

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 1658
Ways and Means

(Delegate A. Washington, *et al.*)

Election Law – Absentee Ballot Requests, Delivery, and Marking

This emergency bill requires additional identification information to be provided on the absentee ballot application approved by the State Board of Elections (SBE). The bill also 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 and voters with a disability, 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.

Fiscal Summary

State Effect: The bill can be implemented with existing resources.

Local Effect: Local government expenditures to mail absentee ballots increase by approximately \$40,000 for a primary election and \$100,000 for a general election. In addition, Montgomery County expenditures increase by approximately \$12,000 in FY 2018 and 2019 for temporary staff to assist with the new requirements relating to absentee ballots. Similar or lesser costs may be incurred by other counties in FY 2018 and 2019. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Identification Information Required on an Absentee Ballot Application

The bill requires that the absentee ballot application approved by SBE require the applicant to provide the same identification information currently required of an applicant using the online absentee ballot application provided by SBE, specifically:

- 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 federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and does not have a Maryland driver's license or Maryland identification card, a Social Security number.

Limitation on Methods of Receiving and Marking an Absentee Ballot

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 UOCAVA, or a voter with a disability as defined in the Americans with Disabilities Act (ADA) who is unable to independently mark a ballot by hand, the voter also has the option of receiving the ballot by 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 by the Internet) to an absent uniformed services voter or overseas voter as defined in UOCAVA or a voter with a disability as defined in ADA who is unable to independently mark a ballot by hand.

Current Law:

Applying for an Absentee Ballot

A voter may request an absentee ballot by completing and submitting:

- the SBE-approved absentee ballot application;
- a form provided under federal law;

- a written request that includes (1) the voter’s name, residence address, and signature, and (2) the address to which the ballot is to be mailed, if different from the residence address; or
- the accessible online absentee ballot application provided by SBE.

SBE’s online absentee ballot application must require the applicant to provide (1) a Maryland driver’s license number or a 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 (2) if the applicant is an absent uniformed services voter or overseas voter as defined under UOCAVA and does not have a Maryland driver’s license or Maryland identification card, a Social Security number.

Methods of Receiving and Marking an Absentee Ballot

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 by 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.

Background: A 2017 audit of SBE by the Office of Legislative Audits (OLA) raised concern about certain methods of requesting an absentee ballot that only required limited, publicly available, identifying information (name, date of birth, and address) from an individual. OLA indicated that this created a risk that an individual or group could submit fraudulent absentee ballots and/or could cause legitimate voters to have to vote by provisional ballot on Election Day (and cause those voters’ provisional ballots to be invalidated because an absentee ballot also had been cast).

Local Fiscal Effect: Local government expenditures increase, beginning in fiscal 2018, by approximately \$40,000 for a primary election and \$100,000 for a general election. This estimate assumes the bill’s limitation on the availability of receiving an absentee ballot by the Internet causes the number of voters who choose to receive an absentee ballot by mail to increase. This estimate is based on the projected costs for absentee ballot mailing for

the 2018 elections and past percentages of absentee ballots requested by mail and by the Internet.

In addition, Montgomery County expenditures increase by approximately \$12,000 in fiscal 2018 and 2019 for temporary clerical staff to assist with the new requirements relating to absentee ballots. The additional staff will need to contact individuals (1) who have requested absentee ballots without providing the identification information required under the bill or (2) who have requested that an absentee ballot be sent by a method not available to the voter under the bill. Other counties may incur similar or lesser costs.

Additional Information

Prior Introductions: None.

Cross File: SB 1126 (Senator Kasemeyer) - Rules.

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

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