SBE filing in the case, however, those costs are quantified at \$2.2 million annually, for the printers, and \$1.9 million annually, for the tables. Those costs would be shared, 50/50, by SBE and the local boards of elections.

Local Fiscal Effect: Local government expenditures increase, collectively, by at least \$5.4 million in fiscal 2022, by at least \$5.2 million in fiscal 2023 and 2024, and by at least \$4.8 million annually thereafter, reflecting the local boards of elections' share of the costs identified above under the State Fiscal Effect section. As mentioned above, this estimate is based on the costs of ballot marking devices under the State's current voting system, the contract for which currently extends through the 2022 elections, and the estimate does not account for certain additional costs identified by SBE.

Local boards of elections are also expected to have additional increased costs, varying by county, associated with the additional ballot marking devices, such as storage costs and costs for information technology personnel to test, prepare, troubleshoot, and maintain the additional ballot marking devices. Washington County, for example, indicates that additional information technology personnel are needed, at a cost of \$156,000 annually, and a new facility may need to be rented in place of current county space in order to store the ballot marking devices. Montgomery County indicates that its costs for information technology personnel increase by \$764,000 annually. For similar past legislation, Anne Arundel County indicated that it would need to spend \$1.2 million to build additional storage infrastructure into the local board of elections' existing facility to store and manage the additional ballot marking devices. The county indicated it could also need to rent additional space. In a filing in *NFB v. Lamone*, SBE estimated that, collectively, 60,500 square feet of additional storage space would be needed by local boards of elections to accommodate the additional ballot marking devices, at a cost of approximately \$850,000 annually if all of the additional square footage is rented from private owners.

Additional Information

Prior Introductions: HB 1314 of 2020 received a hearing in the House Ways and Means Committee, but no further action was taken. Its cross file, SB 757, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 565 of 2019 received a hearing in the House Ways and Means Committee and was referred to interim study. Its cross-file, SB 363, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Designated Cross File: SB 271 (Senator Lam) - Education, Health, and Environmental Affairs.

Information Source(s): State Board of Elections; Garrett, Montgomery, and Washington counties; Department of Legislative Services

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rh/hlb

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