

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

**Revised**

Senate Bill 1

(Senator Miller, *et al.*)

Education, Health, and Environmental Affairs

Ways and Means

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**Elective Franchise - Early Voting and Polling Places**

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This constitutional amendment gives the General Assembly the power to provide by law a process to allow voters to vote early at polling places in or outside of their election districts or wards or, during the two weeks immediately preceding an election, on no more than 10 other days prior to the dates specified in the Maryland Constitution. The amendment also clarifies the General Assembly's power to provide for absentee voting for certain qualified voters to include, in addition to voters who are absent at the time of an election or are unable to vote personally, those voters who might otherwise choose to vote by absentee ballot. In addition, early voting laws struck down by the Court of Appeals may not take effect if the amendment becomes effective, and sections of the Annotated Code relating to early voting are repealed.

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**Fiscal Summary**

**State Effect:** None. The bill would not directly affect State operations or finances.

**Local Effect:** If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2008 general election. It should not result in additional costs for the local election boards.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** The Maryland Constitution states that “[a]ll general elections in this State shall be held on the Tuesday next after the first Monday in the month of November, in the

year in which they shall occur,” and that “[e]very citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which he resides at all elections to be held in this State.”

The constitution provides for absentee voting, authorizing the General Assembly to “provide by suitable enactment for voting by qualified voters of the State of Maryland who are absent at the time of any election in which they are entitled to vote and for voting by other qualified voters who are unable to vote personally[.]”

The provisions of State election law that provide for early voting were held to be void by the Maryland Court of Appeals (*Lamone v. Capozzi*, per curiam order issued August 2006) because they were inconsistent with and in derogation of certain provisions of the Maryland Constitution, in particular the provisions quoted above specifying the date of general elections and where a person is entitled to vote.

Under State law, any registered voter in Maryland may vote by absentee ballot prior to an election, except to the extent preempted under an applicable federal law.

## **Background:**

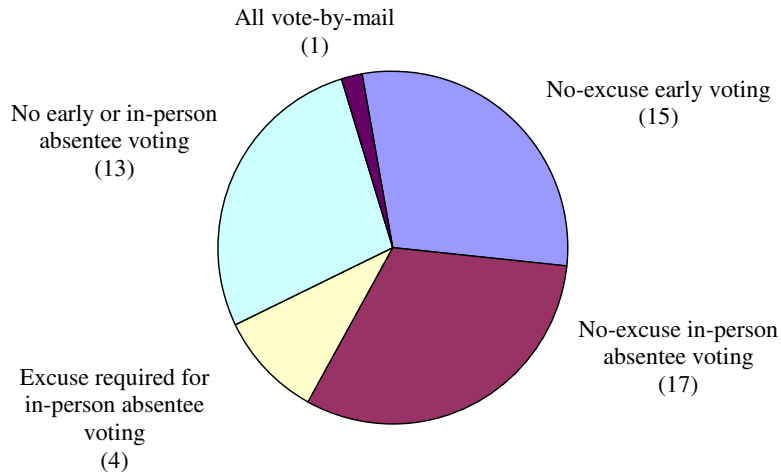
### *Early Voting*

Chapter 5 and Chapter 61 of 2006 established early voting in State law. Under these enactments early voting polling places (three locations in each of the “big seven” counties and one location in each of the remaining counties) were to be open from 7 a.m. to 8 p.m. each day from the Tuesday before an election through the Saturday before an election. Voters were allowed to vote at any early voting polling place in the voter’s county of residence. Due to the Maryland Court of Appeals decision in August 2006, early voting was canceled for the 2006 primary and general elections.

**Exhibit 1** shows the extent to which states allowed early voting during the 2006 elections.

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## Exhibit 1 State Early Voting Laws



<b>No excuse early voting</b>	Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Louisiana, Nevada, New Mexico, North Carolina, North Dakota, Tennessee, Texas, West Virginia
<b>No-excuse in-person absentee voting</b>	Alaska, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, <b>Maryland</b> , Montana, Nebraska, Ohio, Oklahoma, South Dakota, Utah, Vermont, Wisconsin, Wyoming
<b>Excuse required for in-person absentee voting</b>	(District of Columbia), Kentucky, Minnesota, Missouri, Virginia
<b>No early or in-person absentee voting</b>	Alabama, Connecticut, Delaware, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Washington (34 of 39 counties in Wash. vote-by-mail)
<b>All vote-by-mail</b>	Oregon

Source: electionline.org

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### *Absentee Voting*

Chapter 6 of 2006 repealed eligibility requirements in State law for absentee voting, thus allowing any registered voter to vote by absentee ballot except to the extent preempted under an applicable federal law.

**Local Expenditures:** The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2008 general election in newspapers or on specimen ballots.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery County, Prince George's County, Garrett County, Dorchester County, and Anne Arundel County, Maryland State Board of Elections, Office of the Attorney General, Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2007  
mll/jr Revised - Clarification - February 8, 2007  
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