

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

House Bill 1239 (Delegate Alston)
Judiciary and Health and Government
Operations

Family Law - Straw Ballot - Definition of Marriage

This bill requires the county boards of elections, in consultation with and at the direction of the State Board of Elections, to include a question on the November 2012 general election ballot to determine the sense of the voters in the State on the legal definition of marriage. The vote on the question is advisory only.

The bill takes effect July 1, 2012, contingent on the failure of Senate Bill 241 and House Bill 438 of the 2012 session of the General Assembly. If either Senate Bill 241 or House Bill 438 is enacted, this bill is null and void without the necessity of further action by the General Assembly.

Fiscal Summary

State Effect: None. It is assumed that the potential for increased costs to include any questions proposed by the General Assembly on the ballot at the next general election will have been anticipated in the State Board of Elections' budget.

Local Effect: None. It is assumed that the potential for increased costs to notify voters of any questions proposed by the General Assembly, and to include any proposed questions on the ballot at the next general election, will have been anticipated in local boards of elections' budgets.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires the ballot to instruct the voters to choose which of the following options the voter favors:

- the enactment of a law providing that the marriage of two individuals of the same sex who are not otherwise prohibited by law from marrying is valid in Maryland;
- the continuation of the current law providing that only a marriage between a man and a woman is valid in Maryland; or
- the repeal of the law prohibiting bigamy and the enactment of a law providing that the marriage of any number of individuals of the same or opposite sex who are not otherwise prohibited by law from marrying is valid in Maryland.

Current Law/Background: The Maryland Constitution does not define a valid marriage. Under State law, only a marriage between a man and a woman is valid in this State. Title 2 of the Family Law Article establishes certain restrictions and requirements governing marriages in this State. Individuals within certain degrees of relationships are prohibited from marrying. An individual younger than the age of 15 may not marry. An individual 15 years old may not marry without the consent of a parent or guardian and a certificate from a licensed physician that the woman to be married is pregnant or has given birth. An individual 16 or 17 years old must have either parental consent or a physician's certificate. An individual may not marry in this State without a marriage license and must wait a specified period after the license is issued before the ceremony may be performed. Subject to specified exceptions, while lawfully married to a living person, a person may not enter into a marriage ceremony with another.

Same-sex Marriage in Other States

In 2004, Massachusetts became the first state to issue marriage licenses to same-sex couples. Same-sex marriage is currently legal in the District of Columbia (2010) and five other states: Connecticut (2008); Iowa (2009); Vermont (2009); New Hampshire (2010); and New York (2011). In February 2012, the Washington state legislature passed legislation which was signed by the Governor to legalize same-sex marriage. The National Conference of State Legislatures reports that unless voters successfully petition the measure to referendum, the bill goes into effect in June 2012.

State Fiscal Effect: State costs of printing absentee and provisional ballots may increase to the extent inclusion of the question on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). Any increase in costs, however, is expected to be relatively minimal, and it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001, the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

Local Fiscal Effect: Local boards of elections' printing and mailing costs may increase to include information on the question with specimen ballots mailed to voters prior to the next general election and to include the question on absentee and provisional ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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