

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 949

(Senator Kagan)

Education, Energy, and the Environment

Government, Labor, and Elections

Election Law - Absentee Ballots - State and Federal Requirements

This emergency bill establishes, in statute, requirements that are similar to existing requirements under State Board of Elections (SBE) regulations governing when an absentee ballot is considered timely and may be counted. The bill also establishes additional requirements that apply if federal law or a federal court establishes requirements for the timeliness of absentee ballots with federal contests that differ from State law requirements: (1) votes in nonfederal contests on absentee ballots that meet State law timeliness and other requirements must be counted; (2) SBE must adopt regulations for the conduct of the absentee ballot canvass that comply with the federal absentee ballot timeliness requirements and the requirement that votes in nonfederal contents on absentee ballots that meet State law requirements be counted; and (3) SBE must provide specified notice to voters to assist them in meeting the federal and State timeliness requirements. The bill also requires that SBE and each local board of elections refer to absentee ballots delivered by the Internet as "print-at-home ballots" in public communications.

Fiscal Summary

State Effect: General fund expenditures may increase by an indeterminate amount in FY 2026, by at least \$317,000 in FY 2027, and by \$182,000 in each future fiscal year in which a general election occurs, as discussed below. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	-	317,000	0	182,000	0
Net Effect	(-)	(\$317,000)	\$0	(\$182,000)	\$0

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

Local Effect: Local government expenditures may increase, collectively, by an indeterminate amount in FY 2026, by at least \$392,000 in FY 2027, and by \$182,000 in

each future fiscal year in which a general election occurs, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

State Absentee Ballot Timeliness Requirements

The bill establishes, in statute, requirements that are similar to existing requirements under SBE regulations governing when an absentee ballot is considered to have been timely received. Under the bill, an absentee ballot is considered timely and may be counted if the ballot:

- is received at an early voting center before the polls close at the early voting center on the last day of early voting;
- is received at a local board office before the polls close on Election Day;
- is received at a polling place before the polls close on Election Day;
- is deposited in a ballot drop box before the polls close on Election Day; or
- is received by mail at a local board office by 10 a.m. on the second Friday after an election and was mailed on or before Election Day, as verified by a postmark or, if the return envelope does not contain a postmark or the postmark is illegible, by the voter's affidavit that the ballot was mailed on or before Election Day.

An absentee ballot that does not meet the above requirements is not timely and may not be counted.

If Federal Requirements for Absentee Ballot Timeliness Differ from State Requirements

The bill establishes specified requirements that apply if federal law or a federal court establishes requirements for the timeliness of absentee ballots with federal contests that differ from the State law absentee ballot timeliness requirements established by the bill (described above). In that circumstance, the bill requires that:

- votes in nonfederal contests on a ballot that is considered timely under the State law absentee ballot timeliness requirements be counted unless a law or regulation requires that a vote in a contest be rejected for a reason unrelated to the timeliness of the ballot;

- SBE adopt regulations for the conduct of the absentee ballot canvass that comply with the federal requirements and the requirement (described in the bullet above) that votes in nonfederal contests on a ballot considered timely under State law be counted;
- SBE provide notice to voters of the requirements (1) under federal law for the timely receipt of absentee ballots with federal contests and (2) under State law for the timely receipt of absentee ballots with nonfederal contests;
- the notice provided by SBE, at a minimum, encourage an early return of absentee ballots by urging voters to (1) mail the voter’s ballot at least one week before Election Day or (2) place the voter’s ballot in a ballot drop box on or before Election Day; and
- SBE use multiple methods to provide the notice, including written notice with instructions for sample ballots and ballots, a social media campaign, and mass media communications.

References to Internet-delivered Absentee Ballots in Public Communications

The bill also requires SBE and each local board of elections to refer to absentee ballots that are delivered to a voter by the Internet as “print-at-home ballots” in all communications with voters and the general public.

Current Law:

Canvassing of Absentee Ballots

Each local board of elections must meet at its designated counting center to canvass absentee ballots cast in that election in accordance with the regulations and guidelines established by SBE. Promptly after receipt of an absentee ballot, a local board must review the ballot envelope or ballot/return envelope for the omission of the voter’s signature on the oath. A local board must record the receipt of an absentee ballot in the statewide voter registration system and make the information available through SBE’s [free access system](#) as soon as practicable, but not later than two business days after receipt of an absentee ballot provided to the voter by mail or four business days after receipt of an absentee ballot provided to the voter through the Internet or by facsimile transmission.

A local board must begin processing absentee ballots on the day that is eight business days before the first day of early voting. The State Administrator may grant a waiver from this requirement if a local board seeks a determination by the State Administrator that early canvassing is not (1) necessary due to the low number of absentee ballots received by the local board or (2) practicable due to limited resources or other constraints on the local

board. A local board may not delay the commencement of the canvass to await the receipt of late-arriving, timely absentee ballots.

A local board may conduct vote tallying (recording of votes cast by individual voters on a certified voting system) when absentee ballots are processed; however, a local board or an employee of a local board is prohibited from conducting absentee ballot vote tabulation (aggregation of votes to produce vote totals) before the polls open on Election Day.

An absentee ballot must be deemed timely received if it is received in accordance with the regulations and guidelines established by SBE; however, an absentee ballot that is received after the deadline specified by the regulations and guidelines may not be counted.

State Regulations Establishing Absentee Ballot Timeliness Requirements

Under SBE regulations, an absentee ballot is considered timely only if the ballot:

- is received by the local board office before the polls close on Election Day;
- is received by a polling place before the polls close at that polling place on Election Day;
- is deposited into a ballot drop box before the polls close on Election Day;
- (1) is received by the local board office from the United States Postal Service (USPS) or a private mail carrier on or before 10 a.m. on the second Friday after an election and (2) was mailed by Election Day, as verified by a postmark of USPS, an Army Post Office, a Fleet Post Office, or the postal service of any other country or by the voter's affidavit that the ballot was completed and mailed by Election Day, if the return envelope does not contain a postmark or the postmark is illegible; or
- is received by an early voting center before the polls close at that polling place on the last day of early voting.

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.

SBE regulations require an election director – if an absentee ballot is timely received but the voter did not sign the required oath – to (1) as soon as practicable but not later than three business days after the election director determines that the voter failed to sign the oath, notify the voter that the voter did not sign the oath and (2) explain how the voter can provide a signed oath and when the signed oath must be received for the voter's ballot to be accepted. The regulations authorize a voter to provide a signature by email, SBE-approved text application, mail, in-person visit to the local board, or other means offered by SBE.

Beginning after the polls close on Election Day, at the end of each day of canvassing, a local board must prepare and release a report of the unofficial returns of the absentee ballot tabulation.

References to Absentee Ballots in Public Communications

SBE and each local board must (1) refer to absentee ballots as “mail-in ballots” and absentee voting as “mail-in voting” in all communications with voters and the general public and (2) include in public communications regarding “mail-in voting” a statement that “mail-in voting” is referred to as absentee voting in the Maryland Constitution, the Annotated Code of Maryland, and the Code of Maryland Regulations.

State and Local Fiscal Effect:

If Federal Requirements for Absentee Ballot Timeliness Differ from State Requirements

State general fund expenditures are expected to increase by at least \$317,000, and local government expenditures are expected to increase (collectively) by at least \$392,000, in fiscal 2027, if federal law or a federal court establishes absentee ballot timeliness requirements applicable to the 2026 general election that differ from State law requirements. State general fund expenditures and local government expenditures are also expected to each increase by \$182,000 in each future fiscal year in which (1) a general election occurs and (2) federal absentee ballot timeliness requirements apply to the election that differ from State requirements. This estimate assumes that federal requirements for absentee ballot timeliness that differ from State law requirements only apply to general elections and not primary elections. The estimate reflects the following costs:

- *Additional Ballot Scanners* – SBE indicates that additional scanners are needed to allow the tabulation of State or federal contests exclusively. Currently, scanners cannot be reused because they are pre-programmed and must undergo logic and accuracy testing. Newly acquired ballot scanners would be programmed separately to process only State contests on ballots received after the federal deadline. SBE estimates that one-time costs to acquire additional ballot scanners for the 2026 general election are expected to total at least \$270,000 in fiscal 2027 – a shared cost (\$135,000 paid for by the State and \$135,000 paid for by the local boards).
- *Modification of the Statewide Voter Registration System* – SBE indicates that modifications will need to be made to the statewide voter registration system to create a new functionality to record when a voter’s ballot has been canvassed for State contests but not federal contests. One-time development costs are estimated at \$75,000 and are assumed to be billed entirely to the local boards by SBE in accordance with the State and local boards’ cost-sharing structure.

- *Voter Outreach* – SBE indicates that costs to conduct a mass media and social media campaign designed to inform the public of ballot receipt deadline requirements under federal and State law are expected to total \$300,000 in fiscal 2027. Consistent with the State and local boards’ cost-sharing structure, these costs are assumed to be shared 50/50 between the State and local boards. Similar outreach costs are anticipated for future elections.
- *Written Notice* – For fiscal 2027 and future years, costs are incurred to include an additional ballot card in each mail-in ballot packet sent to mail-in voters to provide notice to voters of federal and State ballot receipt deadlines (\$64,000, shared 50/50 by the State and local boards).

References to Internet-delivered Absentee Ballots in Public Communications

State general fund and/or local government expenditures may increase in fiscal 2026 for any necessary modification or reprinting of materials to be used for the 2026 primary election to change any references to absentee ballots delivered to a voter by the Internet so that they refer to “print-at-home ballots.” The extent of any increase in costs cannot be reliably determined at this time. Changing of these references in materials for the 2026 general election and future elections is assumed to be handled with existing resources.

Additional Information

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

Designated Cross File: HB 1069 (Delegate Fair, *et al.*) - Government, Labor, and Elections.

Information Source(s): Maryland State Board of Elections; Department of Legislative Services

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