

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1007
Ways and Means

(Delegate Luedtke, *et al.*)

Education, Health, and Environmental Affairs

Freedom to Vote Act

This bill requires specified actions to be taken by the State Board of Elections (SBE), various State agencies, and public institutions of higher education, generally aimed at increasing the level of voter registration in the State. Among other things, the bill requires certain agencies to establish electronic voter registration systems and other agencies, and public institutions of higher education, to provide links on their websites or portals to SBE's online voter registration system.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: State expenditures (multiple fund types) increase significantly, potentially by approximately \$945,000 in FY 2017 and approximately \$350,000 annually thereafter, for information technology and personnel costs.

Local Effect: Local government expenditures may increase for additional resources for local boards of elections, depending on the extent to which voter registration increases as a result of the bill.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Electronic Voter Registration

The Motor Vehicle Administration (MVA), the Maryland Health Benefit Exchange (MHBE), local departments of social services, and the Mobility Certification Office in the Maryland Transit Administration are designated as “electronic voter registration agencies” (separate and distinct from “voter registration agencies” discussed below) and are each required to implement an electronic voter registration system. MVA, MHBE, and the Mobility Certification Office must implement such a system by July 1, 2017, and local departments of social services must implement a system by December 1, 2019. An electronic voter registration system is generally a system that allows an individual to register to vote or update a voter registration record during an “applicable transaction” at the agency and electronically transmits the voter registration information of the individual directly to SBE within five days of the transaction. “Applicable transaction” is specifically defined for each agency. At local departments of social services, for example, an “applicable transaction” is an initial application for a State or federally funded public assistance program or an application for a recertification, renewal, or change of name or address relating to a State or federally funded public assistance program.

An agent of any of the applicable agencies is prohibited from specified actions relating to influencing an applicant’s political preference, party registration, or decision whether or not to register to vote.

Information relating to the decision of an applicant at an agency to decline to register to vote may not be used for any purpose other than the maintenance of registration statistics. The identity of an agency through which a particular voter has registered may not be disclosed to the public.

SBE is authorized to adopt implementing regulations as necessary.

Links to SBE’s Online Voter Registration System

SBE, jointly with the Department of Natural Resources (DNR), the Department of Labor, Licensing, and Regulation (DLLR), the Maryland Department of Veterans Affairs (MDVA), and the Department of Human Resources (DHR) must develop and implement procedures for individuals who (1) apply for the issuance or renewal of a DNR license, permit, or certificate online, (2) use DLLR’s Maryland Workforce Exchange website, (3) use the MDVA website or are contacted by MDVA’s outreach and advocacy program, or (4) use DHR’s electronic portal (MyDHR) to complete an applicable transaction, to be

offered the opportunity to register to vote through a link to SBE's online voter registration system.

By July 1, 2017, a public institution of higher education must provide a link to SBE's online voter registration system on the home page of the online portal used by students to register for course work.

One-stop Career Centers Designated as Voter Registration Agencies

Subject to receipt of a specified favorable determination from the U.S. Department of Labor (described below), one-stop career centers in DLLR must be designated by SBE as voter registration agencies, which are subject to existing requirements that a voter registration application be distributed with each application for service or assistance the agency renders and with each recertification, renewal, or change of address form relating to such service or assistance. Specified additional information and assistance must be provided to prospective registrants, and the agency must accept a completed voter registration application returned by an individual and forward it to the appropriate State election official within five days.

By August 1, 2016, the Attorney General must request a determination letter from the U.S. Department of Labor confirming that federal law does not preclude DLLR from utilizing federal or State funds to conduct voter registration at one-stop career centers under the bill. Upon receipt of a determination letter by the Attorney General, the Attorney General must forward a copy of the letter to the Department of Legislative Services (DLS) within five days. If a favorable determination letter is received by July 1, 2017, the provision of the bill designating one-stop career centers as voter registration agencies takes effect on the date DLS receives notice of the letter. However, if the Attorney General does not receive a favorable determination letter by July 1, 2017, that provision is null and void and of no further force and effect.

Additional Voter Registration Agency Requirements

In addition to existing requirements applicable to voter registration agencies, an agency must ensure that each application for service or assistance from the agency and each recertification, renewal, or change of address form relating to the service or assistance may not be completed until the applicant (1) has indicated whether the applicant wishes to register to vote and (2) is informed that if they do not select a political party affiliation, they will be designated as not affiliated with a political party and will be unable to vote in a party primary election.

SBE Regulations Regarding Address Confidentiality Programs

SBE, in consultation with the local boards of elections, must adopt regulations that specify (1) that the residence address of an individual who is a participant in an address confidentiality program administered by the Secretary of State for victims of domestic violence or human trafficking may not be disclosed and (2) that a participant in an address confidentiality program is not required to apply to SBE to keep the individual's residence address confidential.

Reporting Requirements

The bill establishes reporting requirements applicable to most of the agencies/institutions responsible for implementing the bill – generally relating to voter registration activity at the agency/institution and implementation of the bill.

In addition, SBE must report to specified legislative committees, by January 1, 2017, on the process for informing applicants for voter registration of the manner in which an individual may apply to keep the individual's residence address confidential for specified safety or privacy reasons, as prescribed by SBE regulations.

Voter Registration Coordinators and Training

Each agency with responsibility for carrying out the bill must designate an employee to act as the agency's voter registration coordinator. Each voter registration coordinator must complete an annual training program conducted by SBE concerning the bill's requirements, and each coordinator must oversee an annual training program on the bill's requirements for all employees of the coordinator's agency with responsibility for carrying out the bill.

Request for Determination by Internal Revenue Service

By August 1, 2016, the Attorney General must request a determination letter from the Internal Revenue Service confirming that federal law does not preclude the Comptroller from engaging with SBE for purposes of voter registration, including the sharing of information with SBE that would allow for the identification of individuals who filed a Maryland resident individual income tax return and are not registered to vote.

Study by the Department of Information Technology and SBE

By October 1, 2017, the Department of Information Technology (DoIT) and SBE must complete a specified study of voter registration at agencies in the Executive Branch of the State and report on the findings of the study to specified legislative committees. The study must:

- identify and assess the readiness and time frame within which the agencies that currently offer paper-based voter registration services to eligible State citizens might transition to an electronic system of voter registration;
- identify additional agencies for which it would be beneficial to the public to include a link on the agency's website to SBE's online voter registration system;
- identify additional agencies for which it would be beneficial to the public to be designated as voter registration agencies that provide paper-based or electronic voter registration services; and
- assess how all agencies entrusted with providing electronic or paper-based voter registration services for citizens of the State maintain and ensure the confidentiality, security, and integrity of personal information obtained from citizens for purposes of voter registration.

Current Law: An individual may apply to become a registered voter through a number of means including (1) visiting an election board office; (2) by mail; (3) when applying for services at a voter registration agency (specified public and nongovernmental agencies designated by SBE, including agencies providing public assistance and services for individuals with disabilities, public higher education institutions, and military recruiting offices); (4) when applying to MVA for issuance, renewal, or modification of a driver's license or identification card; or (5) through SBE's online voter registration system.

MVA must provide individuals the opportunity to register to vote or update a voter registration record during driver's license or identification card transactions. If an individual chooses to register to vote or update a voter registration record, applicable information already received by MVA in the course of the transaction must be transferred to the voter registration application and then any additional necessary information obtained. The application is then presented to the individual to sign or affirm electronically. An individual's voter registration information must be forwarded to SBE within five days of receipt of an application.

In general, voter registration agencies are required to provide materials offering individuals an opportunity to register to vote with each application for service or assistance the agencies render and with each recertification, renewal, or change of address form relating to such service or assistance. Public higher education institutions are required to provide an individual with an opportunity to request a voter registration application when an individual enrolls, registers, or pays for course work. An applicant may mail the voter registration application to the appropriate State election official or return it to the voter registration agency for transmittal to the appropriate election official. Within five days of accepting a voter registration application, a voter registration agency must forward the application to the appropriate State election official.

Similar requirements of state motor vehicle authorities and voter registration agencies exist in federal law under the National Voter Registration Act of 1993.

Background: MVA has operated an electronic voter registration system since 2012 (though certain modifications to the system are needed in order to meet the bill's requirements for an electronic voter registration system). Various other agencies designated as voter registration agencies offer customers the opportunity to register by filling out a paper application. SBE, by regulation, has designated as voter registration agencies: (1) local departments of social services; (2) local offices of the Maryland Children's Health Program under the Department of Health and Mental Hygiene; (3) all offices primarily engaged in providing State-funded services to individuals with disabilities; (4) recruitment offices of the armed forces of the United States; (5) offices on aging; (6) offices for students with disabilities at private and public colleges and universities; (7) marriage license offices of the clerks of court; and (8) public institutions of higher education.

Pursuant to legislation enacted in 2011 (Chapters 292 and 293), SBE implemented the online voter registration system in 2012. Beginning in 2016, pursuant to legislation enacted in 2013 (Chapters 157 and 158), a person can both register to vote and vote, during early voting.

State Fiscal Effect:

Identified State Costs

State expenditures (multiple fund types) increase significantly, potentially by approximately \$945,000 in fiscal 2017 and approximately \$350,000 annually thereafter, reflecting:

- a cost of approximately \$85,000 annually, for an additional employee at SBE to work with, and process information received from, the agencies establishing electronic voter registration systems;
- costs in the range of \$550,000 for MVA, MHBE, DHR (local departments of social services), and the Mobility Certification Office to meet the bill's requirements for electronic voter registration systems;
- costs of approximately \$200,000 in fiscal 2017 and \$266,000 annually thereafter for DLLR to fund a portion of the time of employees working at one-stop career centers, if a favorable determination letter is received from the U.S. Department of Labor indicating that State, but not federal, funds may be used to conduct activities required of a voter registration agency; and

- an approximate cost of \$110,000 for DoIT expenses associated with the required study of voter registration at Executive Branch agencies.

Based on responses from agencies and public higher education institutions, the requirements to establish links to SBE's online voter registration system on agency or higher education institution websites or portals, and the bill's reporting and training requirements, are assumed to be handled with existing resources or minimal expenditures in most, if not all, cases.

Impact on Other Election Administration Costs

This estimate does not account for any increase in other election administration costs, such as polling place costs, resulting from an increase in the level of voter registration due to the bill. It is uncertain to what extent the bill increases the number of registered voters in the State and to what extent an increase in voter registration translates to increases in other election administration costs. However, *for illustrative purposes only*, if it is assumed that the number of polling places needs to increase in proportion to the increase in voter registration, for every net increase as a result of the bill in the level of voter registration in the State equal to 100,000 registered voters, the annual increase in State expenditures for each regular election, accounting for the State's share of voting system costs, may be in the range of \$50,000-\$100,000. Based on certain census information on the number of people in the State who are U.S. citizens and the number of registered voters in the State, it appears that the number of individuals in the State who are eligible to register to vote but are not registered may be in the approximate range of 500,000.

Local Fiscal Effect:

Local Boards of Elections Voter Registration Processing

Local government expenditures may increase for the local boards of elections to process additional voter registration applications resulting from the bill. A local board of elections is responsible for processing voter registration applications for individuals that reside in the county of the local board of elections. It is uncertain, however, to what extent the bill results in an increase in the overall voter registration workload for local boards of elections and therefore to what extent additional resources may be needed, if any.

Community Colleges

Based on responses from State public higher education institutions, the requirements to establish links to SBE's online voter registration system on public higher education institution online portals, and the bill's reporting and training requirements, are assumed

to be handled with existing resources or minimal expenditures by local community colleges in most, if not all, cases.

Impact on Other Election Administration Costs

Similar to the State effect above, this assessment does not account for any increase in other election administration costs, such as polling place costs, resulting from an increase in the level of voter registration due to the bill. It is uncertain to what extent the bill increases the number of registered voters in the State and to what extent an increase in voter registration translates to increases in other election administration costs. However, *for illustrative purposes only*, if it is assumed that the number of polling places needs to increase in proportion to the increase in voter registration, for every net increase as a result of the bill in the level of voter registration in the State equal to 100,000 registered voters, the annual increase in local boards of elections' expenditures for each regular election may collectively be in the range of \$200,000-\$300,000.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; Maryland Department of Transportation; Department of Labor, Licensing, and Regulation; Maryland Health Benefit Exchange; Department of Human Resources; Department of Natural Resources; Maryland Department of Veterans Affairs; Department of Information Technology; University System of Maryland; St. Mary's College of Maryland; Morgan State University; Baltimore City Community College; Maryland Higher Education Commission; Secretary of State; Caroline, Frederick, and Montgomery counties; Department of Legislative Services

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