

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 137
Ways and Means

(Delegate Kipke, *et al.*)

Election Law - Polling Places - Proof of Identity

This bill establishes a requirement that a voter present a current government-issued photo identification, a voter notification card, or the specimen ballot mailed to the voter by a local board of elections, in order to vote a regular ballot. A voter who is unable to do so or indicates a change of residence must vote a provisional ballot. 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.

The bill takes effect June 1, 2013.

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 are expected to 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. 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, additional provisional ballots, and mailing of additional voter notification cards and specimen 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 (SBE), 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: General fund expenditures are expected to increase significantly in fiscal 2014 to conduct voter outreach regarding the voter identification requirement 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 SBE 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 assumed to be absorbable within existing resources.

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, additional provisional ballots and provisional ballot canvassing costs, and costs to send out additional voter notification cards and/or specimen ballots (allowable forms of identification).

Three jurisdictions contacted, Baltimore City, Montgomery County, and Prince George's County, indicate a likelihood of increased costs as a result of a voter identification requirement. Baltimore City and Montgomery County, for example, both indicate a need for additional election judges at costs of \$44,100 (accounting for basic salaries) and \$70,100 (accounting for salaries and additional election judge trainers), respectively. Montgomery County would also incur \$5,000 in costs for printing election judge training manuals and information for voter check-in tables. Baltimore City also indicates costs would increase for voter outreach, additional provisional ballots, and additional staff time to process provisional ballots. 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%. Prince George's County indicates that county costs will increase by approximately \$200,000 to send out additional specimen ballots to voters since it currently sends out one specimen ballot per household rather than to each registered voter.

Two jurisdictions, Calvert 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; Department of Business and Economic Development; Office of the State Prosecutor; Calvert, Howard, Montgomery, and Prince George's counties; Baltimore City; State of Kansas (Office of the Secretary of State); State of Tennessee (Department of State); National Conference of State Legislatures; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2013
mc/hlb

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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 Indiana Kansas* Tennessee* <i>Mississippi*</i> <i>Pennsylvania*</i> <i>Texas*</i> <i>Wisconsin*</i>	Florida Hawaii Idaho Louisiana Michigan New Hampshire* South Carolina* South Dakota <i>Alabama*</i>	Arizona Ohio Virginia*	Alaska Arkansas Colorado Connecticut Delaware Kentucky Missouri Montana North Dakota 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
