

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 938 (Senator Smith)
 Education, Health, and Environmental Affairs

Election Law - Automatic Voter Registration

This bill modifies provisions established under Chapter 287 of 2016 by changing “electronic voter registration agencies” designated under Chapter 287 to “automatic voter registration agencies” and redefining the “electronic voter registration systems” those agencies must establish, as “automatic voter registration systems.” The State Board of Elections (SBE) must also work with (1) the State Comptroller, to provide individuals who file a tax return electronically the opportunity to register to vote through a link to the online voter registration system and (2) the Motor Vehicle Administration (MVA) and Maryland Health Benefit Exchange (MHBE), to identify specified individuals who are eligible to register, but not registered, to vote, in order to mail voter registration forms and other information to those individuals.

The bill takes effect January 1, 2018.

Fiscal Summary

State Effect: Special fund expenditures increase by \$70,000 in FY 2018 for MHBE programming costs. Transportation Trust Fund (TTF) expenditures increase by \$9,000 in FY 2018 for MVA programming costs. General fund expenditures increase by an undetermined amount each year beginning in FY 2018 due to SBE mailing costs. Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	-	-	-	-	-
SF Expenditure	79,000	0	0	0	0
Net Effect	(\$79,000)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

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: None.

Analysis

Bill Summary:

Automatic Voter Registration Agencies/Systems

The automatic voter registration agencies are MVA, MHBE, local departments of social services, and the Mobility Certification Office (MCO) in the Maryland Transit Administration.

The bill modifies the existing definition of an “electronic voter registration system” so that it instead defines an “automatic voter registration system.” The definition is modified so that the system, as an integral part of each applicable transaction at the agency, instead of offering an applicant the opportunity to register to vote or update a voter registration record, informs the applicant that the applicant will be registered to vote or have a voter registration record updated, if applicable, unless the applicant declines to register to vote or update a voter registration record or is determined not to be eligible to register to vote. Remaining existing requirements for an “electronic voter registration system” are retained as requirements for an “automatic voter registration system” – specifically that it also inform the applicant (1) of the qualifications to register to vote, (2) that the applicant should not register if the applicant does not meet all the qualifications; (3) of the penalties for the submission of a false application; and (4) that voter registration is voluntary and neither registering nor declining to register to vote will in any way affect the availability of services or benefits. The system must require the signature of the applicant, subject to penalties for perjury, by which the applicant attests that the information provided by the applicant is true and that the applicant meets all the qualifications to become a registered voter, including U.S. citizenship.

Under existing provisions of State law generally prohibiting unlawful voter registration, the bill states that a person who unintentionally becomes registered to vote through an automatic voter registration system may not be considered to have violated the provisions prohibiting unlawful voter registration.

A requirement that MVA, MHBE, and MCO each implement an electronic voter registration system by July 1, 2017, is replaced with a requirement that those agencies each implement an automatic voter registration system by January 1, 2018. A requirement that

local departments of social services implement an electronic voter registration system by December 1, 2019, is replaced with a requirement that local departments of social services implement an automatic voter registration system by the same date, December 1, 2019.

Other existing provisions applicable to an electronic voter registration system and electronic voter registration agencies are generally retained and made applicable to an automatic voter registration system and automatic voter registration agencies.

A person acting under color of law is prohibited from discriminating against an individual based on the individual's declination to register to vote or voter registration information.

Link to Online Voter Registration System

SBE and the State Comptroller must jointly develop and implement procedures for individuals who file a Maryland resident individual income tax return electronically to be offered the opportunity to register to vote through a link to the online voter registration system.

Mailings to Eligible Individuals

SBE and MVA must jointly develop and implement procedures to identify individuals who (1) hold a driver's license or identification card; (2) are eligible to register to vote; and (3) are not registered to vote. In addition, SBE and MHBE must jointly develop and implement procedures to identify individuals who (1) applied for health insurance coverage through the exchange; (2) are eligible to register to vote; and (3) are not registered to vote.

Before the close of registration before each election, SBE must mail a notice to each eligible individual identified through the procedures developed and implemented jointly with MVA and MHBE that includes a (1) paper voter registration form, with instructions; (2) instructions on how to access the online voter registration system; and (3) information on how to register to vote at early voting centers.

Current Law: Chapter 287 of 2016, among other things, designates MVA, MHBE, local departments of social services, and MCO as "electronic voter registration agencies" and requires each to implement an electronic voter registration system. MVA, MHBE, and MCO 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.

Background: The National Conference of State Legislatures (NCSL) indicates that, as of December 2016, six states (Alaska, California, Connecticut, Oregon, Vermont, and West Virginia) and the District of Columbia have authorized automatic voter registration. NCSL indicates that voter registration is typically an "opt in" policy, with eligible individuals choosing to fill out a registration application, whereas automatic voter registration is an "opt out" policy in which eligible individuals are registered unless they actively decline.

State Fiscal Effect:

Automatic Voter Registration Systems

Special fund expenditures increase by \$70,000 in fiscal 2018 for MHBE to implement additional upgrades to its information technology systems and health insurance application to meet the requirements of an automatic voter registration system.

TTF expenditures increase by \$9,000 in fiscal 2018 for MVA to modify its electronic voter registration system to meet the requirements of an automatic voter registration system.

Costs for the Department of Human Resources (local departments of social services) and MCO are not expected to materially increase, in comparison to costs incurred in the absence of the bill to implement an electronic voter registration system.

Link to the Online Voter Registration System

Any costs to offer individuals who file a resident income tax return electronically the opportunity to register to vote through a link to the online voter registration system are assumed to be absorbable by the Comptroller's Office within existing resources. The Comptroller's Office indicates it incurs costs of \$36,000 to implement the requirement, but the Department of Legislative Services disagrees.

State Board of Elections Mailings

General fund expenditures likely increase each year for SBE to send mailings to individuals who hold a driver's license or identification card or who applied for health insurance coverage through MHBE and are eligible to register to vote but are not registered. The number of mailings each year cannot be reliably estimated and may depend in part on the procedures developed and implemented to identify the individuals. *For illustrative purposes*, assuming a cost of \$0.50 per mailing, general fund expenditures increase by \$5,000 for every 10,000 mailings.

Local Fiscal Effect: 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.

Additional Information

Prior Introductions: None.

Cross File: HB 741 (Delegate Turner, *et al.*) - Ways and Means.

Information Source(s): State Board of Elections; Maryland Health Benefit Exchange; Maryland Department of Transportation; Comptroller's Office; Baltimore City; Carroll and Montgomery counties; Department of Legislative Services

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