

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 501 (Senator Dyson and the President, *et al.*) (By Request - Administration)

Education, Health, and Environmental Affairs

Rules and Executive Nominations

Election Law - Change of Primary Election Dates and Compliance with Federal MOVE Act

This bill changes the dates of the gubernatorial and presidential primary elections. The gubernatorial primary election is moved from the second Tuesday after the first Monday in September to the last Tuesday in June. The presidential primary election is moved from the second Tuesday in February to the first Tuesday in April. The bill also makes procedural changes, including altering deadlines related to candidacy and the establishment of the content and arrangement of ballots.

The bill takes effect July 1, 2011, and applies to elections on or after January 1, 2012.

Fiscal Summary

State Effect: The bill is not expected to affect State costs for elections.

Local Effect: The bill is not expected to affect local government costs for elections.

Small Business Effect: None.

Analysis

Current Law: The gubernatorial primary election is held on the second Tuesday after the first Monday in September in a gubernatorial election year and the presidential primary election is held on the second Tuesday in February in a presidential election year. Pursuant to Chapter 219 of 2007, the presidential primary date was moved forward

in the calendar year in advance of the 2008 presidential elections from the first Tuesday in March to the second Tuesday in February.

Background:

Military and Overseas Voter Empowerment Act

In 2009, Congress passed, and the President signed into law, the Military and Overseas Voter Empowerment Act (MOVE Act), which requires states to, among other things, send absentee ballots to military and overseas voters no later than 45 days before an election for federal office if a request is received prior to that time. Compliance with the requirement was problematic in 2010 for a number of states, including Maryland, that had primary elections scheduled relatively close to the November general election, which did not allow enough time for general election ballots to be finalized and sent 45 days prior to the election.

Maryland complied with the 45-day requirement by sending ballots that included all federal contests to military and overseas voters by the 45-day deadline (the MOVE Act requirement applies to elections for federal office) and then expediting delivery of full ballots, including federal, State, and local contests, once they had been certified, to military and overseas voters eligible to vote in State and local contests. The voters were instructed to fill out and submit both ballots and the election office would count the federal ballot if it was the only ballot received, otherwise the full ballot would be counted. Military and overseas voters also had the option of requesting electronic access to their absentee ballot so that they did not have to wait for it to be sent by mail.

Among the other states that had primary election dates that made compliance with the 45-day requirement problematic in 2010, three states amended their laws to move their primary elections and nine states and the District of Columbia submitted requests for waivers from the 45-day requirement (allowed under the MOVE Act under certain circumstances). One state, Hawaii, was among both the states that amended their laws and those that requested waivers, since the change in its primary election date did not take effect for the 2010 elections. Five of the waiver requests were approved and five were denied. The U.S. Department of Justice entered into various agreements and settlements with the states that were denied waivers, as well as a few others that did not fully comply with the 45-day deadline or waiver conditions, to resolve the states' noncompliance.

National Party Rules and the Presidential Primary Calendar

The Republican and Democratic National Committees (RNC and DNC) recently adopted rule changes applicable to the 2012 presidential elections that prohibit states from holding

their presidential primary elections and caucuses prior to the first Tuesday in March, with exceptions made for Iowa, New Hampshire, Nevada, and South Carolina to hold their primaries/caucuses in February. RNC's new rules also require that Republican primary elections or caucuses held prior to April 1 (not including those held by the four states permitted to hold elections/caucuses in February) provide for allocation of delegates on a proportional basis.

If followed by the states, the rule changes could result in a significant change from the 2008 nominating process when the majority of state presidential primary elections and caucuses were held prior to March after various states, including Maryland, moved their elections/caucuses to earlier dates.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; Baltimore City; Howard, Montgomery, and Prince George's counties; Department of Legislative Services

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