

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 88

(Senator Kagan, *et al.*)

Education, Energy, and the Environment

Ways and Means

Election Law - Municipal Elections - Administration

This emergency bill authorizes the State Administrator of Elections to (1) enter into a memorandum of understanding (MOU) with a municipality to support the administration of the municipality's elections and (2) lease a voting system or any other equipment used to administer an election to the municipality for use in the municipal election in accordance with the MOU. The bill repeals provisions that authorize a local (county) board of elections to lease a voting system to any governmental or nongovernmental entity within the county. The bill also alters provisions governing the inclusion of municipal offices and questions on a statewide ballot.

Fiscal Summary

State Effect: Special fund (Fair Campaign Financing Fund) revenues may increase annually, beginning as early as FY 2025, as discussed below. Expenditures are not affected.

Local Effect: Municipal expenditures may increase annually, beginning as early as FY 2025, as discussed below. Revenues are not expected to be affected.

Small Business Effect: None.

Analysis

Bill Summary:

State Support for Municipal Elections

The bill authorizes the State Administrator to enter into an MOU with a municipality that allows the State Administrator to work collaboratively with the municipality to support the administration of the municipality's elections.

Leasing of Voting System and Other Election Equipment

The bill authorizes the State Administrator to lease a voting system or any other equipment used to administer an election to a municipality for use in a municipal election in accordance with an MOU with a municipality entered into by the State Administrator.

The State Administrator must determine the terms and conditions of the lease and distribute the proceeds of the lease to the Fair Campaign Financing Fund (FCFF).

The bill also repeals provisions that authorize a local board of elections to lease a voting system to any governmental or nongovernmental entity within the county.

Inclusion of Municipal Offices and Questions on a Statewide Ballot

The bill modifies the date by which a municipality must file a request with the State Board of Elections (SBE) to include municipal offices and questions on a statewide ballot. The deadline is moved from 18 months before the deadline under State law for a certificate of candidacy to be filed for the applicable election to 9 months before the deadline under State law for a certificate of candidacy to be filed for the applicable election.

The bill also modifies an existing provision that requires the municipality that files the request to certify that the charter of the municipality requires, and the municipality has established, specified 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. The bill modifies the provision by adding that deadlines and procedures for voter registration and voting be certified as consistent with State and county deadlines and procedures.

Current Law:

Applicability of State Election Law to Municipal Elections

State election law governs the administration of federal, State, county, and Baltimore City elections held during statewide elections every two years, and special elections, but generally does not govern municipal elections other than those in Baltimore City (which is considered a “county” for purposes of State law). Municipal elections are primarily governed by each municipality’s law and occur at various times throughout the year and in odd- and even-numbered years.

While State law governing elections generally does not apply to municipal elections, there are certain provisions of State law that address municipal elections, including those that (1) prohibit a municipality from requiring an individual to own or control an interest in property to participate in an election or hold office in the municipality; (2) allow a

municipality to use the information in the statewide voter registration database to administer voter registration for its elections; (3) allow a municipality to request that SBE include the offices and questions to be voted on in a municipal election on the statewide ballot (within the municipality) during a statewide election; (4) require municipalities to allow no-excuse absentee voting (mail-in voting) in municipal elections; (5) make State voting-related offenses (*e.g.*, voting more than once, voter intimidation) and associated criminal penalties applicable to municipal elections; and (6) require municipalities to submit their election results to SBE to publish on the SBE website.

Voting System and Election Administration Costs

Each county must pay for its share of 50% of the State's cost of acquiring and operating the uniform statewide voting systems for voting in polling places and for absentee voting, including the cost of maintenance, storage, printing of ballots, technical support and programming, related supplies and materials, and software licensing fees.

Statute authorizes a local board of elections to lease a voting system to any governmental or nongovernmental entity within the county. The local board must determine the terms and conditions of the lease. The local board must pay the governing body of the county, within 30 days of receipt, the proceeds of the lease.

Inclusion of Municipal Offices and Questions on a Statewide Ballot

A municipality that makes a request that SBE include on a statewide ballot the offices and questions to be voted on in a municipal election must:

- file the request with SBE on or before the day that is 18 months before the deadline date applicable for individuals who are required to file a certificate of candidacy; and
- certify as part of the request that the charter of the municipality requires, and the municipality has established, deadlines and procedures for the administration of the municipality's elections that are consistent with 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.

If SBE previously included a municipal election on the ballot, that municipality's elections may continue to appear on the ballot without the municipality filing an additional request; however, a municipality must file a request if, since the municipality's election last appeared on the ballot, there has been a significant change in the method the municipality uses to conduct its elections.

Within 30 days after receipt of a municipality's request, SBE, after consultation with the local board in the county where the municipality is located, must notify the municipality of its decision whether to include the municipal election on the ballot. If SBE approves a municipality's request, SBE 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 municipality must reimburse SBE and the applicable local board 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 Revenues: Special fund (FCFF) revenues may increase annually, beginning as early as fiscal 2025, reflecting revenues from leasing voting system or other election equipment to municipalities pursuant to the bill.

The extent of any increase in special fund revenues cannot be reliably estimated at this time; however, *for illustrative purposes* regarding potential lease revenues from a single municipal election, using the City of Annapolis as an example, special fund revenues may increase by \$23,400 from leasing equipment to the city for a single primary or general election. This estimate accounts for leasing of (1) 1 ballot scanner, 2 ballot marking devices, 15 voting booths, and 3 pollbooks for each of 8 polling places and (2) 8 ballot drop boxes.

To the extent that SBE receives revenues from leasing equipment to municipalities even in the absence of the bill, the extent of the increase in State revenues due to the bill is reduced. SBE has received lease revenues from the cities of Annapolis and Frederick in the past but it is not clear whether revenues are received in the future in the absence of the bill.

Local Fiscal Effect: Municipal expenditures may increase annually, beginning as early as fiscal 2025, for municipalities that (1) enter into an MOU with the State Administrator and lease voting system or other election equipment, as illustrated above under State Revenues, and (2) do not otherwise pay SBE, to lease the equipment, in the absence of the bill.

The bill's repeal of the authority of local boards of elections to lease a voting system to any governmental or nongovernmental entity within the county is not expected to affect county finances. It does not appear that counties currently generate revenue from such leases.

Additional Information

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

Designated Cross File: HB 322 (Delegate Wims) - Ways and Means.

Information Source(s): Cities of Annapolis and Takoma Park; Montgomery County; Maryland Municipal League; Maryland State Board of Elections; Department of Legislative Services

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