

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1088 (Delegate Feldmark)
 Ways and Means

Election Law - Automatic Voter Registration - Alterations

This bill establishes specified new procedures for automatic voter registration at the Motor Vehicle Administration (MVA) and the Maryland Health Benefit Exchange (MHBE), two of the current automatic voter registration agencies. **The bill takes effect January 1, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by as much as \$1.2 million in FY 2025, and by lesser ongoing amounts in future years for MHBE and the State Board of Elections (SBE) to implement the bill’s requirements. MVA can implement the bill with existing resources. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1,153,300	410,900	415,000	419,300	423,700
Net Effect	(\$1,153,300)	(\$410,900)	(\$415,000)	(\$419,300)	(\$423,700)

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

Local Effect: Local government finances may be affected, as noted below.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Modified Automatic Voter Registration Process

The bill modifies the existing automatic voter registration process at MVA and MHBE in which an applicant, during an applicable transaction, is informed that they will be

registered to vote or have a voter registration record updated, if applicable, unless the applicant declines or is not eligible to register to vote. Under the bill, this existing process only occurs if:

- at MVA, the applicant (1) is not currently registered to vote in the State and (2) presents only documents that do not demonstrate whether the applicant is a U.S. citizen at the time of the transaction, or does not present any document at the time of the transaction; and
- at MHBE, the applicant's attestation of citizenship is not reliably verified through an electronic database match and the applicant has not attested that the applicant is not a U.S. citizen.

“Applicable transaction,” under the bill, means:

- at MVA, an initial application for or renewal of a driver's license or identification card or a change of name or address on an existing driver's license or identification card; or
- at MHBE, any application for or renewal of health insurance coverage.

“Applicable transaction” includes any of the above transactions that are completed online.

The bill establishes new procedures for MVA and MHBE to follow under circumstances in which (1) there is evidence the applicant is not a U.S. citizen; (2) the applicant is already registered to vote (and, in the case of MHBE, there is verification that the applicant is a U.S. citizen, is at least age 16, and is a resident of the State); or (3) the applicant is not registered to vote but there is verification that that the applicant is a U.S. citizen, is at least age 16, and is a resident of the State.

Applicant is Not a U.S. Citizen

If there is evidence the applicant is not a U.S. citizen (based on a document demonstrating that, at MVA, and based on an attestation, at MHBE), the applicant may not be offered a voter registration opportunity, and MVA or MHBE may not transmit any voter registration information about an applicant to SBE.

Applicant Is Registered to Vote

The bill requires that:

- MVA verify with SBE, during an applicable transaction, whether the applicant is currently registered to vote in the State; and

- MHBE maintain an electronic information system that allows the exchange to determine, during an applicable transaction, whether the applicant is currently registered to vote in the State.

The bill establishes procedures to be followed, with respect to applicable transactions at MVA and MHBE, if an applicant is registered to vote.

For applicable transactions at MVA:

- MVA must electronically transmit the voter registration information of the applicant directly to SBE;
- SBE must update the applicant's voter registration information if there are any changes and, if the applicant is in inactive voter status, restore the applicant to active voter status; and
- SBE must send a specified automatic voter registration update notice to the applicant, allowing the applicant to correct the update if needed.

For applicable transactions at MHBE:

- Unless an applicant's residential address, mailing address, and name have not changed, MHBE must implement a specified automatic voter registration update procedure if (1) an applicant's attestation of citizenship is reliably verified through an electronic database as part of the eligibility determination process and (2) the applicant provides information demonstrating that they are at least age 16 and a resident of the State;
- the automatic voter registration update procedure includes MHBE sending a specified automatic voter registration update notice to the applicant, allowing the applicant to correct the update if needed;
- MHBE must electronically transmit the updated voter registration, with any corrections, to SBE; and
- SBE must update the statewide voter registration list and, if the applicant is in inactive voter status, restore the applicant to active voter status.

Applicant Is Qualified but Not Registered to Vote

The bill establishes procedures to be followed, with respect to applicable transactions at MVA and MHBE, if the applicant is not registered to vote and there is verification the applicant is a U.S. citizen, at least age 16, and a resident of the State.

For applicable transactions at MVA:

- MVA must electronically transmit the voter registration information of the applicant directly to SBE after offering the applicant the opportunity to select a political party affiliation;
- if no other information indicates that the applicant is not qualified to become a registered voter, SBE must send a specified automatic voter registration notice to the applicant, allowing them to decline to be registered to vote or select a political party affiliation; and
- if the applicant does not decline to be registered, within 21 days, SBE must list the applicant in active voter status in the statewide voter registration list.

For applicable transactions at MHBE:

- MHBE must implement a specified automatic voter registration procedure, which includes – if no information submitted by the applicant to MHBE indicates that the applicant is not qualified to become a registered voter – MHBE sending a specified automatic voter registration notice to the applicant, allowing them to decline to be registered to vote or select a political party affiliation; and
- if the applicant does not decline to be registered within 21 days, MHBE must electronically transmit the voter registration information of the applicant directly to SBE; and
- SBE must list the applicant in active voter status in the statewide voter registration list.

The bill allows for applicants who become registered to vote in this manner to request a party affiliation change after the close of registration before an election, at a polling place or on an absentee ballot application, and have it effective for that election.

Electronic Means for Applicant to Respond and to Affiliate with a Political Party

The bill requires SBE and MHBE to provide electronic means by which an applicant may respond to automatic voter registration and automatic voter registration update notices, to make corrections, to decline to register (for notices sent by MHBE), or to select a political party affiliation.

Assignment of Duties

The bill establishes that MHBE may assign responsibility for performing some or all of the procedures required to be performed by MHBE to an agent of MHBE. Subject to federal

laws and regulations governing applicable transactions, SBE may serve as an agent of MHBE.

SBE may assign responsibility for performing some or all of the procedures it is responsible for under the bill to the local boards of elections.

Compliance with Federal Laws

The bill establishes that the procedures for automatic voter registration at MHBE are subject to federal laws and regulations governing applicable transactions at MHBE and may be modified by MHBE and SBE when necessary to comply with federal laws and regulations.

Additional Agencies

The bill authorizes SBE to identify additional State, federal, or local agencies with which to implement procedures for automatic voter registration or automatic voter registration updates that, in the regular course of business, (1) reliably verify applicants' citizenship by verifying documents or through an electronic database or (2) reliably collect sufficient information to update the voter registration information of applicants currently registered to vote in the State.

Confidentiality Programs

The bill establishes that the new automatic voter registration procedures at MVA and MHBE do not apply to an applicant who is a participant in the Address Confidentiality Program administered by the Secretary of State and MVA and MHBE must implement procedures that prevent the transmission of voter registration information concerning a program participant to SBE. SBE or MHBE may exclude participants in the personal information confidentiality program under SBE regulations from the automatic voter registration update procedure or modify the procedure for participants in the program as necessary.

Current Law:

Automatic Voter Registration

An individual may become a registered voter through a number of means, including during an applicable transaction at an automatic voter registration agency. The current automatic voter registration agencies are MVA, MHBE, local departments of social services, and the Mobility Certification Office in the Maryland Transit Administration.

“Applicable transaction” means:

- at MVA, an initial application for or renewal of a driver’s license or identification card or a change of name or address on an existing driver’s license or identification card, or any other transaction in which MVA obtains all of the information from an applicant that satisfies the requirements to register to vote; or
- at MHBE, any application for or renewal of health insurance coverage.

“Applicable transaction” includes any of the above transactions that are completed online.

“Automatic voter registration system” means a system that, as an integral part of each applicable transaction at an automatic voter registration agency:

- informs an applicant (1) that the applicant must 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 if the applicant is not eligible to register to vote; (2) of the qualifications to register to vote; (3) that the applicant should not register if the applicant does not meet all the qualifications; (4) of the penalties for the submission of a false application; and (5) that voter registration is voluntary and that neither registering nor declining to register to vote will in any way affect the availability of services or benefits;
- requires the electronic signature of the applicant, subject to penalties of 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; and
- electronically transmits the voter registration information of each applicant who does not decline to register to vote or update a voter registration record directly to SBE (1) in a manner and format specified jointly by the automatic voter registration agency and SBE and (2) within five days of the applicable transaction.

An automatic voter registration system:

- may not require any information that duplicates the information required to complete an applicable transaction;
- must require only the minimum amount of information necessary for both an applicable transaction and a voter registration to (1) prevent duplicate voter registration and (2) enable election officials to review the eligibility of an applicant and to administer voter registration and other aspects of the election process; and
- must inform an applicant that if the applicant does not select a political party affiliation, the individual will be designated as not affiliated with a political party and will be unable to vote in a party primary election.

An agent of an automatic voter registration agency who is responsible for carrying out automatic voter registration requirements may not:

- seek to influence an applicant's political preference or party registration;
- display any political preference or party allegiance; or
- make any statement to an applicant or take any action the purpose or effect of which is to (1) discourage the applicant from registering to vote or (2) lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

SBE must ensure that each individual whose voter registration is transmitted to SBE through an automatic voter registration system is promptly registered to vote.

Party Affiliation Change

Party affiliation changes can be made at any time that voter registration is open. Voter registration is only closed beginning on the twenty-first day preceding an election until the eleventh day after the election. There are certain exceptions to the close of registration during that time period: (1) during early voting, an individual may appear in person at an early voting center in the individual's county of residence and apply to register to vote or change the voter's address on an existing voter registration, then subsequently vote the appropriate ballot; and (2) on election day, an individual may appear at a precinct polling place in the individual's county of residence and apply to register to vote, and then vote.

If a local board receives a request for party affiliation change after the close of registration, the local board must make the change and it must become effective for the next election provided (1) there is sufficient evidence, as determined by the local boards pursuant to regulations adopted by SBE, that the request was mailed on or before the close of registration for that election or (2) the request was submitted by the voter to MVA, a voter registration agency, another local board, or SBE on or before the close of registration for that election.

Inactive Voter List

A voter's name is placed into inactive status on the statewide voter registration list, if they fail to respond to a specified confirmation notice regarding a change of address. An inactive voter who fails to vote in an election in the period ending with the second general election must be removed from the statewide voter registration list.

A voter must be restored to active status on the statewide voter registration list after completing and signing any of the following election documents: (1) a voter registration application; (2) a petition governed by Title 6 of the Election Law Article; (3) a certificate

of candidacy; (4) an absentee ballot application; or (5) a written affirmation of residence completed on election day to entitle the voter to vote either at the election district or precinct for the voter's current residence or the voter's previous residence, as determined by SBE.

State Fiscal Effect: General fund expenditures may increase by as much as \$1.2 million in fiscal 2025 and by lesser ongoing amounts in future years for MHBE and SBE to implement the bill's provisions. MVA advises that it can implement the bill with existing resources.

Maryland Health Benefit Exchange

Based on estimates provided by MHBE, with certain adjustments by the Department of Legislative Services (DLS), MHBE general fund expenditures may increase by \$599,040 in fiscal 2025 and by \$318,200 annually thereafter, reflecting costs for (1) IT system development and (2) printing and mailing notices required under the bill, return postage, and processing returned forms.

MHBE advises that IT system changes are needed to implement the bill's requirements including changes related to notice requirements, citizenship matching, and the inbound and outbound interface to send/receive (from SBE) transactions at the individual level. The agency estimates general fund expenditures for IT development increase by \$410,640 in fiscal 2025 and by \$129,800 annually thereafter.

General fund expenditures may further increase by \$188,400 annually for costs associated with printing/mailing notices and processing returned forms of health plan enrollees who receive automatic voter registration update notices or automatic voter registration notices. MHBE advises that this estimate (which is adjusted by DLS to reflect different assumptions for return postage costs) is based on certain assumptions regarding (1) the number of enrollees not currently registered; (2) the number of enrollees reporting an address change; and (3) the percentage or volume of forms that are returned to MHBE.

State Board of Elections

Based on estimates provided by SBE, SBE general fund expenditures may increase by at least \$554,257 in fiscal 2025, which accounts for the bill's January 1, 2025 effective date. This estimate reflects the costs for (1) SBE to hire one dedicated program administrator to manage SBE's responsibilities under the bill, which SBE indicates are a significant change in its administration of automatic voter registration and (2) one-time programming costs to modify existing systems and processes. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$47,271
Programming	500,000
Operating Expenses	<u>6,986</u>
Total FY 2025 State Expenditures	\$554,257

Future year expenditures (1) reflect a full salary with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) the elimination of the one-time programming costs.

The estimate does not account for costs SBE incurs to send automatic voter registration update notices and automatic voter registration notices, which SBE has not quantified.

DLS notes it is unclear whether some portion of SBE’s costs, including the programming costs and costs of sending notices, will be incurred by local boards of elections, consistent with the allocation of current voter registration-related costs to the local boards and SBE’s authority under the bill to assign some or all of its responsibilities to the local boards.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 888 of 2023.

Designated Cross File: SB 605 (Senator M. Washington) - Education, Energy, and the Environment.

Information Source(s): Kent and Worcester counties; Maryland Department of Transportation; Maryland State Board of Elections; Maryland Health Benefit Exchange; Department of Legislative Services

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