

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 955 (Delegate Washington)
Ways and Means

Election Law – Absentee Ballot Delivery and Marking

This bill 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, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase, due to costs shifted from local boards of elections to the State Board of Elections (SBE), as discussed below. Revenues are not affected.

Local Effect: Local government expenditures decrease, due to costs shifted from local boards of elections to SBE, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: 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 the Uniformed and Overseas Citizens Absentee Voting Act (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: 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.

State and Local Fiscal Effect: The bill is expected to result in the offsetting expenditure impacts of (1) cost increases to mail additional absentee (mail-in) ballots to voters and pay for return postage and (2) reductions in costs associated with canvassing mail-in ballots that were sent to voters through the Internet. Canvassing of mail-in 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.

While it is assumed that the offsetting cost increases and cost reductions are approximately equal, the bill will still shift costs from the local boards of elections to SBE. This is due to the fact that the costs associated with canvassing mail-in ballots are predominantly local costs, while the costs of sending mail-in ballots to voters by mail, and paying for return postage on those ballots (which is not provided for ballots sent through the Internet) are shared 50/50 by SBE and the local boards of elections. Prepaid return postage became a cost of mail-in ballots sent to voters by mail, shared by SBE and local boards of elections, following the enactment of Chapters 36 and 37 of 2020, and the cost of printing and mailing

mail-in ballots to voters, which had been a local cost prior to 2020, became a shared cost in 2020, and that is expected to continue.

Approximately \$0.68 in costs shift from local government expenditures to State general fund expenditures for each mail-in ballot that is no longer sent to a voter through the Internet as a result of the bill. This estimate is based on the following facts and assumptions:

- offsetting cost increases to send more mail-in ballots to voters by mail and cost reductions from fewer mail-in ballots sent to voters through the Internet are approximately equal;
- the currently 100% additional local cost associated with canvassing mail-in ballots that were sent to voters through the Internet – the cost of personnel to duplicate the ballots – is approximately \$1.35 per ballot (based on costs incurred by Montgomery County in 2016) and 50% of that cost is shifted from local government expenditures to State general fund expenditures as a result of those personnel cost reductions (a 100% local cost) being offset by a roughly equivalent increase in costs to send mail-in ballots to voters by mail (a 50/50 State and local cost).

During the 2020 general election, 163,907 ballots were sent through the Internet but that amount is not necessarily indicative of the amount of Internet-delivered mail-in ballots in future elections.

Additional Information

Prior Introductions: HB 859 of 2020, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken. HB 706 of 2019, a similar bill, 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. Similar legislation was also introduced in the 2018 session.

Designated Cross File: None.

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

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