

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 334 (Montgomery County Delegation)  
Ways and Means

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**Voting Systems - Ranked Choice Voting and Inclusion of City of Takoma Park  
Municipal Elections on the State Ballot**  
**MC 7-23**

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This bill prohibits the State Board of Elections (SBE) from certifying a voting system that is not capable of tabulating ballots cast in a ranked choice voting election. The bill also requires that SBE acquire specified voting machines and software for use in the City of Takoma Park if the city receives approval from SBE to include its ranked choice voting municipal elections on a State ballot. **The bill takes effect June 1, 2023.**

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**Fiscal Summary**

**State Effect:** General fund expenditures may increase in future years, by an indeterminate amount, as discussed below.

**Local Effect:** County expenditures may increase in future years, by an indeterminate amount, as discussed below.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill prohibits SBE from certifying a voting system unless it determines that the voting system will be capable of tabulating ballots cast in an election conducted using ranked choice voting without the necessity of modifying or upgrading the voting system to achieve that capability.

The bill also establishes that if the City of Takoma Park requests that SBE include its ranked choice voting municipal elections on a State ballot and the request is approved by SBE, SBE must acquire (1) additional voting machines for the Montgomery County Board of Elections to deploy in the City of Takoma Park to mitigate additional time added to the voting process by ranked choice voting and (2) independent software to tabulate ranked choice voting results for the city’s municipal elections. The City of Takoma Park is not required to reimburse SBE or the Montgomery County Board of Elections for the machines or the software.

“Ranked choice voting” means a method of casting and tabulating votes in which voters rank candidates in order of preference and votes are tabulated in a manner that reflects voter preference.

The term “ranked choice voting” as used in the bill must be construed to include any ranked choice voting method used to conduct municipal elections in the City of Takoma Park.

“Voting machine” means a ballot scanner or ballot marking device.

### **Current Law:**

#### *Uniform Election Process*

State election law, which generally governs all elections except municipal elections (other than in Baltimore City), requires that the electoral process for primary elections, general elections, and special elections be uniform, except where it would be inappropriate, or where exceptions are provided for in the law.

#### *Voting/Tabulation Method*

Generally, in elections governed by State election law, voters are able to choose in each race a number of candidates equal to the number of offices being filled in that race (*e.g.*, one candidate in a State Senate race and three candidates in some House of Delegates races), and the winners are nominated or elected based on which candidates receive the greatest number of votes.

#### *Certification of a Voting System*

State law requires SBE, in consultation with the local boards of elections, to select and certify a voting system for voting in polling places and a voting system for absentee voting, to be used in all counties. Various standards must be met in order for SBE to certify a voting system. SBE must determine that the voting system will:

- protect the secrecy of the ballot;
- protect the security of the voting process;
- count and record all votes accurately;
- accommodate any ballot used under the Election Law Article of the Maryland Code;
- protect all other rights of voters and candidates;
- be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, including a manual recount; and
- provide a voter-verifiable paper record that (1) is an individual document that is physically separated from any other similar document and not part of a continuous roll; (2) is sufficiently durable to withstand repeated handling for the purposes of mandatory random audits and recounts; and (3) uses ink that does not fade, smear, or otherwise degrade and obscure or obliterate the paper record over time.

SBE must also determine that:

- the voting system has been (1) examined by an independent testing laboratory approved by the U.S. Election Assistance Commission (EAC) and (2) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or EAC; and
- the public interest will be served by the certification of the voting system.

A voting system selected, certified, and implemented also must:

- provide access to voters with disabilities that is equivalent to access afforded voters without disabilities without creating a segregated ballot for voters with disabilities;
- ensure the 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
- comply with both the Americans with Disabilities Act and the Help America Vote Act, including accessibility standards adopted as part of the Voluntary Voting System Guidelines pursuant to the Help America Vote Act.

#### *Inclusion of Municipal Offices and Questions on a State Ballot*

A municipality may request that SBE include on a State ballot the offices and questions to be voted on in a municipal election. The municipality must:

- file the request with SBE on or before the day that is 18 months before the deadline under State law for a certificate of candidacy to be filed for the applicable election; and

- certify that the charter of the municipality requires, and the municipality has established, deadlines and procedures for the administration of municipal elections for the municipality that are consistent with the deadlines and procedures for State and county elections established by SBE with regard to (1) the filing of certificates of candidacy; (2) the filling of a vacancy in office; (3) the filing of a petition; and (4) the certification of a ballot question.

SBE must notify the municipality of its decision whether to include the municipal election on the ballot after consultation with the local board of elections in the county where the municipality is located and within 30 days after receipt of the municipality's request. If SBE approves a municipality's request, it must (1) include the offices and questions at the end of the ballot and (2) arrange the offices and questions in a similar order as other offices and questions are arranged on the ballot.

A municipal election that was previously included by SBE on the ballot will continue to appear on the ballot without the municipality needing to file an additional request unless there has been a significant change in the method the municipality uses to conduct its elections.

The municipality must reimburse SBE and the applicable local (county) board of elections for any additional costs incurred by SBE or the local board on account of including the offices and questions to be voted on in a municipal election on the ballot.

### **State and Local Fiscal Effect:**

#### *Voting System Certification*

State general fund expenditures and county expenditures may increase in future years for the cost of the State's voting system when the State selects and certifies a new voting system. SBE is planning to procure and implement a new voting system for the 2026 elections. The State shares the costs of the statewide voting system with the counties pursuant to Section 9-106 of the Election Law Article of the Maryland Code.

Adding the certification requirement that the State's voting system be capable of tabulating ballots cast in a ranked choice voting election may limit the number of vendors available to bid on the contract and/or increase the dollar amount of individual bids, resulting in increased costs for the voting system. The extent to which future voting system costs increase as a result of this bill, if at all, cannot be reliably estimated.

To provide context regarding the magnitude of overall costs for the State's voting system, a two-year extension of the lease of the State's voting system was approved in September 2020 (to cover the 2022 elections), at a cost of \$13.1 million (and contract

modifications (increases) totaling \$3.7 million were subsequently made), which is shared 50/50 by the State and counties.

### *Additional Voting Machines and Results Tabulation Software*

The bill's requirements that SBE acquire additional voting machines and results tabulation software if the City of Takoma Park receives approval from SBE to include its ranked choice voting municipal elections on a State ballot are not expected to materially affect State or county finances.

It appears that there would be limited, if any, need for additional voting machines for in-person voting in the City of Takoma Park to mitigate additional time added to the voting process by ranked choice voting, since (1) City of Takoma Park voters are largely familiar with ranked choice voting (the city has used ranked choice voting for regular and special municipal elections since 2007); (2) the two City of Takoma Park ranked choice voting races (mayor and councilmember) on a ballot would make up a small fraction of the overall races and questions on the State ballot; and (3) a significant portion of voters in the City of Takoma Park have utilized mail-in (as opposed to in-person) voting in recent elections – both in municipal elections and statewide elections – reducing the volume of voters at in-person polling places.

There is independent results tabulation software for ranked choice voting available at no cost that has been used in other jurisdictions in the United States and is expected to be able to tabulate ranked choice voting results from the votes recorded by the State's current voting system and any future voting system.

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## **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** City of Takoma Park; State Board of Elections; Ranked Choice Voting Resource Center; Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2023  
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