

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1222
Ways and Means

(Delegate Adams, *et al.*)

**Local Boards of Elections - Maintenance and Public Disclosure of Election
Records**

This bill requires each local board of elections to maintain specified records for a period of 10 years after each election and requires that a record, if requested, be (1) made available for public inspection immediately and (2) posted on the local board's website.

Fiscal Summary

State Effect: None.

Local Effect: Local government expenditures may increase, as discussed below. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Maintenance of Voter Authority Cards

The bill increases the number of years that each local board of elections must maintain voting authority cards (signed by voters when voting in person at a polling place or early voting center), from 3 years to 10 years.

Required Maintenance of Specified Records

The bill requires each local board of elections to maintain for a period of 10 years after each election:

- all public records;
- all election data;
- all systems connected to or used in the administration of election logs or manuals;
- video records;
- audio records;
- all voter registration lists;
- records of all voter registration list maintenance activities;
- all absentee ballot requests;
- records of absentee ballot chains of custody;
- all absentee ballot receipt confirmations; and
- any other record in connection with the administration of elections in the State.

The records must be organized by the election for which the records were generated. On request for a record, the election director or other representative of the applicable local board of elections must (1) make the record available for public inspection immediately and (2) post the record on the local board's website. A person may file a petition for a *writ of mandamus* to enforce disclosure of the requested records.

Current Law:

Maintenance of Public Records and Voter Authority Cards

Subject to the requirement below regarding maintenance of voting authority cards, the State Board of Elections (SBE) and each local board of elections must maintain and dispose of public records in accordance with a program for records management adopted by SBE under specified provisions of the State Government Article. Those provisions require each unit of State government to have a program for the continual, economical, and efficient management of the records of the unit, including procedures for the establishment and revision of record retention and disposal schedules to ensure the prompt and orderly disposition of records, including electronic records, that the unit no longer needs for its operation.

Each local board of elections must maintain voting authority cards signed by voters when voting in person at a polling place or early voting center for three years. The voting authority cards must be maintained either by physically storing the voting authority cards

or electronically scanning and storing the voting authority cards in the same manner that the local board stores other electronic materials.

Under federal law ([52 U.S.C. §20701](#)), every officer of election must retain and preserve, for a period of 22 months from the date of a federal election, records and papers relating to voting in the election.

Public Information Act

Maryland's Public Information Act (PIA) establishes that "all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees." PIA establishes procedures for the request and inspection of that information subject to certain exceptions where information may or must be kept privileged and confidential for purposes of protecting individuals' personal privacy or for other public policy reasons. Each governmental unit that maintains public records must identify a representative whom a member of the public may contact to request a public record.

PIA is applicable to virtually all public agencies or officials in the State (any "unit or instrumentality of the State or of a political subdivision") – including counties, municipalities, school districts, and special districts.

A custodian of a public record must permit inspection of any public record at any reasonable time unless inspection of the public record is subject to denial. Each official custodian must adopt reasonable rules or regulations that govern timely production and inspection of a public record. The official custodian may charge a reasonable fee for costs incurred in producing a public record for inspection.

A custodian must approve or deny an application for inspection promptly but not more than 30 days after receiving the application and, if the application is approved, must produce the record either immediately or within a reasonable period needed to retrieve the public record but not more than 30 days after receipt of the application. These time limits may be extended for no more than 30 additional days with consent of the applicant. The custodian must also notify the applicant within 10 working days of the receipt of the request if the custodian reasonably believes it will take more than 10 working days to produce the requested records.

An official custodian must designate types of public records that are to be made available to any applicant immediately on request and maintain a current list of those types of records. An official custodian must also adopt a policy of proactive disclosure of public records that are available for inspection under PIA, which may (1) vary as appropriate to the type of public record and to the staff and budgetary resources of the governmental unit

and (2) include publication of public records on the website of the governmental unit, to the extent practicable, or publication of prior responses to PIA requests.

For additional information on PIA, please see the Department of Legislative Services' [Fact Sheet: Public Information Act](#).

Local Fiscal Effect: Local government expenditures may increase for local boards of elections to retain election-related records for 10 years as required by the bill due to costs of additional storage and/or staff. *For illustrative purposes*, Kent and Worcester counties indicate that their costs increase annually by \$5,000 and \$9,300, respectively, to rent additional storage space. Kent and Worcester counties have also indicated a potential need for one part-time or full-time additional staff in each county to manage the additional records retention and any associated records requests. Presumably larger counties may incur similar, but higher, costs for storage and may similarly need additional staff.

Additional Information

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

Designated Cross File: SB 1052 (Senator Mautz) - Education, Energy, and the Environment.

Information Source(s): Kent and Worcester counties; Maryland State Board of Elections; Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2024
km/sdk

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