

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1145 (Delegate Cox)
Ways and Means

Election Law - Absentee Ballots - Requests and Signature Verification

This bill requires that specified identification, proof of residency, and an affidavit that a voter is a U.S. citizen be included with a voter's absentee ballot application, and allows for a voter to obtain an identification card at no charge in order to provide identification. The bill also establishes that an absentee ballot cast by a voter may not be removed from its envelope or counted unless it is signed, and the signature is verified in a specified manner. The bill requires local boards of elections to allow a candidate or a representative of a political party central committee to physically inspect signatures on absentee ballot envelopes before beginning the absentee ballot canvass, authorizes a candidate or a political party central committee to challenge the validity of a signature, and requires a challenge to the validity of a signature to be adjudicated by the governing body of the county where the ballot was cast.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues may decrease significantly, beginning in FY 2022, and general fund expenditures may increase by an indeterminate amount in FY 2022, as discussed below.

Local Effect: Local government expenditures increase by at least \$630,000 in FY 2022 for signature verification, with ongoing costs, at a reduced level, in future years. Additional administrative costs are expected to be incurred annually, beginning in FY 2022, as discussed below. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a voter who requests an absentee ballot to include with the voter's absentee ballot application (1) a copy of the voter's driver's license or identification card that is compliant with the federal REAL ID Act; (2) a document that is acceptable as proof of residency for purposes of the federal REAL ID Act; and (3) an affidavit signed by the voter stating that the voter is a U.S. citizen. The bill allows a resident who does not have a driver's license and produces specified documentation to obtain an identification card from the Motor Vehicle Administration (MVA) in order to request an absentee ballot, at no charge.

The bill establishes that an absentee ballot cast by a voter may not be removed from the return envelope or ballot/return envelope, or counted, unless (1) the return envelope or ballot/return envelope is signed by the voter to whom the ballot was issued and (2) the signature is verified. Each local board of elections must verify the signature of a voter on the return envelope or ballot/return envelope by comparing the signature with (1) the signed affidavit of citizenship included with the voter's absentee ballot application and (2) the voter's registration record in accordance with regulations adopted by the State Board of Elections (SBE). The bill requires that guidelines established by SBE for the administration of absentee voting by the local boards of elections provide for verification of signatures on absentee ballot envelopes.

On request by a candidate or political party central committee, a local board of elections must allow the candidate or a representative of the central committee to physically inspect signatures on return envelopes or ballot/return envelopes before beginning the canvass of absentee ballots. A candidate or political party central committee may challenge the validity of a signature on a return envelope or ballot/return envelope, and a challenge must be adjudicated by the governing body of the county where the ballot was cast.

Current Law:

Absentee (Mail-in) Voting

An individual may vote by absentee (mail-in) ballot except to the extent preempted by federal law. An absentee ballot may be requested in writing (there are State and federal forms that can be used) or online through the SBE website. The voter may choose to receive the ballot by mail, by fax, through the Internet, or by hand at a local board of elections office. The voter may return the ballot by (1) mailing it, postmarked on or before Election Day or (2) delivering it in person to an early voting center or to the local board of elections or an Election Day polling place by the close of polls on Election Day.

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 the Uniformed and Overseas Citizens Absentee Voting Act or a voter with a disability and does not have a Maryland driver's license or Maryland identification card, a Social Security number.

Absentee Ballot Envelopes

An absentee ballot sent by mail must be enclosed in specially printed envelopes, the form and content of which must be prescribed by SBE. A local board of elections may use either two envelopes ("outgoing envelope" and "ballot/return envelope") or three envelopes ("outgoing envelope," "return envelope," and "ballot envelope"). The ballot/return envelope or the return envelope must include prepaid postage. When voted and returned to the local board, an absentee ballot must be enclosed in a ballot envelope or ballot/return envelope, which must include an oath prescribed by SBE.

If an absentee ballot is sent by the Internet or facsimile transmission, the local board must provide the voter with an envelope template.

Canvassing of Absentee Ballots

A local board of elections may not reject an absentee ballot except by unanimous vote and in accordance with SBE regulations. A local board must reject an absentee ballot if the voter failed to sign the oath on the ballot envelope. Pursuant to SBE regulations, during the canvass of absentee ballots, before absentee ballot return envelopes are opened, if the oath is not signed on a return envelope, the return envelope must be referred to the local board to rule on.

Observers and challengers are allowed to visually inspect ballots, provisional ballot applications, and absentee ballot envelopes, and the like, at a reasonable distance, but may not touch them. An individual who wishes to bring a challenge regarding an action of the local board on an absentee ballot or provisional ballot application must make the challenge at the time the ballot or application is presented for acceptance or rejection. A candidate or absentee voter aggrieved by the decision of a local board to reject, or not to reject, an absentee ballot has the right to appeal to the circuit court for the county.

State Revenues: Special fund revenues are expected to decrease due to a loss of identification card fees paid to TTF, assuming individuals at least age 18 applying for an identification card assert that they are applying for the card in order to request an absentee (mail-in) ballot. MVA charges a \$24 fee for an identification card and \$20 for a duplicate/corrected card. Based on fiscal 2019 statistics, *for illustrative purposes only*, assuming approximately 51,400 identification cards and 27,000 duplicate/corrected identification cards would otherwise be issued for a fee, TTF revenues decrease by up to \$1.3 million in fiscal 2022, accounting for the bill's October 1, 2021 effective date. Annualized, the revenue decrease totals up to \$1.8 million.

State Expenditures: General fund expenditures may increase in fiscal 2022 to implement the bill's requirement that specified identification, proof of residency, and an affidavit be included with a voter's mail-in ballot application. SBE indicates that programming and/or other costs may be incurred to be able to accept that documentation with an online mail-in ballot application. SBE was not able to provide an estimate of those costs to include in this fiscal and policy note.

Local Fiscal Effect: Local government expenditures increase by at least \$630,000 in fiscal 2022, accounting for personnel and training costs (\$130,000) associated with conducting signature verification, and costs of mail sorting technology (\$500,000) with signature verification features to assist with the signature verification process for larger volumes of mail-in ballots in the largest counties. This estimate assumes that approximately 20% of voter turnout in future elections consists of mail-in ballots and is based on assumptions about necessary personnel, training, and technology costs, informed by communication with a small number of jurisdictions in Colorado and Oregon that currently conduct signature verification. Future-year costs consist of ongoing personnel and training costs (fluctuating by election and different levels of mail-in voting turnout) and ongoing maintenance costs for the mail sorting technology. In fiscal 2023, for example, local government expenditures increase by at least \$345,000, consisting of \$270,000 in personnel and training costs and \$75,000 in ongoing maintenance costs.

Additional costs associated with signature verification, that have not been quantified, may be incurred for modifications to the statewide voter registration system (a cost billed by SBE to the local boards) needed to facilitate signature verification, and information technology personnel costs in counties that purchase the mail sorting machines.

Counties are also expected to incur increased temporary staff and overtime costs for each election, to process the documentation provided with mail-in ballot applications under the bill and to communicate with mail-in voters whose signatures cannot initially be verified.

Montgomery and Prince George's counties, for example, expect to incur approximately \$50,000 and \$80,000, respectively, in fiscal 2022, in temporary and overtime costs for those efforts.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Maryland Department of Transportation; Baltimore City; Calvert, Montgomery, and Prince George's counties; Colorado Secretary of State, Elections Division; Jefferson County, CO; Eagle County, CO; Grand County, CO; Multnomah County, OR; Department of Legislative Services

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