

Department of Legislative Services  
 Maryland General Assembly  
 2013 Session

FISCAL AND POLICY NOTE

House Bill 224 (The Speaker, *et al.*) (By Request - Administration)  
 Ways and Means

Election Law - Improving Access to Voting

This Administration bill (1) increases the number of early voting centers in certain counties; (2) establishes an eight-day early voting period for the 2014 and future elections; (3) allows for an individual to register to vote and subsequently vote during early voting, at an early voting center; and (4) makes specified changes to absentee voting provisions, including expanding and clarifying the methods by which a voter may request to receive an absentee ballot.

The bill takes effect July 1, 2013.

Fiscal Summary

**State Effect:** General fund expenditures increase by \$150,700 in FY 2014 due to costs for additional early voting centers for the 2014 gubernatorial primary election and for epollbook programming costs to facilitate voter registration during early voting. Future years reflect ongoing costs for additional early voting centers as well as additional voting equipment and associated operations and maintenance costs, assuming a new voting system is implemented for the 2016 elections.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	150,700	9,700	125,900	125,800	125,700
Net Effect	(\$150,700)	(\$9,700)	(\$125,900)	(\$125,800)	(\$125,700)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local government expenditures increase by approximately \$1.2 million in FY 2014 for additional early voting days and centers and administration of voter registration during early voting. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

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## Analysis

### Bill Summary:

#### *Early Voting Centers*

The bill alters provisions that determine the number of early voting centers in a county as shown in **Exhibit 1**.

#### *Early Voting Days and Hours*

The bill establishes the days and hours of early voting for elections going forward, as shown in **Exhibit 2**, along with the days and hours set in current law for the already held 2010 and 2012 elections (for purposes of comparison).

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### Exhibit 1 Early Voting Centers

Current Law		Under the Bill	
<b>Registered Voters <u>in County</u></b>	<b>Early Voting <u>Centers</u></b>	<b>Registered Voters <u>in County</u></b>	<b>Early Voting <u>Centers</u></b>
< 150,000	1	< 125,000	1
150,000-300,000	3	125,000-300,000	3
> 300,000	5	300,000-450,000	5
		> 450,000	8

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**Exhibit 2**  
**Early Voting Days and Hours**

<b>Current Law</b>		<b>Under the Bill</b>
<b><u>2010 Elections</u></b>	<b><u>2012 Elections</u></b>	<b><u>2014 and Future Elections</u></b>
<i><u>Days (6)</u></i>	<i><u>Days (6)</u></i>	<i><u>Days (8)</u></i>
Second Friday before the election through Thursday before the election, excluding Sunday	Second Saturday before the election through Thursday before the election	Second Thursday before the election through Thursday before the election
<i><u>Hours</u></i>	<i><u>Hours</u></i>	<i><u>Hours</u></i>
10 a.m.-8 p.m. (each day)	10 a.m.-8 p.m. (Saturday; Monday-Thursday) 12 noon-6 p.m. (Sunday)	Presidential election: 8 a.m.-8 p.m. (each day)  All other elections: 10 a.m.-8 p.m. (each day)

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*Voter Registration During Early Voting*

The bill allows for an individual to register to vote, or change the voter's address on an existing registration, during early voting, at an early voting center in the individual's county of residence. The individual then may vote at that early voting center.

In order to register to vote or change an address on an existing registration at an early voting center, the individual must provide proof of residency by showing the election judge (1) a Maryland driver's license or identification card that contains the individual's current address or (2) if the individual does not have a driver's license or identification card that contains the individual's current address, a copy of an official document that meets requirements established by the State Board of Elections (SBE) and contains the individual's name and current address. If the election judge determines that the individual resides in the county and, if registering to vote, that the individual is qualified to become a registered voter, the election judge then must issue the voter a voting authority card, have the voter sign the voter authority card, and issue the voter a ballot.

SBE is required to adopt regulations and procedures in accordance with the bill's requirements for the administration of voter registration during early voting.

## *Absentee Voting*

The bill expands and clarifies the methods by which a voter may request to receive an absentee ballot. Under the bill, the available methods are (1) mail; (2) facsimile transmission; (3) the Internet; or (4) by hand during an in-person transaction. The bill also allows for a voter to request an absentee ballot by completing and submitting an online absentee ballot application provided by SBE.

Different deadlines for receipt by a local board of elections of an application requesting an absentee ballot are established based on the method by which the voter requests that an absentee ballot be sent. An application must be received:

- not later than the Tuesday before the election, for an absentee ballot to be sent by mail or facsimile transmission;
- not later than the Friday before the election, for an absentee ballot to be sent by the Internet; and
- not later than the closing of the polls on election day, for an in-person application.

The bill also requires that SBE provide an optional online ballot marking tool for a voter who requests to have an absentee ballot sent by the Internet. SBE must certify the online ballot marking tool in accordance with existing voting system certification standards. However, certain provisions of those certification standards relating to federal standards are not applicable to SBE's certification determination if the U.S. Election Assistance Commission has not approved specific performance and test standards for online ballot marking tools.

If an absentee ballot is sent by the Internet or facsimile transmission, the local board of elections must provide the voter with an envelope template, the oath prescribed by SBE, and instructions for marking and returning the absentee ballot.

## **Current Law:**

### *Early Voting Centers and Early Voting Days and Hours*

See Exhibits 1 and 2 above.

### *Voter Registration*

Voter registration is conducted continuously, but is closed from 9 p.m. on the twenty-first day preceding an election until the eleventh day after that election. In general, a voter registration application that is mailed or submitted when registration is closed is accepted and retained but does not become effective until registration reopens. An individual may

apply to become a registered voter through a number of means including (1) visiting an election board office; (2) by mail; (3) when applying for services at a voter registration agency (specified public and nongovernmental agencies designated by SBE, including agencies providing public assistance and services for individuals with disabilities, public higher education institutions, and military recruiting offices); (4) when applying to the Motor Vehicle Administration for issuance, renewal, or modification of a driver's license or identification card; or (5) through SBE's online voter registration system.

At the polls on election day and during early voting, if a voter's name is not found on the election register or inactive list, the voter is referred to vote a provisional ballot.

### *Absentee Voting*

An individual may vote by absentee ballot except to the extent preempted by federal law. An absentee ballot application generally must be received by a local board of elections not later than the Tuesday preceding an election. Absentee ballots are sent to voters as soon as practicable after the receipt and review of an application and must be enclosed in specially printed outgoing and return envelopes. A registered voter or the voter's duly authorized agent can also apply for an absentee ballot in person at the local board office beginning on the Wednesday preceding an election through the closing of the polls on election day.

### **Background:**

#### *Early and Absentee Voting*

See the attached **Appendix – Early and Absentee Voting** for general background information on early and absentee voting. **Exhibit 3** shows, based on voter registration as of December 2012, the number of early voting centers in each jurisdiction under current law and under the bill.

SBE developed an online ballot marking tool in 2012 for the use of military and overseas voters voting absentee during the 2012 general election. The online ballot marking tool allows a voter to fill out a ballot sent electronically and print and mail in the ballot, which shows the voter's selections and contains a barcode encapsulating the voter's selections. A local board of elections uses the barcode to print a duplicate ballot on a ballot card that can be scanned by an optical scan voting machine, verifies that the duplicate ballot matches the selections shown on the ballot mailed in by the voter, and then scans the duplicate ballot into the optical scan voting machine.

**Exhibit 3**  
**Early Voting Centers under Current Law and under the Bill**

<b>Jurisdiction</b>	<b>Registered Voters (December 2012)</b>	<b>Early Voting Centers under Current Law</b>	<b>Early Voting Centers Proposed</b>
Montgomery	626,976	5	8
Prince George's	578,254	5	8
Baltimore	523,978	5	8
Baltimore City	398,227	5	5
Anne Arundel	356,429	5	5
Howard	194,137	3	3
Harford	162,705	3	3
Frederick	148,565	1	3
Carroll	112,835	1	1
Charles	100,346	1	1
Washington	88,978	1	1
St. Mary's	65,021	1	1
Cecil	63,239	1	1
Calvert	59,650	1	1
Wicomico	57,578	1	1
Allegany	42,358	1	1
Worcester	36,825	1	1
Queen Anne's	33,008	1	1
Talbot	25,878	1	1
Dorchester	20,582	1	1
Garrett	19,080	1	1
Caroline	18,515	1	1
Somerset	13,694	1	1
Kent	12,704	1	1
<b>Total</b>	<b>3,759,562</b>	<b>48</b>	<b>59</b>

*Same-day Voter Registration*

Same-day voter registration allows individuals an opportunity to register to vote or correct their existing registration after the voter registration deadline. According to the National Conference of State Legislatures (NCSL), a small number of states – Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, North Carolina, Ohio, Wisconsin, and Wyoming – and the District of Columbia allow for same-day registration in some form. North Carolina and Ohio only allow for same-day registration during early voting. Two additional states, California and Connecticut, have enacted same-day registration but have yet to implement it. NCSL cites increased voter turnout and convenience for voters

as being among the advantages of same-day registration but notes that it can be costly to implement and must be adopted along with safeguards to prevent fraud.

**State Fiscal Effect:** General fund expenditures increase by approximately \$150,700 in fiscal 2014, as shown in **Exhibit 4**. This estimate accounts for:

- the State's portion of voting equipment delivery and network service costs and one-time equipment costs for an additional 11 early voting centers required to be established by the bill for the 2014 gubernatorial primary and future elections;
- epollbook programming costs to facilitate voter registration during early voting.

This estimate assumes that Frederick County would only have one early voting center for the 2014 elections in the absence of the bill. However, if Frederick County's voter registration surpasses 150,000 and the county would have three early voting centers regardless of the bill, the cost increases would be somewhat reduced. State expenditures will not be affected by the additional number of early voting days. Whether the epollbook programming costs will be borne by the State or counties, or be shared by the State and counties is uncertain. For the purposes of this estimate, it is assumed the costs are shared.

A significant portion of the State costs associated with this bill will be incurred from fiscal 2016 forward, assuming a new optical scan voting system is implemented for the 2016 elections. Based on certain assumptions about equipment costs for the new system, general fund expenditures may increase by approximately \$125,900 in fiscal 2016, accounting for the cost of additional optical scan machines and ballot-on-demand printers for the 11 additional early voting centers (financed over a five-year lease purchase term), software and maintenance costs for the optical scan machines, and ongoing voting equipment delivery and network service costs for the 11 additional centers. Ballot-on-demand printers are needed to be able to provide various ballot styles at an early voting center for voters throughout a county. The voting system-related expenditure increases represent the State's share of the voting system costs. Pursuant to Chapter 564 of 2001 (HB 1457), SBE shares voting system costs with the local boards of elections.

No costs are expected to be incurred to develop the online absentee ballot system since SBE has already developed a system.

**Exhibit 4**  
**Impact on State Expenditures**

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
General early voting cost increases	\$50,711	\$9,736	\$9,736	\$9,736	\$9,736
Optical scan machines and ballot-on-demand printers for additional early voting centers – capital costs			113,166	113,049	112,931
Optical scan machines – operations and maintenance			2,957	2,984	3,005
Epollbook programming (for early voting voter registration)	100,000				
<b>Total</b>	<b>\$150,711</b>	<b>\$9,736</b>	<b>\$125,860</b>	<b>\$125,770</b>	<b>\$125,672</b>

Note: Operations and maintenance costs for the ballot-on-demand printers are not included and could further increase costs.

Source: Department of Legislative Services

**Local Fiscal Effect:** Local government expenditures increase by approximately \$1.2 million in fiscal 2014, as shown in **Exhibit 5**. This estimate accounts for:

- costs of 11 additional early voting centers in Baltimore, Frederick, Montgomery, and Prince George’s counties;
- costs in all jurisdictions for two additional days of early voting;
- additional election judges needed at early voting centers to facilitate voter registration during early voting; and
- epollbook programming costs to facilitate voter registration during early voting.

This estimate is based largely on survey information submitted by local boards of elections covering early voting costs for the 2012 elections and how those costs would be affected by changes to the number of early voting days and/or centers. The estimate assumes that an early voting period of six days, similar to past early voting periods, would be held in 2014 in the absence of the bill. The estimate also assumes that early voting election judge costs increase by 10% to facilitate voter registration during early voting.



As mentioned above under State Fiscal Effect, the cost increases would be somewhat reduced if Frederick County would have three early voting centers regardless of the bill and the epollbook programming costs are assumed to be shared by the State and counties for the purposes of this estimate.

Beginning in fiscal 2016, local government expenditures will also increase to account for the local governments' share of the cost of additional optical scan voting machines and ballot-on-demand printers needed for additional early voting centers, assuming an optical scan system is implemented for the 2016 elections.

At least one jurisdiction has indicated a potential need for additional staff due to the bill's absentee voting provisions; however, any such costs have not been quantified.

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**Exhibit 5**  
**Impact on Local Government Expenditures**

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
General early voting cost increases*	\$1,093,906	\$1,335,662	\$972,266	\$1,335,662	\$972,266
Optical scan machines and ballot-on-demand printers for additional early voting centers – capital costs			113,166	113,049	112,931
Optical scan machines – operations and maintenance			2,957	2,984	3,005
Epollbook programming (for early voting voter registration)	100,000				
<b>Total</b>	<b>\$1,193,906</b>	<b>\$1,335,662</b>	<b>\$1,088,389</b>	<b>\$1,451,695</b>	<b>\$1,088,201</b>

Note: Operations and maintenance costs for the ballot-on-demand printers are not included and could further increase costs.

\*This includes the assumed 10% increase in early voting election judge costs to facilitate voter registration during early voting.

Source: Department of Legislative Services

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 279 (The President, *et al.*) (By Request - Administration) - Education, Health, and Environmental Affairs.

**Information Source(s):** State Board of Elections; Department of Budget and Management; RTI International, *Maryland Voting Systems Study* (2010); Allegany, Anne Arundel, Baltimore, Carroll, Caroline, Cecil, Charles, Dorchester, Frederick, Garrett, Harford, Kent, Montgomery, Prince George's, St. Mary's, Somerset, Talbot, Washington, and Worcester counties; Baltimore City; National Conference of State Legislatures; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2013  
ncs/hlb

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## Appendix – Early and Absentee Voting

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### *In Maryland*

Maryland voters have the option of voting at an early voting center prior to election day or by absentee ballot, as alternatives to voting at a polling place on election day. These options are relatively recent changes to Maryland law. In-person early voting at early voting centers was first implemented in 2010 and “no excuse” absentee voting (not requiring a reason that a voter cannot vote on election day) was first allowed in 2006.

**Exhibit 1** shows that, as a percentage of overall turnout in the 2010 and 2012 elections, use of early voting has been steadily increasing, from just under 10% in the 2010 primary election to approximately 16% in the 2012 general election, and use of absentee voting has been relatively consistent, between 3% and 6%. The actual numbers of voters who utilized these methods, however, as opposed to the percentages of voter turnout that they represented, varied much more significantly, consistent with the significant differences in overall turnout for the different elections (shown in parentheses in Exhibit 1).

The number of early voting centers in each county is dependent on the number of registered voters in the county. A county with fewer than 150,000 registered voters has one early voting center; a county with more than 150,000 but fewer than 300,000 registered voters has three early voting centers; and a county with more than 300,000 registered voters has five early voting centers (**Exhibit 2**). A voter may vote at any early voting center in the voter’s county of residence.

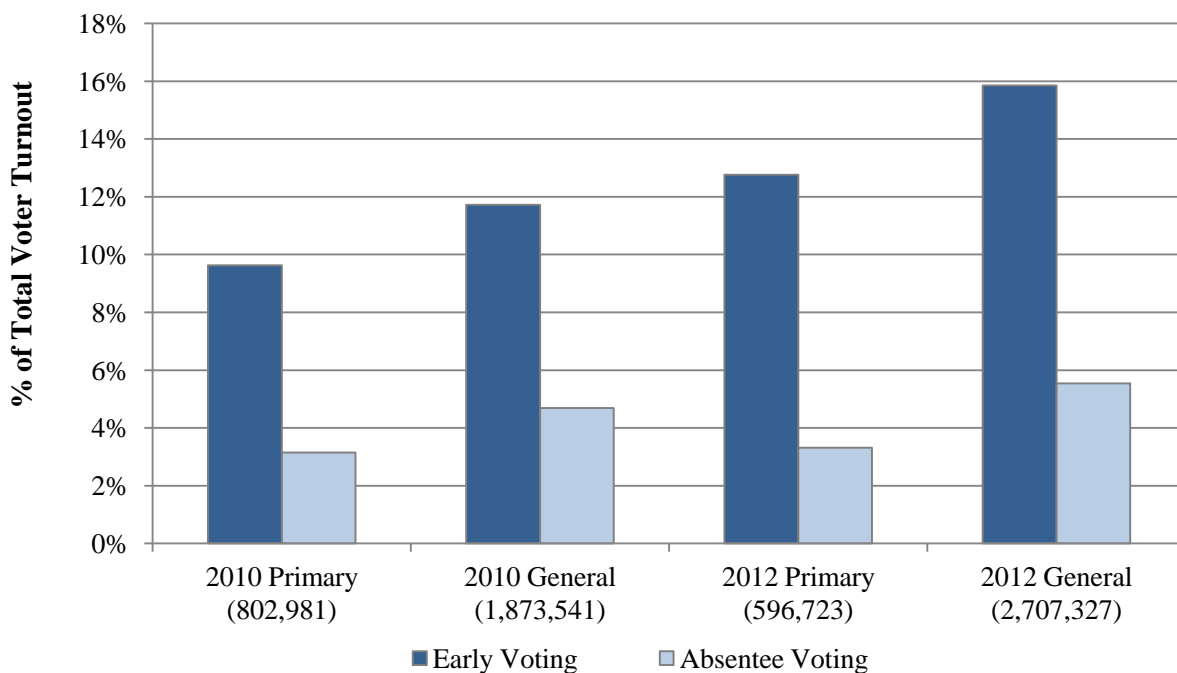
Early voting was available for six days prior to the 2010 primary and general elections and the 2012 primary election, ending on the Thursday before the election in each case. Hurricane Sandy caused early voting to only be available for five days prior to the 2012 general election, ending on the Friday before the election. The early voting hours were generally from 10 a.m. to 8 p.m. each day with the exception of shorter hours when early voting fell on a Sunday and extended hours during the 2012 general election to mitigate the lesser number of days resulting from Hurricane Sandy.

The Maryland Code provides that early voting should be available for any regularly scheduled primary or general election but only specifies early voting periods and hours for the already held 2010 and 2012 elections. The statute does not specify what the early voting periods and hours will be for future elections or for other “regularly scheduled primary or general elections,” such as the already held 2011 Baltimore City elections. Pursuant to Attorney General advice, the State Board of Elections established the early voting dates and hours for the 2011 Baltimore City elections.

With respect to absentee voting, a voter must request an absentee ballot from their local board of elections and may either mail in the completed ballot, postmarked on or before election day, or deliver it to the local board of elections in person by the close of polls on election day. A person may also request, complete, and submit an absentee ballot all at one time at a local board of elections office.

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**Exhibit 1**  
**Maryland Early and Absentee Voting Turnout**  
**2010-2012**



Note: Official turnout information for the 2012 general election was not available as of early February. The 2012 general election information above is based on official results for the presidential race reported by the State Board of Elections, which should be comparable to the overall turnout.

Source: State Board of Elections; Department of Legislative Services

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*In Other States*

Currently, 32 states (and the District of Columbia) offer in-person early voting and 27 states (and the District of Columbia) permit no excuse absentee voting, according to the National Conference of State Legislatures (NCSL). In addition, Washington and Oregon conduct all elections by mail. Overall, 26 states and the District of Columbia

offer both early voting and no excuse absentee voting, as Maryland does, and 15 states allow neither early voting nor no excuse absentee voting.

The timing and length of early voting periods varies among the early voting states. According to NCSL, the average starting time for early voting, across the 32 states, is 22 days before an election. Maryland's early voting periods started on the eleventh day before the elections in 2010 and on the tenth day before the elections in 2012. NCSL indicates that the average length of early voting periods across the states is 19 days and early voting typically ends just a few days before election day, somewhere between the Thursday and the Monday before election day.

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**Exhibit 2**  
**Number of Early Voting Centers in Each Jurisdiction**  
**2012 Elections**

<b><u>One Early Voting Center</u></b>	<b><u>Three Early Voting Centers</u></b>	<b><u>Five Early Voting Centers</u></b>
Allegany	Harford <sup>1</sup>	Howard
Calvert	Kent	Anne Arundel
Caroline	Queen Anne's	Baltimore City
Carroll	St. Mary's	Baltimore
Cecil	Somerset	Montgomery
Charles	Talbot	Prince George's
Dorchester	Washington	
Frederick	Wicomico	
Garrett	Worcester	

<sup>1</sup>Harford County had over 150,000 registered voters as of December 2012, which will cause the county to have three early voting centers for future elections if voter registration in the county remains at that level.

Source: State Board of Elections; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Election Law – Improving Access to Voting

BILL NUMBER: SB 279/ HB 224

PREPARED BY: Board of Elections

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This bill makes changes to three areas of election law in order to provide Marylanders with greater access to voting. First the bill creates an exception to the voter registration deadline to allow an individual to register to vote or update an existing voter registration address and vote during early voting. Second, the bill makes it easier for a voter to request an absentee ballot by permitting an online application process. The bill also makes absentee voting easier for voters by permitting all voters to obtain the ballot via the Internet and utilize an online ballot marking tool to assist them with making their selections on the ballot. Finally, the bill increases the number of early voting centers and provides more days and hours to allow voters more opportunities to vote.

The bill will create administrative changes and add some one time programming costs for State and local government. However, the bill will not have any impact on small businesses.