

Department of Legislative Services
2013 Session

FISCAL AND POLICY NOTE

House Bill 325
Ways and Means

(Delegate Afzali, *et al.*)

Election Law - Qualification of Voters - Proof of Identity

This bill establishes a requirement that a voter present a current government-issued photo identification in order to vote a regular ballot. A voter who does not have the required identification or indicates a change of residence must vote a provisional ballot. The bill allows a resident who is at least age 18, does not have a driver's license, and produces specified documentation to obtain an identification card from the Motor Vehicle Administration (MVA), for use as a voter identification card, at no charge. The bill also prohibits willfully and knowingly voting or attempting to vote under a false form of identification, with violations subject to existing criminal penalties.

Fiscal Summary

State Effect: General fund expenditures are expected to increase significantly in FY 2014 to conduct voter outreach. Costs may total at least \$500,000; however, the local boards of elections will be responsible for a portion of the cost. Significant voter outreach costs will likely be incurred annually through FY 2017 (through the 2016 elections) but then subsequently diminish. General fund expenditures may also increase in FY 2014 and future years to the extent additional provisional ballots are determined to be needed. MVA may experience a substantial decrease in Transportation Trust Fund (TTF) revenues due to the bill's requirement that identification cards be provided to individuals age 18 and older at no charge. TTF expenditures for personnel may increase to handle an increase in identification card transactions. The bill's criminal penalty provisions are not expected to materially affect State finances.

Local Effect: Local government expenditures may increase due to costs associated with voter outreach, additional election judges, and additional provisional ballots. The bill's criminal penalty provisions are not expected to materially affect local government finances. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential minimal.

Analysis

Current Law: For each individual who seeks to vote, an election judge has to:

- locate the voter's name in the election register or inactive list;
- establish the voter's identity by requesting that the voter state their month and day of birth and comparing the response to the information in the election register;
- verify the address of the voter's residence, unless the voter's personal information has been deemed confidential by the local board, in which case an alternative verification method, established by the State Board of Elections, must be conducted; and
- have the voter sign a voting authority card.

Upon completion of those procedures, a voter is entitled to vote a regular ballot. If a voter's name is not found on the election register or the inactive voter list, the voter is referred to vote a provisional ballot.

Background: See the attached **Appendix – Voter ID in Other States** for information on voter identification laws in other states.

State Expenditures:

State Board of Elections

General fund expenditures are expected to increase significantly in fiscal 2014 to conduct voter outreach regarding the photo identification requirement and availability of free voter identification cards from MVA prior to the 2014 gubernatorial primary election. Costs of voter outreach in fiscal 2014 may total at least \$500,000. It is expected that local boards of elections will be responsible for part of the cost of a voter outreach campaign, but how the cost will be shared by the State and local boards is uncertain. Significant voter outreach costs will likely also be incurred in fiscal 2015 through 2017 for outreach prior to the gubernatorial general election and 2016 presidential elections, but will subsequently diminish as voters become more accustomed to the requirement.

The State shares ballot printing costs with the counties and to the extent additional provisional ballots are determined to be needed to account for an increase in provisional voters due to the identification requirement, State costs could increase. *For illustrative*

purposes, if it is assumed that the number of provisional ballots will need to increase by 50%, State costs increase by approximately \$41,300 based on a per ballot cost of \$0.35, split between the State Board of Elections and the local boards of elections, and the approximate number of provisional ballots ordered for the 2012 primary election.

Efforts to redevelop election judge procedures, training materials, and polling place signs, and to train local board staff, are expected to be handled with existing resources.

Motor Vehicle Administration

TTF expenditures may increase in future years to the extent additional State driver's license/identification cards are issued due to the photo ID requirement. Any increase, however, cannot be reliably estimated. Any additional personnel costs would presumably, for the most part, exist during limited periods of time prior to elections and may diminish or vary in future years.

State Revenues: Special fund revenues are expected to decrease due to a loss of identification card fees paid to TTF. MVA charges a \$24 fee for an identification card and \$20 for a duplicate/corrected card. MVA issued 162,233 identification cards to persons age 18 and older in fiscal 2012. MVA indicates approximately 81% of the identification cards were new/renewal cards and approximately 19% were duplicate/corrected cards. Of the 162,233 identification cards issued, 36,185 were issued free of charge under current fee exemptions (for those 65 and older, legally blind, *etc.*). Therefore, 126,048 identification cards were issued for a fee.

For illustrative purposes only, assuming 126,048 identification cards are issued to persons age 18 and older in fiscal 2014 for a fee, and 81% of the identification cards are new and 19% are replacements, if all individuals indicated they were obtaining a card for use as a voter identification card, TTF revenues will decrease by approximately \$2.2 million in fiscal 2014, accounting for the bill's October 1, 2013 effective date. Annualized revenue decreases would total approximately \$2.9 million.

Local Fiscal Effect: Expenditures may increase for local boards of elections for the 2014 gubernatorial primary election and future elections to account for costs such as voter outreach, training and compensation of additional election judges, and additional provisional ballots and provisional ballot canvassing costs.

Three jurisdictions contacted, Anne Arundel, Dorchester, and Montgomery counties indicate a likelihood of increased costs as a result of a voter identification requirement. Dorchester County and Montgomery County, for example, both indicate a need for additional election judges at costs of \$17,100 and \$53,600, respectively. As mentioned above under State Expenditures, *for illustrative purposes*, increased costs for provisional

ballots for the counties as a whole could total \$41,300, accounting for the counties' share of the cost and assuming the number of provisional ballots needed increases by 50%.

Three jurisdictions, Baltimore, Garrett, and Howard counties, did not indicate an expectation of significant increased costs due to a voter identification requirement.

Additional Information

Prior Introductions: HB 113 of 2012 received a hearing in the House Ways and Means Committee, but no further action was taken. SB 412 of 2012 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. In addition, similar bills were introduced in the 2005 through 2010 sessions.

Cross File: None.

Information Source(s): State Board of Elections; State Prosecutor's Office; Maryland Department of Transportation; Anne Arundel, Baltimore, Dorchester, Garrett, Howard, and Montgomery counties; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2013
ncs/hlb

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Voter ID in Other States

Thirty-three states have enacted voter identification (or voter ID) laws that require some form of identifying documentation to be produced by each voter. In three of those states (Mississippi, Pennsylvania, and Wisconsin), the laws either have not yet taken effect pending federal approval (Mississippi) or their status is uncertain due to ongoing litigation (Pennsylvania and Wisconsin). Also, in two other states (Texas and Alabama), recently enacted changes to existing voter ID requirements have yet to take effect.

The National Conference of State Legislatures indicates that there are two key distinctions between the various state laws: (1) whether or not a *photo* ID is required; and (2) whether a law is “strict” or not. “Strict” voter ID laws allow a person who does not have identification to vote a provisional ballot, but in order for the provisional ballot to be counted, the voter must return to election officials within a short period of time after the election to show identification. “Nonstrict” voter ID laws allow for some other method for a voter’s ballot to be counted if the voter does not have identification, without having to later produce identification to election officials. **Exhibit 1** shows a breakdown of the 33 states’ requirements.

As mentioned above, the voter ID laws (or changes to existing voter ID requirements) in the states listed in italics in Exhibit 1 have not yet taken effect or have an uncertain status as of early January 2013 because of litigation; for the most part, their implementation has been prevented or delayed as a result of the preclearance process under Section 5 of the federal Voting Rights Act or separate court challenges. Section 5 of the Voting Rights Act prevents election practices or procedures in certain states from taking effect until approval (“preclearance”) is obtained from the U.S. Department of Justice or in federal court. Of those states subject to Section 5 (for the state as a whole or for some local jurisdictions within the state), South Carolina, New Hampshire, and Virginia recently obtained preclearance for their voter ID laws (or changes to existing voter ID requirements), Texas has been denied preclearance (but is appealing the denial), Mississippi is in the process of seeking preclearance, and Alabama has not yet submitted its amended law (requiring photo ID) for preclearance (Alabama’s amended law takes effect in 2014). South Carolina’s preclearance, while granted in October 2012, did not apply to the November 2012 election but does apply to any election beginning in 2013. Pennsylvania and Wisconsin’s laws were blocked, at least temporarily, in state court, and were not in effect for the November 2012 election. The status of those two states’ laws for future elections appeared uncertain as of early January 2013, due to ongoing litigation.

Exhibit 1
States with Voter Identification Requirements

<u>Photo ID Required or Requested</u>		<u>Nonphoto ID Accepted</u>	
<u>Strict</u>	<u>Nonstrict</u>	<u>Strict</u>	<u>Nonstrict</u>
Georgia	Florida	Arizona	Alaska
Indiana	Hawaii	Ohio	Arkansas
Kansas*	Idaho	Virginia*	Colorado
Tennessee*	Louisiana		Connecticut
	Michigan		Delaware
<i>Mississippi*</i>	New Hampshire*		Kentucky
<i>Pennsylvania*</i>	South Carolina*		Missouri
<i>Texas*</i>	South Dakota		Montana
<i>Wisconsin*</i>			North Dakota
	<i>Alabama*</i>		Oklahoma
			Rhode Island*#
			Utah
			Washington

*States that enacted new or more stringent voter ID laws within the last two legislative sessions (2011-2012).

#Rhode Island's law is being phased in and will fall in the nonstrict *photo* ID category in 2014.

States listed in italics – These states have enacted laws in that category, but the laws have not yet taken effect or have an uncertain status as of early January 2013 because of litigation. Absent the pending laws, Mississippi, Pennsylvania, and Wisconsin have no other voter ID law, while Texas and Alabama have an older nonphoto voter ID law in effect.

Source: National Conference of State Legislatures; Department of Legislative Services
