



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

SENATE BILL NO. 421

PRINTERS NO. 1330

PRIME SPONSOR: Boscola

### COST / (SAVINGS)

FUND	FY 2019/20	FY 2020/21
General Fund	See "Fiscal Impact"	See "Fiscal Impact"
County Funds	See "Fiscal Impact"	See "Fiscal Impact"

**SUMMARY:** SB 421, PN 1330, amends the Election Code to prohibit the decertification of voting systems in 50% or more of the counties without notification of the General Assembly, eliminate the straight party voting option, reduce the number of ballots that counties must print for each election, change the voter registration deadline, extend the time frame for submitting an absentee ballot, prohibit the use of write-in stickers on paper ballots and establishes a mail-in voting process, among other changes.

**ANALYSIS:** This legislation would amend Act No. 320 of 1937, known as the Pennsylvania Election Code as follows:

### ELIMINATING A VOTER'S RIGHT TO VOTE STRAIGHT-PARTY

This legislation would eliminate a voter's right, option and convenience to vote straight-party with a single vote.

### DISAPPROVAL OR DECERTIFYING VOTING APPARATUSES

The legislation provides that if the Commonwealth intends to disapprove or decertify voting apparatuses in 50% or more counties, the Department of State (DOS) would be required to submit a written plan to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Appropriations Committee of the Senate, the Appropriations Committee of the House of Representatives, the State Government Committee of the Senate and the State Government Committee at least 180 days prior to the effective date of replacement, containing each of the following:

- The reason for disapproval or decertification.
- The estimated cost to replace the disapproved or decertified voting apparatuses and the plan for how funding is anticipated to be obtained.
- A plan for replacing the disapproved or decertified voting apparatuses.
- The effective date of replacement voting apparatus.

### **COMPENSATION OF DISTRICT ELECTION OFFICERS**

This legislation also adds language providing for compensation of district election officers. An election officer shall be compensated at least \$75 and not more than \$200 and receive additional compensation, as fixed by the county board of elections, for participating in election training. A judge of election shall receive additional compensation for picking up and returning election materials.

### **CENSUS OUTREACH**

The DOS may utilize up to \$4 million for the communication, administration and assistance within each county of the Commonwealth for the purposes of ensuring a complete and accurate census count of the Commonwealth in the 2020 Federal decennial census. The \$4 million shall consist of available funds for any fiscal year ending before July 1, 2020 from General Fund appropriations from any agency that falls under the jurisdiction of the Governor.

The funds shall be transferred by the Secretary of the Budget to a restricted account as necessary to make payments and are hereby appropriated to carry out the provisions of this section. The Secretary of the Budget may make a transfer of funds if the transfer will not result in a deficit in an appropriation from which funds are transferred. The Secretary of the Budget shall provide at least ten days prior notification of a transfer to the chairs of the Appropriations Committees in both the Senate and the House of Representatives.

### **WRITE-IN VOTES**

Allows for the use of a stamp for write-in votes. Prohibits the use of stickers or labels in districts that use paper ballots or ballot cards. Such ballots would be void.

### **ELECTION DISTRICT FREEZE FOR REDISTRICTING**

Prohibits a county board of elections from establishing, abolishing, dividing, consolidating or altering in any manner an election district during the period from December 31, 2019, through November 30, 2022 or resolution of all judicial appeals to the 2022 Congressional Redistricting Plan, whichever occurs later.

However, a county board of elections would be able to combine election districts if the boundary of each resulting district is composed entirely of portions of the original boundaries of the election districts which were combined.

### **MANNER OF SIGNING NOMINATION PETITIONS**

The legislation adds language clarifying that each signatory of a nomination petition shall include his address where he is duly registered and enrolled.

### **CIRCULATORS OF NOMINATION PETITIONS AND PAPERS**

Rather than an affidavit, circulators would fill out a circulator's statement.

### **BALLOTS OPEN TO PUBLIC INSPECTION**

The legislation would require the posting of all sample ballot information on each county's Internet website no later than the Thursday preceding the election.

### **NUMBER OF BALLOTS THAT COUNTIES MUST PRINT**

The legislation reduces the number of paper ballots that applicable counties are required to print to a number equal to at least 10% more (at least 15% more for presidential years) than the highest number of ballots cast in the previous three comparable primaries or elections.

### **VOTER REGISTRATION DEADLINE**

Changes the deadline to register to vote from 30 days before the election to 15 days before the election.

### **VOTING BY QUALIFIED MAIL-IN ELECTORS**

A qualified elector who is not entitled to vote an absentee ballot would be eligible to vote by an official "mail-in ballot." A qualified mail-in elector is added to the definition of "proof of identification" and would fall in the same category as civilian absentee voters. The legislation also delineates the information that an application for a mail-in ballot shall include. If the signed application is sent to the Secretary of the Commonwealth, the Secretary must forward it to the proper county. Applications must be made available to the public on paper or electronically. Any qualified elector may request to be placed on a permanent mail-in voting list file.

Official mail-in ballots must be mailed to the voter no later than the second Tuesday before the election. For applications from electors who do not provide proof of identification, the county board would be required to send a notice with the mail-in ballot. Any elector who votes a mail-in ballot would not be eligible to vote at the polling place. Any elector who applies for a mail-in ballot but is not listed as voting may vote a provisional ballot.

### **APPLICATIONS FOR ABSENTEE BALLOTS FOR MILITARY OR OVERSEAS VOTERS**

A qualified absentee military or overseas elector, as defined by the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410, 100 stat. 924), could submit his application for an official absentee ballot by any technology that can transmit a document or an image of a document via electronic or electromechanical means, including, but not limited to, facsimile method. However, the electronic transmission method would not be acceptable for the official absentee ballot.

### **DISABLED ABSENTEE VOTERS**

The legislation allows a disabled absentee voter who is on the permanently disabled absentee voter list to submit a single absentee ballot application each calendar year, which will be applicable to all elections during that year.

### **DEADLINES FOR ABSENTEE BALLOTS AND MAIL-IN BALLOTS**

Allows voters to mark or vote their absentee ballots up until 8 p.m. on the day of the election. In practice, a voter who chooses to mail his or her ballot will need to mark the ballot at such time as necessary to meet the postmarking deadline indicated below. Additionally, as a general rule, a voter who intends to hand deliver his or her own absentee ballot will need to mark the ballot no later than the day before the election.

There are no postmarking deadlines for the receipt of absentee or mail-in ballots. They must be received in the county election office on or before election day, regardless of postmark.

## **VOTING MACHINE BONDS**

The legislation also authorizes the Pennsylvania Economic Development Financing Authority (PEDFA) to issue bonds for up to \$90,000,000 to provide funding for counties to replace voting systems. The DOS may be a project applicant under the Economic Development Financing Law for the funding of county replacement of voting apparatuses or to those counties that have entered into capital leases for voting apparatuses. The DOS may only apply after the DOS has approved county applications which total at least \$50,000,000. Bonds issued shall not be a debt or liability of the Commonwealth. The term of bonds would be for no more than 10 years. Debt service payments would be subject to annual appropriations by the General Assembly.

The net proceeds of the bonds shall be deposited in the County Voting System Reimbursement Account which shall be established in the State Treasury. Counties shall apply to the DOS and document the county's costs to purchase voting systems to secure grant funds. Counties would be eligible to receive 60% of the costs incurred in securing their voting systems. Each county shall submit an application for funding no later than July 1, 2020. In the event that the aggregate amount of costs exceeds 60% of the amount available, then each county shall receive a pro rata share of the amount available. The DOS shall review applications on a rolling basis and shall either approve or deny an application within 90 days of submission. If any bond proceeds remain after all reimbursements have occurred, the DOS may utilize the remaining balance for grants to counties for the purchase and distribution of election security equipment. DOS shall provide notice to all counties no later than 30 days prior to receiving applications for grants.

The DOS shall submit an annual report to the chairs of the House/Senate Appropriations and State Government Committees providing all data available on bonds issued or existing in the prior year. The report shall include existing and anticipated bond principal, interest, administrative costs, revenue, repayments, refinancing and overall benefits to counties and any other information that the DOS believes is necessary.

Counties applying for funding would be required to certify to the DOS the county has complied with the state law requirements for the establishment of a program to identify registered electors whose address may have changed and mailed notices and sending a notice to registered electors who have not voted nor appeared to vote during the period beginning five years for whom the board of elections did not receive any information that the elector still resides in the election district. The certification shall also include information on whether a county has undertaken a canvass as permitted under state law.

## **SUPREME COURT JURISDICTION**

The Pennsylvania Supreme Court will have exclusive jurisdiction to hear challenges to provisions concerning the elimination of straight party voting, absentee voting and mail-in voting. Provisions of the legislation are non-severable

**APPLICABILITY:** This legislation would apply to elections held on or after April 28, 2020. The section of the legislation relating to the disapproval/decertification of voting apparatuses would take effect in 180 days, the section of the legislation relating to a signer of a nomination petition would take effect in 60 days and the remainder of the legislation would take effect immediately.

**FISCAL IMPACT:** Please see below for fiscal impact by major provision:

**Census Outreach:** The DOS may utilize up to \$4 million of available funds from a fiscal year ending before July 1, 2020 as identified by the Secretary of the Budget. These are funds that otherwise could have lapsed back to the General Fund.

**Voting Machine Bonds:** In the event that PEDFA issues \$90 million in bonds, debt service on a 10-year bond at a 3% interest rate would be roughly \$10.55 million per year. These debt service costs would be subject to appropriation by the General Assembly and are expected to start in 2020-21. Counties would be eligible for reimbursement of up to 60% of their costs to replace voting machines. Estimates suggest that the aggregate costs to counties would be about \$148.5 million, therefore \$90 million in bond proceeds would fully cover 60% of the county costs.

**Mail in Voting:** According to the Department of State, there would be roughly \$225,000 in one-time information systems costs associated with several provisions within the legislation. Items that would require these systems changes include the development of a mail-in online system and updating the SURE system to accommodate all the changes within the legislation.

The creation of mail-in voting would add some additional costs for postage and processing at the county level. Any estimate of those costs is indeterminable at this point.

**Voter Registration Deadline:** It is presumed that county boards of elections could handle any influx of voter registrations within a shorter time frame (30 days down to 15 days) utilizing existing staff and resources.

**County Ballots:** Counties who utilize paper ballots would realize some savings as they would now be required to produce 10% more than the highest number of ballots cast in the previous three primaries or general election or 15% for presidential elections in an election district. This compares to one book of 50 official ballots of each party for every 45 registered and enrolled electors. Any estimate of those savings is interminable at this point as each county's savings would be on a case-by-case basis.

**Compensation of Election Officers:** Any county that currently provides compensation below the increased thresholds for a clerk and machine operator would see increased costs. Any other increases would be at the discretion of a county board of elections. Any estimate of current county compensation for the aforementioned election officers and the projected impact of increasing this per diem is unavailable at this point.

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**DATE:** October 28, 2019

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*